

# Procurement Policy Restriction (U.S. Businesses)

## Frequently Asked Questions

**Note:** This Frequently Asked Questions document has been updated to align with the changes introduced in the updated Procurement Restriction Policy. Newly added are clearly identified with the label (NEW) for ease of reference.

### Background

#### 1. What has changed in the Procurement Restriction Policy? (NEW)

Nothing has changed in the policy itself.

The requirements remain the same.

What has changed is where the policy is located. The Procurement Restriction Policy is no longer a standalone policy. It has been moved into the new Buy Ontario Procurement Directive.

The Buy Ontario Procurement Directive applies to the Ontario Public Service (OPS), provincial agencies, and the Broader Public Sector (BPS) effective April 13, 2026. It is issued by the Management Board of Cabinet (MBC) under the Buy Ontario Act (Public Sector Procurement), 2025.

The Procurement Restriction Policy (U.S. Businesses) can now be found in section 4.3

#### 2. What are tariffs?

A tariff is a form of tax or customs duty imposed by one country on the imports of goods or services from another country – see [Tariffs, rules and regulations](#). In general, tariffs raise the price of imported goods and services, privileging domestic products.

### 3. Why is Ontario implementing the Procurement Restriction Policy (the “Policy”)?

Ontario is implementing this Policy in response to tariffs imposed by the United States on Canadian products, which are expected to negatively impact Ontario's economy. The Policy's intent is to exclude U.S. businesses from participating in Ontario's procurement processes.

## The Policy

### 4. What is the Procurement Restriction Policy?

The Policy, issued by Treasury Board / Management Board of Cabinet (TB/MBC), restricts Ontario Public Service (OPS) and designated Broader Public Sector (BPS) organizations from procuring from U.S. businesses. Should the U.S. remove tariffs

### 5. Who does the Policy apply to?

This Policy applies to all public sector entities, which means government entities and all designated BPS organizations, unless otherwise specified. This includes:

#### Government Entities

- all ministries
- all provincial agencies
- the Ontario Power Generation (OPG)
- the Independent Electricity System Operator (IESO)

#### Broader Public Sector (BPS)

Designated BPS organizations that are subject to the [BPS Procurement Directive](#), including:

- Hospitals
- School boards
- Colleges and universities
- Children's aid societies
- Shared services and group purchasing organizations

- Publicly funded organizations that received public funds of \$10M or more in the previous fiscal year of the Government of Ontario

For details of the organizations included in the definition of “designated broader public sector organization”, refer to subsection 1(1) of the Broader Public Sector Accountability Act, 2010.

## **6. When does the Policy come into effect?**

The Policy originally came into effect on **March 4, 2025**, for both Government Entities and designated BPS organizations. The updated Policy took effect on November 20, 2025.

Procurements posted or issued before November 20, 2025, follow the previous requirements. Procurements posted on or after November 20, 2025, are subject to the requirements of the updated Procurement Restriction Policy.

## **7. What are the requirements of the Policy?**

The day this Policy comes into effect, the Policy requires that:

All public sector entities exclude U.S. businesses from participating in all new procurements of goods and services.

This applies to all new procurements, regardless of the estimated value or the procurement method used (invitational, open competitive, non-competitive, etc.).

## **8. What is out-of-scope for this Policy?**

The Policy does not apply:

To any procurement that was already in progress (i.e., a procurement document has been issued) before March 4, 2025. Requirements of the updated Policy, effective November 20, 2025, apply only to procurements issued or posted on or after November 20, 2025.

- When public sector entities use an existing Vendor of Record arrangement (VOR) or other available arrangements. To contract extensions included in the original procurement. Note: The Policy does apply to contract term extensions beyond

the original agreement, as they are considered new non-competitive procurements.

- To procurements needed to address a situation that is both urgent and unforeseen (i.e., emergencies). In these cases, **(i.e., emergencies)** organizations should follow their internal procedures to effectively manage these emergency procurements.
  - The OPS Procurement Directive sets out rules and provides flexibility when there is an emergency (see section 4.4.6).
  - The BPS Procurement Directive provides BPS organizations with the ability to determine their own processes in emergency situations.

Note that documentation is required for any procurement, including emergency procurements.

## 9. What is the U.S. Business definition?

A U.S. business means a supplier, manufacturer or distributor of any business structure (includes a sole proprietorship, partnership, corporation or other relevant business structure) that:

- has its headquarters or main office located in the U.S., and
- has fewer than 250 full-time employees in Canada at the time of the applicable procurement process.

If a bidder or vendor is a subsidiary of another corporation, part 1 of the definition above is met if that bidder or vendor is controlled by a corporation that has its headquarters or main office located in the U.S

A public sector entity can rely on a business's representation that it does not meet the definition of a U.S. business. This means that a public sector entity does not need to independently verify that the bidder is not a U.S. business, but it can ask a bidder to attest that it does not meet that definition.

Sample language has been provided in the guide that can be used in a procurement document in support.

**10. Would a bidder or vendor that is a subsidiary of a US supplier be considered a U.S. business?**

Yes, a Canadian subsidiary of a U.S. supplier is considered a U.S. business if it is controlled by a corporation whose main office or headquarters is in the U.S. and the subsidiary has fewer than 250 employees in Canada at the time of the applicable procurement process.

**11. What if buyers cannot determine if a business meets the definition of a U.S. business? How should we verify that a U.S. business has 250 employees in Canada, before issuing an invitational competitive procurement?**

Buyers do not need to verify whether a business meets the definition of U.S. business, including the number of employees the business has in Canada. As set out in the Policy, buyers can rely on a business's representation to ensure adherence to the Policy. Buyers should include as a part of the procurement documents a requirement that each bidder represent whether or not they are a U.S. business when submitting a bid.

Sample language for buying entities to consider for use in their procurement documents, with necessary modifications, is available in the Procurement Restriction Policy: Guide for Users. Buying entities are encouraged to work closely with their legal counsel.

## Scope of Application

**12. Does the Policy apply to municipalities?**

The Policy does not apply to municipalities.

**13. Does this Policy apply to subcontractors?**

Subcontractors are not covered by the Procurement Restriction Policy.

**14. How does this Policy apply to purchases from Canadian resellers?**

Buyers may procure from a reseller if they are not a U.S. business. The restriction applies to vendors, not the product or its location of origin.

**15. Does this Policy apply to contract extensions?**

No, the policy does not apply when you are exercising extension options that were included in the original signed contract. For example, if the original contract states "the agreement may be extended for up to two additional one-year terms," those one-year extensions are considered extension options. These are considered part of the existing agreement, not a new procurement.

**16. However, if the existing signed contract does not include extension terms, adding an extension would be treated as a new non-competitive procurement, and the Procurement Restriction Policy applies. Does this Policy apply to non-competitive procurements?**

Yes, the Policy applies to non-competitive procurements. When conducting a non-competitive procurement public sector buyers must not procure from or contract with a U.S. business unless prior approval is sought, as set out in the Procurement Restriction Policy.

**17. Does the Policy apply to the second stage selection process in Vendor of Record Arrangements?**

The Policy does not apply when public sector entities use an existing Vendor of Record arrangement (VOR) or other available arrangements.

**18. Does this Policy apply to day-to-day purchases not under a formal contract, smaller purchases under \$5,000, or annual subscriptions for online services or platforms?**

Yes. The Policy applies to all purchases regardless of the dollar value.

**19. Does the Policy apply to net new contracts with a U.S. business that we have an active contract with?**

Yes. The Policy applies to all new procurements. Buyers who plan to purchase from a U.S. business must seek approval to do so in accordance with the Policy.

## **20. Is an auto-renewal contract considered a new contract?**

If the contract was executed before the policy was effective and the terms and conditions of that contract allow amendments to contract terms (e.g. value, duration extensions, scope), the policy does not apply. If not, any amendment is considered a new non-competitive procurement and the policy applies.

## **21. Does this Policy impact BOBI?**

Existing procurement direction continues to apply, including rules to support the Building Ontario Businesses Initiative (BOBI). For the Ontario Public Service (OPS), this means all applicable procurement directives, including the OPS Procurement Directive. For the Broader Public Service (BPS), this means the BPS Procurement Directive.

In the event of any conflict or inconsistency between any applicable procurement directive and the Policy, the Policy prevails to the extent of the conflict or inconsistency.

## **22. How is "control" defined in relation to subsidiaries?**

The Procurement Restriction Policy does not provide a specific threshold or definition of 'controlled' in relation to subsidiaries. The Ontario Business Corporations Act (OBCA) may be helpful with determining whether a corporation is controlled by another corporation (called 'body corporate' under the OBCA).

Subsection 1(5) of the OBCA includes this:

For the purposes of this Act, a body corporate shall be deemed to be controlled by another person or by two or more bodies corporate if, but only if:

- a) voting securities of the first-mentioned body corporate carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other bodies corporate; and
- b) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned body corporate.

Bidders may wish to consult with their legal counsel to ensure compliance.

**23. Would the restriction apply to a purchase from a U.S. business that subcontracts production to an Ontario business?**

The restriction applies to the supplier signing the contract, and not their subcontractors or the location of origin of the products being supplied.

**24. Is there a list of approved Canadian companies that can be shared with us?**

No. A public sector entity can rely on a business's representation that it does not meet the definition of a U.S. business. The public sector entity does not need to independently verify that the bidder is not a U.S. business.

Sample language has been provided in the guide that can be used in a procurement document.

## Exceptions and Exemptions

**25. Are there any exceptions?**

U.S. businesses may be permitted to participate in the procurement only if any one of the following circumstances apply:

- The U.S. business is the only viable source, and the procurement cannot be delayed
- For service procurements, a U.S. business may bid if the U.S. business commits to ensuring that at least 90% or more percent of the required staff to deliver the contracted services are located in Canada.

The decision to procure from U.S. businesses must be clearly outlined in the organization's business case or procurement approval document, submitted through the organization's standard approval process.

**26. What does "required staff" mean?**

Refers to all the individuals, whether employees of the business or engaged by the business as independent contractors, who are designated or necessary to perform

the duties, responsibilities, or services being procured as specified in the project, or scope of work.

**27. How should buyers verify that 90% of staff are located in Canada?**

Although there may be many ways that a procuring entity can choose to verify this information, verification may be based on vendor self-declaration (e.g., attestation) at the time of bid submission. Buyers may choose to request supporting documentation, such as a staffing list that identifies each position or title responsible for delivering the services under the contract, specifies the location for each position, and includes the total number of staff, to ensure compliance.

**28. What happens if the vendor fails to maintain the 90% threshold after the contract starts?**

Failure to maintain the required staffing percentage may be considered a breach of the contract. Buyers should work with their legal advisors when developing their procurement documents and contract terms, including discussions regarding potential notification obligations and remedies that might be suitable for their procurement.

**29. Does the staffing location requirement take into consideration work is distributed among staff? (NEW)**

The exception applies only to the location of staff delivering the services under the contract. It does not relate to how work is divided or the nature of the tasks performed. The intent is to ensure that, even when an exception is granted, at least ninety percent (90%) of the staff performing the services are (physically) located in Canada.

**30. What approvals are required to apply an exception?**

Government Entities

- For government entities that follow the OPS Procurement Directive in full, obtain approval at the level as set out in section 4.5. Where the procurement value is within an entity's delegated authority, approval by the Deputy Minister, CEO or equivalent is required.

- For government entities that follow the OPS Procurement Directive in part, approval must be obtained from at least the CEO or an equivalent authority.

#### Designated BPS Organizations

- No specific approval level is mandated. The intent is to support accountability through an appropriate level of approval for procurements involving U.S. businesses, based on the organization's structure. All decisions must be well
- -documented.
- There is no requirement for a separate approval process. Existing internal approval processes can continue to be followed.

### **31. What information should be included in the business case requesting an exception?**

The business case should include justification to explain why a U.S. business is the only viable option and why the procurement cannot be delayed. It should also include details of any due diligence, market research, risk assessment, consultation or compliance checks conducted to support the decision.

Public sector entities may consult with Supply Ontario for strategic procurement advice, including to support in determining whether a U.S. business is the only viable source for the required good/service. To consult with Supply Ontario, submit a [Procurement Rationale Report Form \(PRRF\)](#).

### **32. What is meant by “only viable source” and “the procurement cannot be delayed”?**

For the purpose of the Policy, the term 'only viable source' is intended to mean that obtaining the necessary goods or services from any other source is not feasible. This could be due to various factors, such as:

- The supplier has unique skills or technology that no other supplier possesses.
- The supplier holds exclusive rights or patents, making them the sole provider.
- The supplier is the only one available in a specific area or at the time of the procurement.
- Confidentiality obligations.
- Health and safety considerations, including organizational capacity concerns.
- Lack of sufficient viable suppliers in cases where multiple suppliers are required.

- Where a product or service has demonstrated superior outcomes in terms of health, safety, or quality of life.

When deciding if a 'procurement cannot be delayed,' public sector buyers should consider the following:

- Is the procurement needed to ensure service continuity or deliver key programs?
- Are there health or safety concerns that this procurement addresses?
- Is this good/service needed immediately?

### **33. Are there any exemptions to the Policy?**

There are no exemptions to the Policy.

### **34. What supports are in place to help determine if there are other viable options to a U.S. Business?**

Public sector entities may consult with Supply Ontario for strategic procurement advice, including support in determining whether a U.S. business is the only viable source for the required good/service. To consult with Supply Ontario, submit a [Procurement Rationale Report Form \(PRRF\)](#) or email Supply Ontario at [doingbusiness@supplyontario.ca](mailto:doingbusiness@supplyontario.ca).

### **35. Is there a form or template to follow for exceptions to the requirement to exclude U.S. businesses from procurements (i.e. to procure from a U.S. business)?**

No, there is no form or template. However, the decision to procure from U.S. business should be clearly outlined in the organization's own business case or procurement approval document, submitted through the organization's approval process (subject to the applicable approval levels required by the Policy).

### **36. Can we group or bundle approvals to procure from a U.S. business?**

Organizations may wish to review and update their internal procedures to streamline approvals. Grouping procurement approvals by type of good/service could be used for multiple low-risk procurements, as long as each case meets the Policy criteria and is documented. This type of approach can streamline administration while maintaining the oversight required when procuring from a U.S. business.

**37. Can designated BPS organization delegate approval to someone other than the CEO?**

Yes. For designated BPS organizations no separate approval level is mandated. Existing internal approval processes can continue to be followed.

## **Implementing the Procurement Restriction Policy**

**38. Why is the Policy limited to new procurements only?**

The Policy will apply to procurements posted after this Policy comes into effect, with the intention of minimizing impacts to existing contracts and ongoing procurement processes.

**39. Are buyers required to verify a supplier is a U.S. Business?**

It is expected that buying entities will exercise prudent efforts to ensure that companies that meet the definition of a U.S. business are excluded from participating in their procurement processes. To ensure compliance, a public sector entity can rely on a business's declaration, among other methods, to ensure adherence to the Policy.

**40. If the Policy conflicts with the procurement directive which one should be followed?**

The Policy is designed to minimize conflicts with the procurement directives. If conflicts arise, the Policy will take precedence over the conflicting parts. The Policy does not prevail over legislation.

**41. We were planning to post a procurement next week that we have been working on for a few months. Does this Policy apply?**

Yes, if the procurement has not been posted or issued by the date this Policy comes into effect then the requirement to exclude U.S business must be applied.

**42. How will the Policy impact current contracts and ongoing procurement processes?**

The Policy only applies to new procurements, with the intention that existing contracts will not be impacted. However, if there is an optional extension(s) available

in a contract with a U.S. business, you should determine whether to exercise that optional extension or conduct a new procurement. Note that the Policy applies to procurements that were not posted at the time the Policy took effect.

**43. Should we cancel current contracts?**

No. The Policy applies to new procurements only. Existing contracts need not be cancelled.

**44. Do the new requirements affect the application of a ministry's financial delegation?**

Ministries are still required to comply with their Delegation of Financial Management Authority (DOFMA) when seeking approval for procurements. However, they must obtain approval from the Deputy Minister (DM), DM equivalent, or CEO when seeking an exception to the Policy.

**45. How will the Policy being rescinded be communicated?**

Should TB/MBC rescind the Policy, appropriate communications and guidance will be provided so government entities and vendors are made aware.

## Resources

**46. What resources do public sector entities have available to help implement the new Policy?**

To help public sector entities implement the Policy, the following resources are available:

- **Updated Guide for Users reflecting the changes in the updated PRP** that provides detailed instructions on how to apply the Policy.
- Online training sessions.
- Supply Ontario provides a **point of contact** to answer questions, clarify any elements of the Policy, and assist in assessing the applicability of exceptions. For assistance, please email [doingbusiness@supplyontario.ca](mailto:doingbusiness@supplyontario.ca)

#### **47. Are we required to update our RFX documents?**

To ensure transparency in our procurement processes, buying entities should ensure that where relevant their procurement documents are updated to inform all potential bidders about the restriction on U.S. business participation.

#### **48. Where can I find the applicable language to include in my procurement document?**

Sample language for buying entities to consider for use in their procurement documents, with necessary modifications, is available in the updated Procurement Restriction Policy: Guide for Users. Buying entities are encouraged to work closely with their procurement and legal advisors when reflecting the requirements of the Policy in their procurement documents.

#### **49. Where can I submit questions related to the Policy?**

Questions can be submitted to [doingbusiness@supplyontario.ca](mailto:doingbusiness@supplyontario.ca)

### **Vendors**

#### **50. How will businesses be made aware of the Policy?**

Ontario businesses will be made aware of the Policy through engagement and education that supports businesses about how to find procurement opportunities.

### **Reporting and Information Requests**

#### **51. What are the reporting requirements?**

##### **General Information Requests**

Public sector buyers must maintain records related to all procurements including information such as whether or not a procurement was with a U.S. business, procurement value, vendor's name, and other relevant details.

##### **Exception Reporting**

Public sector buyers must notify Supply Ontario at [SCO.Reporting@supplyontario.ca](mailto:SCO.Reporting@supplyontario.ca) on a weekly basis the following information:

- A list of all exception requests submitted for approval by the Deputy Minister, CEO or equivalent.
- The outcome of each request (approved or denied).

If the buyer consulted with Supply Ontario, the applicable PRRF number should be included.