



Item No. 11.1.3
Halifax Regional Council
March 4, 2014

TO: Mayor Savage and Members of Halifax Regional Council

Original signed by 

SUBMITTED BY:

Richard Butts, Chief Administrative Officer

Original Signed by 

Mike Labrecque, Deputy Chief Administrative Officer

DATE: February 3, 2014

SUBJECT: Administrative Order #35, Procurement Policy – Consideration of Local Benefit

ORIGIN

Agenda Item # 14.1 Halifax Regional Council meeting of Oct 1, 2013, requesting a staff report regarding Administrative Order 35, the Procurement Policy and the consideration of local benefit.

LEGISLATIVE AUTHORITY

Administrative Order 35, the Procurement Policy, establishes purchasing guidelines that provide for the procurement of goods, services, construction and facilities by the Halifax Regional Municipality in a fair, open, consistent and transparent manner resulting in best value as approved by Council.

RECOMMENDATION

It is recommended that Halifax Regional Council not amend Administrative Order 35 or otherwise adopt a specific procurement policy with respect to:

- a. the scoring of local benefit when evaluating bid submissions; or
- b. applying a preference or penalty based on the geographical location of any bidder, or potential vendor/supplier of goods, services and/or construction relative to the Halifax Regional Municipality.

BACKGROUND

At the October 1, 2013 meeting of Halifax Regional Council, staff was asked to provide a report outlining the options for and the pros and cons of an amendment to Administrative Order 35 to permit the scoring of the “local benefit” of bid submissions in HRM’s evaluation criteria. The report would consider the limitations imposed by the various trade agreements that impact the HRM.

DISCUSSION

It is recognized that the procurement activities of HRM have an impact on the local economy through the engagement of vendors. This report outlines the opportunities and challenges of pursuing strategies that influence procurement decisions on the basis of the consideration of local benefit or geographic location (preference) in procurement processes.

HRM’s procurement processes operate within a framework of legislation, trade agreements, HRM’s Procurement Policy (Administrative Order 35) and sound procurement practices. An overarching principle is that procurement processes are to be fair, open, consistent and transparent and result in best value. Fundamental to this is the concept of competitive bidding. Based on the principles of sustainability, Procurement practice also recognizes that in the pursuit of sustainability procurement processes should integrate environmental, economic and social factors. The challenge of public procurement is to balance these elements to achieve best value within a framework that reflects best practice and can withstand legal challenge.

For the purposes of this report, it is important to distinguish between a local benefit and a local preference. Where a bid submission includes a claim that will be a benefit to the local community in the performance of the work by the bidder, HRM is being asked to consider “local benefit” in the evaluation process. This can be implemented as a scored evaluation component of an RFP. Because HRM’s Procurement Policy does not specifically identify achieving “local benefit” as a guiding principle in procurement processes, it would have to be amended in order to permit the procurement professionals who are employed by the Municipality to consider the potential local benefit of a bid submission. A local preference is the practice of applying a preference, or penalty, based upon the geographic location of a bidder or the local content of any goods or services provided. Typically this is implemented through the application of a price differential. Occasionally it is implemented through the use of a scored evaluation component of an RFP. HRM’s Procurement Policy does not provide for a preference based on the geographic location of a bidder or the local content of goods or services provided.

HRM’s procurement processes must respect the trade agreements and legislation applicable to municipalities within Nova Scotia. Municipalities in Nova Scotia are currently subject to two trade agreements and will be subject to a third in the near future. It is important to note that these agreements are complex in nature and the following comments are designed to provide the overall context and highlights of each agreement. These agreements are aimed at creating a common market through the reduction of trade barriers on the procurement of goods, services, and construction. The first agreement, the Agreement on Internal Trade (AIT) applies to the

Provinces, Territories, Municipalities, School/Health Boards and the like (referred to as “MASH”), Crown Corporations and the Federal Government. Under the AIT, municipalities cannot adopt any procurement practices that discriminate based upon the place of origin of goods, services, or construction or the location of suppliers of goods, services or construction. This applies to the consideration of economic benefit in the evaluation of bids; that is, municipalities cannot use the evaluation of economic benefit as a method to discriminate against bidders from outside jurisdictions. It is noteworthy that the agreement permits a preference for Canadian value-added goods/services provided the preference does not exceed 10 percent (this refers to the premium that may be awarded during the evaluation of bids, not to the required level of Canadian content), provided sufficient competition exists.

The AIT applies to contracts that exceed \$100,000 for goods and services and \$250,000 for construction. For the purchase of goods and services and construction below these amounts, subscribing jurisdictions such as HRM are free to apply a “local preference” by imposing criteria in the evaluation of bids or award of contracts that favours the goods, services or suppliers of a particular Province or region of Canada (subject to the Atlantic Procurement Act). However, the agreement encourages municipalities to respect the spirit of the AIT for contracts below the thresholds of the agreement.

The second agreement, the Atlantic Procurement Agreement (APA), applies to the four Atlantic Provinces including municipalities in Nova Scotia. This agreement aims to eliminate trade barriers between the Atlantic Provinces and prohibits municipalities within the Atlantic Provinces from adopting procurement processes that are designed or are used to discriminate between goods and services or the suppliers of goods and services for construction based on geographic location of suppliers within the Atlantic Provinces.

To provide fair treatment for Atlantic Canadian suppliers, the agreement also provides a Regional Reciprocity Framework. Using this framework and HRM as an example, if HRM was to apply a “preference” that limits the competitiveness of suppliers from another jurisdiction, that jurisdiction is allowed to apply a similar “preference” to disadvantage HRM-based suppliers bidding within that jurisdiction.

The APA applies to contracts that exceed \$25,000 for goods, \$50,000 for services and \$100,000 for construction and below the thresholds established by the AIT. The APA does not apply to the procurement of goods, services or construction below these amounts. As a result, municipalities may apply a “local preference” for services and construction provided by suppliers within their jurisdiction up to the amounts of the applicable APA thresholds. (The *Public Procurement Act* treats goods differently so a municipality may only apply a “local preference” for goods manufactured or produced in Nova Scotia, as opposed to their own jurisdiction, over other jurisdictions that are subject to the APA).

A third agreement, the Canada-European Comprehensive Economic and Trade Agreement (CETA) has been approved in principle and is expected to be effective in 2015. This agreement binds all Canadian jurisdictions, including municipalities, to international trade obligations with the European Union. Similar to the other trade agreements, this agreement requires that

municipalities not place restrictions on procurements including “preferences” over certain thresholds. Although not confirmed, CETA is expected to apply to contracts that exceed \$300,000 for goods and services and \$7.8 Million for construction and will include a streamlined dispute enforcement mechanism that will make it easier to adjudicate bid protests.

Procurement activities of municipalities in Nova Scotia are also subject to the *Public Procurement Act*. This Act allows public sector entities within Nova Scotia to apply a preference for goods that are manufactured or produced in Nova Scotia, up to the thresholds of the APA. It also reaffirms the ability of municipalities to apply the principle of reciprocity as provided by the APA.

Local Benefit

The Procurement Policy identifies the use of a Request for Proposal process as an acceptable method of procurement and best practices guide how the RFP process will be undertaken. Consideration of local benefit can be considered within the Request for Proposal process; however, the approach is only practical for large procurements including, but not limited to, significant infrastructure related projects. Typically this approach is limited to projects of the magnitude of the Harbour Solutions project undertaken by HRM.

Given the requirements of public procurement and the importance of the principles of openness, transparency and fairness, RFP’s have to be carefully planned, designed and executed to ensure the integrity of the procurement process is maintained and the risk of legal challenge is minimized. The process requires that the specific evaluation criteria and weighting, scoring, selection and eventual award mechanism be clearly identified prior to the issue of the RFP based upon a thorough review of the requirements of the procurement. Where this approach is used, the claim of local benefit is weighted within evaluation criterion in the technical portion of the evaluation. A local benefit evaluation matrix typically provides for consideration of a number of factors including employment and workforce characteristics.

There are considerable challenges associated with the consideration of local benefit within the RFP process. The RFP process cannot contain any areas of uncertainty and the use of local benefit as a deliverable cannot be used as an underhanded way to apply a local preference beyond applicable thresholds in order to disadvantage non-local proponents or favour local proponents. A local benefit can be delivered by a non-local proponent as well as by a local proponent, and the evaluation of the potential local benefit of each proposal cannot degrade into a back-door method of discriminating against proponents based on their home jurisdiction. The scores assigned to each proposal cannot be arbitrary and must be well supported. Claims of local benefit by proponents have to be measured, validated and monitored. From a policy perspective, there is also the requirement to define what makes a benefit local.

If Council were to direct the Procurement Office to include the consideration of a proposal submissions’ claimed local benefit within its evaluation criteria, what is really being asked of staff is that they score the proponents potential to create a local benefit should it be awarded the work. This requires that the stated outcomes of the claim be tracked and enforcement action

taken during the life of the contract. This is a significant departure from the normal approach to RFP's. The consideration of local benefit in the RFP process is complex and is associated with significant legal liability. The evaluation and tracking of the delivery of local benefit requires specialized resources and the expertise of economic development specialists.

Furthermore, the flow of local benefit should be consistent with those municipal purposes within HRM's mandate as provided by the HRM Charter. These include the promotion and attraction of institutions, industries and businesses, the stabilization and expansion of employment opportunities and the economic development of the Municipality. If the Municipality were to move to consider local benefit in its evaluation processes, staff would likely be called upon to ensure that the proponent delivered on local benefit that was within the Municipality's mandate.

Given the complexity and risks associated with integrating consideration of local benefit in the RFP process, this approach is used very selectively and is not readily endorsed. As a result, it is difficult to provide any assessment of how the adoption of this approach actually contributes to the attainment of local benefits, impacts the overall cost of projects and the suppliers of the procuring entity. On rare occasions, the Province of Nova Scotia has used this approach relying heavily on the expertise of economic development specialists.

In a recent letter, as attached, the Canadian Manufacturers and Exporters (CME) express their support for ensuring that Canadian companies can compete on a fair and reciprocal basis against international competitors when supplying goods, services and new technologies to infrastructure projects in Canada and in export markets. They are not seeking the creation of Buy Canada rules but wish for a leveling of the playing field for Canadian industry and urge for consideration of options to support the local industry base. The use of the RFP process to consider local benefit for significant infrastructure projects would be consistent with this request.

Local Preference

HRM is obliged by the fiduciary duty it owes to taxpayers to use sound public procurement principles and seek best value in procuring goods, services and construction. The application of a "preference" as allowed by the trade agreements and the *Public Procurement Act* should be consistent with this requirement. Within the constraints of the trade agreements and the *Public Procurement Act* as previously outlined, HRM would be permitted to consider the following for the purchase of goods, services and construction (assuming Administrative Order 35, the Procurement Policy, were to be amended accordingly)

- "Buy HRM" preference below the APA thresholds (\$50,000 for services; \$100,000 for construction)
- "Buy Nova Scotia" preference below the APA thresholds (\$25,000 for goods)
- "Buy Atlantic" preference between the APA thresholds and the AIT thresholds (\$25,000 to \$100,000 for goods; \$50,000 to \$100,000 for services; \$100,000 to \$250,000 for construction)
- "Buy Canadian" preference for Canadian added-value (up to 10 percent) under the CETA thresholds (\$300,000 for goods)*

- A reciprocity provision so that if HRM adopts a local preference in accordance with the trade agreements to the disadvantage of a bidder from jurisdiction “A”, the principle of reciprocity permits a similar preference to be applied by jurisdiction “A” against HRM bidders seeking work in that jurisdiction.

*only applicable once CETA is effective

This is not an exclusive list of the options for the application of local preference but highlights and generalizes the concepts inherent in the trade agreements and the *Public Procurement Act* for the purchase of goods, services and construction.

A scan of other jurisdictions across Canada provides a few examples of procurement policy that allow local preference in procurement processes. The Province of Nova Scotia’s Procurement Policy provides for a Nova Scotia Preference for goods up to, and including, \$10,000 which are manufactured or produced in Nova Scotia in cases where it is determined to be in the best interest for the province. This policy also allows “reciprocity” whereby the Province reserves the right to accept or reject, consider or evaluate bids from other jurisdictions on the same basis that the purchasing authorities in those jurisdictions would treat a Nova Scotia supplier for a similar requirement within the constraints of the trade agreements. Cape Breton Regional Municipality’s Procurement Policy provides for a 5% preference for regional suppliers (commercial taxpayers) over suppliers outside the region. The 5% price preference may not exceed \$12,500 regardless of the tender amount in compliance with the trade agreements. A similar policy exists for the Town of Truro for goods, services and construction below the thresholds of the APA. Local businesses are defined as a person or organization that carries out a “significant portion” of its business in the Town of Truro. The City of Toronto adopted a Canadian Content Policy in 2000 but later suspended the policy in 2003 on the basis that there were ongoing difficulties in verifying vendors’ claims of Canadian content, the policy had limited effectiveness and utility in achieving its stated goals, and the increased risks of legal challenges.

When considering the use of any “preference” in procurement processes the following factors should be considered:

- A preference represents a premium in terms of purchasing costs.
- It is difficult to assess the effectiveness of a preference in terms of the additional costs to HRM and the impact on local business.
- A preference restricts competition and represents a tax burden to the taxpayer. It puts the interest of one supplier ahead of the interests of taxpayers and eventually reduces the pool of competing bidders.
- A review of HRM’s expenditures subject to the Procurement Policy was conducted for 2012-13. The expenditures were as follows:
 - o 76% in HRM
 - o 3 % in Nova Scotia (excluding HRM)
 - o 11 % in Canada with local distributors in HRM
 - o 9 % in Canada with no distributors in HRM
 - o 1 % outside of Canada (0.82% from the USA).

- There will always be expenditures that cannot occur locally due to their specialized nature (i.e. Transit vehicles).
- Local bidders already have a competitive advantage given their proximity to HRM: cost advantage of travel/ shipping requirements, knowledge of HRM's requirements and processes, well positioned to provide after sale support (services/warranty work/training), access to HRM staff and procurement opportunities (availability of debriefings/supplier outreach, ease of submitting bid documents).
- Professional Procurement Organizations, including NIGP to which HRM belongs, promote the concept of competition and recognize the potential risk associated with preferential treatment. Some area chapters expressly oppose local preference policy on the basis that it is not good business practice.
- There are inherent risks of integrating preference into a formal bidding process and the resulting legal liability. It is difficult to define the circumstances where a preference may be granted to a local vendor. In other words, it is difficult to answer what makes a bidder a local bidder? The challenge is to define what is "local" - PO Box, number of employees working in HRM, property taxes paid, amount of goods /services bought in HRM, where services originate?
- It is also a challenge for procurement professionals to verify whether a bidder is as "local" as it claims to be.
- Other jurisdictions could adopt retaliatory practices (reciprocity) and hurt local vendors potentially impacting higher value exports.
- There are challenges in managing a local preference policy: vendors may become disinterested or apathetic as there is a perceived disincentive to maximize money spent; close bids will continue to arise even if a preference policy is adopted; local labour may only constitute a small part of the cost; it may be difficult and time consuming to administer; additional work is required of both bidders and procurement staff.
- The difficulty in defining at what level to differentiate the preference - HRM (urban versus rural), HRM versus the balance of the Province, Atlantic Provinces versus the balance of Canada.

In light of the above factors, it would be difficult to endorse amending Administrative Order 35 to include a provision for "local preference". A significant portion of HRM's expenditures (87%) already contribute to the "local" economy and will not be materially impacted by the adoption of local preference. Furthermore, local preference measures are inherently problematic to design and administer and will increase purchasing costs.

It is noteworthy that vendor questionnaire tools to assess vendors on a variety of factors are an emerging procurement best practice. These questionnaires consider a wide array of interests. At the most advanced level, the questionnaires focus on workplace practices, health and safety and are robust enough to be integrated into an evaluation process as scored criteria. These questionnaires do not consider local benefit. Questionnaires are inherently problematic and it unlikely that they will be used for this purposes in the near future.

HRM's Procurement Policy defines the procurement methods that can be used for various purchase value thresholds. For low value purchases under \$1,000, business units have the

opportunity to direct their purchases, particularly goods, to attain local benefit by using a purchasing card or low value purchase order. Where existing standing offers exist, contract pricing must be obtained. For higher value purchases up to \$15,000, publicly posted quotations are generally required but, in cases where this is not practical, three quotations are to be solicited. This provides an opportunity to direct these purchases within the local business community. The utility and effectiveness of raising these thresholds to encourage more local purchases is marginal given the existing high level of local spending in these value ranges and the prominent use of standing offers.

HRM's Procurement Policy outlines the process to award contracts in the event of a tie bid. If a tie bid occurs, bidders are requested to submit a final offer. If there is still a tie bid, the contract is awarded to the local bidder. While this process is rarely used, if ever, staff is currently reviewing best practices to determine if there are preferable mechanisms to resolve a tie bid. The existing mechanism does not resolve a tie bid between two local bidders and references the geographic location of a bidder.

Procurement Office staff provide general information to local vendors on how to effectively respond to procurement opportunities through an outreach program that informs local vendors about the existence of procurement opportunities, fosters good business acumen and creates ongoing dialogue between staff and local vendors relative to procurement processes. Staff does not discuss particulars about specific procurement opportunities with any vendor unless this information is already available to the general public. To ensure that all bidders can compete, including local bidders, it is standard practice to ensure that bid requirements are reasonable and not restrictive or confusing, and that solicitations are designed to ensure that a variety of vendors are eligible to bid. This is a tried and tested approach for encouraging the participation of local vendors in the procurement process.

FINANCIAL IMPLICATIONS

It is difficult to predict how procurement processes designed to consider local benefit or give local vendors a preference will impact the operating costs of HRM and benefit the local economy. These are complex situations involving many factors and requiring a multitude of assumptions to be made. Under these circumstances, an estimate of either costs or benefits would not be meaningful. It is evident that the consideration of local benefit in the RFP process is resource intensive.

COMMUNITY ENGAGEMENT

Not Applicable

ENVIRONMENTAL IMPLICATIONS

The Procurement Policy requires environmental considerations to be integrated in procurement processes.

ALTERNATIVES

1. Council could incorporate revisions to the Procurement Policy that identify achieving “local benefit” as a guiding principle thereby permitting the evaluation of local benefit in the RFP process. Adopting this approach to RFP’s has limited application; requires significant specialized resources; and is a less tried and tested approach to RFP’s.
2. Council could incorporate revisions to the Procurement Policy that permit a form of local preference based on geographic location or the local content of goods or services provided. This is contrary to procurement best practice.

ATTACHMENTS

Letter from Canadian Manufacturers & Exporters dated November 7, 2013

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Anne Feist, Manager, Procurement, 490-4200

Report and Financial
Approval by:

Original Signed by Director

Greg Keefe, Director of Finance & ICT/CFO, 490-6308



November 7, 2013

Mayor Mike Savage
Halifax Regional Municipality
1841 Argyle Street, PO Box 1749
Halifax, NS B3J 3A5

Re: Municipal Role - A level-playing field for public infrastructure procurements

Dear Mayor Savage,

Canadian Manufacturers & Exporters (CME) has pushed hard for free trade agreements like the recently announced Comprehensive Economic and Trade Agreement (CETA) with the European Union. The goal is to break down many traditional non-tariff barriers to trade, to align regulatory policy where possible and to open procurement markets in both markets. The CETA announcement raises an important opportunity, as well as challenge for our local municipalities including HRM.

Nova Scotia and Halifax Regional Municipality boast a strong manufacturing sector. CME studies show that manufacturers, on average, provide employment salary and benefits at the rate of 14.3% more than the provincial average. These employers provide valuable financial stability to their employees and to HRM through commercial and industrial assessments. Our goal is to support these firms, to encourage exports and to encourage the growth of local firms and local employment. The benefit to HRM is a stronger tax base and improved stability. An added benefit is the retention of our skilled trades and educated workforce who will resist the opportunities of other jurisdictions, to maintain their family life in Halifax and NS.

Our Nova Scotian manufacturers and exporters have become increasingly concerned about the use of trade restrictive practices with Canada's key trading partners in the area of public infrastructure procurement, particularly in the USA with their governments' increased 'Buy American' restrictions.

By contrast, in Canada, public infrastructure procurement is largely open to foreign bidders. We believe that this should be a key concern for a major municipality like Halifax.

As you know, the federal government announced in its last budget a second round of major investments in public infrastructure across the country. The **Building Canada Plan** will invest \$46 billion over the next 10 years in public infrastructure projects. Similarly, provincial and municipal governments are spending billions more on new and renewed public infrastructure over the coming decade.

As a result of the input and direction of our members, Canadian Manufacturers & Exporters has been working aggressively with federal, provincial and municipal governments to level the playing field on infrastructure procurement between Canada and foreign markets, especially in the fields of bridges, highways, construction grade steel, water and wastewater, and public transportation equipment. It's important to note that we are not seeking the creation of *Buy Canada* rules, but a leveling of the playing field for Canadian industry.

You will find attached a letter we recently sent to the Ministers of Transport and Infrastructure explaining our concerns in more detail.

With CETA, there will be opportunities and challenges for our local manufacturers. We look to Halifax Regional Municipality, our Mayor and Councillors to consider options to support our industry base, to promote growth and to retain our young educated workers and skilled trades.

CME would welcome the opportunity to work with you and your fellow HRM Council members to see how we can identify solutions to build on the opportunities of CETA and create a public infrastructure procurement policy that supports HRM's goals and its strong manufacturing sector.

Thank you in advance for your support. Please do not hesitate to contact me directly if you have any additional questions or if you wish to get more involved in our advocacy efforts across Canada.

Sincerely,

Original Signed

Ann E. Janega
Vice-President, CME – Nova Scotia Division

Telephone 902-449-9002
Email ann.janega@cme-mec.ca

Enclosure: CME, CISC, CSPA letter to Federal Ministers


Cc Pat d'Entremont, Chair, CME NS
Cc HRM Councillors



**Canadian
Manufacturers &
Exporters**

**Manufacturiers et
Exportateurs du
Canada**



CSPA  **ACPA**
Canadian Steel Producers Association
L'Association canadienne des producteurs d'acier

Ottawa, October 7, 2013

The Hon. Lisa Raitt
Minister of Transport
Transport Canada
330 Sparks Street
Ottawa, ON
K1A 0N5

The Hon. Denis Lebel
Minister of Infrastructure
180 Kent Street
Suite 1100
Ottawa, Ontario
K1P 0B6

The Hon. Diane Finley
Minister of Public Works
and Government Services
11 Laurier Street
Gatineau, Quebec
K1A 0S5

Dear Ministers:

The federal government has clearly demonstrated that upgrading and renewal of Canada's public infrastructure is a top priority. Since 2007, more than \$33 billion dollars has been invested across the country by the federal government through the Building Canada Fund. The government is now embarking on an ambitious second phase of infrastructure renewal with the new Building Canada Plan which includes \$53 billion over the next ten years; \$47 billion in new funding for local and economic infrastructure, and \$6 billion in existing funding that remains from the 2007 Building Canada Fund. Canadian manufacturers applaud the government's efforts: Canada's infrastructure investment is a unique opportunity to strengthen this country's advanced manufacturing sector by improving internal logistics, and through the economic benefits of the construction phase.

We are writing to urge our government to use this investment in public infrastructure to leverage the capabilities of Canada's manufacturing sector and to ensure that Canadian companies can compete on a fair and reciprocal basis against international competitors when it comes to supplying goods, services, and new technologies to infrastructure projects in Canada and in export markets.

In recent years, Canadian manufacturers and exporters have become increasingly concerned about the restrictive trade practices of key trading partners for projects in the public infrastructure sector. These practices limit the potential for Canadian companies

to compete for those public procurement opportunities, which negatively affects the ability of Canadian manufacturers to grow, innovate and compete internationally.

By contrast, infrastructure procurement practices in Canada offer essentially open and equal access to foreign bidders to compete against Canadian companies, while benefiting from protective advantages in their own domestic markets. These differences in procurement market access exist with many of our major trading partners, but for Canadian manufacturers they are particularly pronounced with the United States for two reasons. The first is geographic proximity: especially for infrastructure projects, we are each other's most natural competitor and export market. Second, the scope of the historic Buy America and Buy American policies that have existed for decades has continued to expand. This erodes or simply forestalls the ability of Canadian firms to compete in the transportation, construction, and municipal infrastructure sectors, in particular. Many Canadian products are, for instance, consistently blocked from public procurement opportunities funded through the U.S. Department of Transportation for public transit, highways, and other transport-related infrastructure projects. This lost potential reverberates throughout the entire supply chain, negatively affecting innovation, investment, and ultimately jobs across a spectrum of Canada's manufacturing and services industries.

We recognize and support the Canadian government's efforts to negotiate international trade agreements that provide a level playing field, including the Canada-EU Comprehensive Economic and Trade Agreement (CETA) and the Trans-Pacific Partnership (TPP). We supported the earlier Canada-U.S. procurement agreement that applied to certain economic recovery funds, albeit on a project and time limited basis. We endorse the bilateral Canada-U.S. procurement strategy for the New International Trade Crossing (Detroit-Windsor). In our view, reciprocal and symmetrical market access is an important first principle in trade relations and negotiations.

However, serious barriers remain, placing Canadian firms at a clear disadvantage. Thus, where other countries maintain public procurement barriers that favour their domestic companies, Canadian governments should be prepared to establish procurement policies that will contribute to a level playing field vis-à-vis such foreign competitors. We do not advocate operating outside the rules of the WTO, the WTO Agreement on Government Procurement, NAFTA, or other FTAs but we believe there is scope within those agreements for governments in Canada to use investments in public infrastructure to support Canadian industrial capabilities, particularly in cases where the international playing field is tilted against them.

As an example, in addition to the Building Canada plan, the government is undertaking a multi-billion project involving the replacement of the aging Champlain Bridge and several kilometers of urban highway infrastructure on both sides. In funding these large infrastructure projects, we urge you to consider how to maximize the opportunity for Canadian materials and services, in this case particularly in the structural steel, rebar, construction materials, and urban transportation sectors, in a manner that respects our international trade obligations.

We recognize the benefits of more open and reciprocal access to public procurement markets, and companies in Canada are prepared to compete on that basis. Thus, our start point is that Canada should negotiate more open procurement trade based on the principle of reciprocal, non-discriminatory market access. However, we must also ensure that when and where such conditions do not apply, and where trading partners

are not prepared to extend comparable access conditions to Canadian firms, then Canada should be prepared to support its own suppliers in a manner consistent with its rights and obligations under the WTO, WTO Agreement on Government Procurement, and its FTAs.

We would be pleased to meet with you to discuss this issue, and other barriers that Canadian manufacturers and exporters face in foreign countries and how Canada can level the playing field to support this important sector of the Canada economy.

Regards,

Original Signed

Jayson Myers
President & CEO
Canadian Manufacturers & Exporters

Original Signed

Ed Whalen
President, Canadian Institute of Steel Construction

Original Signed

Ron Watkins
President
Canadian Steel Producers Association (CSPA)

c.c. Minister Ed Fast, Minister of International Trade