GREATER LANGLEY
CHAMBER OF COMMERCE

Maximizing Value For Taxpayer Dollars on Public Infrastructure Projects And Defending The Rights Of Canadian Companies And Workers

DESCRIPTION

Following the Federal Government's launch the Canada Infrastructure Bank to fund over $180 billion in construction projects over the next 12 years, it is imperative that public infrastructure policy at all levels of government maximize the fairness and cost effectiveness of public funds. The significance of such fiscally responsible practices is compounded by the fact that the British Columbia government will be introducing restrictive tendering policies for public infrastructure projects, similar to those already in place in multiple jurisdictions in Ontario, to the detriment of Canada's taxpayers and skilled workforce. Restricted tendering reduces competition, increases costs, and unfairly restricts which companies and employees are allowed to work on these projects. In order to maximize value for taxpayer dollars on public infrastructure projects and ensure that all qualified Canadian companies and employees can work on and benefit from these projects, an open and fair tendering must be the process by which governments tender public projects.

BACKGROUND

Public infrastructure projects can be restricted in a number of ways. In Ontario, language in the Labour Relations Act allows municipalities and school boards to become certified "construction employers," which ties all of the municipalities' construction work to a particular union (or small group of unions) and its bound contractors. As a result, up to 70 percent of the industry is unable to compete for work on publicly owned and publicly funded projects. In 2012, approximately $942 million worth of municipal construction work in Ontario was subject to restricted tendering.

Up until recently, Manitoba Hydro projects were subject to 'restricted Project Labour Agreements' or PLAs. These agreements are usually between the owner (MB Hydro) and a select group of unions to guarantee labour supply and labour peace at the cost of guaranteed wage rates and other conditions. However, this arrangement meant that all workers must pay dues to those select unions if they wanted to work on those projects, even if – with their existing employer – they were currently part of a different union or no union at
all. Also, companies that wanted to work on those MB Hydro sites had to employ workers from those select
unions.

BC is currently proposing a procurement process and labour model akin to the situation with MB Hydro, except the proposed PLA will likely apply to all of the nearly $50 billion in planned future public infrastructure projects over the next three years.

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There is significant evidence demonstrating that restrictive tendering, such as those PLAs and CBAs being considered by the NDP in BC or the existing policies in various municipalities in Ontario, have significant, negative economic and budgetary implications.

According to a comparative analysis from countries around the world on major infrastructure projects, the potential cost savings from an open tendering process indicates that construction costs fell by an average of 20 to 25 percent as the number of bidders increased from two to fifteen.

A recently released Canadian study by the think tank Cardus modeled the impact of a closed tendering environment in the City of Hamilton by projecting that:

- The gap between the winning bid and the next highest bid in Hamilton (restricted since 2005) was more than twice – 105% – as wide as that in neighbouring municipalities (like Halton or Brant) that had open tendering.
- Comparing the gap between the winning bid and the average (mean) bid in open and closed municipalities, the difference was 114% wider; the gap for the highest bid was also wider: 155%.
- The Participation of vendors in the newly restricted environment shrunk by over 83%.

In 2018, Cardus reviewed the tendering process in the Region of Waterloo, comparing the periods of 2009- 2014 with 2014 to the present. The report found that the region's change in policy, from 'open' prior to 2014 to becoming 'certified' in 2014 – such that only Building Trades affiliated unions could bid on projects – greatly affected the number of contractors bidding on projects. Post 'certification', the Region received less than 50% of the number of bids, and only 16.5% of the previous bidders continued to bid on any projects at all. For example - between 2010 and 2014 - 27 companies were deemed qualified to bid on
$140M worth of water and waste water projects in the Region. Of those 27 companies, only 2 are bound to the carpenter's union and would be eligible to bid on water and waste water treatment plant work post certification.

Two recent public opinion polls also show strong public support for 'fair and open' tendering processes. The Progressive Contractors Association of Canada (PCA) poll in July of 2017 showed that 85% of Ontarians want a legal loop-hole that allows restricted tendering to be closed.

More recently, PCA commissioned a poll in British Columbia that showed that 77% of decided British Columbians don't support restricting who can work on projects through restrictive tendering policies.

From a business management standpoint, it is also important to understand why restrictive tendering increases costs, decreases efficiency and stifles innovation. In the traditional 'building trades' model each 'craft' (electrician, plumber, etc.) is a separate jurisdiction with exclusive right to perform various tasks; i.e. only pipefitters can carry pipe; further, employees are discouraged from multi-skilling, limiting opportunities for career development. These jurisdictional limitations create significant inefficiencies and barriers to worker advancement.

Conversely, where employers are not signatory to the building trades, the workforce may be organized along 'wall-to-wall' or 'all employee' bargaining arrangements and are not subject to such artificial boundaries or restrictions. Therefore, electricians in wall-to-wall companies don't have to wait for a labourer
to move that lumber on the floor before they can start work. This is one of many efficiencies non-'BTU' companies have been able to adopt that increase their productivity and competitiveness. By forcing these companies to work under BTU arrangements they are excluded from using their existing business model. To say that 'all companies can bid on these projects, but they cannot bring their business model, including their employees' is to essentially restrict them from bidding in the first place.

Finally, national labour data indicates that less than 30% of Canada's construction labour force is part of the traditional 'building trades' unions. In some provinces, this number dwindles to roughly 15%. Indeed, between 70% and 85% of all construction workers are not in Building Trade Unions, choosing to either work in non-union or "progressive" union workplaces. To allow 13-30% of the workforce to dictate the labour relations arrangements for the other 70-85% of workers – especially on publicly funded infrastructure projects
– is unfair and very possibly a violation of workers rights.

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RECOMMENDATIONS

That the Federal Government:
1. Institute a policy that it will not commit federal dollars toward public infrastructure projects unless such projects allowed for an "open tender" process.

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