

Report to Council



Date: May 5, 2025
To: Council
From: City Manager
Subject: Procurement Policy Review
Department: Purchasing

Recommendation:

THAT Council receives, for information, the report from Purchasing dated May 5, 2025, with respect to a review of Purchasing Bylaw No. 11477 and related policies.

Purpose:

To receive for information a review of the corporate procurement policy and purchasing bylaw and assessment of opportunities to enhance preference for Canadian and local firms.

Background:

Trade dynamics with the United States, Canada's largest trading partner have and continue to evolve rapidly. In response to this, there is growing demand from the public and senior levels of government to consider the impact of "Buy Canadian" preferences in their procurement approaches. In light of this shift, and opportunity to review the current Corporate Policy, Council has directed staff to review the Purchasing Bylaw No. 11477 and report back to Council with proposed amendments for enhancing the bylaw's effectiveness, compliance, and alignment with Council's priorities.

Previous Council Resolution:

Resolution	Date
THAT Council directs staff to review Purchasing Bylaw No. 11477, based on the proposed policy direction outlined in the draft resolution from Councillor Cannan dated March 31, 2025, and report back to Council with options to enhance the Bylaw's effectiveness and compliance in alignment with prioritizing Canadian suppliers.	March 31, 2025

Discussion:

The policy review conducted by staff comprised of three elements:

1. Procurement Framework
2. Policy Thresholds

3. Buy-Canadian Assessment

Procurement Framework

The best value procurement framework is designed to ensure an open, transparent, and competitive procurement process that prioritizes minimizing the total cost of ownership. Although it may require more resources upfront, this approach is particularly advantageous for municipalities. It enables the development of tailored solutions, fosters innovation, and emphasizes long-term cost-effectiveness and performance. The best value procurement framework ensures that public investments deliver maximum value and benefit to the community over time.

Policy Thresholds

Our procurement policy thresholds achieve value for money by setting levels and sourcing processes that take into account staff resourcing and the need for competitive pricing. This approach ensures that the procure-to-pay process maximizes efficiency and cost-effectiveness. Additionally, it ensures compliance with various Canadian and international trade agreements.

Trade Agreement	Procurement Type	Value
NWPTA	Goods	\$75,000
	Services	\$75,000
	Construction	\$200,000
CFTA/AIT	Goods	\$121,200
	Services	\$121,200
	Construction	\$302,900
CETA	Goods	\$366,800
	Services	\$366,800
	Construction	\$9,100,000
TCA	Goods	\$366,800
	Services	\$366,800
	Construction	\$9,100,000

Buy Canadian Assessment

Under the guidance of the existing procurement policy, the City of Kelowna procures the vast majority of its products and services from Canadian firms, and over half from the local region (See appendix 1).

This approach reflects our value-based procurement methodology, which prioritizes local experience in completing work of similar scope and size, adherence to schedules, competitive pricing, and sustainable and ethical procurement practices. This approach supports the local economy, ensures high-quality and reliable services, and promotes sustainable and ethical practices.

Overall, there is limited opportunity for increasing procurement for Canadian companies as a result of efforts to prioritize Canadian procurement due to:

- Almost all of the City's contract awards are to Canadian Companies.
- A large percentage of the City's contract awards are from companies that have a base of operations in Kelowna, BC (outside of the Okanagan), and Okanagan.
- Purchases from Non-Canadian Suppliers are generally for specialized software and equipment that does not have suitable local or Canadian alternatives.

Trade Agreement Considerations

Directly and overtly prioritizing local or Canadian suppliers for purchase above specified dollar thresholds would contravene interprovincial and international trade agreements. Breaching these agreements could result in having to cancel contracts and re-tender procurements, reimbursement for bid preparation costs, penalties or compensating companies for lost profits due to discrimination. Canada and the US are co-signatories to two trade agreements: the Canada United States-Mexico Agreement (CUSMA) and the World Trade Organization Agreement on Government Procurement (GPA). CUSMA and GPA do not impose any procurement obligations on Canadian municipalities. Accordingly, the City does not have an obligation to provide equal access to procurement opportunities to US vendors. Based on this, excluding US suppliers from any new purchasing or future procurement agreements would not constitute a breach of applicable trade agreement obligations.

A "US Supplier" is defined as a supplier that has a place of business in the United States. A "place of business" is an establishment where a supplier conducts activities on a permanent basis, clearly identified by name, and accessible during normal business hours. This definition does not preclude Canadian subsidiaries of US suppliers or suppliers with US ownership.

Assessment of Options:

Option:	Update to policy	Advantages	Disadvantages
1) No Changes to the Corporate Financial Policy FIN-016	No Changes made to the current policy.	<ul style="list-style-type: none"> • Maintains the current procurement process without adding further administrative complexity. • Ensures adherence to existing trade agreements and avoids potential legal challenges. 	<ul style="list-style-type: none"> • No specific response to geo-political challenges.
2) Amend Fin-016 to exclude US suppliers from bidding opportunities.	US Suppliers are excluded from bidding on public competitive process.	<ul style="list-style-type: none"> • Supports Canadian businesses. • No trade violation risk. 	<ul style="list-style-type: none"> • Increases costs due to reduced competition. • Limit access to specialized goods and services available from US suppliers. • Added complexity to determine who is US supplier and enforcement.

Option:	Update to policy	Advantages	Disadvantages
3) Amend Fin-016 to add local and Canadian preference for purchases below the interprovincial and international trade agreement thresholds	For purchases under \$366,800 for goods and services and \$9,100,000 for construction we will give preference to Canadian suppliers and manufacturers whenever all relevant factors (price, quality, availability, sustainability, and service) are equal.	<ul style="list-style-type: none"> • Supports local and Canadian businesses. 	<ul style="list-style-type: none"> • Complex compliance process • It is uncommon for vendors to quote identical prices or for reviewers to assign the exact same scores. The "All things equal" situation would be very rare. • Could result in retaliatory actions from Provinces and other Countries. • May lead to legal disputes over definitions of local and Canadian suppliers and product origins. • Increase purchasing costs due to reduced competition. • Not aligned with team Canada approach being pursued by other municipalities and levels of government. • Not aligned with the trade expansion efforts being pursued with non-US countries by other levels of government.

Recommendation: Option 1

Staff recommend maintenance of the existing bylaw and associated corporate policy. As noted, the existing policies and practices at the city are resulting in good value for the local taxpayer, align with trade agreements and best practice thresholds and results in the vast majority of procurements being awarded to Canadian firms.

Considerations applicable to this report:

Legal/Statutory Authority: *Purchasing Bylaw No. 11477*

Legal/Statutory Procedural Requirements: *New West Partnership Trade Agreement (NWPTA), Agreement on Internal Trade, The Canada-European Union Comprehensive Economic and Trade Agreement (CETA), The Canada-United Kingdom Trade Continuity Agreement (Canada-UK TCA)*

Existing Policy: *Corporate Procurement Policy FIN-016*

Financial/Budgetary Considerations: *Purchasing Staff Budget*

Consultation and Engagement: *Interior BC Purchasing Managers Group, BC Purchasing Managers Group.*

Submitted by: T. Lamin, Purchasing Manager

Approved for inclusion: J. Sass, General Manager, Corporate Services

Appendix 1

Below is a summary of purchase order data from January 1, 2023, to April 1, 2025:

