

COMMUNICATION 136029

Received from: Trisa McConkey, CPA, CGA, Treasurer
Addressed to: Committee of the Whole
Date: March 25, 2025
Topic: Procurement Policy Revision

SUMMARY

The Town's current Procurement Policy was last approved in 2017 under By-law 57-2017. Policies such as this should be reviewed and revised periodically to ensure legislative requirements continue to be met; that the policy incorporates current best practices, and that limits and values are appropriate for the size of the municipality.

COMMENTS

In revising this policy, staff reviewed current legislation, trade agreements and several policies for municipalities of a similar size or slightly larger than Carleton Place. In addition, staff reviewed policies posted on the Municipal Finance Officers' Association's website as good examples as well as the Government of Ontario's Procurement Directive which provides requirements for Provincial public procurement. The attached policy is a combination of the above.

The Town has procured goods and services from mainly Canadian suppliers in the past however, as Town projects increase in size and complexity, the Town may be required to make purchases from other countries as required by the many trade agreements in place for Canada as shown in Schedule C of the proposed policy. Our current policy has no means to exclude other countries from bidding and potentially winning these procurements.

With the current uncertain economic environment involving tariffs from the United States that go against the trade agreement in place between Canada, Mexico and the U.S., many municipalities are revising their policies to include provisions to ensure they are able to source as many goods and services as possible from Canada and that banning purchases from trade partners is allowable in certain circumstances. This policy also addresses these issues by:

- Increasing mid-level purchasing limits allowing for invitational procurement to take place up to minimum trade agreement levels. Managers can then invite local or at least Canadian sources for all purchases under \$100,000.
- The policy also includes language that allows for the exclusion of trade partners who are not "acting in good faith with trade agreements" in open procurement (those over \$100,000).
- The Town currently participates in several group procurement programs for example, Local Authority Service (LAS) which is part of Association of Municipalities of Ontario (AMO), Ontario Education Community Marketplace (OECM) and Ontario Public Buying Association (OPBA) among others. These groups provide an advantage to the Town by combining its purchasing power with many other organizations. This policy encourages the use of these groups wherever possible.

LEGAL CONSIDERATIONS

Municipalities are required to adhere to the various trade treaties outlined in the policy, 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 Carleton Place, 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 requires 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 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 associated with this report. The uncertainty about tariffs is likely to impact new contracts and procurements currently out for bid.

STAFF RECOMMENDATION

THAT Council pass a by-law to enact the proposed new Procurement Policy and rescind the Procurement Policy approved by By-law 57-2017.

ATTACHMENT

Draft Procurement Policy