Re: EP4.1
Submitted by Chief Executive Officer, Exhibition Place - Part 1

TORONTO Item

Tracking Status

- City Council adopted this item on June 18, 2019 with amendments.
- This item was considered by Executive Committee on June 6, 2019. It is being forwarded to City Council without recommendations. It will be considered by City Council on June 18, 2019.
- See also MM2.10

City Council consideration on June 18, 2019

EX6.3	ACTION	Amended		Ward: All

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

Committee Recommendations

That Executive Committee forwards the item to City Council without recommendations.

Confidential Attachment - Labour relations or employee negotiations and potential litigation that affects the City of Toronto

Background Information (Committee)

(May 23, 2019) Report and Attachment 1 from the City Manager on Schedule 9, Changes to the Labour Relations Act, 1995 - Restoring Ontario's Competitiveness Act, 2019
(http://www.toronto.ca/legdocs/mmis/2019/ex/bgrd/backgroundfile-133465.pdf)
Confidential Attachment 1 - Schedule 9, Changes to the Labour Relations Act, 1995 - Restoring Ontario's Competitiveness Act, 2019

Background Information (City Council)

(June 17, 2019) Supplementary report from the City Manager on Schedule 9, Changes to the labour Relations Act, 1995 - Restoring Ontario's Competitiveness Act, 2019 (EX6.3a)
(http://www.toronto.ca/legdocs/mmis/2019/cc/bgrd/backgroundfile-134873.pdf)

Communications (Committee)

(June 4, 2019) Letter from Ian DeWaard, Provincial Director, CLAC (EX.Supp.EX6.3.1)
(http://www.toronto.ca/legdocs/mmis/2019/ex/comm/communicationfile-95046.pdf)
(June 5, 2019) Submission from Mike Yorke, President and Director of Public Affairs, Carpenters' District Council of Ontario (EX.New.EX6.3.2)
(http://www.toronto.ca/legdocs/mmis/2019/ex/comm/communicationfile-95052.pdf)
(June 5, 2019) Submission from Jason Ottey, Director of Government Relations and Communications, LiUNA Local 183 (EX.New.EX6.3.3)

(http://www.toronto.ca/legdocs/mmis/2019/ex/comm/communicationfile-95069.pdf)
(June 6, 2019) Submission from David McDonald (EX.New.EX6.3.4)

Communications (City Council)

(June 6, 2019) Submission from Ray Law (CC.Main.EX6.3.5)
(June 14, 2019) Letter from Michael Gallardo, Executive Director, Merit OpenShop Contractors Association of Ontario (CC.Supp.EX6.3.6)
(http://www.toronto.ca/legdocs/mmis/2019/cc/comm/communicationfile-95368.pdf)
(June 17, 2019) Letter from Sean Reid, Vice President and Regional Director, Ontario Progressive Contractors Association of Canada (CC.New.EX6.3.7)
(http://www.toronto.ca/legdocs/mmis/2019/cc/comm/communicationfile-95374.pdf)
(June 17, 2019) Letter from Ian DeWaard, Christian Labour Association of Canada Ontario Director (CC.New.EX6.3.8)
(http://www.toronto.ca/legdocs/mmis/2019/cc/comm/communicationfile-95375.pdf)
(June 17, 2019) E-mail from Andrew Hurd, Director, Policy and Stakeholder Relations, Ontario Road Builders' Association (CC.New.EX6.3.9)
(http://www.toronto.ca/legdocs/mmis/2019/cc/comm/communicationfile-95376.pdf)
(June 18, 2019) Letter from John O'Grady, Central Ontario Building Trades (CC.New.EX6.3.10)
(http://www.toronto.ca/legdocs/mmis/2019/cc/comm/communicationfile-95420.pdf)

Motions (City Council)

Report of Committee of the Whole
June 19, 2019 at 3:17 p.m. - Speaker Nunziata advised that City Council had completed its closed session consideration of Item EX6.3 headed "Schedule 9, Changes to the Labour Relations Act, 1995 - Restoring Ontario's Competitiveness Act, 2019". No motions were placed in the closed session. City Council would now proceed with the public debate on the Item.

1 - Motion to Adopt Item as Amended moved by Councillor Ana Bailão ***(Carried)***
That:

1. City Council opt out of the application of section 127 (1) to (4) of Schedule 9 of Bill 66 and City Council direct the City Manager to file an election with the Minister of Labour in writing by July 3, 2019 thereby confirming the City of Toronto remains a construction employer.

2. City Council direct that the confidential information contained in Confidential Attachment 1 to the report (May 23, 2019) from the City Manager remain confidential in its entirety, as it pertains to labour relations and potential litigation that affects the City of Toronto.

3. City Council direct the City Manager to report back to the Executive Committee as soon as practicable on the feasibility of implementing a union preference procurement policy in the non-Industrial, Commercial and Institutional sector, such report should address the implications for implementing such a policy.

2 - Motion to Amend Item moved by Councillor Stephen Holyday ***(Redundant)***
That City Council adopt the following recommendations in the report (May 29, 2019) from the City Manager:

1. City Council take no action, thereby confirming the City of Toronto as a non-construction employer effective the day subsections 127 (1) to (4) of the Labour Relations Act, 1995 come into force.

2. City Council direct the City Manager in consultation with the Chief Financial Officer and Treasurer and Deputy City Managers, to report back on the financial and program impacts to the City being a non-construction employer.

3. City Council direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it pertains to labour relations and potential litigation that affects the City of Toronto.

Executive Committee consideration on June 6, 2019

EX6.3

REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

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

Date: May 29, 2019
To: Executive Committee
From: City Manager
Wards: All

REASON FOR CONFIDENTIAL INFORMATION

This report is about labour relations. It is also about potential litigation that affects the City of Toronto.

SUMMARY

On April 2, 2019, *Restoring Ontario's Competitiveness Act, 2019* (the Act) passed 3rd reading and received Royal Assent on April 3, 2019.

This report provides an overview of the changes made to the *Labour Relations Act, 1995* by Schedule 9 of the Act and analyses the anticipated impact on the City of Toronto. The impacts of other sections of the Act are addressed in a separate report for information titled *"Bill 66, Restoring Ontario's Competitiveness Act, 2019 - City Impacts"*.

Schedule 9 amends Section 127(1) of the *Labour Relations Act, 1995* (the LRA) by deeming public bodies, including municipalities, school boards, hospitals, colleges, universities and local boards, within the meaning of the *Municipal Act, 2001* and the *City of Toronto Act, 2006*, as non-construction employers.

It also provides a mechanism through which municipalities who wish to remain as construction employers may opt out of the application of the section within three (3) months from April 3, 2019.

The City is bound to nine province-wide collective agreements in the Industrial, Commercial and Institutional (ICI) sector of the construction industry.

As a result, the City has until July 3, 2019 to decide if it will choose to opt-out and remain a construction employer. This authority to opt-out requires a Council decision. If

the City does nothing, it will, by default, become a non-construction employer and the province-wide collective agreements that the City is bound to in the ICI sector will no longer apply to the City.

If Council decides to opt out and the notice of election is filed with the Ministry, the election is irrevocable. Should the City wish, at a later date, to be deemed a non-construction employer, it must make application to the Ontario Labour Relations Board (OLRB) under the existing definition of non-construction employer in the LRA and, the OLRB must determine that the City meets the high threshold within the LRA.

RECOMMENDATIONS

The City Manager recommends that:

1. City Council take no action, thereby confirming the City of Toronto as a non-construction employer effective the day subsections 127 (1) to (4) of the Labour Relations Act, 1995 come into force;

2. City Council direct the City Manager in consultation with the Chief Financial Officer & Treasurer and Deputy City Managers, to report back on the financial and program impacts to the City being a non-construction employer; and

3. City Council direct that the confidential information contained in Confidential Attachment 1 remain confidential in its entirety, as it pertains to labour relations and potential litigation that affects the City of Toronto.

FINANCIAL IMPACT

The City is party to nine construction trade union collective agreements in the Industrial, Commercial and Institutional (ICI) sector. The City is not bound to collective agreements for its construction work in other sectors.

In 2018, the City awarded approximately $2.6 billion in contracts for all goods and services, of which approximately $1.8 billion was construction contracts. $616 million of those construction contracts were in the ICI sector.

Table 1: City of Toronto Total Awarded Construction Contracts for 2018 by designated Construction Sectors

Construction Sector	Value of Award	Proportion
I.C.I.	$616,832,915.21	33%
Heavy Construction	$329,598,090.67	18%

Construction Sector	Value of Award	Proportion
Road Work	$194,812,046,96	10%
Sewer & Watermain	$722,033,775.91	39%
Total	$1,863,276,828.75	

Although the City is generally subject to collective agreements in the ICI sector, the construction industry in Toronto is highly unionised such that the City's construction tenders in the non-ICI sector also primarily get awarded to unionised general contractors as demonstrated in Table 2 below. In the ICI sector, non-unionised general contractors must utilize subcontractors unionised with the trades to which the City's is bound by collective agreements for related work.

Table 2: 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.	$109,162,398.38	55	$507,670,516.83	127
Heavy Construction	$1,765,409.62	1	$327,832,681.05	8
Road Work	$52,038,311.22	33	$142,773,735.74	62
Sewer & Watermain	$24,281,414.25	2	$697,752,361.66	42
Total	$187,247,533.47		$1,676,029,295.28	

There are various studies that indicate increasing competition in procurement has the potential to lower costs. The studies vary substantially in their estimate of resulting savings from increasing competition. The estimated savings range from 2% to as high as 30 to 40%.1 The European Study cited a range of savings between 2 to 10%, while

1 See for example Brian Dijkema, Dr. Morley Gunderson, *Restrictive Tendering: Protection for Whom?* Cardus (2017) https://www.cardus.ca/research/work-economics/reports/restrictive-tendering-protection-for-whom/ and Brian Dijkema, *Shortchanging Ontario Cities*, Cardus (2018) https://www.cardus.ca/research/work-economics/reports/shortchanging-ontarios-cities/, Lukas Vogel, *Macroeconomic effects of cost savings in public procurement,* European Union Economic Papers 398

the studies by Cardus cited a range of savings between 8% and 40%. In attempting to extrapolate from the studies, it is important to note that the City's Fair Wage Policy and the prescribed wage schedules closely mirror prevailing collective agreement rates. This is not the case in many jurisdictions.

Competitive bidding on construction projects involves inherent uncertainty for each bidder. There are numerous interrelated factors that go into any particular bid, especially in respect of large scale work (such as materials cost, labour, value and pricing of work to be performed by sub-contractors, equipment, supervision, mark-up on return, overhead and return on investment). Projects differ in size, specialization and location. Projects of the same size may differ substantially in specifications. Similar projects built at different times or in different locations may face shortages or surplus of labour or materials arising from the overall state of the economy and/or industry conditions. As a result it is difficult to assess the potential savings from becoming a non-construction employer.

Savings at the low end of the range noted in the studies (i.e. 2 to 8%), would translate to approximately $12.0 million to $48.0 million per year in savings (or funds available for additional construction projects), based on approximately $600 million of industrial, commercial and institutional (ICI) construction work per year.

However, it is unclear how much increased competition the City will receive on its construction tenders as a result of becoming a non-construction employer and consequently it is not possible to determine with any certainty what, if any, savings will result.

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

EQUITY IMPACT

Should the City of Toronto choose to take no action and become a non-construction employer there may be negative equity impacts.

Becoming a non-construction employer may undermine the success of some of the City's workforce development initiatives, including those that are a key component of its Community Benefits work. Some of the City's workforce development initiatives provide access to pathways to good quality construction jobs for Torontonians from equity-seeking groups, and First Nations, Metis and Inuit people. Low-income youth, Black and racialized Torontonians, immigrants and women are amongst the priority equity-seeking groups who benefit from the City's efforts to create pathways to construction jobs. For these equity-seeking groups, access to jobs and training, and the resulting economic security, may be negatively impacted. Further, becoming a non-construction employer may have broader implications and lead to a decrease in the quality of work in the ICI construction sector.

(November 2009)
http://ec.europa.eu/economy_finance/publications/pages/publication16259_en.pdf

To mitigate the possible equity impacts, should the City decide to become a non-construction employer, it would be critically important that Council reaffirm its continued support for the Fair Wage Policy and the City's continued commitment to partnering with unions on workforce development and community benefits programs. The City may also need to identify or develop alternative models to ensure the continued success of workforce development.

DECISION HISTORY

At its meeting on January 30 and 31, 2019, City Council requested that, following the adoption of Bill 66 by the Province, the City Manager report back to City Council on the impacts of the legislation on the City of Toronto. The following is the link to the report: http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.MM2.10

COMMENTS

Restoring Ontario's Competitiveness Act, 2019, Schedule 9

Restoring Ontario's Competitiveness Act, 2019 (the Act) received Royal Assent on April 3, 2019. Subsection 14(1) & (2) of Schedule 9 of the Act (the Schedule is appended as Attachment 1) will come into force on a day to be proclaimed by the Lieutenant Governor. The subsections amend section 127 of the LRA in a few ways that are of significance for the City:

- Municipalities are listed among the entities deemed to be non-construction employers under subsection 127 (1)of the LRA;
- On the day the provisions come into force, any trade union that represented employees of one of the listed entities no longer represents those employees who are in the construction industry; and
- Any collective agreements binding the entity in respect of the construction industry ceases to apply.

If the City takes no action, on the day the legislative changes come into force, the City will no longer be a construction employer. This will mean that the City will no longer be bound to the nine construction trade agreements to which the City is currently bound. It will also mean that the City cannot be certified by other construction trade unions.

Opt-Out Election

The Act contains a provision which allows the named entities to opt-out of being deemed "non-construction employers." Opting-out of the provisions will result in the City remaining a construction employer, i.e. maintaining the status quo.

The opt-out provisions came into force on April 3, 2019. As such, the City has three (3) months from April 3, 2019 (i.e., July 3, 2019) to file an election, in writing, with the Minister of Labour.

Opt-Out Election is Irrevocable

Once filed, the opt-out election is irrevocable. Should the City wish, at a later date, to be declared a non-construction employer, it must make application to the Ontario Labour Relations Board (OLRB) under the following definition of 'non- construction employer' found in subsection 126(1) of the LRA:

> "non- construction employer means an employer who does no work in the construction industry for which the employer expects compensation from an unrelated person"

It should be noted that the current definition of non-construction employer in the LRA (above) presents employers with a high threshold to meet. Although there are notable exceptions, a number of employers who have applied to the OLRB to be declared non-construction employers under this definition have been unsuccessful. For instance, Sault Ste. Marie has twice tried to be deemed a non-construction employer by the OLRB. Both applications were unsuccessful.

In essence, Schedule 9 provides the City with a singular and time limited opportunity to choose to become a non-construction employer.

If the City opts out now, the City will find it difficult to reverse course. Doing so will require the City to file an application with the OLRB and adduce evidence to establish that it meets the defined threshold. The City's application will likely be opposed by the trade unions to which the City is bound. In addition to the need to meet the high legal threshold set out in the LRA, the resulting litigation will likely be protracted, expensive and highly contentious.

Similarly, should the City do nothing now and become a 'non-construction employer' that decision will be irreversible under current legislation. Once the City becomes a non-construction employer, the City will not be subject to certification by construction trades.

The City of Toronto's Current Labour Trades Requirements

The City of Toronto has been considered a construction employer and been bound by the province-wide collective agreements applicable to trades in the Industrial, Commercial and Institutional (ICI) sector for many years. The earliest certification was in 1978.

The City is bound to nine province-wide collective agreements in the ICI sector of the construction industry with the following trades (some of which also claim jurisdiction beyond the ICI sector):

- Carpenters,
- Electricians,

- Plumbers,
- Painters,
- Glaziers,
- Bricklayers,
- Sheet Metal workers,
- Asbestos workers and
- Ironworkers

Where the City tenders municipal infrastructure and/or building projects, or otherwise has construction work performed for the City in the ICI sector or where an applicable accreditation order applies to the City in another sector, the use of union workers is required, subject to the jurisdiction of the collective agreements. On a typical ICI sector project, the amount of work that must be performed by unionised workers ranges significantly.

As required by the LRA, collective bargaining in the ICI sector is done on a province-wide basis, with the accredited Employer Bargaining Agency ("EBA") and various union locals bargaining as a group. When an employer is certified by the OLRB for the ICI sector with respect to a particular construction union, that employer becomes bound to the province-wide ICI agreement for that union.

By virtue of the subcontractor provisions in the collective agreements, only unionized contractors and/or sub-contractors are permitted to perform construction for the City with respect to many aspects of ICI-sector work (and certain other types of construction work in other sectors). All other contractors and their employees are precluded from performing such work. That said, to this point, the City has had a practice of contracting with both unionized and non-unionized general contractors (GC's). However, those GC's must use unionized sub-contractors for work falling within union jurisdiction.

Where work does not fall within the jurisdiction of these unions, it must be performed in compliance with the Fair Wage schedules, but does not have to be assigned to unionized firms or workers.

While the City operates largely as a non-unionized employer in sectors outside of the ICI sector, as the above charts indicate, most of the work done in those sectors is done by unionized contractors. This is reflective of the very high rates of unionization in those sectors.

Accordingly, should the City become a non-construction employer, it is reasonable to expect that much of the City's ICI work will continue to be done by unionised employees.

City of Toronto's Fair Wage Policy

The City's Fair Wage Policy was first implemented in 1893 to ensure that contractors working for the City paid their workers the union rates or, for non-union workers, the prevailing wages and benefits in their field.

The objectives of the Fair Wage Policy are to:

(1) Produce stable labour relations with minimal disruption
(2) Compromise between wage differentials of organized and unorganized labour
(3) Create a level playing field in competition for City work
(4) Set standards in the workplace that contractors must meet
(5) Protect the public and guard workers from exploitation
(6) Enhance the reputation of the City for fair and ethical business dealing.

The Fair Wage Policy provides wage protection to workers while they work on City contracts. The Fair Wage Policy requires contractors to pay workers in accordance with the fair wage schedules. The Policy seeks not only to protect workers, but also to level the playing field for contractors; i.e., aggressive contractors are not able to win City contracts by paying workers less than the value of the work assigned and as prescribed by the fair wage schedules. The Fair Wage rates in many cases align with collective agreement wage rates in the construction industry.

Fair wage schedules are established every three years, taking into account the prevailing wage rates in particular industries. The Fair Wage Office consults with employee and employer groups, associations, construction unions, organizations, and City operating divisions in developing the schedules. The City's current fair wage schedules contain rates for the years 2016 to 2019. Those rates will remain in effect, subject to future amendments.

City of Toronto Procurement of Construction

The competitive bidding process for public procurement allows any contractor who has the experience and qualifications, the financial capacity for providing performance bonds for the construction contracts and who can meet various legislative requirements, to submit a bid and be given an equal consideration in the award of the contract. As part of any procurement, bidders have to agree to comply with the Fair Wage Policy, and in the case of construction, will also be required to follow the City's current trade requirements.

City Council has two (2) options available:

1. Opt-out of the deemed non-construction employer provisions and remain a construction employer. The election to opt-out must be submitted to the Minister of Labour, in writing, by July 3, 2019.

This option would maintain the status quo with the nine (9) trade unions and with the City's processes and requirements for construction procurement. The City would remain subject to additional union certification applications under the LRA.

2. Take no action and become a non-construction employer.

If the City does nothing, any collective agreement binding the City and the nine (9) trade unions would cease to apply immediately on the date the changes come into force.

POTENTIAL IMPLICATIONS OF BECOMING A NON-CONSTRUCTION EMPLOYER

1. Procurement of Construction Services

It is reasonable to expect that more competition will lead to lower prices. What is difficult to predict is how much competition will increase by the City becoming a non-construction employer and precisely what cost savings the City would achieve since bidders will still have to comply with the City's Fair Wage policy.

Cost savings could result from:

- union firms that are currently permitted to perform City work competing more aggressively for City work,
- firms competing for City work having a broader pool of subcontractors to draw from;
- firms bound to other unions now being permitted to perform City work; and
- non-union firms also being able to compete for City work.

As outlined in the Financial Impact section of the report, it is reasonable to expect that increased competition will result in some savings.

Municipalities that more recently became certified by construction trade unions are able to compare data from their pre-certification context to their current context in making their decisions about 'opting out'. In contrast, the City was first certified by a construction trade union in 1978 and was unionised with eight (8) trades at the point of amalgamation, so there is not the same comparative data to rely on. Forecasting the potential impact of increased competition on number of bids and construction costs, in the City's context, will require detailed and more specialised economic analysis.

Potential savings should not primarily result, however, from competition on wages or through driving down wage rates. Unless City Council directs otherwise, bidders will still be required to comply with the City's Fair Wage Policy, which sets a 'wage floor' for various types of work. The fair wage rates are comparable to union rates.

Although there is no certainty on the likelihood and amount of savings, given the irrevocability of the decision to opt out, all things considered, the City is better served by positioning itself to achieve the possible savings.

2. Social Policy Implications: Poverty Reduction, Quality Jobs and Inclusive Workforce Development

There will likely be social policy implications of the City opting to become a non-construction employer. In 2015, City Council unanimously adopted a 20-year Poverty Reduction Strategy. One of the key recommendations of the Poverty Reduction Strategy is to improve the quality of jobs in Toronto for low-income residents, including those jobs created through City procurement. It is well documented that unionized jobs generally are of a greater quality than non-unionized jobs. If the City chooses to become a non-construction employer, it is possible there will be a decline in the demand for unionized construction workers. While the rate of unionization in the construction sector is high, the increased opportunity for the City's construction work to be done by non-unionized workers may decrease job quality in the construction ICI sector and increase the precarity of construction work in Toronto.2

The City has a number of initiatives that have a focus on construction employment as a pathway to quality jobs, including the Social Procurement Program and the forthcoming Community Benefits Framework. To support this workforce development goal, the City, in partnership with the provincial government, the Provincial Building and Construction Trades Council of Ontario and other stakeholders established the Construction Connections Program in 2017.

The City's efforts to support low-income and equity-seeking Torontonians' access to pathways to construction apprenticeships and jobs is currently heavily reliant on the participation of the construction trades. Specifically, the City relies on support from the construction trades to effectively guide candidates through the construction career pathway and onto City construction job sites. The City is currently or planning to work with construction trades to place jobseekers onto the job sites of over 40 City construction projects through the City's Social Procurement Program. Additionally, while the City itself invests in the training provided to job-seekers, the City also benefits from the unions' significant investment in the training centres.

Although most of the City's social procurement and community benefits union partners are unions to which we are currently bound by collective agreements, the City also partners with unions that are not currently bound to us. Becoming a non-construction employer may undermine the City's existing strong partnerships with construction unions in the ICI sector. If the unions in the ICI sector decrease their participation in and support of the City's Social Procurement and various Community Benefits programs, the City will need to identify or develop alternative models to ensure the continued success of workforce development.

Construction Connections, which relies on partnerships with unions in the ICI sector, as well as others outside the ICI sector, has served over 200 job seekers in Toronto since 2017, leading to the completion of construction pre-apprenticeship and apprenticeship training, acquiring union memberships, and obtaining placements in jobs as part of registered apprenticeships in a number of trades, including general labour, painting/glazing, iron work, masonry, carpentry, and others.

The City's union partners are currently involved in apprenticeship training, job readiness training (including health and safety), dispatching and tracking of the employment outcomes of program participants.

3. Fair Wage Office

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2 Canadian Centre for Policy Alternatives, "Good, safe jobs in Ontario's Construction Industry Under Threat," February 2019. http://behindthenumbers.ca/2019/02/11/good-safe-jobs-in-ontarios-construction-industry-under-threat/

If the City becomes a non-construction employer all the City's construction work will be subject to the Fair Wage Policy i.e. even work that is currently subject to collective agreement rates.

The Fair Wage Office administers the Fair Wage Policy. The FWO investigates complaints and takes enforcement action when it is determined that a contractor has not paid its workers Fair Wage rates.

Currently, the FWO has four staff. They experience resource challenges in addressing current volumes and the increasing complexity of oversight requirements and investigations. The existence of the nine collective agreements and the unions' shared interest in ensuring compliance with the collective agreements and Fair Wage Policy has allowed the Fair Wage Office to strategically deploy its limited oversight and investigatory resources. A change in the City's construction employer status will place increasing pressure on the FWO. For instance, it may be necessary for the FWO to step in to proactively monitor sites.

The structure of the Fair Wage Policy and the Fair Wage Schedules also currently contemplate the collective agreements. Should the City become a non-construction employer a comprehensive review of Municipal Code Chapter 67, Fair Wage, the Fair Wage schedule and Policy (e.g. deleting references to the collective agreements) and the City's related processes (e.g. changing the bidder notification and evaluation processes) will be required to ensure that the City's goals continue to be met.

4. City Employees

The City directly employs approximately 73 employees who are represented by their respective construction trade unions, within the following divisions: Facilities Management; Parks, Forestry & Recreation and Long Term Care Homes & Services. The employees belong to trades including: carpenters; electricians, painters, plumbers, and sheet metal workers.

If the City becomes a non-construction employer these City employees will cease to be represented by their respective trade unions. The legislation is silent on what happens to employees in this scenario and provides little direction to the Ontario Labour Relations Board (OLRB) on determining the representational rights or bargaining unit configuration for such employees.

5. Access to Additional Skilled workforce when needed

The City has also benefitted from having prompt access to a skilled workforce in these respective trades through the hiring hall and hiring procedures under the ICI agreements. The related terms in the ICI agreements are highly flexible and favourable to employers. The City has also benefitted from the training that various unions provide to their membership directly.

6. Grievance and Litigation Activity

The City has had a reasonably productive and positive labour relations relationship with the nine unions to which the City is bound in the ICI sector.

Notwithstanding the overall positive working relationship, annually, the City typically becomes a party to thirty (30) grievances or more wherein one of the nine unions alleges that a contractor has violated one or more collective agreements to which the City is bound. Most of those cases are resolved through the payment of damages by the contractor. However, some cases become quite acrimonious and the City has had to resolve the cases and pay damages. The City expends resources on participation in these grievances.

As a non-construction employer, the City would no longer incur the staffing, labour relations and legal expenses for collective agreement compliance.

Finally, becoming a non-construction employer eliminates the possibility of the City being certified with any other construction unions.

7. The City's commercial manoeuverability

The City stands to gain significant commercial manoeuverability by becoming a non-construction employer. As a non-construction employer, the City will have more flexibility in entering into section 37 *Planning Act* agreements, leases (both as landlord and as tenant), joint ventures, philanthropy, donations and commercial agreements with private entities and agreements with other levels of government that result in construction work being performed for the benefit of the City.

It is important to note that the continued application of the City's Fair Wage Policy will ensure that greater commercial maneuverability does not affect workers' wages.

8. Qualified Contractors - Contractors would still be required to demonstrate they are qualified, experienced and capable of performing the work.

Should the City become a non-construction employer, bidders would still need to comply with all of the other requirements the City sets out in a particular procurement such as the ability to obtain bonding, experience to demonstrate the bidder's qualifications, capability to perform the work, and the ability to meet health and safety requirements, including the requirement that contractors be certified under the Certificate of Recognition (COR) program, which is a criteria that the City has been, and will continue to require on all construction procurements. Should the City become a non-construction employer, Staff will review whether any changes are necessary to the manner in which bidders are pre-qualified.

9. Contract Administration

By becoming a non-construction employer, the City may need to review its processes and increase contract administration, including enhancing its inspection capacity, for construction contracts that were previously required to use unionized trades.

10. Transition

The non-construction employer provisions of the Act are not currently accompanied by any transitional provisions or periods. As a result, there is no legislative guidance on transitioning from the current construction environment to a new environment as a non-construction employer.

As an example, should Council decide that the City should become a non-construction employer, staff will have to consider the impact on contracts out in the market and not yet awarded; or those procurement processes that have closed but are not yet awarded. In addition, the City should expect that the Act will face litigation being launched by the affected Unions, including possibly a Charter challenge. This adds an additional layer of uncertainty to City contracts should the City become a non-construction employer.

Conclusion

The amendments to the Labour Relations Act provide the City with two options. The City may choose to take no action and become a non-construction employer effective on the date proclaimed by the Lieutenant Governor. Alternatively, the City may choose to opt out by July 3, 2019, which will maintain the City's status quo as a construction employer.

The City Manager recommends that the City take no action and become a non-construction employer.

Ideally, the City would have commissioned an economic analysis to determine potential impacts on competition, savings and workforce development. Unfortunately, the timelines in the legislation have not allowed for that.

Although initially there will likely be substantial uncertainty and also protracted litigation related to the legislation and perhaps Council's decision to become a non-construction employer, based on the information currently available, staff determined that, on balance and in the long run, it is in the City's best interest to take no action and become a non-construction employer.

In reaching the conclusion, a paramount consideration is the existence of the Fair Wage Policy which ensures that workers will be paid fairly. In choosing to become a non-construction employer, it would be important for Council to reaffirm its continued support for the Fair Wage Policy and the City's continued commitment to partnering with unions on workforce development and community benefits programs.

CONTACT

Omo Akintan, Executive Director, People, Equity and Human Rights, 416-392-8703, Omo.Akintan@toronto.ca

Michael Wiseman, Director, Employee & Labour Relations, People, Equity and Human Rights Division, 416-392-5006, Michael.Wiseman@toronto.ca

Mike Pacholok, Chief Purchasing Officer, Purchasing and Materials Management Division, 416-392-7312, Mike.Pacholok@toronto.ca

Ali Sheikh, Manager, Fair Wage and Labour Office, People, Equity and Human Rights Division, 416-338-5594, Ali.Sheikh@toronto.ca

Jeffrey Board, Solicitor, Employment Law, Legal Services, 416-392-7784, Jeffrey.Board@toronto.ca

Chris Brillinger, Executive Director, Social Development, Finance and Administration, 416-392-5207, Chris.Brillinger@toronto.ca

SIGNATURE

Chris Murray
City Manager

ATTACHMENTS

Confidential Attachment 1 - Schedule 9, *Changes to the* Labour Relations Act, 1995 - *Restoring Ontario's Competitiveness Act, 2019*

Attachment 1: *Restoring Ontario's Competitiveness Act, 2019, Schedule 9, Labour Relations Act, 1995*

Attachment 1

RESTORING ONTARIO'S COMPETITIVENESS ACT, 2019, SCHEDULE 9, LABOUR RELATIONS ACT, 1995

12 (1) Section 125 of the Labour Relations Act, 1995 is amended by adding the following subsection:

Same

(2.2) The Lieutenant Governor in Council may make regulations providing for any transitional matter that the Lieutenant Governor in Council considers necessary or advisable in connection with the implementation of the amendments made by the Restoring Ontario's Competitiveness Act, 2019.

(2) Subsection 125 (3) of the Act is amended by striking out "subsection (2) or (2.1)" and substituting "subsection (2), (2.1) or (2.2)".

13 The definition of "non-construction employer" in subsection 126 (1) of the Act is repealed and the following substituted:

"non-construction employer" means,

(a) an employer who does no work in the construction industry for which the employer expects compensation from an unrelated person, or

(b) an employer who is deemed to be a non-construction employer under subsection 127 (1); ("employeur extérieur à l'industrie de la construction")

14 (1) The Act is amended by adding the following section:

Deemed non-construction employer

127 (1) The following entities are deemed to be non-construction employers:
1. A municipality.

2. A local board as defined in subsection 1 (1) of the Municipal Act, 2001 or in subsection 3 (1) of the City of Toronto Act, 2006.

3. A local housing corporation as defined in section 24 of the Housing Services Act, 2011.

4. A corporation established under section 203 of the Municipal Act, 2001 or under section 148 of the City of Toronto Act, 2006.

5. A district social services administration board established under the District Social Services Administration Boards Act.

6. A school board within the meaning of the School Boards Collective Bargaining Act, 2014.

7. A hospital within the meaning of the Public Hospitals Act.

8. A college established under the Ontario Colleges of Applied Arts and Technology Act, 2002.

9. A university in Ontario that receives regular direct operating funding from the Government and the university's affiliates and federates.

10. A public body within the meaning of the Public Service of Ontario Act, 2006.

Effect on bargaining rights and collective agreements

(2) Paragraphs 1 and 2 apply with respect to a trade union that represents employees of a non-construction employer referred to in subsection (1) employed, or who may be employed, in the construction industry:

1. On the day this subsection comes into force, the trade union no longer represents those employees of the non-construction employer who are employed in the construction industry.

2. On the day this subsection comes into force, any collective agreement binding the non-construction employer and the trade union ceases to apply with respect to the non-construction employer in so far as the collective agreement applies to the construction industry.

Amendment of unit

(3) A non-construction employer referred to in subsection (1) or a trade union affected by the application of subsection (2) may apply to the Board to redefine the composition of a bargaining unit affected by the application of subsection (2) if the bargaining unit also includes employees who are not employed in the construction industry.

Non-application of ss. 127.1, 127.2

(4) Sections 127.1 and 127.2 do not apply with respect to a non-construction employer referred to in subsection (1).

(2) Section 127 of the Act, as enacted by subsection (1), is amended by adding the following subsections:

Opt-out election

(5) An entity referred to in subsection (1) may elect to opt out of the application of subsections (1) to (4) if, on the day the Restoring Ontario's Competitiveness Act, 2019

receives Royal Assent, a trade union represents employees of the entity who are employed, or who may be employed, in the construction industry.

Same, required content

(6) An election made under subsection (5) must be made by a person or body with authority to bind the entity, must be prepared in writing and must set out the day on which it was made.

Same, timing

(7) An election made under subsection (5) must be filed with the Minister within three months after the day the Restoring Ontario's Competitiveness Act, 2019 receives Royal Assent.

Election irrevocable

(8) Once filed with the Minister, an election made under subsection (5) is irrevocable.

Minister may publish

(9) The Minister may publish an election made under subsection (5), including by publishing it on a Government of Ontario website.

Effect of election

(10) If an entity made an election under subsection (5) and filed it with the Minister in accordance with subsection (7), subsections (1) to (4) do not apply in respect of that entity.

Application under s. 127.2 permitted

(11) For greater certainty, an entity who made an election under subsection (5) and filed it with the Minister in accordance with subsection (7) is not precluded from subsequently making an application under section 127.2.

Commencement

15 (1) Subject to subsection (2), this Schedule comes into force on the day the Restoring Ontario's Competitiveness Act, 2019 receives Royal Assent.

(2) Sections 12 and 13 and subsection 14 (1) come into force on a day to be named by proclamation of the Lieutenant Governor.

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: http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EX6.3

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 (https://www.toronto.ca/legdocs/mmis/2019/ex/comm/communicationfile-95052.pdf). 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.

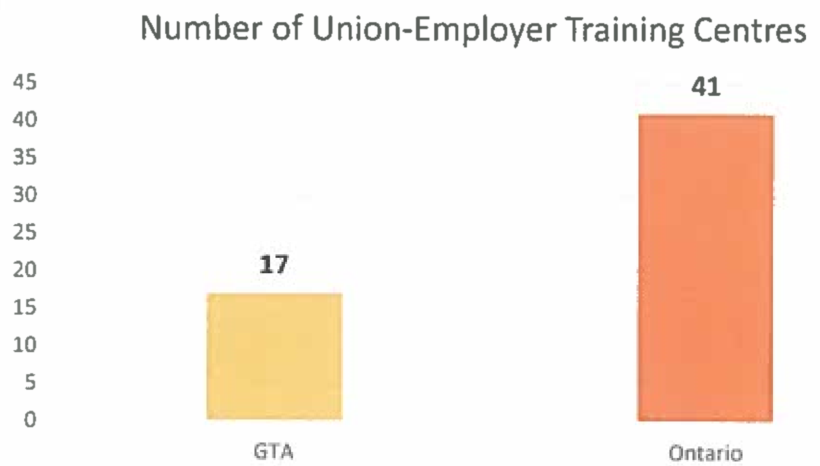
While a bidder will know their costs and expected profit, they also need to account for the fact that they do not know for certain the costs and expected profit of the other bidders. All of this feeds into the competitive tension between bidders that may result in potential cost savings for the City 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 study[1] 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.

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

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:

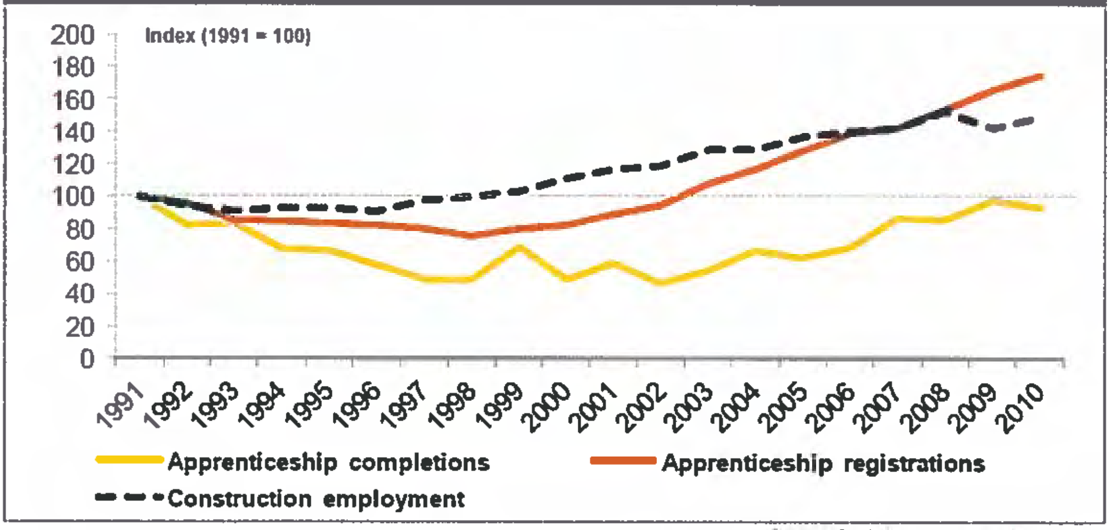
Table 9: Average notional completion rate by construction apprenticeship program

Trade 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	Ironworker	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.

Figure 1: Index of construction apprenticeship and employment in Ontario



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

Omo Akintan, Executive Director, People, Equity and Human Rights, 416-392-8703, Omo.Akintan@toronto.ca

Michael Wiseman, Director, Employee & Labour Relations, People, Equity and Human Rights Division, 416-392-5006, Michael.Wiseman@toronto.ca

Mike Pacholok, Chief Purchasing Officer, Purchasing and Materials Management Division, 416-392-7312, Mike.Pacholok@toronto.ca

Ali Sheikh, Manager, Fair Wage and Labour Office, People, Equity and Human Rights Division, 416-338-5594, Ali.Sheikh@toronto.ca

Jeffrey Board, Solicitor, Employment Law, Legal Services, 416-392-7784, Jeffrey.Board@toronto.ca

Chris Brillinger, Executive Director, Social Development, Finance and Administration, 416-392-5207, Chris.Brillinger@toronto.ca

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

EX6.3.1

NEWS RELEASE

CLAC better together

CLAC Member Centre
45 Commerce Court
Cambridge, ON N3C 4P7

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F 519-653-3004

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cambridge@clac.ca

CLAC is a member of the World Organization of Workers

CLAC OPEN LETTER

Not credible? Not so fast!

Labour monopolies in municipalities are an unfortunate consequence of a loophole in the *Ontario Labour Relations Act*—not the result of a planned or specific public policy aim. The effects of these monopolies include a limited number of bidders on city projects, increased construction costs, work inefficiencies, decreased productivity, and a more limited pool of skilled labourers in a time of a skilled labour shortage.

Bill 66 has given Toronto, Hamilton, Sault Ste. Marie, and the Region of Waterloo the chance to be rid of union monopolies by granting these entities “nonconstruction employer” status. By doing nothing, these municipalities will achieve the same status as all of the other 440 municipalities in the province, thereby ending the subcontracting restrictions that limit competitive, fair, and open tendering practices.
This is not an anti-union initiative but a fair solution that gives equal consideration to all trained, qualified, skilled workers.

A recent paper by the Ontario Construction Secretariat (OCS), entitled “Just Not Credible,” sets out to provide reasoned justification for the continuation of the labour law peculiarity that has created these monopolies. In doing so, the OCS demonstrates just how eager the benefactors of restricted tendering are to preserve their privileged position.

No one that has a monopoly position has ever ceded their position eagerly. The many unsubstantiated claims and unfounded assertions within the OCS paper serve to make clear just how much is at stake for these affected construction craft unions.

There are three main points the OCS argues to maintain their monopoly: cost, safety, and access to a robust and diverse labour pool.

1. Savings from Competition – Closed versus Open Tendering

On cost, the OCS argues that the effect of competition will be restricted to reduced wages, and that any savings would be inconsequential at best and at worst would result in a significant downward driver on worker salaries. What they fail to contend with is the simple supply and demand economics of construction tendering and the impact of reduced competition.

The OCS paper ignores or discredits numerous studies, and instead gives credibility to a dated Toronto city staff report that only analyzed the wage differential between prevailing union rates and the city’s published fair wage policy wage rates. The OCS gives no credence to the body of work that demonstrates how increased competition drives better pricing without an impact on wages.

A look at fresh data on four recent ICI jobs in Toronto shows that the city currently receives only 1 to 2 compliant bids on major projects, and that the bid range is as much as 22-33 percent from contractors using the same labour costs and similar labour pools. Therefore, we stand by arms length and expert research that claims that even with fair wage policies, the city can achieve 8-25 percent cost savings on its ICI construction budget.

Further, it shows that the City of Toronto appears to have a recent problem with a lack of bidders on projects, which is forcing the city to pay significantly more for projects than could be achieved with an increased number of bidders. These bidders would also represent a variety of labour models (traditional craft-based union, alternative union, and nonunion), rather than a single, traditional craft model.

What are the productivity benefits the city will see with different labour models? For starters, let's look at how work is organized. A CLAC general contractor is not subject to 9 or 12 or 16 different trade agreements, but instead works with its employees under one, multi-trade agreement. As a result, a CLAC contractor doesn't receive a grievance when the skilled labourer installs a concrete form, or when the operating engineer unplugs the electrician's extension cord.

This kind of collaboration significantly alters the organization of work and results in a more efficient and more cooperative labour force. The kinds of labour turf fights that occur when multiple craft unions are vying to protect their work (known as jurisdictional disputes) are costly in staff and legal time due to litigation. These jurisdictional costs far outweigh any additional staff time required to administer and enforce fair wages in an openly competitive bidding environment.

Additional efficiencies are available to CLAC contractors (and others) because they can ask their employees to work 40 or 44 hours in a week, depending on the collective agreement the contractor has with its workers.

We cannot accurately forecast what the savings will be from an increased number of bidders that draw on distinct types of labour pools. However, according to research by the think tank Cardus, the cumulative savings of open tendering range from 8-25 percent. With over $600 million in ICI projects tendered annually by the city, this amounts to annual capital cost reduction of $48-150 million dollars per year.

2. Safety

In its submission, the OCS cites a 2015 study that it commissioned that demonstrates that "union" firms performing ICI work are safer, with fewer lost-time injuries and lower critical injury rates than nonunion firms.

Accepted at face value, the study only demonstrates that union firms are safer than nonunion firms. No commentary is offered on the record of other and alternative unions.
As support for its assertions that union membership equates to safety, the OCS claims that its affiliate unions take in contributions of $40 million annually for training trust funds. It claims

elsewhere that it represents "over 100,000 workers," which means that the craft unions that the OCS speaks for spend approximately $267 per year, per worker annually.

While impressive, CLAC contractors can demonstrate similar investment, to similar effect. CLAC's affiliated contractors contribute 20¢ per hour worked by CLAC members, and this amounts to a $2 million annual budget. While no provincial or federal subsidies are received by CLAC's training centres, this amounts to an approximate $335 spent annually per member on safety training, skills development, and apprenticeship support.

It would seem that if the safety effect of union membership and the investment of training dollars per member were good prerequisites for access to city projects, then all unions should receive equal consideration. This is not the current reality.

In addition, municipalities can establish a robust and extensive set of parameters as part of the prequalification and tender award process. The Certificate of Recognition (COR™) occupational health and safety accreditation program verifies whether a fully implemented health and safety program meets national standards.

An increasing number of contractors are COR™ certified, but this is not the only means for them to demonstrate a strong safety culture. All municipalities, school boards, and public bodies set out requirements for credentials, compliance, and prior experience and must enforce them—regardless of whether they allow open competition or not.

However, if additional resources are needed for enforcement, we submit that the costs will be more than offset by the savings municipalities will receive from not having to analyze jurisdictions with tendering or having to handle jurisdictional disputes. A union membership card, while valuable, is not an adequate guarantee that a general or trades contractor has the systems and supervision in place necessary to ensure a truly safe and healthy workplace.

3. Access to Labour

Finally, the OCS paper argues—without evidence—that open tendering will lead to fewer young people being employed in apprenticeships and a weakening of equity programs that provide opportunities for construction careers. We fully support having a diverse and inclusive workforce and have been a partner with Indigenous and at-risk youth for many years.

While we agree that unions—ours and theirs—are typically the sponsors of diversity initiatives, open procurement does not prevent the city from creating additional social conditions for all contractors that support beneficial social and community objectives.

Further, labour force projections for the next decade suggest that Ontario needs to attract 103,900 new entrants to the skilled construction trades. That means that every employer and every purchaser will face, in very real ways, a skilled worker shortage.

With predictions of a looming massive skills shortage, it defies logic that buyers would choose to further restrict themselves from fully accessing the available workforce by limiting prospective workers to those who carry a particular union membership card. In doing so, they exclude 70 percent of workers who don't belong to that union.

If the cities, Toronto school board, and public agencies like Toronto Community Housing do make the responsible choice to open tendering to competition from all qualified contractors, we would welcome the opportunity to collaborate with them and the other union and nonunion organizations on how we can set measurable targets to support apprenticeship and the inclusion of under-represented groups.

Conclusion

We are the underdog in this situation. We are fighting for fairness for all Ontarians against the most powerful unions in the country who are determined to keep their monopolies intact. Over the past two months, we have had countless meetings on this topic with councillors and city staff. They've asked us, how can we fight on this issue when we're up against such powerful connected groups?

Our answer has been simple: we are on the right side of this issue, not only for our members, but also for all businesses and for all taxpayers who fund our municipalities, school boards, and public agencies.

Sincerely,

Ian DeWaard
Provincial Director

EX6.3.2

From: Vlada Hershtynovich
To: Talk To City Manager; Cindy Murray; Executive Committee
Cc: Mike Yorke; Mark Lewis; Grace Pinkerton
Subject: EX6.3 - Schedule 9, Changes to the Labour Relations Act, 1995 - Restoring Ontario"s Competitiveness Act, 2019
Date: June 5, 2019 4:06:37 PM
Attachments: CRAFT 2019 Flyer - Revised.pdf
1905_Just Not Credible Report_OCS_Amended.pdf

Dear City Manager Murray and Committee Administrator Amoroso,

The Carpenters' District Council of Ontario will be appearing before the Executive Committee tomorrow June 6, 2019 to address the matter of EX6.3 - Schedule 9, Changes to the Labour Relations Act, 1995 - Restoring Ontario's Competitiveness Act, 2019. We have reviewed the Agenda Item History and noted the supplementary material posted today, June 5th. We wish to advise the Committee that the Carpenters' Union will be referring to the Report of Ontario Construction Secretariat dated May 2019 called "Just Not Credible". That Report is appended to communications already received by the Committee. We are attaching a copy of it for ease of reference.

The Carpenters' Union will also be referring to a one page leaflet called "C.R.A.F.T. (Creating Real Apprenticeships for Toronto)".

We will have copies of these documents available for the Committees' ease of reference.

We thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact us.

Thank you,

Sent on behalf of Mike Yorke, President and Director of Public Affairs, CDCO

Vlada Hershtynovich
Administrative Assistant
Carpenters' District Council of Ontario
222 Rowntree Dairy Road, Woodbridge, ON L4L 9T2

Tel: 905.652.4140 x 323| **Fax**: 905.652.5930
vhershtynovich@thecarpentersunion.ca

C.R.A.F.T. Pre-Apprenticeship **June 24, 2019 - September 27, 2019**

C.R.A.F.T.

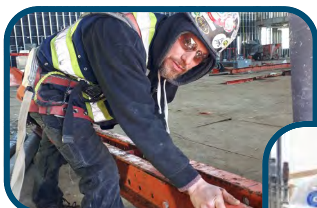
(Creating Real Apprenticeships For Toronto)

This fourteen week, PAID pre-apprenticeship program in the construction trades is available exclusively to residents of Toronto Community Housing Communities.

Program Highlights

June 24, 2019 - September 27, 2019

* 4 Weeks of PAID In-Class Training
* 10 Week PAID Job Placement
* Travel Subsidy
* Basic Hand Tools and Safety Equipment Provided



Career Potential and Advancement

* Every young person who successfully completes the C.R.A.F.T. program will have the opportunity to pursue an apprenticeship in the construction trades

Interested in Participating?

Register for and **attend** one of the following information sessions:

* **May 8, 2019** at 6:00 P.M. in Regent Park (246 Sackville Street)
* **May 14, 2019** at 1:00 P.M. in Regent Park (246 Sackville Street)
* **May 22, 2019** at 6:00 P.M. at the YMCA Centre (4580 Dufferin Street, Suite 200)

Register for your preferred session by text: **647-459-6568** or by email: **epahl@theccat.ca**

Interested participants **MUST** be able to provide the following documents if they are selected for an interview:

* Photo ID * SIN Card * High School Diploma or Transcript (min. 16 completed credits)

Toronto Community Housing COLLEGE OF CARPENTERS AND ALLIED TRADES Carpenters Local 27 Daniels love where you live™

JUST NOT CREDIBLE:

CHALLENGING CLAIMS ABOUT CLOSED TENDERING IN ONTARIO

OCS
Ontario Construction Secretariat

MAY 2019 | Prepared by: Prism Economics and Analysis

1. The Hamilton faith-based Cardus organization, which is closely linked to the CLAC trade unions, published a report in September 2018 claiming that certain provisions of the Labour Relations Act are increasing the cost of municipal construction projects by 15% or more. This claim is just not credible.

2. Cardus wants municipalities to use a recent change to the Labour Relations Act which allows a local government to walk away from its collective agreements with the building trades unions. Although Cardus claims that doing this will save municipalities 15% on their construction costs, Cardus' real objective is to transfer work from workers who belong to the building trades unions to workers who belong to CLAC unions. The 15% is not intended to be credible and, as will be shown, the claim is not credible. The 15% claim is just a smokescreen for the real objective.

3. Municipalities that terminate their bargaining relationships with the building trades unions will not see the cost saving of 15% promised by the Cardus report. Indeed, a 2008 City of Toronto report found that, in Toronto, the upper estimate of the potential savings from terminating these bargaining relationships would be only 1.7%.[1] A more recent report (May 2019) from City of Toronto staff stated that if the bargaining relationships with the building trades are terminated "… *it is not possible to determine with any certainty what, if any, savings will result*."[2]

4. Cardus does not consider the costs and risks that municipalities will take on if they unilaterally terminate their bargaining relationships with the building trades unions and their employers. Municipalities that go down that path will take on a significant risk that they will see:

- significantly fewer young people in **apprenticeships**,
- a marked increase in **work-related injuries** on municipal projects,
- an increase in **non-compliance** with WSIB and CRA obligations, and
- a weakening or complete loss of **equity programs** that provide pathways into construction careers for First Nations, Metis and Inuit people, low-income youth, Black and racialized Torontonians, immigrants and women.

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1. Staff Report, City of Toronto, "Labour and Training Costs in Construction Procurement", September 23, 2008. The City of Toronto study is discussed later in this report.

2. Staff Report, City of Toronto, "Schedule 9 Changes to the Labour Relations Act, 1995 - Restoring Ontario's Competitiveness Act, 2019", May 29, 2019.

CARDUS' IMPLAUSIBLE 15% CLAIM:

5. The purported basis for the 15% cost-savings is Cardus' claim that contractors who are not associated with the building trades (i.e., CLAC contractors and non-union contractors) are 2% to 40% cheaper than contractors that work with the building trades unions. The 15% number is somewhat in the middle of this range.

6. The following table shows the cost structure for non-residential building construction. In Ontario, this is known as the Industrial-Commercial-and-Institutional (ICI) sector of construction. The table is based on Statistics Canada's input-output tables.

Cost Structure for Non-Residential Building Construction, Ontario
Statistics Canada, Input-Output Tables (2013)

Expense Category	Percent of Total
Materials, Energy & Transportation	26.0%
Machinery & Equipment	6.0%
Financing, Leasing & Rental	3.6%
Engineering, Architecture & Other Specialized Design	8.3%
Other Professional Services	2.1%
Office & Other	2.6%
Total Input Costs, Excluding Labour	*48.8%*
Taxes on production	5.4%
Payroll Costs (Wages and Employer Contributions)	34.1%
Gross mixed income[3]	7.8%
Gross operating surplus	3.8%

7. As can be seen in the above table, the payroll share of costs is 34.1%. The other costs would be comparable between contractors that work with the building trades and contractors that are non-union or work with CLAC. To reduce costs by the 15% claimed by Cardus would require payroll costs to be reduced by almost half. There is no other way to achieve cost reductions of that magnitude. Following Cardus' advice will trigger a race to the bottom. That race to the bottom will:

3. Statistics Canada explains "gross mixed income" as follows: for unincorporated enterprises, it may not be possible to estimate compensation of employees, consumption of fixed capital and a return to capital separately, in which case an estimate of mixed income, covering all these items, should be made.

- undermine investments in apprenticeship,
- increase work-related injuries on municipal construction projects by eroding health and safety standards and weakening health and safety training, and
- foster an increase in styling workers as 'independent operators' to avoid employer obligations to CPP, EI and WSIB, and
- nullify equity programs that provide pathways to construction careers.

8. A municipality that is considering whether to walk away from its agreements with the building trades unions needs to ask itself if this is the future that it wants to see for local construction workers.

CARDUS' STRAINED EXAMPLES TO MAKE ITS CASE:

9. The Montreal Examples: In support of its 15% cost savings claim, Cardus points to the higher construction costs that prevailed in the City of Montreal as a result of what Cardus describes as restrictive bidding practices. Cardus is quite correct about restrictive bidding practices in Montreal. Witnesses that appeared before the Charbonneau Commission reported that construction costs in Montreal were 30-35% higher than in other cities[4]. However, to equate Montreal's problem as equivalent to having collective agreements with the building trades unions is simply absurd. The problem in Montreal was old-fashioned corruption. The Charbonneau Commission described the involvement of organized crime in Montreal construction and a system of kick-backs to municipal politicians and their political parties. What has any of this got to do with municipal procurement in Ontario? Surely Cardus is not claiming that there is pervasive corruption and kick-backs in our municipal construction tendering. Citing the Montreal example to 'prove' its case just shows how weak the Cardus case is in the first place.

10. The Pattullo Bridge Example: In 2018, the B.C. government entered into an agreement with the building trades unions to increase the number of trained indigenous workers on the Pattullo Bridge reconstruction, to set aside 25% of all jobs on the project for apprentices and to increases wages by 2% per year. The estimated cost impact was 7% which included the wage increases. Cardus claims the 7% higher costs represent the consequence of restrictive tendering. In actual fact, the 7% cost increase represents the incremental costs of increasing the investments in training for indigenous workers, reserving a quarter of jobs for apprentices and applying an annual 2% wage increases. To claim that the Pattullo Bridge project supports Cardus' 15% claim is simply misleading.

4. Commission d'enquête sur l'octroi et la gestion des contrats publics dans l'industrie de la construction (Commission Charbonneau)

11. "Academic Estimates": Cardus references academic studies that claim higher costs of 8.0% to 25.0% when municipalities enter into agreements with the building trades. They do not mention that these "academic estimates" were developed by Cardus or arbitrarily selected by Cardus. In an earlier report, Cardus cited 21 studies showing an average cost impact of 14-17% on construction costs[5]. Cardus argues, or implies, that these studies support its dubious claims on the impact of the construction provisions of Ontario's Labour Relations Act. A closer examination of the studies cited by Cardus shows that they do not support Cardus' claims:

- Twelve (12) of the 21 cost estimates cited by Cardus are American. They have little, if any, relevance for Ontario and certainly have no relevance to the construction provisions of Ontario's Labour Relations Act.
- Of the nine (9) Canadian studies, two pertain to waste collection, not construction. Again, these studies have no relevance to the construction provisions of Ontario's Labour Relations Act
- Five (5) of the studies focus on Fair Wage Policies which are separate and distinct from the Labour Relations Act.
- Two (2) of the studies simply estimate the higher wages of unionized construction workers, but do not proffer any conclusions on actual constructions costs. To do so would require comparisons of productivity and safety differences between union and non-union workers which these studies do not undertake.

THE CITY OF TORONTO'S STUDY UNDERMINES THE CONCLUSIONS OF THE CARDUS STUDY[6]:

12. The only relevant and independent study that Cardus cites is a 2008 report prepared for the City of Toronto by its own staff. City staff were asked by City Council to estimate the cost impact of the City's collective agreement with nine (9) construction trades. The City's Report noted that the City's Fair Wage Policy closely tracks the building trades wages. The Report concluded that if these collective agreements were not in place, in light of the Fair Wage Policy, the City could potentially save a maximum of 1.7% of its construction costs. This assumes that (1) all of the lower costs are passed on to the City in the form of lower bid prices, (2) the City is indifferent to the likely higher number of work-related injuries on its projects, and (3) the City is indifferent to the lower investment of the non-union contractors in apprenticeship and skills upgrade training. This maximum potential savings of 1.7% is a far cry from the 15% (or more) savings claimed by Cardus.

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5. Cardus, "Restrictive Tendering", January 2017

6. Staff Report, City of Toronto, "Labour and Training Costs in Construction Procurement", September 23, 2008

13. A more recent report from City of Toronto staff points out that "it is unclear how much increased competition the City will receive if it becomes a non-construction employer" (i.e., terminates its bargaining relationship with the building trades). As a result the City Report concludes that "…it is not possible to determine with any certainty what, if any, savings will result."[7]

14. A key premise in all of the Cardus studies is that there is no productivity difference between union and non-union firms, so that higher union wages translate directly into higher costs. On its face, this is a highly dubious premise and one which the City of Toronto report enables us to test. It is well established (and will be discussed below) that the building trades unions and their employers invest heavily in apprenticeship training, skills upgrading and health and safety training. Unionized employers support these investments because the training directly benefits the contractors in the form of higher productivity and fewer occurrences of work-related injuries. This advantage in productivity and safety supports the higher wages and better benefits that are earned by unionized workers. Clear evidence of the productivity and safety advantage is found in the City's examination of its civil sector contracting where the City has no collective agreements with the building trades. The City's report found that 85.7% of competitively tendered contracts were nevertheless awarded to unionized contractors. In other words, the productivity and safety advantage of unionized contractors enabled them to submit the most cost-competitive bids 85.7% of the time. Cardus' assumption that union and non-union contractors have the same productivity and safety performance is simply wrong.

WEAKENING EQUITY PROGRAMS:

15. Many municipalities have recognized the importance of equity programs that support pathways to construction careers for young workers from First Nations, Metis and Inuit people, low-income families, racialized minorities, immigrants and women. Municipalities that adopt equity programs have found strong support from the building trades unions. Programs such as Hammer Heads for disadvantaged youth, Helmets to Hard Hats for veterans, Renos for Heroes for disabled veterans and Community Benefit Programs all require or are stronger because of the active support of building trades unions for these initiatives. All of these initiatives will be weakened or at risk if municipalities unilaterally terminate their bargaining relationships with the building trades. It is worth noting that Merit Ontario is the largest of the non-union employer organizations in the construction industry. Merit Ontario is not involved in any equity programs. Nor does the CLAC union have any programs that are comparable to either Hammer Heads or Helmets to Hard Hats.

7. Staff Report, City of Toronto, "Schedule 9 Changes to the Labour Relations Act, 1995 - Restoring Ontario's Competitiveness Act, 2019", May 29, 2019

PROMPT ACCESS TO SKILLED LABOUR:

16. In many regions of Ontario, there is a shortage of skilled labour. This shortage can cause delays in completing projects and drive up costs. The building trades unions have a well-developed system for drawing in skilled labour from regions and provinces where the pace of construction has slowed. A bargaining relationship with the building trades unions is an 'insurance policy' against skills shortages and their damaging consequences.

THE BUILDING TRADES' ADVANTAGE IN WORKPLACE SAFETY:

17. In 2015, the Institute for Work and Health analyzed WSIB claims for union and non-union employers in the ICI sector of Ontario's construction industry. The results of the analysis were published in a reputable, peer-reviewed journal[8]. The study found that[9]:

- Lost-time injury rates are 23% lower in unionized firms,
- Musculoskeletal injury rates are 17% lower in unionized firms,
- Critical injury rates are 29% lower in unionized firms.[10]

18. The building trades unions and their employers invest significantly in health and safety training. The building trades unions also recruit and train health and safety representatives to support safe working practices on the job. It is not surprising, therefore, that a study by the Institute for Work and Health found that "unionized construction firms have stronger hazard identification and control practices in the work site and more OHS [occupational health and safety] training".[11]

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8. Amick, Benjamin C. III PhD; Hogg-Johnson, Sheilah PhD; Latour-Villamil, Desiree MS; Saunders, Ron PhD., "Protecting Construction Worker Health and Safety in Ontario, Canada: Identifying a Union Safety Effect", Journal of Occupational and Environmental Medicine: December 2015 - Volume 57 - Issue 12 - p 1337–1342. Available at: https://journals.lww.com/joem/fulltext/2015/12000/Protecting_Construction_Worker_Health_and_Safety.14.aspx#pdf-link The study was commissioned by the Ontario Construction Secretariat (OCS). The OCS agreed that the results could be published regardless of the outcome of the analysis.

9. The estimates include both the positive union effect on safety performance and other positive effects that may arise from the fact that union contractors tend, on average, to be larger than non-union contractors. The latter is known as the 'firm size' effect.

10. Critical injuries are defined in the study as injuries that jeopardize life, cause blindness, or injuries that result in amputations, major burns, fracture of large bones, and loss of consciousness.

11. Institute for Work and Health, "Determinants of Health and Safety in Ontario's Construction Sector", research study supported by the Ontario Ministry of Labour Research Opportunities Program, January 1, 2017. Unpublished, but available from the Institute for Work and Health.

19. The conclusion is inescapable: these investments pay off in the form of significantly lower lost-time injuries and especially in the form of significantly fewer critical injuries. A municipal government that chooses to walk away from its collective agreements is implicitly accepting that, in the absence of additional policies and interventions, there is a significant risk that there will be an increase in the number of injuries, including critical injuries, on its projects.

THE BUILDING TRADES' ADVANTAGE IN APPRENTICESHIP AND SKILLS UPGRADING:

20. There are three important measures of investment in apprenticeship and skills upgrading:

- i) The proportion of union and non-union contractors that sponsor and employ apprentices,
- ii) The training completion rate of union and non-union apprentices,
- iii) Investments in training centres to deliver apprenticeship and skills upgrade training.

21. Sponsoring Apprentices - Union vs. Non-Union: A 2018 survey undertaken for the Ontario Construction Secretariat found that, in non-residential building construction, 81% of unionized construction contractors sponsored or employed apprentices compared to only 54% of non-union contractors.[12]

22. Training Completion Rates: In the unionized construction industry, the vast majority of apprentices are sponsored by joint union-management bodies. These are called Joint Apprenticeship Training Trusts or JATTs. The JATT system recruits and counsels apprentices, monitors their progress and, in many cases, delivers the provincially approved curriculum for apprentices or supplementary training. Three-quarters (75%) of apprentices in the JATT system complete their training compared to only 58% outside the JATT system.[13]

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12. Ontario Construction Secretariat, 2018 Contractor Survey. The survey was conducted by Logit Group via telephone with 500 ICI contractors from across Ontario in January-February 2018. The margin of error for a sample of 500 is +/-4.38%, 19 times out of 20.

13. Ontario Construction Secretariat, Completion Counts: Raising Apprenticeship Completion Rates in Ontario's Construction Industry, 2013. Report prepared by Prism Economics and Analysis.

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24. The facts speak for themselves. The building trades unions and their employers make substantial investments in skills upgrading and in apprenticeship training. As a result, unionized construction contractors enjoy a significant productivity advantage in addition to their health and safety advantage (which results in lower WSIB premiums). A municipal government that walks away from its collective agreements with the building trades is implicitly saying to the industry and to young workers that investing in skills upgrading and in apprenticeship training doesn't matter and that the municipal government is indifferent to the unionized industry's superior health and safety performance.

COMPLYING WITH TAX OBLIGATIONS AND LABOUR STANDARDS:

25. A common tactic of contractors seeking to gain an unfair competitive advantage is to style their workers as 'independent operators' (i.e., sub-contractors) rather than as employees. In this way, a contractor can avoid the cost of EI, CPP and WSIB contributions as well as requirements for overtime pay, vacation pay and statutory holiday pay. When all of these are taken into account, a contractor that styles its workers as 'independent operators' can save around 16.5% on its labour costs.[15] This is little more than gaining an unfair competitive edge on the backs of workers. In the unionized sector of non-residential construction, this type of evasion is not possible. Collective agreements establish wages and benefits and all contractors pay their required EI, CPP and WSIB contributions.

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14. Ibid.

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Employer Contributions		
EI	2.3%	
CPP	5.1%	
WSIB (average for construction)	4.4%	
Vacation (Statutory Minimum: 2 weeks)	4.0%	
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Basic Pay	$25.00	83.5%
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17. These data are from a study by Prism Economics and Analysis commissioned by the Ontario Construction Secretariat: The Underground Economy in Ontario's Construction Industry: Estimates of the Revenue Losses to Governments, May 2019

CONCLUSION:

28. The claim that municipalities can reduce their construction costs by 15% if they walk away from their collective agreements with the building trades is just not credible. The implausible 15% claim contrasts with an independent City of Toronto report estimating, at most, the savings from such an action could be 1.7%. Further, those notional savings do not take into account reputable research that finds significant differences in health and safety performance and in investments in skills upgrading and apprenticeship training between union and non-union contractors. It is no longer a matter of debate: rigorous and independent research shows that lost-time injury rate on ICI projects is 23% lower in unionized firms and critical injury rate is 29% lower. Eighty-one percent (81%) of unionized construction contractors sponsor or employ apprentices compared to only 54% of non-union contractors. Transferring work from union to non-union contractors will also increase the risk that underground practices will expand, in the absence of more extensive auditing and enforcement.

29. Municipalities considering whether to walk away from their collective agreements with the building trades need to consider whether the possibility of very modest cost savings are sufficient to justify the likelihood of more lost-time and critical injuries on municipal construction projects, the certainty of fewer apprenticeship opportunities, the risk of more underground practices, weakening equity programs and risking skills shortages. We believe that municipalities, instead, should be demanding higher safety standards, more investment in apprenticeships, strict compliance with tax and reporting obligations and a commitment to equity programs.

30. Increased productivity is the primary means of achieving sustainably lower construction costs without sacrificing workplace safety, apprenticeship investment and compliance with tax and reporting obligations. The keys to increased productivity are:

- more investment in health and safety management systems,
- more investment in skills upgrading,
- more investment in apprenticeship,
- more investment in mechanization and digital technologies,
- and more investment is project management.

HIGHER PRODUCTIVITY IS THE ONLY SUSTAINABLE AND FAIR WAY TO LOWER COSTS. THERE ARE NO SHORT-CUTS. RATHER THAN BUYING INTO FALSE PROMISES OF RISK-FREE COST-SAVINGS, MUNICIPALITIES AND OTHER PUBLIC SECTOR ENTITIES SHOULD FOCUS THEIR PROCUREMENT POLICES ON THE FACTORS THAT TRULY REDUCE CONSTRUCTION COSTS.

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EX6.3.3

From:	Jason Ottey
To:	Julie Amoroso
Subject:	EX6.3 Schedule 9, Changes to the Labour Relations Act, 1995 - Restoring Ontario"s Competitiveness Act, 2019 (Ward All)
Date:	June 5, 2019 1:33:46 PM
Attachments:	3105_OCS_Just_Not_Credible_Report.pdf

Hello,

Please find a report completed by the Ontario Construction Secretariat entitled "Just Not Credible: Challenging Claims about Closed Tendering in Ontario" that I would like to submit to the Executive Committee item **EX6.3 Schedule 9, Changes to the Labour Relations Act, 1995 - Restoring Ontario's Competitiveness Act, 2019 (Ward All)**

Thank you for your attention to this matter.

Sincerely

Jason Ottey
LiUNA Local 183
Director of Government Relations and Communications

JUST NOT CREDIBLE:

CHALLENGING CLAIMS ABOUT CLOSED TENDERING IN ONTARIO

OCS
Ontario Construction Secretariat

MAY 2019 | Prepared by: Prism Economics and Analysis

1. The Hamilton faith-based Cardus organization, which is closely linked to the CLAC trade unions, published a report in September 2018 claiming that certain provisions of the Labour Relations Act are increasing the cost of municipal construction projects by 15% or more. This claim is just not credible.

2. Cardus wants municipalities to use a recent change to the Labour Relations Act which allows a local government to walk away from its collective agreements with the building trades unions. Although Cardus claims that doing this will save municipalities 15% on their construction costs, Cardus' real objective is to transfer work from workers who belong to the building trades unions to workers who belong to CLAC unions. The 15% is not intended to be credible and, as will be shown, the claim is not credible. The 15% claim is just a smokescreen for the real objective.

3. Municipalities that terminate their bargaining relationships with the building trades unions will not see the cost saving of 15% promised by the Cardus report. Indeed, a 2008 City of Toronto report found that, in Toronto, the upper estimate of the potential savings from terminating these bargaining relationships would be only 1.7%.[1] A more recent report (May 2019) from City of Toronto staff stated that if the bargaining relationships with the building trades are terminated "… *it is not possible to determine with any certainty what, if any, savings will result*."[2]

4. Cardus does not consider the costs and risks that municipalities will take on if they unilaterally terminate their bargaining relationships with the building trades unions and their employers. Municipalities that go down that path will take on a significant risk that they will see:

- significantly fewer young people in **apprenticeships**,
- a marked increase in **work-related injuries** on municipal projects,
- an increase in **non-compliance** with WSIB and CRA obligations, and
- a weakening or complete loss of **equity programs** that provide pathways into construction careers for First Nations, Metis and Inuit people, low-income youth, Black and racialized Torontonians, immigrants and women.

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1. Staff Report, City of Toronto, "Labour and Training Costs in Construction Procurement", September 23, 2008. The City of Toronto study is discussed later in this report.

2. Staff Report, City of Toronto, "Schedule 9 Changes to the Labour Relations Act, 1995 - Restoring Ontario's Competitiveness Act, 2019", May 29, 2019.

CARDUS' IMPLAUSIBLE 15% CLAIM:

5. The purported basis for the 15% cost-savings is Cardus' claim that contractors who are not associated with the building trades (i.e., CLAC contractors and non-union contractors) are 2% to 40% cheaper than contractors that work with the building trades unions. The 15% number is somewhat in the middle of this range.

6. The following table shows the cost structure for non-residential building construction. In Ontario, this is known as the Industrial-Commercial-and-Institutional (ICI) sector of construction. The table is based on Statistics Canada's input-output tables.

Cost Structure for Non-Residential Building Construction, Ontario
Statistics Canada, Input-Output Tables (2013)

Expense Category	Percent of Total
Materials, Energy & Transportation	26.0%
Machinery & Equipment	6.0%
Financing, Leasing & Rental	3.6%
Engineering, Architecture & Other Specialized Design	8.3%
Other Professional Services	2.1%
Office & Other	2.6%
Total Input Costs, Excluding Labour	*48.8%*
Taxes on production	5.4%
Payroll Costs (Wages and Employer Contributions)	34.1%
Gross mixed income[3]	7.8%
Gross operating surplus	3.8%

7. As can be seen in the above table, the payroll share of costs is 34.1%. The other costs would be comparable between contractors that work with the building trades and contractors that are non-union or work with CLAC. To reduce costs by the 15% claimed by Cardus would require payroll costs to be reduced by almost half. There is no other way to achieve cost reductions of that magnitude. Following Cardus' advice will trigger a race to the bottom. That race to the bottom will:

3. Statistics Canada explains "gross mixed income" as follows: for unincorporated enterprises, it may not be possible to estimate compensation of employees, consumption of fixed capital and a return to capital separately, in which case an estimate of mixed income, covering all these items, should be made.

- undermine investments in apprenticeship,
- increase work-related injuries on municipal construction projects by eroding health and safety standards and weakening health and safety training, and
- foster an increase in styling workers as 'independent operators' to avoid employer obligations to CPP, EI and WSIB, and
- nullify equity programs that provide pathways to construction careers.

8. A municipality that is considering whether to walk away from its agreements with the building trades unions needs to ask itself if this is the future that it wants to see for local construction workers.

CARDUS' STRAINED EXAMPLES TO MAKE ITS CASE:

9. The Montreal Examples: In support of its 15% cost savings claim, Cardus points to the higher construction costs that prevailed in the City of Montreal as a result of what Cardus describes as restrictive bidding practices. Cardus is quite correct about restrictive bidding practices in Montreal. Witnesses that appeared before the Charbonneau Commission reported that construction costs in Montreal were 30-35% higher than in other cities[4]. However, to equate Montreal's problem as equivalent to having collective agreements with the building trades unions is simply absurd. The problem in Montreal was old-fashioned corruption. The Charbonneau Commission described the involvement of organized crime in Montreal construction and a system of kick-backs to municipal politicians and their political parties. What has any of this got to do with municipal procurement in Ontario? Surely Cardus is not claiming that there is pervasive corruption and kick-backs in our municipal construction tendering. Citing the Montreal example to 'prove' its case just shows how weak the Cardus case is in the first place.

10. The Pattullo Bridge Example: In 2018, the B.C. government entered into an agreement with the building trades unions to increase the number of trained indigenous workers on the Pattullo Bridge reconstruction, to set aside 25% of all jobs on the project for apprentices and to increases wages by 2% per year. The estimated cost impact was 7% which included the wage increases. Cardus claims the 7% higher costs represent the consequence of restrictive tendering. In actual fact, the 7% cost increase represents the incremental costs of increasing the investments in training for indigenous workers, reserving a quarter of jobs for apprentices and applying an annual 2% wage increases. To claim that the Pattullo Bridge project supports Cardus' 15% claim is simply misleading.

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4. Commission d'enquête sur l'octroi et la gestion des contrats publics dans l'industrie de la construction (Commission Charbonneau)

11. "Academic Estimates": Cardus references academic studies that claim higher costs of 8.0% to 25.0% when municipalities enter into agreements with the building trades. They do not mention that these "academic estimates" were developed by Cardus or arbitrarily selected by Cardus. In an earlier report, Cardus cited 21 studies showing an average cost impact of 14-17% on construction costs[5]. Cardus argues, or implies, that these studies support its dubious claims on the impact of the construction provisions of Ontario's Labour Relations Act. A closer examination of the studies cited by Cardus shows that they do not support Cardus' claims:

- Twelve (12) of the 21 cost estimates cited by Cardus are American. They have little, if any, relevance for Ontario and certainly have no relevance to the construction provisions of Ontario's Labour Relations Act.
- Of the nine (9) Canadian studies, two pertain to waste collection, not construction. Again, these studies have no relevance to the construction provisions of Ontario's Labour Relations Act
- Five (5) of the studies focus on Fair Wage Policies which are separate and distinct from the Labour Relations Act.
- Two (2) of the studies simply estimate the higher wages of unionized construction workers, but do not proffer any conclusions on actual constructions costs. To do so would require comparisons of productivity and safety differences between union and non-union workers which these studies do not undertake.

THE CITY OF TORONTO'S STUDY UNDERMINES THE CONCLUSIONS OF THE CARDUS STUDY[6]:

12. The only relevant and independent study that Cardus cites is a 2008 report prepared for the City of Toronto by its own staff. City staff were asked by City Council to estimate the cost impact of the City's collective agreement with nine (9) construction trades. The City's Report noted that the City's Fair Wage Policy closely tracks the building trades wages. The Report concluded that if these collective agreements were not in place, in light of the Fair Wage Policy, the City could potentially save a maximum of 1.7% of its construction costs. This assumes that (1) all of the lower costs are passed on to the City in the form of lower bid prices, (2) the City is indifferent to the likely higher number of work-related injuries on its projects, and (3) the City is indifferent to the lower investment of the non-union contractors in apprenticeship and skills upgrade training. This maximum potential savings of 1.7% is a far cry from the 15% (or more) savings claimed by Cardus.

5. Cardus, "Restrictive Tendering", January 2017

6. Staff Report, City of Toronto, "Labour and Training Costs in Construction Procurement", September 23, 2008

13. A more recent report from City of Toronto staff points out that "it is unclear how much increased competition the City will receive if it becomes a non-construction employer" (i.e., terminates its bargaining relationship with the building trades). As a result the City Report concludes that "…it is not possible to determine with any certainty what, if any, savings will result."[7]

14. A key premise in all of the Cardus studies is that there is no productivity difference between union and non-union firms, so that higher union wages translate directly into higher costs. On its face, this is a highly dubious premise and one which the City of Toronto report enables us to test. It is well established (and will be discussed below) that the building trades unions and their employers invest heavily in apprenticeship training, skills upgrading and health and safety training. Unionized employers support these investments because the training directly benefits the contractors in the form of higher productivity and fewer occurrences of work-related injuries. This advantage in productivity and safety supports the higher wages and better benefits that are earned by unionized workers. Clear evidence of the productivity and safety advantage is found in the City's examination of its civil sector contracting where the City has no collective agreements with the building trades. The City's report found that 85.7% of competitively tendered contracts were nevertheless awarded to unionized contractors. In other words, the productivity and safety advantage of unionized contractors enabled them to submit the most cost-competitive bids 85.7% of the time. Cardus' assumption that union and non-union contractors have the same productivity and safety performance is simply wrong.

WEAKENING EQUITY PROGRAMS:

15. Many municipalities have recognized the importance of equity programs that support pathways to construction careers for young workers from First Nations, Metis and Inuit people, low-income families, racialized minorities, immigrants and women. Municipalities that adopt equity programs have found strong support from the building trades unions. Programs such as Hammer Heads for disadvantaged youth, Helmets to Hard Hats for veterans, Renos for Heroes for disabled veterans and Community Benefit Programs all require or are stronger because of the active support of building trades unions for these initiatives. All of these initiatives will be weakened or at risk if municipalities unilaterally terminate their bargaining relationships with the building trades. It is worth noting that Merit Ontario is the largest of the non-union employer organizations in the construction industry. Merit Ontario is not involved in any equity programs. Nor does the CLAC union have any programs that are comparable to either Hammer Heads or Helmets to Hard Hats.

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7. Staff Report, City of Toronto, "Schedule 9 Changes to the Labour Relations Act, 1995 - Restoring Ontario's Competitiveness Act, 2019", May 29, 2019

PROMPT ACCESS TO SKILLED LABOUR:

16. In many regions of Ontario, there is a shortage of skilled labour. This shortage can cause delays in completing projects and drive up costs. The building trades unions have a well-developed system for drawing in skilled labour from regions and provinces where the pace of construction has slowed. A bargaining relationship with the building trades unions is an 'insurance policy' against skills shortages and their damaging consequences.

THE BUILDING TRADES' ADVANTAGE IN WORKPLACE SAFETY:

17. In 2015, the Institute for Work and Health analyzed WSIB claims for union and non-union employers in the ICI sector of Ontario's construction industry. The results of the analysis were published in a reputable, peer-reviewed journal[8]. The study found that[9]:

- Lost-time injury rates are 23% lower in unionized firms,
- Musculoskeletal injury rates are 17% lower in unionized firms,
- Critical injury rates are 29% lower in unionized firms.[10]

18. The building trades unions and their employers invest significantly in health and safety training. The building trades unions also recruit and train health and safety representatives to support safe working practices on the job. It is not surprising, therefore, that a study by the Institute for Work and Health found that "unionized construction firms have stronger hazard identification and control practices in the work site and more OHS [occupational health and safety] training".[11]

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8. Amick, Benjamin C. III PhD; Hogg-Johnson, Sheilah PhD; Latour-Villamil, Desiree MS; Saunders, Ron PhD., "Protecting Construction Worker Health and Safety in Ontario, Canada: Identifying a Union Safety Effect", Journal of Occupational and Environmental Medicine: December 2015 - Volume 57 - Issue 12 - p 1337–1342. Available at: https://journals.lww.com/joem/fulltext/2015/12000/Protecting_Construction_Worker_Health_and_Safety.14.aspx#pdf-link The study was commissioned by the Ontario Construction Secretariat (OCS). The OCS agreed that the results could be published regardless of the outcome of the analysis.

9. The estimates include both the positive union effect on safety performance and other positive effects that may arise from the fact that union contractors tend, on average, to be larger than non-union contractors. The latter is known as the 'firm size' effect.

10. Critical injuries are defined in the study as injuries that jeopardize life, cause blindness, or injuries that result in amputations, major burns, fracture of large bones, and loss of consciousness.

11. Institute for Work and Health, "Determinants of Health and Safety in Ontario's Construction Sector", research study supported by the Ontario Ministry of Labour Research Opportunities Program, January 1, 2017. Unpublished, but available from the Institute for Work and Health.

19. The conclusion is inescapable: these investments pay off in the form of significantly lower lost-time injuries and especially in the form of significantly fewer critical injuries. A municipal government that chooses to walk away from its collective agreements is implicitly accepting that, in the absence of additional policies and interventions, there is a significant risk that there will be an increase in the number of injuries, including critical injuries, on its projects.

THE BUILDING TRADES' ADVANTAGE IN APPRENTICESHIP AND SKILLS UPGRADING:

20. There are three important measures of investment in apprenticeship and skills upgrading:

i) The proportion of union and non-union contractors that sponsor and employ apprentices,

ii) The training completion rate of union and non-union apprentices,

iii) Investments in training centres to deliver apprenticeship and skills upgrade training.

21. Sponsoring Apprentices - Union vs. Non-Union: A 2018 survey undertaken for the Ontario Construction Secretariat found that, in non-residential building construction, 81% of unionized construction contractors sponsored or employed apprentices compared to only 54% of non-union contractors.[12]

22. Training Completion Rates: In the unionized construction industry, the vast majority of apprentices are sponsored by joint union-management bodies. These are called Joint Apprenticeship Training Trusts or JATTs. The JATT system recruits and counsels apprentices, monitors their progress and, in many cases, delivers the provincially approved curriculum for apprentices or supplementary training. Three-quarters (75%) of apprentices in the JATT system complete their training compared to only 58% outside the JATT system.[13]

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