



To: Select Standing Committee on Finance and Government Services

I am pleased to make this submission on behalf of the British Columbia Construction Association (BCCA).

First, allow me to take a moment to re-acquaint you with our organization.

The BCCA represents approximately 1500 construction employers who comprise our integrated membership across the province of British Columbia, specializing in industrial, commercial, and institutional projects.

Through the many programs and services we manage for industry we serve more than 10,000 construction companies. The BCCA works on behalf of the entire industry to facilitate wide access to project opportunities and support apprenticeship, training, and the advancement of equity seeking groups into construction.

BCCA is uniquely positioned as the only construction Association in our province that represents both union and open shop employers. We are proudly non-partisan.

We greatly value the work we've done together with every BC government to build and maintain BC's infrastructure and built environment.

I would like to provide some perspective for our budget recommendations through a few key statistics to illustrate the impact that a healthy construction sector has in our province:

- BC's construction sector now employs more than 250,000 workers;
- There are about 25,000 employers;
- The majority of construction employers in BC are small businesses with less than 10 employees;
- Construction is the #1 employers in BC's goods sector;
- We contribute 8.6% of provincial GDP;
- Less than 20% of our industry is unionized.

For many years there have been two key challenges to the productivity and resilience of our sector:

- 1) Access to a skilled workforce
- 2) Fair, open and transparent public procurement processes

These challenges remain and are the focus of our advocacy work, but there is also a high volume of related issues that have made an unprecedented assault on the productivity of our sector. These include:

- Small business taxes
- Employer health care taxes
- Steel and aluminum tariffs
- Community Benefits Agreements
- Lack of Prompt Payment Legislation
- NAFTA negotiations
- Transmountain Pipeline uncertainty
- Environmental Assessment Overhauls and Bill C-69

The positive role that government can play in supporting industry to successfully meet these challenges cannot be underestimated. Nor can the impact these issues are already having on the BC economy.

Mindful of the time constraints today I will focus on three key topics which directly impact the workforce and procurement challenges our industry continues to face:

- 1) Community Benefits Agreements
- 2) Prompt Payment
- 3) CAMF as policy

1) Community Benefits Agreement

Community Benefits Agreements (CBA) are social requirements attached to public projects at the tendering stage. They seek to ensure local jobs, access for equity seeking groups, training and apprenticeship, and benefits that are defined by the community in which a project is occurring.

BC's construction industry supports apprenticeship training, local hires, the advancement of equity seeking groups, and the completion of public sector construction projects on time and on budget. We do this because it's good business. Union and open shop employers equally support training and apprenticeship, and provide competitive wages and benefits. The market demands it.

We understand that corporate social responsibility is an emerging cultural imperative and as an industry we seek to meet these broader market expectations in ways that align with the complex business and training processes that define our industry. We want to work with governments to ensure that CBAs don't unintentionally hinder public infrastructure tendering or delivery, driving up costs to taxpayers.

The made-in-BC CBA announced in July 2018 is unique in that it requires all workers on a public sector project to be members of a designated union: The BC Building Trades. This is by definition a Project Labour Agreement rather than a CBA.

We are concerned that government has overestimated the willingness of the sector to bid on public sector projects that have the CBA attachment.

There is growing feedback from all employers that the CBA presents an “onerous condition” that will cause contractors – both open shop and union – to consider CBA projects as high risk and either avoid them entirely or submit bids at a premium that will drive up the project price to taxpayers.

The employers recognize that the CBA puts their most valuable asset at risk: their own skilled workforce.

The unintended consequence of the BC CBA is that it will serve to further undermine the BC government as an “Owner of Choice” and therefore risks a public owner’s ability to attract a viable number of compliant bids. This will result in increased likelihood of cost overruns and project delays.

BCCA recommends that the Ministry of Finance ensure that all infrastructure ministries remove the BC Building Trades Union requirement from the Community Benefits Agreement, and instead introduces a CBA policy based on the accepted definition in which the social benefits are not defined by labour affiliation.

We further recommend that the Minister of Finance engage industry experts to ensure the outcomes of the CBA are as intended and to develop a sound basis for implementing the desired outcomes without jeopardizing the procurement process or the interest and ability of industry members to compete for the work.

Prompt Payment

All sectors and representatives of BC’s construction industry are united in agreement on the following statements regarding prompt payment:

- 1) There is a significant prompt payment issue in BC’s construction sector which places undue risk burden on contractors and negatively impacts cash flow throughout our industry and the provincial economy;
- 2) Payment security and promptness is a fundamental requirement of successful business operations;

The best way forward is to conduct a timely analysis on how to implement prompt payment legislation in British Columbia, based on Ontario’s Construction Lien Amendment Act 2017 and benefiting from the extensive research conducted to inform that legislation.

We seek to work closely in partnership with government to determine the optimum solution for BC and to harmonize the prompt payment issue nationally.

There's a lot at stake. Our industry is at the heart of every community and every local economy in the province: with an estimated \$4 billion in risk premiums, lack of prompt payment in BC is a problem too big to continue.

We are hopeful that the B.C. government will move beyond the monitoring stage and into implementation and drafting of made-in-B.C. legislation. BCCA has identified over 20 industry stakeholders who publicly support action by government to bring prompt payment legislation forward.

If government is truly looking for ways to benefit BC communities, Prompt Payment is the biggest and most far-reaching solution.

BCCA recommends that the Ministry of Finance fund and manage a comprehensive review of the Ontario report and subsequent legislation for the purpose of making informed recommendations to BC's provincial government and construction sector at large. For your consideration, we encourage the provincial government to contract the team of Bruce Reynolds and Sharon Vogel, who have been at the center of the process in Ontario (authoring "Striking the Balance: Expert Review of Ontario's Construction Lien Act") and are considered Canada's leading experts on the topic. BC would benefit from their expertise and the rapport they enjoy with both industry and governments.

Working with Reynolds and Vogel will allow British Columbia to move forward towards legislation much faster. We hope that our government will recognize the urgency of resolving this long-standing issue and proceed with enabling legislation during the Spring 2019 legislative session.

Capital Asset Management Framework as Required Policy

BCCA would like to acknowledge this government's commitment to working with the construction industry, as demonstrated by the continuation of the Deputy Ministers Industry Infrastructure Forum (DMIIF). The DMIIF has been meeting quarterly for the past 5 years. Senior representatives from the construction industry and capital ministries are working together to improve public procurement processes and make them fair, open and transparent.

Work continues on one of the first projects of this forum: reviewing The Capital Asset Management Framework (CAMF). This is a comprehensive document intended to provide assistance to public agencies in finding the best capital management practices. The CAMF was introduced in 2002 and contains the following four foundation principles to guide all public sector capital procurement:

- Fairness, Openness and Transparency
- Competition
- Allocation and Management of Risk
- Value for Money and Protection of the Public Interest

The CAMF encourages agencies to examine a variety of options and covers a broad range of subjects relating to public capital procurement, including alternative capital procurement as well as traditional capital procurement, including the design-bid-build (DBB), construction management (CM), design build (DB) and cost plus contracts.

The DMIIIF is an important step but we believe that it will require sustained resources and attention to fully address the implications of poor procurement practices on the performance of BC's economy.

BCCA recommends that government adopt the Capital Asset Management Framework as public procurement policy, not just a suggested guideline. This step would require governments at all levels to comply with good tendering practices that insure Fair, Open and Transparent processes are embedded in operations. There is a precedent set for this: it has been done before in BC and can be done again. The result would be significant improvements in delivery of public sector projects on time and in budget, which directly support the government's stated goal of the BC CBA without mandating a labour affiliation for the workforce.

The federal government and the provincial governments of Canada's western provinces have already successfully implemented similar CAMF policies and the value is demonstrated in their budgets and project outcomes.

BCCA has further detailed recommendations related to CAMF which we have included in our paper submission.

I thank you for your time and consideration.

Respectfully submitted,

Chris Atchison
President
BC Construction Association

Attachment: Summary of Recommendations

Summary of Recommendations

CBA

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- We further recommend that the Minister of Finance engage industry experts to ensure the outcomes of the CBA are as intended and to develop a sound basis for implementing the desired outcomes without jeopardizing the procurement process or the interest and ability of industry members to compete for the work.

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CAPITAL ASSET MANAGEMENT FRAMEWORK

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- To that end and to ensure that sufficient resources are made available to its ministries, we recommend that government:
 - Create and distribute appropriate procurement tools and sample documents referred to in the CAMF;

- **Entrench the principles of fairness, openness and transparency including the use of standard tendering documents in all tendering procedures funded through public monies regardless of the procurement method;**
- **Bolster the policy framework to ensure agencies, ministries and Treasury Board adhere to the high level principles of fairness, openness and transparency in construction procurement;**
- **Ensure that the selection of a suitable procurement process matches the goals of Treasury Board while recognizing the capacity of agencies to manage the process coupled with the historical procurement approaches and experience of local industry to maximize access to the project;**
- **Build an education and training regime for public sector buyers of construction services, including guidelines regarding the circumstances in which to consider various methods of procurement and the required conditions for success**
- **Empower the Ministry of Finance to establish credible rigor and oversight of capital spending within the provincial government and the agencies whose projects it funds;**
- **Examine current available industry accepted procurement technology and adopt its use across government agencies. Specifically work with the BC Construction Associations partners who operate BC's only On line Bidding System for Subtrades to re-implement government policy that requires the use of the subcontractor to general contractor bidding system on all Public Sector projects valued at 500,000.00 and up to:**
 - **Enhance security of tender or bid submission process**
 - **Address the elimination of non-compliant submissions (bids)**
 - **Gather data specific to construction in BC to assist in the formation of government policy and programs relevant to industry training and the capacity of the construction sector.**