

What the New Tariffs and *Buy Ontario* Mean for Construction Contracts

A 25% or 50% tariff on an order for steel can turn an otherwise profitable construction project into a significant loss overnight. The critical question is who is expected to absorb a cost that no party could reasonably have anticipated.

That risk becomes increasingly complicated as contractors navigate two competing forces: tariffs restricting international trade on the one hand and local efforts to buy domestic on the other. Changes in the cost and availability of steel, aluminum, equipment and other construction inputs are affecting project pricing and procurement, while the *Buy Ontario Act (Public Sector Procurement), 2025* (the "*Buy Ontario Act*") and other local procurement mandates are placing greater emphasis on where those products come from.

For contractors, subcontractors and owners, these issues are increasingly at the forefront when bidding, sourcing materials and negotiating contracts.

What the Tariffs Mean for Construction Materials and Equipment

Tariffs on both sides of the Canada-U.S. border are affecting construction materials and equipment. Steel, aluminum, lumber and a range of manufactured products are subject to tariffs or counter-tariffs.

Canada's latest retaliatory tariffs took effect September 8, 2026, for products including wood products, steel, aluminum and specific industrial equipment such as forklifts. This means Canadian contractors buying certain products from U.S. suppliers may face additional costs when those goods enter Canada.

For construction projects, tariffs can mean higher costs for key materials and equipment, as well as greater uncertainty around availability and lead times. Those impacts can move quickly through the supply chain, affecting how projects are bid, budgeted and scheduled.

How the *Buy Ontario Act* Affects Construction Procurement

Procurement is no longer driven by cost and availability alone. On April 13, 2026, the *Buy Ontario Act*, along with the Buy Ontario Procurement Directive and the Municipal Buy Ontario Procurement Directive (the "Directives"), came into force, requiring provincial and municipal public-sector entities to prioritize the procurement of goods and services from Ontario and within Canada. The Directives also impose further procurement restrictions affecting U.S. goods and services.

Contractors bidding on public-sector work must now contend with two troublesome issues: sourcing products locally to comply with procurement directives while navigating uncertainty around the cost

and availability of products imported from abroad. The Directives carry real practical weight, with some municipalities now incorporating them into their contract documents.

For further information on the *Buy Ontario Act*, see RAR's article [here](#).

Address Tariff Risk at the Bid Stage

Before negotiating a contract or committing to a project, contractors should address the elephant in the room: tariffs. The time to determine how that risk will be allocated is at the bid stage, before the price is locked in and the work begins. This is when contractors have the greatest opportunity to speak up and protect themselves. Failing to do so could be fatal to the profitability of the project.

If contractors build tariffs into their pricing, they should identify them explicitly and include appropriate qualifications stating that prices are subject to change in the event of a new or increased duty or tariff.

Given the current volatility, contractors should keep their bid-validity period short, narrowing the window between bid submission and contract execution to reduce the risk that the tariff landscape shifts in the interim.

How Contract Adjustment Mechanisms Address Tariff Costs

Across most construction contracts, the contractor is expected to shoulder the risk of cost increases unless the contract explicitly provides otherwise. That exposure is most significant under a stipulated-price or lump-sum contract but can arise whenever the contract lacks an appropriate adjustment mechanism. A significant tariff can therefore leave a contractor facing an unexpected cost it may have to absorb.

Some standard construction contracts can provide protection against changes in taxes and duties. CCDC 2, for example, allows for an adjustment to the contract price where customs duties change after bid closing, and a new tariff may constitute a new or increased duty. Other contracts may include change-in-law provisions that can be triggered by new tariffs or local compliance legislation. Price-escalation provisions may also allow the contract price to change as the cost of materials such as steel or aluminum rises.

Why Tariff Relief Under Construction Contracts May Not Be Enough

There is a practical gap, however. Tariffs are usually built into a supplier's or subcontractor's pricing rather than broken out as a separate charge. A general contractor that once paid a subcontractor \$10 for a steel component may now pay \$15, with nothing on the invoice identifying the tariff portion. Without that visibility, it can be difficult to establish the customs-duty change on which a CCDC 2 price adjustment depends.

Even where a price adjustment is available, it may address cost alone without accounting for other consequences, such as supply-chain delays or unavailable materials.

General contractors can take two steps to help close that gap. First, require subcontractors to itemize tariffs, duties and taxes separately and ask them to obtain the same breakdown from their suppliers, recognizing that suppliers may resist. Second, negotiate clear force majeure, price-escalation and tariff-relief provisions that address increased tariff costs and, where warranted, extensions of time.

Whether those provisions provide relief will ultimately depend on what the contract says. Do they cover new tariffs as well as increases to existing tariffs? Do they apply to U.S. duties, Canadian countermeasures or both? Do they address cost, time or both?

These protections are not universal. Many private supply and subcontract agreements contain no equivalent provision. Where the contract does not address the risk, the contractor may be left to absorb the increase.

Practical Steps Contractors Can Take to Manage Tariff Risk

- **Draft explicitly.** Identify tariffs, duties, taxes and countermeasures in the contract and state whether they trigger a price adjustment, shared-cost formula, renegotiation or termination right.
- **Secure prices early.** Pre-purchase or lock in pricing for key materials and negotiate longer-term supply agreements.
- **Use available relief.** Monitor remission orders, duty drawback and government support programs, and confirm Canada-United States-Mexico Agreement (CUSMA) origin requirements and tariff classifications.

The Bottom Line

Tariffs and the local procurement requirements under the *Buy Ontario Act* are changing how construction projects are priced and sourced. Whether a contractor can recover an unexpected tariff cost will often come down to what the contract says.

The contractors who come through this period in the best shape will be those whose bids and contracts say, in plain terms, what happens when the border gets more expensive, before it does.

HOW WE CAN HELP

RAR Litigation advises contractors, subcontractors, owners and suppliers on tariff risk allocation, bidding and procurement strategy, and drafting construction contracts with adequate force majeure, change-in-law and price-escalation provisions.

Contact us to review your contracts and bid templates before the next tariff lands.