Message from Dexter King, Director, Strategic Procurement Services
August 6, 2025

Important Changes: Implementing the New Procurement Restriction Policy Against United States Based Businesses

Effective March 4, 2025, the University is required to comply with the Provincial Government's new *Procurement Restriction Policy (US Businesses)*. The Procurement Restriction Policy is designed to restrict US businesses as defined by the Province, from accessing public sector procurements in Ontario, except for specific exemptions.

"A US-based business is defined under the Policy as any supplier, manufacturer, or distributor of any business structure (includes a sole proprietorship, partnership, corporation or other business structure) that: has its headquarters or main office located in the United States **and** employs fewer than 250 full-time employees at the time of the applicable procurement process."

Both conditions must be met in order to classify a business as US based. If only one condition is met, for example, a US business with more than 250 employees in Canada, this business would **not** be considered a US business, and **the reporting requirements are not required.**

What's out-of-scope for this Policy?

In addition, any purchases procured under the following conditions are excluded from this Provincial Government Procurement Restriction Policy:

- Any procurement already in progress
- The use of an existing vendor of record arrangement
- Contract extensions that are included in the original procurement
- Emergency procurements

For other purchases the Provincial Government Procurement Restriction Policy will apply. The community members are only permitted to purchase from US based Businesses if the following two exemptions are met:

1) The US based business is the only viable option; **and**
2) The procurement cannot be delayed

Purchasers must complete the **US Business Exemption Form** (as presented in Appendix B) found in the Vendor Quote Solicitation Package detailing the rationale for the exemption. The form must also be

signed by the appropriate Approval Authority based on the procurement value as outlined in the Signing Authority Register (Article 10).

Records and Reporting

Purchases over $121,200 (pre-tax)

For purchases exceeding $121,200 (pre-tax), Strategic Procurement Services (SPS) will assist departments during the tendering process to ensure compliance with existing trade agreements, and to appropriately document any approved exemptions.

For purchases under $121,200 (pre-tax)

For purchases under $121,200 (pre-tax), the community members will be required to collect additional information from vendors at the point of obtaining quotes.

- For low dollar value purchases (<$25,000 pre-tax) there is no requirement to submit accompanying documentation through **SmartBuy** however purchasers must keep a record of all non-Ontario and US businesses purchases using the *Business Attestation Form* (as presented in the Appendix A) and, if selecting a US vendor, the *US Business Exemption Form* (as presented in the Appendix B).

- For purchases valued between $25,000 and $121,200 (pre-tax), purchasers must submit documentation regarding the vendor's eligibility based on the Attestation Form, and any evaluation criteria supporting award to a non-Ontario or US business, in SmartBuy for a non-Catalogue Purchase Requisition. **A Purchase Order will be issued once the required documentation is provided**.

Further Support from Strategic Procurement Services

As the community transitions to the new policy regulations, SPS will minimize the impact of the change by providing templates and FAQs, and will update the online database of Ontario businesses developed under the Building Ontario Business Initiative Act (BOBIA), to include businesses that are US based. Community members are strongly encouraged to consult these resources. The SPS team is always available to assist and address any questions you may have. Questions may be sent directly to SPS at purchase@yorku.ca.

APPENDIX A

BUSINESS ATTESTATION FORM

To be completed by an authorized agent of the Vendor:

The authorized agent represents and warrants that pursuant to O. Reg 422/23, it is an Ontario Business (a supplier, manufacturer or distributor of any business structure that conducts its activities on a permanent basis in Ontario, and either has its headquarters or main office in Ontario or has at least 250 full-time employees in Ontario at the time of the applicable procurement process).

☐ Yes

☐ No

If you selected 'Yes' please disregard the follow question and proceed to the signature field below.

If you selected 'No' in the above response, does your business, pursuant to the Government of Ontario's *Procurement Restriction Policy*, meet **both** of the following criteria:

1) Has its headquarters or main office in the United States of America
   AND
2) Employs less than 250 full-time employees in Canada at the time of the applicable procurement process.

☐ Yes

☐ No

The authorized agent acknowledges the Vendor understands the instructions and conditions of this request and hereby offers to supply goods or services as per this Quote; and for greater certainty the agent has the authority to submit this Quote on behalf of the Vendor.

Authorized Agent's Name: _____

Signature: _____ Date: _____

APPENDIX B

US BUSINESS EXEMPTION FORM

The Procurement Restriction Policy (the "Policy") was established to restrict public sector buyers from procuring goods and services from U.S. businesses. The Policy was established as part of an Ontario government response to U.S. tariffs on Canadian products and services. If you are seeking to procure from a US based business, you **must** complete the following form:

Procurement Details			
Good or Service:			
Vendor:			
Amount:		Date:	

How to determine if a procurement qualifies for an exception under the Procurement Restriction Policy

Exceptions: Procuring from a U.S. business is allowed only when both of the following conditions are met:

- if the U.S. business is the **only viable source** for the good/service; and
- the procurement cannot be delayed (e.g. risks to public health and safety, etc.).

Please select the applicable only viable source exception:

- ☐ 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.
- ☐ Laws or regulations strictly require using that specific supplier.
- ☐ Confidentiality obligations.
- ☐ Lack of sufficient viable suppliers in cases where multiple suppliers are required.
- ☐ Health and safety considerations.
- ☐ Where a product or service has demonstrated superior outcomes in terms of health, safety, or quality of life.

Please select the applicable reason the procurement cannot be delayed:

- ☐ The procurement essential for business continuity or to deliver key programs.
- ☐ The procurement addresses critical health or safety concerns.
- ☐ It is critical to obtain this good/service from a U.S business at this time.

Both conditions noted above must be met and each situation will be assessed on its own merits, on a case-by-case basis. 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.

Note: The situations listed are not exhaustive; other scenarios may also justify procuring from a U.S. business, further rationale for the reason detailed below:

Authorization & Signature	
Name & Title:	
Department:	
Signature:	
Date:	