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Buy Ontario: What Contractors Need to Know

1. Introduction

In the midst of a \$200+ billion infrastructure buildout, the Government of Ontario has decided to take a page out of the U.S. playbook. In America, the *Buy American Act* has helped maintain domestic manufacturing by requiring the use of American-made goods in federal procurement. Against the backdrop of an ongoing trade war, Ontario has decided to follow suit by passing the *Buy Ontario Act* (the “**Act**”).¹

The Act itself contains few requirements. Instead, it authorizes the government to issue directives requiring “public sector entities” to “take any measures respecting the procurement of goods and services”.

To date, two directives have been issued under the Act:

1. The Buy Ontario Procurement Directive (the “**Provincial Directive**”), which applies to ministries such as the Ontario Ministry of Transportation, provincial agencies such as Metrolinx and Infrastructure Ontario, and designated broader public sector organizations such as hospitals, school boards, colleges and universities.²
2. The Municipal Buy Ontario Procurement Directive (the “**Municipal Directive**”), which applies to municipalities, municipal services corporations, and local boards, including transportation boards, library boards, health boards, police service boards, and planning boards.³

2. The Capital Infrastructure Requirements

While each directive contains a number of procurement policies, for the purposes of construction, both directives contain the same policy with nearly identical terms: the capital infrastructure requirements.⁴ These requirements apply to nearly all public construction procurement.

The two prominent features of the capital infrastructure requirements are the Domestic Supply Chain Plan (the “**Plan**”) and weighted domestic criteria. The sections below outline what the Plan is, how owners may assess it, and how it may affect the outcome of a procurement, together with an overview of what weighted domestic criteria are, and when and how they apply.⁵

A. The Domestic Supply Chain Plan

For every procurement covered by the capital infrastructure requirements, bidders must now submit a Plan identifying the source and value of each major good and service listed by the owner.⁶ On any large construction project, that likely means assembling and substantiating sourcing information across a substantial portion of the supply chain.

¹ [Buy Ontario Act \(Public Sector Procurement\), 2025](#), S.O. 2025, c. 27, Sched. 1

² [Buy Ontario Procurement Directive](#), 13 April 2026. Note that under the Provincial Directive, the capital infrastructure requirements do not apply to Ontario Power Generation or the Independent Electricity System Operator.

³ [Municipal Buy Ontario Procurement Directive](#), 13 April 2026.

⁴ The capital infrastructure requirements came into effect on April 13, 2026, for provincial and broader public sector owners, on May 15, 2026, for municipalities, and on June 1, 2026, for municipal services corporations and local boards.

⁵ Notably, the capital infrastructure requirements do not themselves specify how owners are to comply. However, the Ministry of Public and Business Service Delivery and Procurement issued the [Capital Infrastructure Policy – A Guide for Buyers](#) (the “**Guide**”) which provides guidance to inform procurement documents issued by public sector entities and assist them in complying with the directives. Owners may vary their specific methodology, which will be set out in the procurement documents.

⁶ Major goods are any materials, systems or components essential to ensuring the operational readiness or performance of the project and specifically includes concrete, steel, lumber, stone and aggregates; windows, glass, roofing systems and brick; heating, ventilation and air conditioning units, generators and elevators; prefabricated panels; fixtures, furniture and equipment; and transit fleet vehicles.

Sourcing information is divided into two categories: goods and services, with Ontario and Canadian classifications for each, as follows:

1. Ontario-Made Goods: Goods are considered made in Ontario only if they are wholly manufactured in Ontario, or if at least 51% of the total direct costs of manufacturing are incurred in Ontario;
2. Canadian-Made Goods: Goods are considered made in Canada on the same test applied at the national level, or if they are properly labelled “Made in Canada” or “Product of Canada”;
3. Ontario Services: Services are considered provided in Ontario only if they are wholly provided by individuals in Ontario; and
4. Canadian Services: Services are considered provided in Canada only if they are wholly provided by individuals in Canada.

B. The Relevance of the Domestic Supply Chain Plan to the Procurement Process

How the Plan impacts the evaluation of bids varies based on monetary thresholds: \$139,000 for ministries and provincial agencies and \$347,400 for designated broader public sector organizations and municipal entities. Given these low dollar amounts, most construction procurements will fall above the thresholds.

Regardless of the value of the procurement, each owner may choose to implement the capital infrastructure requirements in one of two ways. The owner can specify a minimum proportion of domestic content as a condition of bid eligibility (the “**Commitment Approach**”). Alternatively, the owner can use an evaluative approach which provides advantages to the bidder with the highest proportion of domestic content (the “**Evaluated Approach**”).

I. The Commitment Approach

Under the Commitment Approach, the owner makes it a mandatory eligibility requirement that the bidder commit to meeting or exceeding a specified proportion of Ontario or Canadian-Made Goods and Services. Because the requirement is mandatory rather than evaluated, falling short does not cost points – it makes the bid non-compliant.

The MTO has already shown what this looks like. Its Notice to Bidders under the Act adopts the Commitment Approach and fixes the proportion at 50%. Not less than half the total bid value must be Ontario or Canadian-Made Goods and Services. A bid below that line is non-compliant. Notably, the obligation extends beyond the bid. The contractor must update the Plan as its supply chain changes and hold the 50% for the life of the contract.

II. The Evaluated Approach

Below the threshold, the owner applies a 10% evaluation advantage to the bidder with the highest proportion of Ontario-Made Goods and Ontario Services (the “**Evaluation Advantage**”). Where the bid evaluation is based solely on price, the bid price of the bidder with the highest proportion of Ontario-Made Goods and Ontario Services is reduced by 10% for evaluation purposes only. Where the bid evaluation includes other criteria, that bidder’s overall evaluation score is increased by 10%.

The advantage is winner-take-all. It goes only to the single bidder with the highest proportion; a bidder one percentage point behind receives nothing.

Consider a municipal construction procurement valued at \$300,000, evaluated on price alone:

Bidder	Price	Ontario Content	Ontario Proportion	Evaluated Price
Bidder 1	\$300,000	\$60,000	20.0%	\$300,000
Bidder 2	\$330,000	\$110,000	33.3%	\$297,000
Bidder 3	\$320,000	\$50,000	15.6%	\$320,000

At or above the threshold, the owner has two options. The owner can apply the Evaluation Advantage (though using a different formula which extends preference first to Ontario-Made Goods and Ontario Services, then to

Canadian-Made Goods and Canadian Services). Or the owner may make the Plan worth 10% of the total evaluation score and, if any bidder's Plan scores at least 50% higher than the top-ranked bidder, provided that bidder's price and schedule are also within 10% of the top-ranked bidder, the project is to be awarded to the bidder with the highest-scoring Plan (the **"Best Plan Advantage"**).

To illustrate the effect of these two options, consider a provincial construction procurement with the following proposals:

Bidder	Price	Schedule	Ontario Content	Canadian Content
Bidder 1	\$9,000,000	540 days	\$1,800,000	\$1,080,000
Bidder 2	\$9,800,000	520 days	\$3,400,000	\$200,000
Bidder 3	\$9,500,000	590 days	\$1,000,000	\$4,200,000

The Evaluation Advantage, using the formula recommended by the Guide, is determined as follows:

$$\text{Weighted Proportion} = [(2 \times \text{Ontario Content} + \text{Canadian Content}) \div \text{Total Price}] \times 100$$

Assume each bid is scored out of 90 points where price is worth 30 points, schedule is worth 10 points, and other criteria are worth 50 points collectively. With price and schedule scored in proportion to the best bid and the weighted proportion calculated, the resulting scoring is as follows:

Bidder	Price	Schedule	Other Criteria	Total Score	Weighted Proportion	Adjusted Score
Bidder 1	30.0	9.6	37.5	77.1	52.0%	77.1
Bidder 2	27.6	10	35.0	72.6	71.4%	79.8
Bidder 3	28.4	8.8	32.5	69.7	65.3%	69.7

Bidder 1 wins without the Evaluation Advantage. But Bidder 2 has the highest weighted proportion, so its total score is increased by 10% from 72.6 to 79.8. As a result, in this scenario, the Evaluation Advantage awards the project to Bidder 2 despite its price being \$800,000 more than Bidder 1.

If the owner elects to use the second option, the outcome differs. Here the Plan must be worth 10% of the criteria, so keeping all other criteria the same, the bids are scored out of 100, with 10 points assigned to the Plan. Curiously, with this option, neither the directives nor the Guide allocate any additional advantage to Ontario-Made Goods and Ontario Services over Canadian-Made Goods and Canadian Services.

$$\text{Plan Score} = (\text{Total Available Points} \times 0.10) \times [(\text{Ontario Content} + \text{Canadian Content}) \div \text{Total Price}]$$

Applying the Best Plan Advantage to the same scenario produces the following scores:

Bidder	Price	Schedule	Other Criteria	Plan	Total Score
Bidder 1	30.0	9.6	37.5	3.2	80.3
Bidder 2	27.6	10	35.0	3.7	76.3
Bidder 3	28.4	8.8	32.5	5.5	75.2

Although Bidder 3 has the lowest total score, its Plan score is more than 50% higher than the top-ranked bidder (Bidder 1), and its price and schedule are within 10% of Bidder 1.⁷ The owner should therefore award the project to Bidder 3.

The scenarios above illustrate how the Plan, and the owner's chosen method of evaluation, can materially affect the outcome. Bidder 1 wins before considering the Plan; Bidder 2 wins with the Evaluation Advantage; and Bidder 3 wins with the Best Plan Advantage.

⁷ Bidder 3's plan score is 72% higher than Bidder 1, its price is 5.6% higher than Bidder 1, and its schedule is 9.3% longer than Bidder 1.

C. Weighted Domestic Criteria

In addition to the Plan, on construction procurements above \$368,000 by ministries, provincial agencies and broader public sector organizations, the Provincial Directive also requires the owner to apply weighted domestic criteria of no more than 35% of the overall scoring – wherever feasible. Consideration should be given to factors such as social and ethical responsibilities. For example, environmental, labour, safety and equity standards which might not be in place in other jurisdictions.

Neither the Provincial Directive nor the Guide provides any further guidance on what the weighted domestic criteria should be, or how they should be evaluated.

3. What Does This Mean for Your Bid?

The directives stop at the bid. They require a Plan and set a method for scoring or accepting it; they impose nothing on contractors once the contract is awarded. The Act gave the government the power to impose enforcement measures on contractors, and neither directive used it. Each owner is therefore left to write their own, and, like the MTO, many already have.

For contractors bidding public work in Ontario, five things follow:

1. Map your supply chain before the procurement is issued. A Plan requires a named source for every major good and service, and the 51% direct cost test cannot be answered without cost information your suppliers may treat as confidential. Because each item either qualifies or does not, a supplier just below the 51% line gets you no points.
2. Read the procurement documents carefully to understand the approach the owner has adopted and plan accordingly when assembling your bid. The Evaluation Advantage goes to one bidder only, the Best Plan Advantage can take the contract from the top-ranked bidder, and the Commitment Approach can disqualify a bid.
3. Read the form of agreement, not just the instructions to bidders, in order to understand your compliance obligations during performance. These terms vary owner to owner and are the ones you live with after award. The existence or non-existence of compliance obligations during performance may change your approach to the bid.
4. Consider flowing the same obligations down to any subcontractor tendering process and, if there are compliance obligations during performance, be sure to flow those down to the subcontractors and suppliers. Otherwise, you risk non-compliance without recourse.
5. Consider the sourcing risk. There will invariably be fewer domestic providers of goods and services and if that supplier pool is too small, a domestic content commitment made at the outset could become a major risk to cost and schedule.



[Joshua Strub](#), Partner
T. 647-924-2264
jstrub@margiestrub.com



[Jacob Lokash](#), Associate
T. 289-805-0851
jlokash@margiestrub.com

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