
DATE: December 10, 2009

REPORT TITLE: **LOCAL PREFERENCE PROCUREMENT POLICY**

FROM: R. Kent Gillespie, Commissioner of Employee and Business Services

RECOMMENDATION

That the Regional Municipality of Peel continue to follow the objectives of the Purchasing By-Law 63-2008, specifically:

- **To promote the most effective use of funds;**
- **To promote the methods of acquisition and disposal which achieve the most competitive and responsive offers;**
- **To promote procurement practices that preserves the natural environment and encourages the use of environmentally friendly goods and services**

And further, that policies or objectives that discriminate between vendors based on location or origin of goods and services not be introduced.

REPORT HIGHLIGHTS

- 98.09% of Regional Purchases are procured from Ontario vendors
- Tenders are publically advertised locally
- Current procurement practices support Agreement on Internal Trade (AIT), Agreement on Government Procurement (AGP) & North American Free Trade Agreement (NAFTA) regulations

DISCUSSION

1. Background

During difficult economic times, interest in supporting local economies is often expressed. In the current recession the US economic stimulus package contained provisions promoting "Buy American". This year Regional Council received correspondence that was aimed at local preference procurement. Examples of these include requests for support of the following:

- That the procurement practice of purchasing meat and poultry products produced by Ontario farmers be identified as the preferred local sustainable procurement practice (See Appendix I).

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- That the current procurement practice of eggs by the Regional Municipality of Peel, produced by Ontario egg farmers be identified as the preferred local sustainable procurement practice (See Appendix II)
- The Town of Halton Hills approved a recommendation to implement a Fair Trade Procurement Policy that would exclude the purchase of goods and services from any companies whose countries impose local trade restrictions.
- The Federation of Canadian Municipalities (FCM) approved a motion (attached as Appendix III) that supports free trade and encourages the US to repeal its "Buy American" requirements.

2. Findings

a) Current Purchasing Practices that Support Local Preference

The Purchasing Division oversees procurement activities in accordance with the Purchasing By-Law (No. 63-2008). It is the objective of this By-Law that all goods and services be acquired on a competitive, fair and open basis in a manner that is efficient and accountable.

Purchasing staff have reviewed the total procurement spend (\$922,586,578), to all suppliers doing business with the Region from June 2008 to June 2009 and identified that 98.09% (\$904,983,455) of the Region's purchases were made within Ontario and 99.85% (\$921,167,997) were made from companies located within Canada. Purchase history indicates the Region conducts most of its business in Ontario in the absence of a Local Preference Policy. In addition, the majority of the Region's vendors are located within the Region and surrounding areas.

The Region attracts local content by advertising tenders in local newspapers (Daily Commercial News, Mississauga News, Brampton Guardian), Ontario Public Buyers website and the Region of Peel's website. All tenders are available for pick-up at Regional Headquarters, which saves time and expense incurred by suppliers outside the Region.

Local suppliers have an advantage in responding to local bids: minimal costs to float equipment and vehicles to job sites, familiarity with local labour, familiarity with local culture, knowledge of infrastructure development area history and reduced travel costs. These advantages would be most relevant to vendors of non-processed food products such as those cited in Appendices I and II.

b) Ontario Public Buyers Report (OPBA)

A report was commissioned by the Ontario Public Buyers Association (OPBA) to help inform the issue of Canadian content and local preference as it impacts public procurement in the Ontario municipal sector. This report released on March 31, 2009, was authored by Mr. Paul Emanuelli, an international known author and procurement lawyer.

In his report the author discussed the legal implications of a request from the Canadian Auto workers:

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The Canadian Auto Workers Union has been at the forefront of this debate, calling for the implementation of Buy Canadian policies across the public sector. The CAW commissioned a legal opinion from international trade lawyer Steven Shrybman of Sack Goldblatt Mitchell LLP which claims that governments can legally adopt Buy Canadian policies, whether at the municipal, provincial or federal levels. While the legal opinion may, for the most part, be technically correct within its specific narrow context, an issue of this significance cannot be reduced to the narrow legal analysis of specific trade treaty provisions of the Agreement on Internal Trade (AIT). Rather, it must be framed within the broader legal and policy context within the public procurement process.

Staff's response is that although Canadian content for municipal procurement is not in contravention of the Agreement on Internal Trade (AIT), it does not take into consideration the policy objectives of the AIT which was established to promote open, fair and transparent purchasing policies. The AIT prohibits the adoption of local or geographic preference.

In the Agreement on Government Procurement (AGP), the World Trade Organization membership pledges that its public institutions will provide equal access to suppliers from the other jurisdictions as it does to suppliers from its own jurisdiction.

The North American Free Trade Agreement (NAFTA) gives the three countries of Mexico, United States and Canada the ability to bid without discrimination on each other's government programs. Failure in disclosing this information can result in the other parties filing a complaint with the Canadian International Trade Tribunal (CITT). The Municipal sector cannot conduct its procurement in a manner that makes them immune from international trade issues. While municipal level protectionism may not be a legal issue, it certainly remains a trade issue with significant economic implications.

Local preference procurement campaigns are sometimes described in terms of product content such as "Buy Canadian" or "Buy American" thereby avoiding the general prohibition under trade agreement against local preference in terms of place of business of the vendor. This is of course only a technical avoidance of the trade rules. The OPBA report points out that narrow distinction downplays the practical challenges of implementing a Canadian content policy. Without clear rules established by legislation, municipalities are left to fend for themselves to navigate the significant legal and policy risks involved. This leads to "politicized" public procurement processes that fail to consider the significant risks created whenever "exceptional circumstances" are cited as a reason to bypass established best practice of open, transparent and fair competition.

FINANCIAL IMPLICATIONS

The financial implications of creating a Local Preference policy would result in additional resources to administer requirements, delays in awarding contracts would occur, there could be an increase in legal challenges and suppliers would face increased administrative costs.

Adopting restrictive purchasing practices could result in other municipalities doing the same and thereby preventing local suppliers from doing business in other geographic areas and this could work against our local businesses.

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Limiting competition would ultimately increase the price of goods and services procured. Staff have always maintained that increasing the number of bids provides the best environment for competitive pricing.

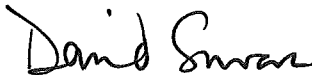
CONCLUSION

Staff are recommending continuation of current purchasing practices whereby 94% of the Region's expenditures are spent locally without a Local Preference policy. The Region's current purchasing practices strive to encourage competitive bidding, ensure fairness between bidders and maximize savings for taxpayers. In accordance with the best practices, policies and procedures, staff will continue to make efforts to ensure that the best valued products and services are obtained for the Region.



R. Kent Gillespie
Commissioner of Employee
and Business Services

Approved for Submission:



D. Szwarc, Chief Administrative Officer

For further information regarding this report, please contact James Macintyre at extension 4302 or via email at james.macintyre@peelregion.ca

Authored By: Elizabeth Carter, Supervisor Purchasing Administration

c.  Legislative Services

LOCAL PREFERENCE PROCUREMENT POLICY

Meat and Poultry Communication

May 5, 2009

ETP-E7-1

Mr. Emil Kolb
10 Peel Centre Drive
Brampton ON L6T 4B9
Peel Region

REFERRAL TO _____
RECOMMENDED _____
DIRECTION REQUIRED _____
RECEIPT RECOMMENDED

Regional Municipality of Peel Office of the CAO RECEIVED	
MAY 07 2009	
File Code	_____

Dear Chair Kolb :

Homegrown Ontario™ is an alliance of Ontario Pork, the Ontario Veal Association, the Ontario Sheep Marketing Agency, Turkey Farmers of Ontario and the Ontario Independent Meat Processors. Homegrown Ontario™ is a brand that allows Ontario consumers to support Ontario farmers by purchasing Ontario produced meat and poultry. At the same time, the Homegrown Ontario™ program can truly provide the integrity and assurance Ontarians are looking for through our strict processor and supplier agreements.

Research from Canada's leading survey-based marketing research firm, Ipsos Reid, clearly indicates that Ontario consumers are eager to support Ontario farmers and the local economy by choosing meat and poultry products produced in Ontario. With the Homegrown Ontario™ brand and logo, the five associations are making it easy for consumers to do just that.

We gratefully acknowledge town and city councils who are trying to encourage the purchase of locally-produced food as it contributes to the creation of a sustainable environment. The Homegrown Ontario™ partners whole heartedly believe that the purchase of locally produced meat and poultry should be identified as a *local sustainable procurement practice*. That is why we are respectfully asking that the Regional Municipality of Peel consider supporting the Motion we put forth as attached. Although your community may not purchase meat and poultry products for municipally-run institutions, we are hoping municipalities across the province support the Motion in principle which will benefit producers, processors, retailers and consumers alike.

You can trust that Ontario farmers adhere to the highest quality standards set forth by the Canadian provincial and federal government regulatory boards. If you have any questions about the attached Motion or about Homegrown Ontario™ in general, please feel free to contact me for more information. We also request that you let us know if the motion is passed by your Council or whether other action is taken as we would like to track response to our request.

Thank you in advance for your support and I look forward to hearing from you soon.

Sincerely,

Jennifer Haley, Chair
Homegrown Ontario Steering Committee

Attachment

LEGISLATIVE SERVICES	
COPY TO:	FOR:
Chair	<input checked="" type="checkbox"/> Committee
CAO	<input checked="" type="checkbox"/>
Corporate Services	<input type="checkbox"/> Council
Environment, Transportation and Planning Services	<input checked="" type="checkbox"/>
Employee and Business Services	<input type="checkbox"/>
Finance	<input type="checkbox"/>
Health Services	<input type="checkbox"/> File
Human Services	<input type="checkbox"/>
Peel Living	<input type="checkbox"/>

LOCAL PREFERENCE PROCUREMENT POLICY

MOTION

Whereas the Regional Municipality of Peel supports practices that contribute to the creation of a sustainable environment;

AND whereas Homegrown Ontario™ is a brand that allows Ontario consumers to support Ontario farmers by purchasing Ontario produced meat and poultry;

AND whereas Ontario farmers adhere to the highest quality standards set forth by the Canadian provincial and federal government regulatory boards;

THEREFORE be it resolved that the procurement practice of purchasing meat and poultry products produced by Ontario farmers be indentified as the preferred local sustainable procurement practice.

BE it further resolved that the purchase of all Ontario produced meat and poultry sourced locally requires the burning of less fossil fuel than food trucked or even flown in from hundreds, or even thousands of miles away.

LOCAL PREFERENCE PROCUREMENT POLICY

Egg Farmers Communication



ETR 03-1

7195 Millcreek Drive, Mississauga, ON L5N 4H1
PHONE: 905-858-9790 FAX: 905-858-1589 WEB: www.getcracking.ca

February 10, 2009

To: Chairman Emil Kolb and Members of Council
Cc: Clerk of the Regional Municipality of Peel
Regional Municipality of Peel
10 Peel Centre Drive
Brampton, ON, L6T4B9

Dear Chairman Kolb and Members of Council:

As consumers embrace the "100 Mile Diet" and seek ways of buying food that is produced close to home, Egg Farmers of Ontario is proud to say eggs purchased from Ontario grocery store shelves travel from farm to table in approximately 4 to 7 days.

Last month, Egg Farmers of Ontario (EFO) provided rural municipalities, including those in the Regional Municipality of Peel, with a motion that promotes the purchase of eggs as a preferred local and sustainable procurement. *See motion enclosed.*

To date, a town in the Regional Municipality of Peel – the Town of Caledon– has passed our motion. We are pleased to report the above mentioned town is one of 69 municipalities across Ontario who have also supported the Egg Farmers of Ontario motion. *Please see over the page for a complete list of council support.*

We respectfully request the Regional Municipality of Peel join its local town and the County of Hastings municipalities by supporting Egg Farmers of Ontario's motion.

Although times and technology have changed, the level of care today's modern egg farmers give to their hens remains the same. Egg farmers across Ontario are proud of their contribution to the health and economy of local communities like the Regional Municipality of Peel.

If you have any questions about the attached motion or about egg farming in general we would welcome the opportunity to provide you with more information. Please feel free to contact me at 905-858-9790 for more information. We will be contacting your office in the coming weeks to request an opportunity to meet with you to discuss this in more detail.

Sincerely,

Harry Pelissero
General Manager
Egg Farmers of Ontario

REFERRAL TO
RECOMMENDED _____
DIRECTION REQUIRED ✓
RECEIPT RECOMMENDED _____

LEGISLATIVE SERVICES	
COPY TO:	FOR:
Chair	Committee <input checked="" type="checkbox"/>
CAO	<input checked="" type="checkbox"/>
Corporate Services	Council <input checked="" type="checkbox"/>
Environment, Transportation and Planning Services	<input checked="" type="checkbox"/> Mar. 24, 2009
Employee and Business Services	GC
Finance	
Health Services	File
Human Services	
Peel Living	

Regional Municipality of Peel
Office of the CAO
RECEIVED

FEB 11 2009

File Code _____

LOCAL PREFERENCE PROCUREMENT POLICY

MOTION

WHEREAS the Regional Municipality of Peel supports practices that contribute to the creation of a sustainable environment;

AND WHEREAS Ontario egg farmers currently provide our community with fresh, locally produced Grade A eggs which travel from farm to table in 7 days;

AND WHEREAS Ontario egg farmers take pride in caring for their hens while offering consumers a variety of egg choice;

THEREFORE BE IT RESOLVED THAT the current procurement practice eggs by the Regional Municipality of Peel, produced by Ontario egg farmers, be identified as the preferred local sustainable procurement practice.

BE IT FURTHER RESOLVED THAT the purchase of all Ontario eggs contributes to the creation of a sustainable environment in which consumers and farmers benefit.

APPENDIX II

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LOCAL PREFERENCE PROCUREMENT POLICY

Municipalities that have Passed the
EFO Motion

1. Township of Stirling-Rawdon (Hastings)
2. Township of Tyendinaga (Hastings)
3. Township of Howick (Huron)
4. Township of Brooke-Alvinston (Lambton)
5. Township of Front of Yonge (Leeds and Grenville)
6. Township of Rideau Lakes (Leeds and Grenville)
7. Township of Addington Highlands (Lennox and Addington)
8. Township of McNab-Braeside (Renfrew)
9. Township of Wellesley (Waterloo)
10. Town of Petrolia (Lambton)
11. Municipality of Thames Centre (Middlesex)
12. Township of East Hawkesbury (Prescott Russell)
13. Township of Uxbridge (Durham)
14. Township of Central Frontenac (Frontenac)
15. Town of Aylmer (Elgin)
16. Town of Plympton-Wyoming (Lambton)
17. Municipality of Trent Hills (Northumberland)
18. Town of Hawkesbury (Prescott Russell)
19. Township of Hamilton (Northumberland)
20. Town of Amherstburg (Essex)
21. Township of Horton (Renfrew)
22. Town of Wasaga Beach (Simcoe)
23. Municipality of Arran-Elderslie (Bruce)
24. Township of Essa (Simcoe)
25. Town of East Gwillimbury (York)
26. Township of Drummond-North Elmsley (Lanark)
27. Town of Pelham (Niagara)
28. The Nation Municipality (Prescott and Russell)
29. Township of Russell (Prescott and Russell)
30. Township of Leeds and the Thousand Islands (Leeds and Grenville)
31. Township of Lake of Bays (Muskoka)
32. Town of Ingersoll (Oxford)
33. Town of Hanover (Grey)
34. Municipality of St. Charles (Sudbury)
35. Township of Smith-Ennismore-Lakefield (Peterborough)
36. Municipality of Brighton (Northumberland)
37. Town of Goderich (Huron)
38. Township of Clearview (Simcoe)
39. Township of Huron-Kinloss (Bruce)
40. Township of South-West Oxford (Oxford)
41. Township of Alfred and Plantagenet (Prescott and Russell)
42. Township of Amaranth (Dufferin)
43. Township of Southwold (Elgin)
44. Township of Havelock-Belmont-Methuen (Peterborough)
45. Municipality of Morris-Turnberry (Huron)
46. Municipality of Tweed (Hastings)
47. Township of South Dundas (Stormont, Dundas and Glengarry)
48. Township of South Stormont (Stormont, Dundas and Glengarry)
49. Town of Perth (Lanark)
50. Municipality of Centre Hastings (Hastings)
51. Town of Caledon (Peel)
52. Town of Niagara-on-the-Lake (Niagara)
53. Township of North Stormont (Stormont, Dundas and Glengarry)
54. Township of Warwick (Lambton)
55. Township of Athens (Leeds and Grenville)
56. Town of South Bruce Peninsula (Bruce)
57. Municipality of Hastings Highlands (Hastings)
58. Municipality of West Grey (Grey)
59. Town of Bancroft (Hastings)
60. Township of Enniskillen (Lambton)
61. Township of Carlow/Mayo (Hastings)
62. Town of Greater Napanee (Lennox and Addington)
63. Municipality of Brockton (Bruce)
64. Township of Cramahe (Northumberland)
65. Town of Tecumseh (Essex)
66. Township of Wainfleet (Niagara)
67. Town of Midland (Simcoe)
68. Township of Galway-Cavendish-Harvey (Peterborough)
69. County of Hastings*

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FCM Motion

Fair Trade and Equal Access with the United States (Oral)

RECOMMENDATION GC-93-2009:

Whereas, the world's economy has entered into a period of slow economic growth;

And whereas, Governments throughout the world have introduced various stimulus packages to encourage economic growth;

And whereas, the United States of America is Canada's largest trading partner and a signatory of the North American Free Trade Agreement;

And whereas, the Greater Toronto Area Countryside Mayor's Alliance is supportive of Free Trade between Canada and the United States which has existed for many years;

And whereas, the Government of the United States of America has introduced infrastructure stimulus packages including the American Recovery and Reinvestment Act (ARRA) which includes "Buy American" provisions for steel and other manufactured products;

And whereas, these restrictive provisions which are contrary to the spirit of free trade will prevent Canadian companies from bidding contracts which contain the "Buy American" provisions at the municipal and state levels in the United States since NAFTA and The General Procurement Agreement of the World Trade Organization do not nullify such provisions at those levels;

And whereas, Canadian stimulus infrastructure programs do not contain any restrictions on manufacturers from other countries including the United States bidding on such contracts in Canada;

And whereas, Canadian companies may be adversely affected by these restrictions possibly leading to lay-offs and financial losses and further could lead to the erosion of their overall ongoing viability;

And whereas, the Greater Toronto Area Countryside Mayor's Alliance is supportive of Free Trade between the United States and Canada and that the restrictive "Buy American" provisions in the American Recovery and Reinvestment Act are contrary to the spirit of free trade;

And whereas, the Greater Toronto Area Countryside Mayor's Alliance supports the Canadian Manufacturers and Exporters in its quest to have the United States Congress reconsider and repeal their current "Buy American" requirements for the United States stimulus packages;

And whereas, the Greater Toronto Area Countryside Mayor's Alliance supports the position that Canadian municipalities consider the feasibility of a procurement policy that future Canadian Infrastructure projects at the municipal level, including environmental projects such as water and wastewater treatment projects, require that any goods and materials required for the projects be bought only from companies whose countries of origin do not impose local trade restrictions against goods and materials manufactured in Canada to better ensure open, fair and competitive practices across the globe;

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Therefore be it resolved, that The Regional Municipality of Peel supports the Greater Toronto Area Countryside Mayor's Alliance resolution and the presentation of this resolution to the Federation of Canadian Municipalities for their consideration of endorsement, with a request that it be presented at its annual convention, June 5-8, 2009;

And further, that a copy of this resolution be forwarded to the Prime Minister, the Premier of Ontario, the Federal and Provincial Ministers of Trade and Industry, AMO, CME, Region of Durham, Region of York, and Region of Halton.

Approved 2009-673