# **TORONTO**

## REPORT FOR INFORMATION

# Supplementary Information - Schedule 9, Changes to the Labour Relations Act, 1995 - Restoring Ontario's Competitiveness Act, 2019

**Date:** June 17, 2019 **To:** City Council

From: City Manager

Wards: All

#### SUMMARY

In consideration of EX6.3, "Schedule 9, Changes to the Labour Relations Act, 1995 - Restoring Ontario's Competitiveness Act, 2019", Executive Committee requested additional information with respect to:

- the number of potential new bidders (union and non-union) that may bid if the City became a non-construction employer;
- ways to which the City could increase and/or maximize community benefits if the City remained a construction employer;
- the general percentage of a bid received in the ICI that account for wages of employees and other areas;
- the scale of training programs undertaken by unions and non-union construction firms.

#### FINANCIAL IMPACT

There are no additional financial impacts from this report. Potential financial impacts are set out in EX6.3.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

#### **DECISION HISTORY**

Executive Committee, on June 6, 2019, in consideration of EX6.3, "Schedule 9, Changes to the Labour Relations Act, 1995 - Restoring Ontario's Competitiveness Act, 2019 directed the City Manager to report directly to Council on the following:

- a. the number of union construction companies that can currently bid on construction jobs in the Industrial, Commercial and Institutional sector in the City of Toronto;
- b. the number of additional union construction companies that would likely be able to bid on construction jobs in the Industrial, Commercial and Institutional sector in the City of Toronto, if the City decided to become a non-construction employer;
- c. the number of non-union construction companies that would likely be able to bid on construction jobs in the Industrial, Commercial and Institutional sector in the City of Toronto, if the City decided to become a non-construction employer;
- d. ways in which the City could increase and/or maximize the benefits, such as skills training and community benefits, associated with union workforces being employed in the Industrial, Commercial and Institutional sector, should the City decide to continue being a construction employer;
- e. the general percentage of the bids received in the Industrial, Commercial and Institutional sector that account for wages of employees; and given the existence of the City's Fair Wage Policy, other areas of a successful bid that might become more competitive, if the City became a non-construction employer; and
- f. the scale of training programs undertaken by certified and non-city certified unions in Toronto; and similar programs undertaken by non-union construction firms; and
- g. the central findings of the 2008 City of Toronto report concerning the savings the City would incur if it became a non-construction employer based on the Fair Wage Policy.

See: <a href="http://app.toronto.ca/tmmis/viewAgendaltemHistory.do?item=2019.EX6.3">http://app.toronto.ca/tmmis/viewAgendaltemHistory.do?item=2019.EX6.3</a>

#### COMMENTS

Executive Committee requested a number of inputs to help inform the decision to either become a non-construction employer or remain a construction employer.

#### Revisions to Tables 1 and 2 of EX6.3

During the course of gathering the data for this supplementary report, it was determined that there were minor errors in Tables 1 and 2 on page 2 and 3 of EX6.3. In Table 1, there is a small revision between the Value of Award in the I.C.I. Sector and the Road Sector, all other sectors remained the same. Table R1 shows the small change.

**Table R1**: City of Toronto Total Awarded Construction Contracts for 2018 by designated Construction Sectors

Construction Sector	Value of Award in EX6.3	Revised Value of Award	Proportion
I.C.I.	\$616,832,915.21	\$616,830,389.96	33%
Heavy Construction	\$329,598,090.67	No change	18%
Road Work	\$194,812,046.96	\$194,600,347.21	10%
Sewer & Watermain	\$722,033,775.91	No change	39%
Total	\$1,863,276,828.75	\$1,863,062,603.75	

In Table R2, the number of contracts awarded to a non-unionized general contractor increased by 1 in both the Heavy Sector (2 to 3) and the Sewer & Watermain Sector (2 to 3), with a corresponding decrease of 1 in the Unionized General Contractor for Road Work (62 to 61) and Sewer and Watermain (42 to 41). The values awarded in those sectors were adjusted accordingly.

Table R2: Construction Contracts Awarded in 2018

Construction Sector	Total Value of Contract Award to Non- Unionized General Contractor	# of Contracts	Total Value of Contract Award to Unionized General Contractor	# of Contracts
I.C.I.	\$109,643,991.42	54	\$507,186,398.54	128
Heavy Construction	\$2,228,234.62	2	\$327,369,856.05	7
Road Work	\$52,038,311.22	33	\$142,562,035.99	61
Sewer & Watermain	\$27,508,414.25	3	\$694,525,361.66	41
Total	\$191,418,951.51	92	\$1,671,643,652.24	237

#### Increases to the Bidding Pool

Construction contractors are typically characterised as general contractors or subcontractors. General contractors typically bid on work and frequently hire subcontractors to do some or all of the work.

Currently, any bidder (whether they are unionized or non-union) can bid on ICI construction work but all bidders are required to use unionised subcontractors if the project requires any of the trades the City is bound to. It is important to note that the actual amount of work that must be performed by union forces is driven by the nature of the project. On some projects, nearly all of the work falls within the scope of one or more of the unions to which the City is bound, whereas other projects may involve work that is either not within the scope of the City's unions or the work may be within an industry that is typically non-union.

The decision to become a non-construction employer or to remain a construction employer is not a binary decision about union versus non-union work. Regardless of the City's status, it is reasonable to expect that the City will continue to use a significant amount of unionised construction labour. The difference is that currently, only unionised subcontractors can be used by a successful bidder. Should the City become a non-construction employer, successful bidders will be able to use non-trade union or open shop subcontractors in addition to unionised subcontractors. In either case, the City's other qualifications, including bonding and health and safety requirements will continue to apply.

Table 1 illustrates the main union affiliations of the construction companies (construction companies can be affiliated with more than one union) that were awarded contracts in 2018 for ICI work. This information is based on the fair wage declarations submitted by the successful bidder.

For comparison, Table 2 does the same for the other construction sectors.

Table 1 - ICI - Main union affiliation of winning bidder based on the fair wage declaration

Union Local or Non-Union	Grand Total	Percentage of Overall ICI work	
City's Certified Trade Partners			
Bricklayers - Local 2	\$884,545.00	0.14%	
Carpenters - Local 27	\$24,435,691.20	3.96%	
Sheet Metal - Local 30	\$1,522,050.00	0.25%	
Plumbers - Local 46	\$51,523,006.00	8.35%	
Electricians - Local 353	\$28,026,533.42	4.54%	

Union Local or Non-Union	Grand Total	Percentage of Overall ICI work
Ironworkers - Local 721	\$504,605.00	0.08%
Painters - Local 1891	\$483,900.00	0.08%
Carpenters - Local 785	\$66,000.00	0.01%
Other Unions		
Liuna - Local 506	\$182,981,528.96	29.66%
Plasters - Local 598	\$4,604,700.00	0.75%
HVAC - Local 787	\$156,600.00	0.03%
CLAC	\$210,832,624.96	34.18%
BUC	\$1,164,614.00	0.19%
Non-Union		
Non-Union	\$109,643,991.42*	17.8%
Grand Total	\$616,830,389.96	100%

Table 2 - Other Construction Sectors - Main union affiliation of winning bidder based on

the fair wage declaration

Union Local or Non- Union	Heavy	Road	Watermain	Grand Total	% of Overall work
Liuna - Local 183	\$327,369,856	\$142,562,036	\$694,525,362	\$1,164,920,079	93.44%
Non- Union	\$2,228,235	\$52,038,311	\$27,508,41	\$81,312,135	6.56%
Grand Total	\$329,598,091	\$194,600,347	\$722,033,776	\$1,246,443,914	100%

#### **Number of Current Bidders**

ICI sector work can vary greatly between projects. Projects can consist of work such as renovating part of a floor in a City facility, all the way to construction of a new building. The nature and scale of the project determines which of the trades to which the City is bound are involved. For instance, a small renovation project may only require painters, electricians and/or carpenters. Other projects may require the use of the majority of the nine trades. In 2018, the City issued 182 procurements. Table 3 sets out the total number of unique General Contractors that submitted a bid to the ICI procurements the City issued in 2018.

Table 3 - ICI procurements in 2018

No. of ICI Procurements	No. of Unique General Contractors who submitted a bid	No. of Bid Submissions	Average Number of Bids/ ICI Procurement
182	173	800	4.4

It is important to note that the 173 unique general contractors will never bid on every single ICI procurement. This is because of the considerable variation in ICI projects that can be put out to tender. Some general contractors only bid on very specific types of projects e.g. a small contractor may only bid on small renovation projects that are in line with their firm's focus. Other general contractors bid on a wider variety of ICI procurements with the intention to act as a supervisor for the myriad of subcontractors that will actually perform the work.

# Question 1a - Number of Union Construction Companies that Can Currently Bid on Construction jobs in the ICI sector in the City of Toronto

All unionised and non-unionised contractors working in the ICI sector in Toronto can currently bid on City projects. However, any successful bidder must use workers in the unions to which the City is currently bound for the work within each unions scope.

The information in table 3 shows the number of bidders in 2018. Given the considerable variation in the types of projects, it is not possible to determine the number of union construction companies that can currently bid on ICI work.

In preparing this report, Staff reached out to the City's nine (9) construction trade union partners to determine the number of companies' signatory to their Local that may perform work in the ICI sector in the Greater Toronto Area (GTA) and their respective membership. The information staff received is set out in Attachment 1.

It is not possible to extrapolate from that information, the precise number of possible union contractors that could bid on City projects because there are many reasons why a particular firm may or may not submit a bid. Those reasons include but are not limited to:

- the firm is better suited to be a subcontractor given the size and focus of their company;
- the focus of their company is on private sector work, not public sector work;
- they may not be able to meet one or more of the requirements that the City sets out in the tender document, for example the experience requirements for the project, having a Certificate of Recognition for their health and safety program, or they are not capable of providing the bonding that might be required;
- the timing of the procurement;
- · the amount of work they are already doing; and
- the risk profile of the procurement may not be acceptable.

In other words, while the information set out in Attachment 1 suggests a high number of unionised companies that could do business with the City, the City's current experience (only 183 unique bidders in 2018 and only a portion of those are unionised firms) indicates that far fewer are actually bidding on City projects. A survey of each company or more detailed information about each company would be required to answer the question.

For instance, the data received from the Carpenters Local 27 indicates that there are 15,500 members able to work in Toronto and 11,695 employers. This could mean that many of the employers are small companies who are more likely to be subcontractors and not general contractors i.e. they would not bid on the projects themselves but may be retained by the successful bidder to do the work within their scope.

It is also important to note that many entities, like the City, are parties to multiple collective agreements. So the information in Attachment 1 is that much less reliable.

Question 1b and 1c - Number of additional Unionised and Non-unionsed General Contractors that would likely bid on City ICI projects if the City became a non-construction employer

In theory, every unionised and non-unionised construction company working in Toronto would be able to bid on and do City construction projects if the City became a non-construction employer. Currently, unionised contractors bound to other unions and non-unionised contractors can bid on City projects (for instance, as indicated in Table 1, LIUNA contractors won 29.66% and non-unionised contractors won 17.8 of City's project in 2018). However, those contractors must use subcontractors bound to the City's nine trade union partners.

As will be discussed in more detail below, while it is not possible to determine precisely how many additional unionised contractors will likely bid on City ICI projects if the City became a non-construction employer, the ability to use a broader range of subcontractors should attract new unionised contractors to City projects if not as general contractors then as subcontractors.

Similar to the way in which the data in Attachment 1 may give a misleading impression about the number of possible unionised bidders, any data on the total number of ICI contractors working in Toronto will be similarly misleading. As indicated above, there are many factors that influence a company's decision on whether or not to bid on City

projects e.g. the size and focus of the company, whether it desires to work in the public sector or meets our safety standards.

That said, currently, contractors who bid on City projects must use unionised subcontractors. One of the primary concerns that has been expressed by industry sources is that the requirement to use unionised subcontractors comes at an additional cost. For instance, some general contractors have their own forces that they could utilise or they have existing relationships with non-union subcontractors.

As a non-construction employer, successful bidders on City projects will be able to use their own workers, unionised subcontractors or non-unionised subcontractors. That is expected to increase the pool of contractors who will bid on City projects. Without specific information about each company, it is not possible to determine how many additional companies will bid on City projects.

In preparing this report, City Staff requested information from a number of industry sources to provide a broad sense of the potential increase in the number of general contractors if the City became a non-construction employer. Sources included the Christian Labour Council of Canada (CLAC), the Builders Union of Canada (BUC), the Canadian Union of Skilled Workers (CUSW), and a number of Construction Associations. The sources either provided a list of companies or directed staff to their website. Staff compared the data provided from the various sources and eliminated duplication and also eliminated any companies that already do business with the City. Attachment 2 includes the outcome of that review i.e. the number of unique general contractors affiliated with each of the sources that do not currently do business with the City and may do business with the City if we became a non-construction employer.

It bears noting that this is not an exhaustive list of potential additional bidders as, in theory, other construction employers not affiliated with these sources could also bid. At the same time, it is also misleading to assume that all 353 companies affiliated with these sources would start bidding on the City's projects if the City became a non-construction employer.

Even as a non-construction employer, any potential additional bidder will still consider a number of factors to determine if they would bid including but not limited to:

- project size and duration;
- the nature of the project;
- the level of risk in the project;
- how well the contract documents are developed;
- whether they would meet the requirements set out in the procurement;
- · the timing of the procurement; and
- the amount of work they are already doing.

Even if the number of general contractors bidding on the City's projects did not change markedly, as a non-construction employer, the successful bidders would have access to a much broader number of potential subcontractors.

# Question 1d - Ways in which the City could increase Community Benefits if the City remains a Construction Employer

Currently, all of the unions who are subject to collective agreements in the ICI sector are active and important partners who enable the success of training and placing equity-seeking and Indigenous participants into construction careers.

Community benefits, in the form of access to training and employment opportunities, are currently achieved through the City's Social Procurement program and other community benefit initiatives. The process of establishing the community benefit target and the process for ensuring it is met is achieved through the relationship between the City and the winning bidder. Unions have partnered with the City informally to help ensure the success of community benefits initiatives. Unions play a key role in training. Additionally, unions play a key role in connecting apprentices with jobs on City infrastructure projects and providing ongoing support to ensure the continuity of employment that is required in order for apprentices to complete their certificate and become journey persons. However, the City has not entered into a direct agreement with any of the unions to foster this partnership formally. If the City remained a Construction Employer, the City could explore ways to formalize this partnership to further cement unions' commitment and active participation in the City's community benefits initiatives. Such a partnership would be outside the procurement process and would be in addition to already established workforce development requirements related to City community benefits policies, programs and initiatives, designed to maximize the training and employment opportunities for equity-seeking and Indigenous people in the construction sector and support data collection to demonstrate the outcomes and impacts of the community benefits hiring initiatives.

#### Questions 1e and 1g - Elements of a Bid

Staff were asked to report back on the estimated percentage of the bids received in the Industrial, Commercial and Institutional sector that represent wages of employees, and to also identify other areas of a successful bid that might become more competitive, if the City became a non-construction employer. This inquiry tied back to the central findings of the 2008 City of Toronto staff report concerning the savings the City would secure if it became a non-construction employer given the Fair Wage Policy.

The 2008 report suggested three things. First that on average, labour accounts for 33.5% of the total construction cost, while 66.5% represents all other costs including materials, equipment, administration, supervision, bonding, overhead, profit etc. Second, that 17% of the total labour costs (33.5%) would be attributed to the payment of wages to union workers in the nine unions. Third, that based on labour costs accounting for 33.5%, becoming a non-construction employer might result in savings of approximately 1.7% of the total project costs.

Staff contacted a number of Cost Consultants to validate the breakdown of costs between labour and other costs, similar to what was done in 2008. All of the Cost Consultants contacted indicated that they were not aware of a study that would be able to provide an answer that could be backed up by data. The general anecdotal evidence

provided in these discussions, however, does suggest the range of labour to other costs could be in the range of 30 to 40% for labour costs and 60 to 70% for other costs. However, it was clear that this was a high level estimate and will vary considerably between types of projects and by considerations specific to each bidder. Staff also reviewed the submission from the Carpenters District Council of Ontario to EX6.3 (<a href="https://www.toronto.ca/leqdocs/mmis/2019/ex/comm/communicationfile-95052.pdf">https://www.toronto.ca/leqdocs/mmis/2019/ex/comm/communicationfile-95052.pdf</a>). In the submission, there was a reference to a Cost Structure for Non-Residential Building Construction, Ontario which was based Statistics Canada's Input-Output table, 2013. That table indicated that payroll costs were 34.1%. The anecdotal evidence is in line with the information provided in that submission.

That being said, the 2019 report (EX6.3) adopted the low end of studies that suggest that increased competition may lead to savings ranging from 2 to 8%. The low end is consistent with the 2008 staff report. The 2019 report indicated that savings are still possible even if the contractors are required to comply with the Fair Wage Policy, where the Fair Wage rates are close to the existing collective agreement wage rates.

Bidders consider a number of factors when they determine their bid for a project including the following:

- materials costs (accounting for shortages or surplus of material);
- labour costs and availability (accounting for shortages or surplus of material);
- extent and pricing of work to be performed by sub-contractors;
- equipment,
- supervision,
- mark-up on return,
- overhead:
- project size and duration;
- the nature of the project;
- · the level of risk in the project;
- how well the contract documents are developed;
- any innovative ways to approach the work;
- the amount of work they have has already committed to; and
- · the amount of competition they might anticipate.

While each bidder will have a similar list of factors to consider in how they bid, all of their costs will not be the same. All of these interrelated factors will go into how aggressive the bidder wishes to be with respect to the profit they expect to earn if they were to win the bid. Even with all bidders being required to pay at least the Fair Wage rate, that doesn't mean their labour costs will all be the same. Bidders may pay labour rates above the Fair Wage rates, while others at the Fair Wage rates. In addition, labour costs also need to include management staff. Those costs can also vary from bidder to bidder, and the amount of management staff will also vary. In addition, the other non-labour costs will not be the same between bidders.

There can be other ways bidders will be able to be able to bid more competitively. In the case of non-union contractors, they may be able to perform some of the work themselves versus hiring subcontractors. This can result in savings from the elimination

of duplicated overhead between the non-union contractor and the subcontractor, as well as the elimination of markups from using subcontractors. In addition, the non-union contractor's ability to use its own forces to do the work may also mitigate against delays in a project, as some trade unions work on a four day work schedule which can hold up other trades from completing the work. Being able to complete the work faster may also result in savings to the City. Finally, it is important to understand that the greater the number of collective agreements that the general contractor must comply with and the greater the number of subcontractors the general contractor is required to utilize, the greater the impact such compliance costs may be for the general contractor which the general contractor will pass on to the City.

While a bidder will know their costs and expected profit, they also need to account for the fact that they do not know for certain the costs and expected profit of the other bidders. All of this feeds into the competitive tension between bidders that may result in potential cost savings for the City based on the bids that are submitted

#### **Question 1f - Union and Non-Union Training Programs**

#### Union-Employer Training Centres

Based on preliminary research conducted, there are four (4) union-employer training centres located in the city of Toronto (with a total of 41 across the province of Ontario). It is commonly understood that many city of Toronto residents take trades training outside of Toronto in the wider Greater Toronto Area (GTA). The wider GTA has 17 training centres, 15 of which train apprentices in ICI related trades and two which offer non-ICI related training.

Most of these training programs are partially funded by members of the affiliated union. They also receive funding from the Ministry of Training, Colleges and Universities (MTCU). Union funding is based on the amount of deductions from a member's hourly wage (\$0.06 to \$0.57) to directly fund training within the member's affiliated union. Under many I.C.I. agreements, employers pay into training funds along with various other funds operated by the union for each hour in which work is performed under the agreement. Contractors may also provide funding for training programs.



#### Non-Union Training Programs

Non-union training programs are also available to jobseekers within the wider GTA. The research has identified 28 unique non-union training programs. The breakdown of agents delivering these training programs includes:

- 10 Community Agencies (funded by MTCU, Toronto Employment and Social Services (TESS), other funders)
- 6 Public Colleges
- 6 Private Career Colleges
- 4 Industry Associations (funded through membership dues, government, other streams)
- 2 Private Enterprises (one program has seats funded by TESS)

Training Delivery Agents (TDAs) deliver Pre-Apprentice Programs, Apprenticeship Level 1 programs, or other types of programs (including individual training courses, skill upgrading, etc.). The breakdown of non-union agents by type of program offered includes:

- 14 Pre-Apprentice Programs
- 8 Apprenticeship Level 1 Programs
- 6 Other types of training

#### Training Programs by Trade

Of all 45 union and non-union programs, nearly half are General Labourer training programs. Sheet Metal Workers and HVAC training programs were also present in more than one instance. Lastly, most pre-apprenticeship programs focus on general labour, with some other customized activities, depending on union affiliations.

#### Training Program by Government Funding

Several of the union and non-union programs receive government funding, mostly through the provincial Ministry of Training, Colleges and Universities (MTCU), however staff were not able to obtain the total funding allocation for the MTCU. From the City of Toronto, currently five pre-apprenticeship and construction skills training programs are partially funded by TESS. In 2019, TESS is funding approximately \$1 million across these five programs through its provincial Ontario Works (OW) employment services funding.

#### Completion Rates

Fulsome data on GTA/Toronto construction apprenticeship completion rates could not be located. A 2013 study1 analyzes Ontario completion rates, stating that among the four most popular trades in Ontario (plumbers, steamfitters, sheet metal workers, and electricians), the completion rate for union apprentices was 75% in contrast to 58% for non-union apprentices.

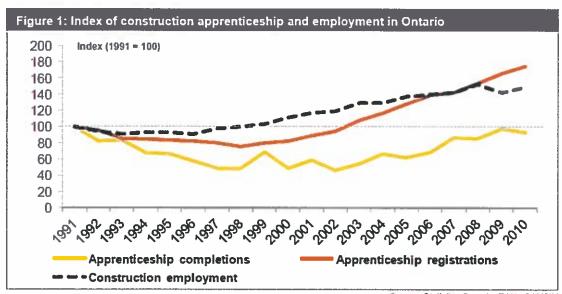
<sup>1</sup> Ontario Construction Secretariat. (May 2013). Completion Counts: Raising Apprenticeship Completion Rates in Ontario's Construction Industry. <a href="https://iciconstruction.com/2016/06/17/completion-counts-may-2013/">https://iciconstruction.com/2016/06/17/completion-counts-may-2013/</a>

The table below, from the same study, illustrates completion rates across Ontario from 2004 to 2008. It does not break down completion rate by union vs. non-union:

Frade Code	Trade Description	Length (yrs)	2004 to 2008 Average
	COMPLETION RATE FOR SELECT COMPULSORY TRADES		56%
339A/B	Hoisting Engineer: Mobile & Tower	3	84%
306A	Plumber	5	49%
313A	Refrigeration and Air Conditioning Systems Mechanic	5	47%
308A	Sheet Metal Worker	5	53%
307A	Steamfitter	- 5	67%
309A	Electrician Construction Maintenance	5	61%
	COMPLETION RATE FOR SELECT VOLUNTARY TRADES		32%
401A	Brick and Stone Mason	4	13%
428A	Construction Boilermaker	4	53%
426A	Construction Millwright	4	77%
453A	Drywall Finisher and Plasterer	4	15%
451A	Drywall, Acoustic and Lathing Applicator	3	18%
253A	Heat and Frost Insulator	4	51%
420A	fromworker	3	58%
434A	Power line Technician	4	44%
427A	Sprinkler and Fire Protection Installer	4	57%
403A	General Carpenter	4	26%
	OVERALL COMPLETION RATES		46.8%

Source: MTCU, Prism Economics

The figure below, from the same study, illustrates completion rates in Ontario from 1991 to 2010, however the data is not broken down by union vs. non-union.



Source: Statistics Canada, RAIS, CANSIM

This area of enquiry would require more review before drawing conclusions. Completion rates for trades are driven by many factors beyond union vs non-union environments, such as: extent of work opportunities available, the nature of the work, compensation levels; the intellectual and physical demands of the trade as contrasted with other avenues of employment etc. It can likely be said, however, that the greater the number of work opportunities and employers available to work for through a union

hiring hall during apprenticeship, the more an apprentice may benefit from the variety of skills building development that is necessary to advance through various stages of apprenticeship. Further, it can likely be said that completion rates in union environments may be positively impacted because many unions perform a function that facilitates continuity of employment and provide support that many apprentices benefit from.

#### CONTACT

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#### **SIGNATURE**

Chris Murray City Manager

#### **ATTACHMENTS**

Attachment 1 - Number of Employers and Members of Certified Trades

Attachment 2 - Some Potential Additional General Contractors

## Attachment 1 - Number of Employers and Members of Certified Trades

Certified Trades	Local	No. of Employers Authorized to work in Toronto	No. of Members Authorized to work in Toronto
Carpenters	Local 27	11,695	15,500
Electricians	Local 353	586	11,000
Plumbers	Local 46	170	9,500
Painters	Local 1891	150	1,790
Glazers	Local 1819	175	1,948
Bricklayers	Local 2	350	500
Sheet Metal workers	Local 30	130	3,000
Insulator/Asbestos workers	Local 95	45	2,018
Ironworkers	Local 721	107	3,400

### Attachment 2 - Some Potential Additional General Contractors

Source	No. of Potential Additional General Contractors
CLAC	103
cusw	22
Construction Associations	228
Total	353