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March 2, 2026

To: Ministry of Public and Business Service Delivery and Procurement,
Government of Ontario

Cc: Ministry of Transportation; Ministry of Red Tape Reduction; Ministry of
Economic Development, Job Creation and Trade; Ministry of Municipal
Affairs and Housing

From: Geneviève Sharkey
Chief Procurement Officer, City of Toronto

Re: **City of Toronto Comments on Proposed Policies under the *Buy Ontario Act, 2025 (Proposal #26-MPBSD001)***

City of Toronto staff appreciate the opportunity to provide comments on the proposed regulation and policy directives under the *Buy Ontario Act (Public Sector Procurement), 2025*.

The City is aligned with the Province's objectives to leverage public procurement as an economic development tool that helps protect Ontario during this time of economic uncertainty. As Canada's largest municipality with over \$3 billion in annual procurement spend, we recognize the important role public sector procurement plays in advancing this mutual objective.

The Mayor's Economic Action Plan, adopted by City Council in March 2025, outlined immediate measures to reinforce domestic supply chains in lockstep with provincial and federal government policy directives and a "Team Canada" approach. This included allowing only Canadian companies to bid on new competitive procurement under \$353,300 for goods and services and \$8.8 million for construction; increasing procurement from Greater Toronto Area suppliers (including working with the Automotive Parts Manufacturers' Association to identify local suppliers for key parts to service fleet vehicles); and restricting the use of US-based suppliers.

Given these measures have been successfully implemented, the City is looking forward to a policy approach that is outcome-focused with appropriate flexibility to allow for local variance. In 2025, 96% of suppliers awarded through open competitive procurements were Canadian, of which 94% were Ontario-based. We hope to build on these metrics through collaboration on Buy Ontario initiatives.

City staff have approached this submission with a focus on public sector collaboration on practical solutions to our shared challenges. The attachment details analysis from a cross-section of subject matter experts on how the Proposal would perform within the Toronto context. This includes consideration of the City's distinct large scale of purchasing and population served, sector analysis

and supplier impact, implications to projects in the pipeline, and practical matters related to municipal governance and administration.

To support a regulatory approach that delivers meaningful economic benefits while minimizing unintended legal, financial, and operational impacts on municipalities, we've raised the following anticipated challenges for your attention:

- Spring 2026 is an infeasible effective date for required implementation preparations.
- Ambiguous definitions and misalignment with Trade Agreement thresholds create exposure to legal challenges.
- Analysis shows an anticipated increase in project cost and delivery time, without adequate risk mitigation measures.
- There are risks of disadvantaging small businesses, Indigenous, Black and diverse suppliers, and adversely impacting equitable procurement initiatives.

Further, the following practical, outcome-focused recommendations are also detailed in the submission:

1. Employ a phased approach that starts with optional participation of newly added public sector entities, data/sector analysis, and foundational planning work.
2. Clearly define roles and authorities for compliance monitoring.
3. Work closely with municipalities to develop policy and process exclusions that meet operational realities, including, but not limited to:
 - a. Allowing for public sector entity discretion on Domestic Supply Chain Plan requirements and evaluation, where there is impact on the City's ability to deliver projects.
 - b. Adding exceptions for projects related to maintenance, repair and operations; emergency construction; procurements underway; and existing contracts and multi-use lists (i.e., Vendor of Record arrangements, rosters).
 - c. Adding applicability exceptions for Indigenous businesses and small businesses.

We look forward to continued engagement with the Province as Buy Ontario policies are finalized and implemented. We would welcome the opportunity to participate in further discussions on consistent yet locally feasible policy provisions, and support rollout through activities such as joint implementation planning and workshopping of compliance and reporting tools.

Please reach out with any questions or to coordinate another meeting to discuss our feedback.

Sincerely,



Geneviève Sharkey
Chief Procurement Officer
Purchasing & Materials Management Division

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City of Toronto Procurement Context and Scale

Toronto has a population of over 3 million people, and accounts for 1 in every 5 jobs in Ontario. The City conducts a high volume of procurement, as it is responsible for complex, large-scale capital infrastructure and construction projects. The City's \$63.1 billion 2026-2035 Capital Plan includes key investments in transit (i.e., subway upgrades), water infrastructure (i.e., water treatment plants), housing (i.e., critical repairs to Toronto Community Housing buildings), and transportation (i.e., Gardiner Expressway rehabilitation).

2025 Procurement Stats:

- Over \$3 billion in annual procurement spend
- 198 suppliers awarded through open competitive procurements, of which:
 - 96% were Canadian-based
 - 94% were Ontario-based
- 569 open competitive procurements issued, including 177 RFTs, 138 RFPs and 197 RFQs

City procurement is primarily governed through Chapter 195 of the City of Toronto Municipal Code (the "[Procurement Bylaw](#)"), with amendments requiring City Council approval. The City ensures compliance with all applicable domestic and international trade agreements, including the Canadian Free Trade Agreement ("CFTA"), the Ontario-Quebec Trade and Cooperation Agreement ("OQTCA") and the Canada-European Union Comprehensive Economic and Trade Agreement ("CETA"), (collectively the "Trade Agreements").

Existing Buy Canadian Measures:

- Adopted in March 2025 as part of the [Mayor's Economic Action Plan](#) in Response to United States Tariffs.
- Defines a Canadian Supplier, including that its principal place of business is in Canada, or has at least 70% of employees in Canada at time of bid submission, and includes a Canadian Business Subsidiary.
- Requires that only Canadian Suppliers can bid on new competitive procurement under \$353,300 for goods and services and \$8.8 million for construction (2025 Trade Agreement thresholds for municipal procurement).
- USA Based Suppliers may be deemed ineligible to bid on competitive City procurements, if it is deemed by the City Manager and the Chief Procurement Officer, in consultation with the City Solicitor, to be in the best interest of the City.
- Outlines commitments to increase procurement from Toronto and Greater Toronto Area suppliers to support the local economy.

Adding Municipalities as Public Sector Entities under the proposed Regulation to the *Buy Ontario Act, (Public Sector Procurement), 2025 (the “Act”)*

1.1 Infeasible Timelines

To implement the proposed changes, the City will need to conduct an impact analysis; update the Procurement Bylaw, policies and tools; engage and inform suppliers; update solicitation templates and guides; make procedure updates and train relevant staff.

As such, an effective date in Spring 2026 is not feasible, as it does not allow sufficient time for these necessary implementation activities. At minimum, the City would require 18-24 months to be able to complete the work required to implement the proposed policies.

Further, Procurement Bylaw and Procurement Policy updates require approval by City Council. With upcoming municipal elections, attempting to obtain Council approval in 2026 will be extremely challenging, if not impossible.

While the City could assess options for implementation that do not require Procurement Bylaw and policy updates, the proposed Spring 2026 effective date would not align with the City’s construction season. Construction makes up approximately 55% of the City’s spend through procurement.

If the proposed Policy on Capital and Infrastructure Projects must be applied to any solicitation that has not been posted, it could cause significant delays for staff to rewrite solicitations that have already been drafted for the 2026 construction season. If the proposed Policy must be applied to solicitations that have been posted, but not awarded, there would also be delays in cases where the City is able to issue addenda but would likely result in cancelled calls.

Not only will these delays impact timely delivery of projects that impact the daily lives of Ontario residents, but they will also work against the economic objectives of the proposed policy as public infrastructure spend slows to allow time for required administration.

City staff recommend that the Province:

- Refrain from prescribing municipalities and local boards under the Act, until impact analysis can be completed.
- If municipalities and local boards are to be prescribed under the Act, employ a phased approach such as:

Phase 1 (June 2026 to February 2027):

- Municipal commitment/pledge towards Buy Ontario goals
- Optional participation of newly added public sector entities
- Foundational work, including engagement with suppliers, policy and procedure development, training and resources
- Begin requesting Domestic Supply Chain Plans (DSCPs) on high-dollar value procurements, without Ontario preference requirements
- Provincial data collection across public sector entities to understand supply chain impact and sector gaps for development

Phase 2 (March 2027 to June 2028):

- Add Ontario preference to DSCPs for high-dollar value procurements where the potential impact is concentrated, where large suppliers will have resources to adjust more quickly
- Expand requirements for DSCPs to small- and medium-dollar value procurements without Ontario preference requirements

Phase 3 (July 2028 onwards):

- Expand Ontario preference requirements to all DSCPs
 - Apply learnings from Phase 1 and Phase 2 to broad rollout (i.e., process improvements, new resources/tools)
- Consider the preparation and related time allotments for municipalities to successfully implement broad procurement changes in any future directive under the Act.

1.2 Trade Obligations and Risks

As part of a response to tariffs imposed by the United States against Canadian goods and services in March 2025, the City responded by amending its Procurement Bylaw to enable preferences for Canadian suppliers and trade agreement partners. One of the primary features of the City's amendments was that they were carefully tailored to ensure the City's continued compliance with all applicable domestic and international trade agreements.

Canada–EU Comprehensive Economic and Trade Agreement (“CETA”)

CETA applies to covered municipal procurements of construction services, goods, and services above specified monetary thresholds. It requires:

- non-discriminatory treatment of EU suppliers;
- open, transparent, and competitive procurement processes; and
- prohibition on local content requirements, offsets, or evaluation criteria that directly or indirectly favour domestic suppliers.

The proposed imposition of mandatory requirements to prioritize Ontario-made or Canadian-made goods and services, including evaluation score uplifts, price adjustments, or award rules tied to domestic content, create a material risk of non-compliance with CETA in cases where the value of the procurements exceed applicable CETA monetary thresholds and apply to covered procurements.

The current CETA monetary thresholds are \$368,000 for goods and services and \$9.2 million for construction. As the proposed policy does not assign specific monetary values for the proposed new evaluation criteria beyond “low-dollar value”, “medium-dollar value” and “high-dollar value”, it is difficult to determine with certainty if the proposed values will exceed the monetary thresholds for CETA. However, many of the City’s construction procurements are valued well above the CETA monetary threshold.

Even where framed as “where feasible,” prescriptive evaluation methodologies and minimum weighting requirements may increase exposure to trade challenges and potential disputes.

Canadian Free Trade Agreement (CFTA)

Similar to the CETA, the CFTA applies to covered municipal procurements of construction services, goods, and services above specified monetary thresholds. The purpose of the government procurement rules within the CFTA is to provide fair and open access to government procurement opportunities for all Canadian suppliers.

The Chapter on Government Procurement requires:

- non-discriminatory treatment of suppliers from all provinces and territories, subject to limited exceptions;
- open, transparent, and competitive procurement processes; and
- prohibition on local content requirements, offsets, or evaluation criteria that favour local suppliers, which would include Ontario suppliers.

Municipal capital construction procurements are generally covered procurements under the CFTA, as the monetary threshold for the application of CFTA to construction procurement is \$347,400.

The CFTA expressly prohibits the preference or prioritization of province-specific goods and services over the goods and services of suppliers within other provinces and territories within Canada, including in construction contracts¹. In addition, including a preference for local goods, services, or suppliers is cited as an example of a practice that is inconsistent with the CFTA’s obligations for procuring entities.

¹ CFTA, Article 503

While preferences for Canadian goods and services over foreign goods and services may be permissible in limited circumstances, preferences specifically aimed at favouring Ontario-made goods and Ontario-based services over the goods and services of other Canadian suppliers raise significant compliance concerns under the CFTA, particularly when embedded in mandatory evaluation or award criteria.

The proposed framework risks creating inconsistent obligations where municipalities must simultaneously:

- include measures to prefer Ontario-made goods and services under provincial legislation or risk losing provincial funding; and
- provide equal access and treatment to suppliers from other provinces under the well-established trade agreement obligation of reciprocal non-discrimination or risk a judicial review challenge.

Legal and Trade Challenge Exposure

Although the City recognizes the new legislation includes measures to protect public sector entities by extinguishing various causes of action, remedies, and costs, it does not provide protection against applications for judicial review or claims for a constitutional remedy by unsuccessful bidders, or for costs awarded against the City in respect of such proceedings. Such legal challenges may result in delays in the delivery of public infrastructure. In addition, responding to such challenges could lead to an increased administrative burden for staff.

Municipalities do not typically have the same resources or risk tolerance to manage trade disputes or supplier challenges as the Province does. The City is currently compliant with all Trade Agreements, and requests that any new requirements in the Policy be applied in alignment with the CFTA, OQTCA, and CETA thresholds for municipal construction procurement. The procurement value of almost all municipal construction projects at the City are above the CFTA and OQTCA trade-agreement thresholds, creating potential misalignment, project delays and compliance challenges unless clearly addressed.

City staff recommend that the Province:

- Ensure proposed policies and any subsequent policies applicable to municipalities align with applicable trade agreement thresholds.
- Support municipalities with any expenses occurred as a result of judicial review and constitutional remedy legal challenges arising from the application of the Act.
- Pause on municipal implementation until definitions are refined to ensure compliance with Trade Agreements and are supported by clear, operational guidance for consistent application.

1.3 Misalignment with Indigenous Procurement Objectives

Indigenous Procurement

The Act, although intended to support Ontario's supply chain and give preference to local businesses, falls short in meeting Indigenous procurement objectives. The Act contains no substantive provisions to promote or facilitate Indigenous business and community participation in public procurement. Instead, the legislative framework is primarily oriented toward supporting economic development within Ontario's general business community, without specific mechanisms to address the unique rights and interests of Indigenous peoples.

Fostering First Nations, Inuit and Métis procurement and prosperity is a part of the City of Toronto's Reconciliation Action Plan (RAP), in particular Action 20: Improve Indigenous Economic Development, and Action 20.D - enhancing opportunities for Indigenous businesses.

To effectively address the procurement-related actions in the RAP, the City of Toronto is co-developing a First Nations, Inuit and Métis Procurement Policy (FNIM Procurement Policy) with Indigenous businesses, organizations and partners, that can take full advantage of the tools available to support Indigenous procurement. This FNIM Procurement Policy will be presented to City Council for approval in the second quarter of 2026.

For the purposes of the City's FNIM Procurement Policy, an Indigenous business may be located anywhere in Canada. City staff would welcome the opportunity to engage further on this, and to ensure the City's efforts to increase spend with Indigenous businesses are not inadvertently limited by the Act.

City staff recommend that the Province:

- Include exemptions for municipalities to implement Indigenous procurement policies and objectives that may conflict with the Act, in recognition of each municipality's existing relationships, approaches and reconciliation objectives.
- Work with Indigenous communities, businesses and organizations to ensure the Act does not create or reproduce structural barriers to Indigenous participation in public procurement.

1.4 Impacts to Equitable Procurement Strategies

Social Procurement

The City's Social Procurement Policy and Program aims to reduce barriers for Indigenous, Black and Equity-deserving suppliers and Social Enterprises in the procurement process.

The City maintains a Social Procurement Supplier List comprised of Certified Indigenous, Black and Diverse Suppliers and Social Enterprises. All the suppliers on the Social Procurement Supplier list are Canadian, with 84% based in Ontario.

A majority of the suppliers on the Social Procurement Supplier list are small and medium enterprises. Although the local preference criteria coupled with the City's supplier diversity strategies could potentially amplify opportunities for small and local suppliers, it can create administrative and compliance burdens and cost escalation pressures for suppliers who are already impacted by systemic procurement barriers.

Entrepreneurship and Small Business Participation

Public procurement is already complex and administratively burdensome. Introducing additional requirements risks inadvertently concentrating procurement opportunities among larger firms that already possess procurement infrastructure and capital capacity. Small businesses may be at a disadvantage without dedicated procurement personnel, legal teams to support interpreting the evolving tariff-related rules and supply chain resources to be able to pivot to comply with the Act.

The requirement for suppliers to submit detailed DSCPs and document the origin of major goods and services is a resource-intensive requirement in addition to regular solicitation requirements. Requiring DSCPs for entrepreneurs and small businesses may result in those businesses not bidding on municipal procurement, which runs contrary to the objectives of the Act.

Shifting supply chains takes time, and small businesses that hold inventory risk losing money on existing inventory if they are not able to move goods that are not Ontario-made. With no explicit equity measures included in the Act, it is important the directives are designed in a way that does not reinforce existing procurement barriers.

City staff recommend that the Province:

- Create exceptions in the Act for municipal policies and objectives relating to reconciliation and equitable procurement to ensure small, local, Indigenous, Black and Equity-deserving suppliers and Social Enterprises are not disproportionately impacted by proposed directives.
- Consider excluding low dollar value procurement from the Act, as these are often the most accessible opportunities for small businesses.
- Phase implementation timelines, as set out above, to allow small businesses adequate time to shift their supply chains and sell existing inventory.

1.5 Ambiguity of Definitions and Interpretation Issues

As part of the City's amendments to the [Procurement Bylaw in March 2025](#), new definitions of the terms "Canadian Supplier" and "Trade Partner Supplier" were added. The City's definition of "Canadian Supplier" accounts for commercial realities, outlining parameters related to business type, location and employee base.

Moreover, it includes a definition of "Canadian Business Subsidiary", which is a corporation operating in Canada that acts as a supplier, manufacturer or distributor of goods and services that are controlled by a parent corporation outside of Canada, where the business subsidiary has permanent offices or production facilities in Canada and a minimum of 70% of the deliverables will be provided by employees based in Canada.

The criteria for the definitions were designed so they could be readily verified and attested to by suppliers, without requiring determination of the origin of goods. The federal government's Buy Canadian Policy established lengthy and complex rules about determining and prioritizing Canadian content and materials. Proof of origin requirements stipulated by the Federal government is done so by the importer or producer of the good and the required proof of origin is different depending on Canada's international trade and investment agreements. Unless the supplier is the original importer or producer of the goods, it would not be feasible for suppliers to determine whether goods originate in Ontario or Canada, particularly in the context of preparing responses to municipal solicitations.

The City's definition of "Trade Partner Supplier" was intended to acknowledge the important role of suppliers in the European Union under the CETA, which is the only international trade agreement that applies to municipal procurement. The definition includes suppliers that conduct their activities on a permanent basis within a country that is a party to an international trade agreement applicable to municipalities in Canada. The flexibility provided by the definition of "Canadian Supplier" and "Trade Partner Supplier" is essential to managing market capacity, the diverse range of goods and services procured by the City, cost escalation, and project risk. To date, there have been no bid disputes submitted in relation to the application of the City's definitions.

In contrast, the proposed definitions of Canadian Made, Canadian Service, Ontario Made, and Ontario Service are very broadly worded and lack the objective criteria needed for compliance to be conclusively demonstrated. This room for interpretation can lead to protracted bid disputes by unsuccessful suppliers and inconsistent application across varying municipalities. Bid disputes can significantly delay contract awards and serve to further exacerbate the uncertainty faced by suppliers of goods and services in a challenging economy, particularly in the construction industry.

Additionally, the proposed definitions do not account for commercial realities, including scenarios such as:

- Businesses headquartered outside of Ontario, but having offices in Ontario.
 - For example, will services performed by a corporation headquartered in Québec that maintains an Ontario office, and also provides services in Ontario, still be eligible as an Ontario Service?
- Businesses owned by an international parent company but having incorporated federally and having a presence in Ontario.
 - For example, many large American companies have Ontario entities, such as Staples (US Parent Company) and Staples Canada (Canadian subsidiary), with headquarters in Ontario and a large retail presence across the province. Would their services be considered an Ontario Service?
- Goods that move back and forth across the border at different stages of production and assembly, making it difficult to attribute a single place of origin.
 - For example, if a product is designed or partly manufactured in Ontario and finished in the United States or in another location outside of Ontario or Canada, does that negate an “Ontario Made” or “Canadian Made” determination?
 - If not, what minimum threshold of the good’s labour, costs and/or production activities must be in Ontario to meet this definition?

Without clear directives and standardization, municipalities may take varied approaches to interpreting and applying these definitions to procurements. This leaves the City vulnerable to bid disputes by unsuccessful suppliers, which may escalate in the form of either civil claims or applications for judicial review.

Additionally, this will cause confusion for suppliers bidding on procurements in multiple municipalities, and relating compliance issues. As stated above, public sector entities do not receive protection under the legislation from judicial review claims or the costs of such proceedings.

City staff recommend that the Province:

- Analyze the definitions used by the City and definitions from other municipalities and local boards relating to tariff response and buy Canadian measures, align with these existing definitions where feasible, and delay application of the Act to municipalities and local boards until such analysis is complete.
- Issue detailed guidance, similar to that issued federally by the Competition Bureau, on what is applicable/not applicable under Canadian Made, Canadian Service, Ontario Made, and Ontario Service.
- Ensure definitions of Canadian Made, Canadian Service, Ontario Made and Ontario Service are objective, measurable/quantifiable, and defensible; for example, the Federal standards of a ‘Product of Canada’ includes measurable thresholds and takes into account the proportions of labour, costs and production.

- Support consistency across all municipalities with a single provincial standard, not allowing municipalities to establish their own guides or definition interpretations.
- Provide resources with common commercial scenarios, including examples of split manufacturing, ingredient/component specific examples, etc.
- Develop a standard attestation template the City can incorporate into the procurement process, which includes the list of evidence suppliers can include during their submission.

1.6 Resourcing to Implement Impending Policy Directives Under the Act

Both the *Municipal Act, 2001*, and the *City of Toronto Act, 2006* strengthened provincial-municipal relations by affirming areas needing municipal autonomy, recognizing that Ontario's 444 municipalities are best suited to exercise how to achieve the best value for money, meet service delivery needs and manage procurement risks.

To that end, municipalities currently have independence and autonomy to design procurement policies that reflect local needs and priorities. The proposed regulation to add municipalities as Public Entities under the Act, introduces prescriptive requirements that impede on municipal independence over financial and operational management.

The proposed policy directive shifts responsibility for implementation to municipalities, without providing the required resources or funding. Municipal authority is undermined by the requirement to absorb the administrative, operational and legal risks without the equivalent in support, resources, funding, or protections against legal challenges.

City staff recommend that the Province:

- Provide funding to organizations being added as public sector entities under the Act, to support with operational costs to implement legislation changes.
- Develop training, guidance materials and dedicated support channels for municipalities during the phasing of the policy.
- Consider project cost impacts, where suppliers are required to adapt their supply chains as new directives are implemented.

2. Made-in Ontario Vehicle Fleet Policy

2.1 Aligned with the City's Support for Ontario's Auto Sector

Recognizing the importance of the auto sector to Ontario's economy, the Mayor's Economic Action Plan in Response to US Tariffs included auto sector impact analysis for

the Toronto region and actions to mitigate this impact. While Toronto does not have an auto assembly plant, the automotive parts supply chain extends into Toronto, where tariff impacts are felt by local suppliers.

In alignment with the objectives of the Made-in Ontario Vehicle Fleet Policy, the City is working with the Automotive Parts Manufacturers' Association to identify local suppliers for key parts to service fleet vehicles. This proposed Policy is an opportunity to align government efforts further and explore arrangements for more streamlined purchasing (i.e., Supply Ontario Vendor of Record arrangements (VORs)).

City staff recommend that the Province:

- Maintain the option for public sector entities to procure from other suppliers, where there is a situation in which it is not possible to procure from Tier 1 or Tier 2.
- Continue collaborating with municipalities ensure coordination with existing efforts and maximum potential of collective efforts.

2.2 Resourcing Constraints for Administration

The City is distinct in the size of its operations and resourcing required to implement and manage change with a high volume of suppliers and procurements. For instance, the City purchases about 200 light duty vehicles annually, with a forecasted annual budget of \$18 million allocated for light duty vehicle procurement and contracts in place that expire in 2028. Currently, there is approximately 2,000 light duty vehicles in service. In addition to light duty vehicles, approximately 500 medium and heavy assets are replaced annually, with an overall fleet size of 5,300 assets.

The requirement to assess and document Tier 1 applicability for each procurement will introduce additional administrative efforts. In addition, the City will be required to ensure resourcing and training to ensure compliance with the proposed policy.

City staff recommend that the Province:

- Develop guidance materials and dedicated support channels.
- Provide funding to organizations being added as public sector entities under the Act, to support with operational costs to implement legislation changes.

2.3 Potential Impacts on GHG Reduction Initiatives

On December 15, 2021, Toronto City Council adopted the TransformTO Net Zero Strategy to reduce community-wide greenhouse gas (GHG) emissions in Toronto to net zero by 2040. As part of this initiative, the City set a goal to have 50 per cent of the City-owned fleet transitioned to zero-emissions vehicles by 2030.

The proposed policy requires public sector entities to purchase or lease Made-in-Ontario Fleet Vehicles when acquiring new light-duty passenger vehicles. The City utilizes Supply Ontario VORs to procure vehicles and there are currently no Tier 1 Zero Emission Vehicles (ZEV) available on the provincial VORs. Limited, or no, Made-in-Ontario ZEV models on provincial VORs will hinder the City's ability to meet its Electric Vehicle transition targets and may affect fleet replacement timing and total cost.

Additionally, the options in Tier 1 do not have capacity and model availability to support the City's annual replacement volume. This presents the risk of using sub-optimal vehicle selections (ICE or Hybrid instead of ZEV). Potential expansion of Electric Vehicle manufacturing plants in Ontario in the future could gradually improve ZEV availability across both tiers.

City staff recommend that the Province:

- Permit public sector entities to pursue alternative procurement options should a suitable vehicle in Tier 1 or Tier 2 not be operationally feasible.
- Make Zero Emission Vehicles exempt from the Policy.

3. Policy for Goods and Services in Capital Infrastructure and Construction Projects

3.1 Supplier Limitations and Reduced Competition

By placing increased emphasis on Ontario Made goods and services within evaluation frameworks, the policy risks discouraging out-of-province and international suppliers from participating in public sector procurements in Ontario. Where suppliers determine that they are unlikely to be competitive due to mandatory or weighted domestic content requirements, they may choose not to bid at all. This reduction in bidder participation can weaken competitive tension, which is a key mechanism for achieving value for money in public procurement, and may ultimately constrain choice for public sector entities.

Including Ontario Made goods in procurement evaluations may also contribute to higher project costs if the number of suppliers capable of meeting the requirements is limited. In markets where there are relatively few Ontario-based manufacturers or service providers for specialized construction inputs, reduced competition could lead to higher bid prices and less pricing discipline. Over time, this may increase capital project costs for municipalities and broader public sector organizations, particularly for complex or large-scale infrastructure projects. These cost pressures may be further compounded where public sector entities have limited flexibility to seek alternative suppliers due to policy compliance requirements, even where equivalent or better-value options exist outside the province.

Another consideration for policy design is that the proposed evaluation approach introduces potential risks to project delivery by allowing supply chain scoring to outweigh technical merit. Under this framework, a supplier with a weaker technical proposal but stronger Ontario supply chain attributes could be awarded a contract over a more technically qualified bidder. This outcome raises concerns related to construction quality, schedule adherence, and overall project performance. Infrastructure and construction projects are inherently complex and carry significant delivery risks; prioritizing supply chain criteria over technical capability may increase the likelihood of cost overruns, delays, or performance issues, ultimately undermining the objectives of efficient, timely, and high-quality public infrastructure delivery.

City staff recommend that the Province:

- Set reasonable caps on the weighting assigned to Ontario supply chain criteria and allow exemptions where there is demonstrable risk of reduced competition in a high priority or time-sensitive project.
- Consider closely what it means for a proponent to be deemed non-compliant based on the requirements in this policy, with consideration of the impacts it will have on construction projects with few supplier options that can deliver them.

3.2 Impacts to Projects in the Pipeline

The City's construction projects deliver essential infrastructure that Ontario residents rely on daily, making timely delivery critical to public safety, mobility, housing availability, and quality of life. Across many construction projects, existing procurement practices already support the use of Ontario Made and Canadian Made goods, while the introduction of additional administrative requirements risks adding red tape and delaying procurement timelines and project starts.

Transportation

Based on the definitions proposed, the major goods for transportation capital infrastructure and construction projects are predominantly already Ontario Made or Canadian Made given existing market conditions, procurements methods, and the number of requirements already found on provincial legislation and regulations. The added administrative requirements in the proposed regulation will lead to longer procurement times, and are not anticipated to lead to any substantial changes in Ontario Made or Canadian Made goods or services for the City's transportation projects. For example:

- *Road and Sidewalk Construction:* The major repair of City sidewalks and resurfacing of roads is contracted out, and in all cases completed by a constructor who is based in Ontario, and who further procures their concrete and aggregate from local plants. The City's specifications and standard drawings for road and sidewalk construction are in close alignment with Ontario Provincial Standard Specifications (OPSS) and

Ontario Provincial Standard Drawings (OPSD), ensuring that we already rely on domestic suppliers to conduct our projects for items such as catch basins, drainage pipes and guiderails.

- *Signs*: The installation of signage (i.e. speed signs, street signs, etc.) is completed by in-house and contracted crews. Signs are fabricated using sheet metal that is sourced within Ontario and Québec. The contracted crews are Ontario based.
- *Electrical Signal Construction and Maintenance*: The construction and maintenance of electrical signals and their ancillary equipment is largely Ontario-based. The Technical Standards and Safety Authority and Electrical Safety Authority require Ontario-based certifications resulting in pre-qualified Ontario constructors completing this work. Most construction inputs such as concrete, poles, wire, handwells, and conduit are Ontario Made. However, the industry does depend on specialized, proprietary components that are not manufactured in Ontario, such as traffic controllers, detection technologies, traffic management devices, system hardware, software platforms, and other electronic components.

Housing

The *Strong Mayors, Building Homes Act, 2022* empowered mayors to make decisions best suited to their municipal needs, with particular focus on expediting housing development to address the housing crisis. There may be conflicts with the ability to expedite housing and infrastructure delivery, where this legislation raises the potential to increase project timelines and costs.

City staff recommend that the Province:

- Make the Policy Directive only applicable to capital infrastructure and construction projects over a high-dollar value threshold and for a duration of 13 months or longer.

3.3 Domestic Supply Chain Plans and Evaluation Methodologies

The introduction of mandatory DSCPs represents a significant new requirement within the procurement process. Developing and implementing DSCPs will require municipalities to establish consistent internal policies for the identification of 'Major Goods' across all capital infrastructure and construction projects. This is substantial work, requiring cross-divisional alignment, creation of templates, legal review, training and engagement with the market.

Requiring DSCP submissions for all bids requires additional time to be added to the solicitation process to allow suppliers to compile sourcing information and complete forms of attestation. The City is working to reduce the length of its procurement cycles, where this

proposal will extend procurement timelines and may delay critical state of good repair and capital projects during peak construction periods.

The proposal delegates each public sector entity to develop its own methodology for evaluating and scoring DSCPs. While this flexibility acknowledges local market conditions, it also requires municipalities to design, test, and implement evaluation frameworks that will need to be applied fairly and consistently to all suppliers. Developing clear guidance, documentation standards, internal controls, and capacity will require a substantial amount of staffing and resources to develop and operationalize.

There is a potential for increased contract costs as suppliers will face additional administrative burden associated with documenting sourcing supply chains and verifying origins of “Major Goods”. The new administrative requirements may lead to increased bid prices, especially if suppliers must restructure their sourcing to achieve competitive scoring. The cost and administrative impacts extend beyond the primary supplier to their subcontractors. Many, as smaller contractors, may not have the supply chain visibility and resourcing available to complete the DSCP. Subcontractors may also rely on specialized goods that may not be able to be procured from Ontario-based sources which can increase costs and reduce their ability to participate in the City’s procurement process. The pressure to adapt to new processes and requirements to meet the new regulatory requirements will extend beyond the City, to their primary suppliers and subcontractors as well.

It is unclear in the proposed Policy if failure to submit a DSCP makes a proponent’s bid non-compliant. Since rectification is not permitted for Contract-A procurement, many solicitations may be impacted by non-compliance, reducing the likelihood of achieving best-value for the City. It is also unclear if price-only solicitations may be used for high-dollar value procurements. Requests for tenders and requests for quotations are important price-only solicitation methods for the City to procure construction services and other goods and services, respectively, that result in shorter procurement timelines. As stated above, timely delivery of critical infrastructure projects is a priority for the City.

City staff recommend that the Province:

- Consider the value and volume being procured and the relevance to strategic economic goals for certain Ontario sectors in the definition of Major Goods.
- Provide clarity on whether:
 - Failure of a supplier to submit a DSCP would make their bids non-compliant.
 - Public sector entities may use price-only solicitations for high-dollar value procurements.

3.4 Considerations for Exclusions that Meet Operational Realities

Maintenance, Repair and Operations Considerations

The current definition of “maintenance, repair and operations” (MRO) indicates that where work involves repairing or renovating a physical structure, the provisions of the proposed regulation would apply. As drafted, this definition is vague and overly broad, and could reasonably be interpreted to capture routine, low-dollar value repair activities such as repairing a street sign, fixing a Vision Zero bollard, or repairing a traffic control box. Subjecting these types of routine and time sensitive maintenance activities to the full requirements of the proposed regulation risks creating uncertainty, inconsistent interpretation, and significant administrative burden for both public sector entities and suppliers.

Without clear and practical exclusions, the proposed regulation may impose disproportionate administrative and compliance costs relative to the scale and risk of the work being undertaken. Applying Ontario Made goods and services requirements, documentation obligations, and evaluation criteria to minor MRO activities would increase red tape and slow down routine repairs that are essential to public safety and service continuity. This burden would be particularly challenging for small- and medium-sized contractors, including local “mom and pop” shops, that typically perform this work and may lack the administrative capacity to comply with complex procurement requirements.

Additionally, the lack of clear guidance on when and how municipalities may rely on non-Ontario suppliers for urgent or emergency needs creates material operational risk. In the absence of explicit direction, municipalities may delay time-sensitive procurement decisions out of concern for non-compliance, even where immediate action is required to protect public safety or maintain essential services.

Cooperative Purchasing, Multi-Use Lists and Vendor of Record Considerations

The City participates in various forms of purchasing arrangements in order to obtain the benefits of economies of scale, scope and administrative efficiency. Some of the purchasing arrangements include cooperative purchasing, such as Buying Groups, and multi-use lists (“rosters”).

The City is a member of six Buying Groups, including Supply Ontario’s Vendor of Record arrangements. Buying Group procurements are done in compliance with both the CFTA and CETA. The competitive solicitations used by Buying Groups either meet, or exceed, the participants’ procurement requirements.

The City also uses rosters, similar to the Province’s VORs. Both cooperative purchasing and multi-use lists save time, reduce administrative and procurement resources and consolidate spending across government entities and City divisions, respectively.

The Province's proposal creates several impacts to the above processes. In particular, existing rosters may become non-compliant under the new directives. City of Toronto's rosters are valid for a period of up to five years. In accordance with CETA, additional suppliers are able to apply to be added to rosters, but they have to be evaluated based on the same process and criteria as the original solicitation. Also, some Buying Groups may not fall under the Province's directives, such as the Federal Government's Buying Group, Mohawk Medbuy or Kinetic GPO, which would remove the City's ability to leverage the benefits of group purchasing.

The consideration to include mandatory evaluation factors, such as the DSCPs and Major Goods sourcing requirements, which were not included as evaluation criteria in existing rosters, creates uncertainty on whether these rosters can be used for future work. There could be major implications and disruptions for multi-year capital projects where existing rosters are being utilized.

To ensure compliance with the Province's proposal, the City will have to re-establish all rosters under evaluation criteria aligned with the Act. This will create significant administrative burdens and increased costs and effort for suppliers to reapply.

In addition, the Province's proposal is unclear on whether the Act would apply to work assignments resulting from a roster, which are assigned through a second stage competitive process. If public sector entities are required to evaluate a DSCP for every work assignment, this would significantly reduce the benefits of reduced procurement timelines resulting from the use of rosters.

It is important for the Province to clarify whether existing provincial Vendor of Record arrangements will be updated to be compliant with the Act, or whether municipalities will be required to apply the proposed directives to existing VORs. Applying new requirements to existing arrangements would undermine the intent of the VOR framework, which is designed to reduce administrative burden and streamline procurement.

City staff recommend that the Province:

- Provide exemptions under the Act and Policy for:
 - All existing awarded contracts, including multi-use lists and their second stage work assignments.
 - Non-competitive procurements required to respond to emergencies.
 - Procurements where the City sources Major Goods for construction-related works that will be completed by City in-house resources.
 - Routine and low value MRO activities, ensuring that the regulation remains focused on major capital infrastructure and construction projects.
- Provide clarity on whether cooperative purchasing arrangements established prior to any provincial policies coming into force are subject to the new requirements.

3.5 Monitoring and Compliance: Roles, Authorities and Definitions

Effective monitoring and compliance of the proposed regulation will require clear articulation of roles, authorities, and responsibilities across the Province, municipalities, broader public sector entities, and suppliers. As currently framed, there is limited clarity regarding who is responsible for interpreting key definitions, determining compliance at various stages of procurement, and enforcing requirements once contracts are awarded. Without consistent guidance, public sector entities may apply the policy differently, leading to inconsistent outcomes, increased compliance risk, and potential disputes with bidders.

In the absence of clear compliance roles and definitions, even routine procurement decisions may become operationally complex. For example, where a contractor sources materials from multiple suppliers across Ontario and outside the province, it may be unclear whether the public sector entity, the prime contractor, or a subcontractor is responsible for verifying and documenting Ontario-content compliance, and at what point in the procurement or delivery process this verification must occur. This ambiguity increases the risk of non-compliance, bid disputes, and audit challenges, even where good-faith efforts have been made to comply.

The City is supportive of the provision that municipalities may rely on supplier attestations of source of origin without obligation to independently verify or retain extensive supporting documentation. Any expectation that municipalities conduct audits or enhanced verification beyond reliance on supplier declarations would significantly increase administrative workload and legal exposure.

City staff recommend that the Province:

- Clearly define accountability for compliance monitoring, including roles and authorities.
- Provide municipalities with assurances that there will not be additional compliance monitoring requirements introduced at a later date, including audits or enhanced verification beyond reliance on supplier attestations. Establish practical documentation requirements that consider resourcing capacity of municipalities and smaller suppliers.
- Provide guidance on enforcement thresholds, including the circumstances under which non-compliance would trigger corrective action, penalties, or escalation.

3.6 Resourcing Constraints for Administration

The City will face an increase in administrative work to implement, monitor, and report on compliance with the proposed Policy. Without dedicated Provincial funding, these new responsibilities will increase operating costs. The administrative requirements during

contract initiation, including verification of DSCPs, documentation review, and compliance management, will contribute to project delays.

The administrative burden is compounded by other upcoming Provincial initiatives. For example, the Ministry of Transportation has recently proposed the Harmonization of Municipal Road Construction Standards with an effective date of July 1, 2027. This will require further substantial updates to municipal transportation capital infrastructure and construction practices. Introducing DSCP obligations concurrently or without alignment across other regulatory changes may increase compliance complexity and strain municipal staff capacity.

City staff recommend that the Province:

- Develop guidance materials and dedicated support channels.
- Provide funding to organizations being added as public sector entities under the Act, to support with operational costs to implement legislation changes.

Attachment 1: Questions to Consider in Implementation Planning

1. Domestic Supply Chain Plan
 - a. Is there a specified format for these plans? Does it just identify components to be locally sourced (Ontario or Canada) or is it an itemized list of specific vendors for every Major Good.
 - b. What if none of the Major Goods are locally sourced – is the bidder non-compliant and disqualified?
 - c. How do we enforce it after award? Is it a breach of contract if the contractor doesn't follow the Plan?

2. Major Goods
 - a. Other than the type of good/service, is there a value or quantity threshold to be considered a Major Good? (i.e. Is Concrete valued at \$100 a Major Good?)
 - b. If the list of Major Goods is not exhaustive, how do we confirm if unlisted items are Major Goods?
 - c. Are there any exclusions (no local supply, emergencies)?

3. Example Evaluation Approach
 - a. Is it just an example and we design our own procedures?
 - b. Are the percentage of points/price adjustments provided minimums?
 - c. What are low-, medium- and high-dollar value projects?
 - d. Is there a minimum threshold contract value before the policy applies?
 - e. Are we required to only award high-dollar value projects using rated criteria instead of price-only?
 - f. Background info refers to a Buyers Guide with formulas – will that apply to us?

4. Capital Infrastructure Construction Projects Definition
 - a. The examples provided were provincial projects. Will the province provide a comprehensive list of municipal projects captured by the policy?
 - b. What are social projects? Community Centres? Water and Wastewater supply and distribution infrastructure?

Attachment 2: Full List of City of Toronto Staff Recommendations

Adding Municipalities as Public Sector Entities under the proposed Regulation to the *Buy Ontario Act, (Public Sector Procurement), 2025 (the “Act”)*

Infeasible Timelines

- Refrain from prescribing municipalities and local boards under the Act, until impact analysis can be completed.
- If municipalities and local boards are to be prescribed under the Act, employ a phased approach such as:

Phase 1 (June 2026 to February 2027):

- Municipal commitment/pledge towards Buy Ontario goals
- Optional participation of newly added public sector entities
- Foundational work, including engagement with suppliers, policy and procedure development, training and resources
- Begin requesting Domestic Supply Chain Plans (DSCPs) on high-dollar value procurements, without Ontario preference requirements
- Provincial data collection across public sector entities to understand supply chain impact and sector gaps for development

Phase 2 (March 2027 to June 2028):

- Add Ontario preference to DSCPs for high-dollar value procurements where the potential impact is concentrated, where large suppliers will have resources to adjust more quickly
- Expand requirements for DSCPs to small- and medium-dollar value procurements without Ontario preference requirements

Phase 3 (July 2028 onwards):

- Expand Ontario preference requirements to all DSCPs
 - Apply learnings from Phase 1 and Phase 2 to broad rollout (i.e., process improvements, new resources/tools)
- Consider the preparation and related time allotments for municipalities to successfully implement broad procurement changes in any future directive under the Act.

Trade Obligation and Risks

- Ensure proposed policies and any subsequent policies applicable to municipalities align with applicable trade agreement thresholds.
- Support municipalities with any expenses occurred as a result of judicial review and constitutional remedy legal challenges arising from the application of the Act.
- Pause on municipal implementation until definitions are refined to ensure compliance with Trade Agreements and are supported by clear, operational guidance for consistent application.

Misalignment with Indigenous Procurement Objectives

- Include exemptions for municipalities to implement Indigenous procurement policies and objectives that may conflict with the Act, in recognition of each municipality's existing relationships, approaches and reconciliation objectives.
- Work with Indigenous communities, businesses and organizations to ensure the Act does not create or reproduce structural barriers to Indigenous participation in public procurement.

Impacts to Equitable Procurement Strategies

- Create exceptions in the Act for municipal policies and objectives relating to reconciliation and equitable procurement to ensure small, local, Indigenous, Black and Equity-deserving suppliers and Social Enterprises are not disproportionately impacted by proposed directives.
- Consider excluding low dollar value procurement from the Act, as these are often the most accessible opportunities for small businesses.
- Phase implementation timelines, as set out above, to allow small businesses adequate time to shift their supply chains and sell existing inventory.

Ambiguity of Definitions and Interpretation Issues

- Analyze the definitions used by the City and definitions from other municipalities and local boards relating to tariff response and buy Canadian measures, align with these existing definitions where feasible, and delay application of the Act to municipalities and local boards until such analysis is complete.
- Issue detailed guidance, similar to that issued federally by the Competition Bureau, on what is applicable/not applicable under Canadian Made, Canadian Service, Ontario Made, and Ontario Service.
- Ensure definitions of Canadian Made, Canadian Service, Ontario Made and Ontario Service are objective, measurable/quantifiable, and defensible; for example, the Federal standards of a 'Product of Canada' includes measurable thresholds and takes into account the proportions of labour, costs and production.

- Support consistency across all municipalities with a single provincial standard, not allowing municipalities to establish their own guides or definition interpretations.
- Provide resources with common commercial scenarios, including examples of split manufacturing, ingredient/component specific examples, etc.
- Develop a standard attestation template the City can incorporate into the procurement process, which includes the list of evidence suppliers can include during their submission.

Resourcing to Implement Impending Policy Directives under the Act

- Provide funding to organizations being added as public sector entities under the Act, to support with operational costs to implement legislation changes.
- Develop training, guidance materials and dedicated support channels for municipalities during the phasing of the policy.
- Consider project cost impacts, where suppliers are required to adapt their supply chains as new directives are implemented.

Made-in Ontario Vehicle Fleet Policy

Aligned with the City's Support of Ontario's Auto Sector

- Maintain the option for public sector entities to procure from other suppliers, where there is a situation in which it is not possible to procure from Tier 1 or Tier 2.
- Continue collaborating with municipalities ensure coordination with existing efforts and maximum potential of collective efforts.

Resourcing Constraints for Administration

- Develop guidance materials and dedicated support channels.
- Provide funding to organizations being added as public sector entities under the Act, to support with operational costs to implement legislation changes.

Potential Impacts on GHG Reduction Initiatives

- Permit public sector entities to pursue alternative procurement options should a suitable vehicle in Tier 1 or Tier 2 not be operationally feasible.
- Make Zero Emission Vehicles exempt from the Policy.

Policy for Goods and Services in Capital Infrastructure and Construction Projects

Supplier Limitations and Reduced Competition

- Set reasonable caps on the weighting assigned to Ontario supply chain criteria and allow exemptions where there is demonstrable risk of reduced competition in a high priority or time-sensitive project.
- Consider closely what it means for a proponent to be deemed non-compliant based on the requirements in this policy, with consideration of the impacts it will have on construction projects with few supplier options that can deliver them.

Impacts to Projects in the Pipeline

- Make the Policy Directive only applicable to capital infrastructure and construction projects over a high-dollar value threshold and for a duration of 13 months or longer.

Domestic Supply Chain Plan and Evaluation Methodologies

- Consider the value and volume being procured and the relevance to strategic economic goals for certain Ontario sectors in the definition of Major Goods.
- Provide clarity on whether:
 - Failure of a supplier to submit a DSCP would make their bids non-compliant.
 - Public sector entities may use price-only solicitations for high-dollar value procurements.

Considerations for Exclusions that Meet Operational Realities

- Provide exemptions under the Act and Policy for:
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 - Routine and low value MRO activities, ensuring that the regulation remains focused on major capital infrastructure and construction projects.
- Provide clarity on whether cooperative purchasing arrangements established prior to any provincial policies coming into force are subject to the new requirements.

Monitoring and Compliance: Roles, Authorities and Definitions

- Clearly define accountability for compliance monitoring, including roles and authorities.
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verification beyond reliance on supplier attestations. Establish practical documentation requirements that consider resourcing capacity of municipalities and smaller suppliers.

- Provide guidance on enforcement thresholds, including the circumstances under which non-compliance would trigger corrective action, penalties, or escalation.

Resourcing Constraints for Administration

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