SOVRA

Canadian Domestic Procurement Policies FAQ

This document compiles questions raised during the "Canadian Domestic Policy" webinar held on June 25, 2026. The session covered significant shifts in public procurement policies across Canada, with a focus on Ontario's new Buy Ontario Act and the federal Buy Canadian framework. The responses below combine the answers provided during the webinar with additional context from official documentation and follow-up research. For detailed definitions, policy language, and updates, please refer to the official directives and seek legal counsel when applying the policies to your organization.

Q1. How are these new requirements compatible with the non-discrimination provisions contained in the trade agreements (CETA, CFTA)?

A1. Most domestic procurement policies across Canada are, to some extent, aligned with existing trade treaty obligations; however, it's unclear how a court would decide a legal challenge to such policies regarding non-discrimination obligations. Organizations are obligated to comply with procurement legislation or policy imposed by governments.

Q2. Does this Buy Canadian Policy methodology currently only apply to purchases over $5M?

A2. The monetary threshold for the Canadian government's Buy Canadian Policy (Policy on Prioritizing Canadian Suppliers and Canadian Content in Strategic Procurements) is $5 million.

Q3. Could you not include rated criteria in the RFP that favours Canadian suppliers?

A3. Yes. Domestic procurement policies recommend appropriate strategies for including weighted domestic criteria in RFP documents.

Q4. What impact will a revised or expired CUSMA have?

A4. Ongoing changes in the trade relationship between Canada and the U.S. will likely impact existing domestic procurement policies. Organizations should continue to monitor such changes and the impact of CUSMA and other shifting Canadian trade relationships on government procurement obligations.

Q5. What reasonable repercussions can suppliers expect if they miss the commitments they make at the time of award?

A5. Organizations should consult with their legal advisors as to appropriate contractual provisions for holding vendors accountable for domestic sourcing commitments.

Q6. We have procured services from US vendors prior to this, and they are still working with us as we rely on those services. Do we need documentation for these, and if so, what is the best way to document them?

A6. If you have an existing contract with a US Business, Section 4.3 (Procurement Restriction Policy) of the Buy Ontario Procurement Directive does not apply to that contract or any extensions of that contract. It only applies to new procurements. If your existing contract arrangement with the US supplier expires, then you will need to apply the requirements of Section 4.3 and, if the US business is the only vendor that can provide the goods or services, document the rationale in a detailed business case.

Q7. For procurements creating VOR, should the prequalification stage follow the directive requirements, like giving preference to Ontario, Canadian, or Ontario Trading partner based on the estimated value over the VOR term, or should the directive requirements be applied on the second stage procurement from VOR depending on the specific procurement assignment and its value?

A7. The Buy Ontario Procurement Directive applies to all new procurements, including the creation of vendor-of-record (VOR) arrangements or second-stage procurements using the same; however, the Building Ontario Business Initiative does not apply to existing VOR arrangements.

Q8. Does the BOA still apply to second-stage tenders if the entity is using a multi-year VOR, e.g., general contractors posted and/or awarded prior to the effective date of the BOA?

A8. Under the Buy Ontario Procurement Directive, the Building Ontario Businesses Initiative (BOBI) does not apply to the use of an existing vendor of record or other available arrangements; however, the other three requirements (US Restriction Policy, Fleet Vehicles, and Capital Infrastructure directives) apply when using vendor-of-record arrangements. Similarly, under the Municipal Buy Ontario Procurement Directive, the Capital Infrastructure requirement applies to the use of vendor of record or other purchasing arrangements "wherever possible".

Q9. My understanding is that ongoing preventative maintenance would be exempt from BOA. However, what if the preventative maintenance identifies that one of those fixtures, furniture, or equipment needs to be replaced? Is the replacement process subject to the BOA? Example, replace a faulty building heat pump (HVAC) or upgrade building security equipment such as cameras and door entry hardware and software?

A9. "Fixtures, furniture or equipment acquired solely for ongoing or operational purposes after the facility is operational" are not subject to the Capital Infrastructure directive.

Q10. How do we prevent U.S. suppliers from applying? Do we need to include a statement in our public RFX indicating that bids from U.S. businesses are non-compliant unless an exception has been approved based on a non-viable procurement determination?

A10. Entities should include language in their RFX documents regarding the eligibility of US businesses, in consultation with their procurement and legal advisors.

Q11. When is the non-viable procurement analysis conducted—before issuing the RFX or after evaluating responses?

A11. Before issuing the RFX.

Q12. Is there an official list of "Major Components" that bidders should use when listing Ontario-made products during a construction bid?

A12. The definition of "Major Goods" in the Buy Ontario Procurement Directive includes:

- Structural Materials: concrete, steel, and other metals, lumber, stone, and aggregates.
- Building envelope components: windows, glass, roofing systems, and bricks.
- Mechanical and Electrical Systems: HVAC units, generators, and elevators.
- Specialty Items: prefabricated panels and major fixtures.
- Fixtures, furniture, and equipment
- Transit fleet vehicles

Q13. As per the latest Government's Procurement Restriction Policy (U.S. Businesses) - Version dated March 31, 2026, Clause 3.2.1 stated that, "For Service Procurements, a U.S. business may submit a bid if it commits to at least 90 percent of the required staff to deliver the contracted services will be located in Canada." Is the 90 percent specific to the entire company or the staff servicing the particular project?

A13. The 90% refers to the work for the specific project being procured.

Q14. Would a provincial government agency have to comply with both the Buy Ontario and Federal rules?

A14. Provincial organizations would only be subject to the Ontario government procurement directives; however, if federal funding is part of a procurement project, the Buy Ontario Procurement Directive specifies how conflicts with federal policy should be managed. See section on "Conflicts with funding agreements".

Q15. Does Buy Canada apply to all government institutions?

A15. The Buy Canada policies apply to most federal organizations; however, entities should consult with their legal advisors or with Public Services and Procurement Canada (PSPC).

Q16. What is the superseding relationship (if any) between the "Buy Ontario Procurement Directive" and the "Broader Public Sector Procurement Directive"?

A16. The Broader Public Sector Procurement Directive continues to apply; however, in the event of a conflict between the BPSPD and the Buy Ontario Procurement Directive, the Buy Ontario Procurement Directive prevails to the extent of any inconsistency.

Q17. How would this apply where a U.S. parent company operates through a Canadian subsidiary (the Cdn Sub has fewer than 250 employees in Canada)?

A17. For a company not to be considered a US Business under the Buy Ontario Procurement Directive, it must have more than 250 employees in Canada, regardless of its corporate structure.

Q18. With respect to the Procurement restriction policy, if a BPS entity is procuring services, do they have to open all services procurements to eligible U.S. services businesses, or can they select on a case-by-case basis which service procurements would restrict U.S. service businesses and which procurements could be opened to U.S. Service businesses?

A18. The Procurement Restriction Policy applies to all new procurement projects. Certain exemptions do apply, but should be considered on a project-by-project basis.

Q19. Do Canadian suppliers receive bonus points or a scoring advantage when responding to RFPs under the federal "Buy Canadian" policy?

A19. Yes. Under the federal Policy on Prioritizing Canadian Suppliers and Canadian Content in Strategic Procurement, Canadian suppliers receive an automatic 10 % reduction to their financial proposals for evaluation purposes. In addition, when proposals are evaluated using a point-rated methodology, at least 25 % of the evaluation must be allocated to Canadian value-added content. These mechanisms are designed to provide Canadian firms with scoring advantages when competing for federal strategic procurements.

Q20. Can broader public-sector (BPS) entities choose which U.S. service businesses they invite or exclude from procurements under the Procurement Restriction Policy?

A20. No. The Procurement Restriction Policy applies to all new procurements conducted under the Buy Ontario framework. BPS entities may only award a contract to a U.S. business when one of two narrow exceptions applies: (1) the U.S. supplier is the only viable source and delaying the procurement is not an option, or (2) the U.S. business commits to having at least 90 % of the staff who deliver the services located in Canada. Entities should not invite or shortlist U.S. firms if they cannot legally award to them under these rules. If they rely on the 90 % exception, organizations must include appropriate contract clauses and monitor staffing throughout the contract term to ensure compliance.

Q21. When awarding a contract to a U.S. supplier under the 90 % Canadian-staff exemption, can the organization rely on the supplier's self-attestation?

A21. Organizations may accept self-declarations from suppliers regarding their classification as U.S. businesses for eligibility purposes. However, the commitment to use at least 90 % Canadian-based staff must be monitored as part of contract management. Contract managers should include provisions requiring regular reporting or verification of staffing levels to confirm that 90% of the workforce serving the contract remains based in Canada.

1-800-835-4603
sales@sovra.com
SOVRA.com