



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Transport, Infrastructure and Communities

TRAN • NUMBER 072 • 1st SESSION • 41st PARLIAMENT

EVIDENCE

Tuesday, May 21, 2013

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Chair

Mr. Larry Miller

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• (1545)

[English]

The Chair (Mr. Larry Miller (Bruce—Grey—Owen Sound, CPC)): I call our meeting to order.

[Translation]

Ms. Lise St-Denis (Saint-Maurice—Champlain, Lib.): Excuse me, I have a question for you. Do you have the list of upcoming witnesses?

[English]

The Chair: Yes, we can get that to you.

[Translation]

Ms. Lise St-Denis: I would appreciate that. Thank you.

[English]

The Chair: I'd like to welcome our witnesses today, Mr. Buda and Mr. Thompson from the Federation of Canadian Municipalities, and Mr. Dijkema from Cardus.

Mr. Buda or Mr. Thompson, you have 10 minutes or less, please.

Mr. Michael Buda (Director, Policy and Research, Federation of Canadian Municipalities): Thank you, Mr. Chair, and thank you to all of you for having us here today.

Actually, I bring regrets from Mayor Doug Reycraft of Southwest Middlesex, who was actually supposed to be here with me today. He got hung up waiting for a much-delayed plane. He isn't able to be here but he does send his greetings, and we certainly bring greetings from our president, Councillor Karen Leibovici of Edmonton.

We always welcome the opportunity to speak on these issues with this committee. On behalf of FCM's 2,000 members, I'm really pleased to share our views on the topic of how competition can make infrastructure dollars go further.

At FCM we believe there's no surer way to create jobs today and strengthen our economic foundations of tomorrow than investing in municipal infrastructure. Where federal, provincial, and territorial private and local partners bring funding and expertise to the table, no other investment, we believe, goes as far or has achieved so much. In a world of economic uncertainty, we believe Canadians want to know that we're taking action to build the conditions for a competitive economy and strong communities. Canadians want to know that all orders of government are working together to make progress on practical priorities, such as good roads, clean water, and a shorter commute.

The new infrastructure plan announced in budget 2013 is set to renew federal funding expiring in 2014. It will index the gas tax fund to protect its long-term value. It commits to a longer-term funding program for projects. It's certainly, we believe, a step in the right direction. Particularly, by protecting the purchasing power of the gas tax transfer and extending program funding for 10 years, the budget advances the principle of longer-term sustainable infrastructure funding, which is going to be a real theme of my comments today. It really responds to the question asked by this committee.

We're particularly pleased with the government's decision to review the effectiveness of its infrastructure plan within five years. This will be a real opportunity to take stock of how effectively the plan is addressing infrastructure gaps, notably in public transit and upgrades required as a result of new federal waste water regulations. Again, speaking to the question raised by this committee, it will be an opportunity to review the policies, procedures, rules, and regulations that are set into the program initially to ensure that every dollar is being stretched as far as it can be, that we're maximizing the value of every federal dollar to taxpayers.

On the specific question this committee is studying, we have the following comments.

As members will know, Canadian municipalities own and operate a little more than 60% of Canada's core economic infrastructure but collect just 8¢ of every tax dollar paid in Canada. Cities and communities are always open to innovative ideas to help address this critical gap.

I want to start on the first subject around streamlining programs and reducing red tape. I want to start by saying that one of the best and surest ways to reduce red tape and increase private sector infrastructure involvement, which means increasing competition and ensuring fairness, is through predictable infrastructure investments, like the gas tax fund, rather than lottery-style investments through application-based funds.

Let me explain why.

Application-based funding programs, like the building Canada fund, are very well-suited to building large-scale projects with exceptionally high upfront capital costs. They leverage matching investments by all orders of government on a one-time basis to make strategic priorities often of regional or even national significance. They're definitely useful in some circumstances, but they can actually make the infrastructure deficit worse unless there's a balance with predictable funding programs that enable communities to maintain or repair existing infrastructure. In fact, the combination of the building Canada fund, as an application-based program, and the gas tax fund really does provide that balance. But nevertheless, there are ways to improve these application-based funding programs.

In the short-term, setting clear priorities and ensuring a significant portion goes to municipally owned projects will improve the predictability of the fund for local governments, which is going to help them improve their own planning. Most critically, it will improve the ability of the private sector, the providers of construction and other types of services to municipalities, to adapt their own supply and resources capacity to the demand, which will almost certainly increase competition locally.

Looking at permanently adopting the economic action plan and streamlining application forms and processes would also enhance the building Canada fund by reducing the amount of time between a project's application and its approval. Again, shortening approval times and increasing the predictability of when a project will begin will encourage more and more private sector companies to bid for projects.

Moving on to the second topic around increasing private sector investments and participation in local projects, FCM views P3s as one tool to consider when assessing projects. But it's important to remember that they're not a magic bullet, and they, alone, cannot address infrastructure needs. While P3s are an important tool available to municipalities to increase their financing options, whether or not to pursue a P3 option is a decision that we believe must be made at the local level.

● (1550)

The newly announced building Canada fund contains a so-called P3 screen, which will ensure that certain applications must consider P3s as a condition of applying for funding for projects of over \$100 million. That's a provision we only support as a means to ensuring that a P3 is considered rather than forced. It is important to remember that, in rural Canada especially, P3s aren't really that effective because of the large project scale required. In fact, most of our research and what we've heard from the private sector suggest that a project value of \$100 million or more is really required as a minimum floor for making a P3 project work, and most rural and remote and even small town communities really don't have projects of that size. They also have challenges around capacity in terms of assessing and managing a P3 project and even simply accessing the information required to get RFPs out.

Just as a note, since 2007 only 60% of the P3 fund has been allocated, so \$715 million out of the \$1.25 billion of the P3 fund.

The last thing I wanted to talk about was the procurement process that municipalities follow. I think that's most directly related to the questions of this committee. An important aspect of ensuring job

creation and increasing bids for projects at the municipal level, as I said before, is stable and predictable funding over the long term to allow municipalities and the private sector to better plan their investment when it comes to infrastructure and jobs. FCM was really pleased with the additional flexibility added to the eligible project categories and the gas tax fund, for example, to allow for diversification and meeting the most pressing needs. On its own, this measure will create more opportunities for competition locally.

As an example, or an anecdote, we've spoken to several municipalities that for the last few years, up until two or three years ago, had trouble attracting more than one bid to an RFP for a local project. That was mainly because they just simply weren't putting enough RFPs out. They didn't have enough money to spend on infrastructure, essentially, to attract enough local competition for their projects. They have related that over the last few years the leadership shown by the federal government in reinvesting in Canada's infrastructure has increased not just the amount of money that's being put into infrastructure every year, but the sense, especially in the private sector, that this interest in investing in infrastructure, and the continued investment in infrastructure over the longer term, has attracted more and more private sector bidders. In small communities we've heard many examples where people have said that for years they only had one bid. Now they're getting two, three, or even four bids because companies know they're going to be investing in their local infrastructure, not just this year or next year but for the long term. Multiple bids are the very best way, actually, of reducing your costs locally.

On this score, too, I want to mention that municipal procurement processes are regulated by provincial agreements or legislation, and in some cases those provincial regulations create conditions where these types of decisions are outside of the control of local governments.

I want to underscore that any increased federal restrictions on municipal tendering will simply add red tape, additional bureaucratic hurdles, and ultimately, delays and added costs to building core infrastructure and creating jobs for Canadians.

In conclusion, our hope is that the long-term plan announced in budget 2013 can provide all governments with a model for common-sense cooperation and help tear down the silos that prevent them from delivering the very best value for taxpayers. The infrastructure plan that was announced in the budget is an important opportunity for Canada to maximize, and municipal leaders are ready to do their part.

We'd be pleased to take any questions.

Thank you.

● (1555)

The Chair: Thank you very much, Mr. Buda.

We'll now move to Mr. Dijkema for 10 minutes.

Mr. Brian Dijkema (Program Director, Cardus): Thank you. Good afternoon. Thank you very much for having me here.

I'd like to congratulate the committee for doing this work. I think it's very important. I'd also like to express my gratitude for your work in Parliament on all fronts.

My name is Brian Dijkema. I'm the program director for the work and economics research project at Cardus, which is a think tank. We're a public policy think tank that has a long history of studying construction, particularly the role of labour in construction. Out of that research I'd like to make two basic points with my time today.

The first is that open tendering and closed tendering should not be considered equivalent to non-union and union construction. The sector is much more complex than that. The realities on the ground are much more complex than the strict binary model presented by many people. Second, the competitiveness and the health of the construction industry depend on an open and fair tendering process. This is not only for democratic reasons—because it's a basic democratic issue—but for economic innovation in a sector that Canada is increasingly relying upon for infrastructure in municipalities across the country, and also for other reasons such as responsible resource development.

On the first point, Cardus has several research publications charting the construction industry in Canada's economy from the 1970s to the present. One of the most profound changes during that time is the changing face of the way labour has interacted with construction owners, purchasers, and buyers. The construction industry labour force is unique, because the large-scale projects involved in infrastructure create cyclical demands for a highly skilled workforce. There was a time when only one type of union—the traditional building trades unions, the craft unions—were able to provide and manage those labour cycles and demands. Today that is no longer true. Today a variety of labour pools exist and work effectively in the industry across the country in most places. Many Canadian jurisdictions now have a competitive labour pool on the ground, but public policy is not yet developed to recognize this reality.

In 2003, we produced a paper called, “Competitively Working in Tomorrow's Construction”, which noted the diverse character of the workforce. Far from construction being neatly divided between non-union and union shops, we noted that there are at least seven different ways to organize the construction workforce. There was, of course, the traditional building trades craft union. There were unions that had multiple crafts within one building trades union. There were craft unions that had expanded their jurisdictions via multiskilled tradespersons. There was the movement of maintenance unions into construction work. There was the development of industrial unions, such as the CEP, taking on construction work, so industrial unions taking on construction work that would not traditionally have been part of their jurisdiction. There was the development of alternative unions such as CLAC and others, and there were various unions organizing under project agreements.

The binary presumption that work in construction is either union or non-union is not an accurate portrayal of what's happening on the ground in the construction sector. This is an important shift. These different organizing models, these ways of organizing the workforce and how they adapt to openness or restrictions across the spectrum, will determine how this industry succeeds or fails in the medium term.

In 2005, Cardus organized a “Stepping Forward” conference in Calgary that brought together the full range of employer and labour organizations involved in this sector. The conference was co-

sponsored by the building trades, Merit, CLAC, CLRA, and PCAC—all of whom came together to discuss the various challenges facing the industry. The conference and report addressed a range of issues including labour supply, apprenticeship training, and quality of life as it applied to working models in the sector.

It's important to note that not only is there diversity within the sector itself in the construction workforce, but that the construction workforce, and therefore the construction sector, is increasingly national in scope. We conducted two studies for the Construction Sector Council called, “Working Mobile” and “Working Local”, in which we surveyed construction workers regarding the motivations and obstacles they faced working in different jurisdictions, for instance, Newfoundlanders working in Fort McMurray or something along those lines. We looked at why they made those choices, some of the obstacles to that, and the benefits and drawbacks for the sector. It became clear that there are a variety of barriers for workers to move across jurisdictions. We've dealt with that elsewhere, too.

• (1600)

In 2008, at a presentation at the Economic Club of Canada, my colleague Ray Pennings highlighted some of the economic dimensions of the challenge posed by the gap between policy and realities on the ground. The paper entitled “Why is Construction so Expensive in Ontario?” highlighted the fact that Ontario's labour relations regime has virtually ignored the development of new models of organizing labour, which are more prevalent in western Canada and are increasingly prevalent in other places in the country.

This leads to my second point. In Ontario—but also across the country—closed tendering practices are a key example of the lag between policy and reality on the ground. Canada's construction organizing laws need to catch up to the better options available today, or at least to the multiple options available today. This will greatly help our economy as public procurement budgets rise and rise, and as more and more money is needed, as my colleagues pointed out here. But it will also bolster our democracy as Canadian workers are looking for a freedom of choice that moves beyond the choices offered to them in the past.

Economically speaking, our Cardus construction competitiveness monitor has found that restrictive bidding adds up to a surcharge for public purchasers ranging from 2%, if you accept the model used by the City of Toronto and most frequently cited by representatives of those who tend to be beneficiaries of restrictive bidding, i.e., the building trade unions, to the City of Hamilton's estimate of 40%, which was provided to it by consultants and also confirmed in the city's report on the issue of closed tendering when it became subject to closed tendering.

Stephen Bauld, who has authored legal texts on public procurement produced by LexisNexis, suggests that not only is the matter relevant in terms of who is eligible to bid and the cost strictures under which they operate, but that the number of bidders has an impact on the price. Bauld's research and much other research by economists suggest that cost decreases range from 20% to 25% as the number of bidders rises from two to 15. Bauld suggests three reasons for greater competition in construction bidding, and I quote here:

First, as the number of bidders increases, each participant in the process has an incentive to offer a better price, because it becomes harder for the bidders participating in the process to anticipate each other's behaviour. Second, a higher number of bids can increase the chance of receiving a bid from a party who will place a high value on securing the contract. Such a party is likely to offer the most competitive price. Third, an increase in the number of bids makes it more difficult for the bidders to organize on a collusive basis.

In short, closed bidding costs our public budgets immensely.

But there is a more fundamental argument, which is a democratic one. Disqualifying potential bidders from public works because of choices they make or workers make as private citizens runs contrary to Canadian principles. Closed tendering not only costs taxpayers more money, but it embeds one particular labour model to the detriment of other worker organizations and to the detriment of workers' choice. In short, it squelches the tremendous innovation and diversity taking place within the sector on the ground.

Workers should be free to choose between these competing models of labour organizations without being arbitrarily disqualified from public works because of their choice as private citizens. The public should also be able to benefit from the innovations that are taking place within these competitive pools by seeing the full range of qualified labour models competing for public work paid for by public dollars.

There is an ancient principle of governance that says, "What touches all must be approved by all". I would suggest to this committee and to the government that a similar principle should be applied to the tendering of publicly funded infrastructure projects. That which is funded by all should be accessible to all. In other words, open tendering is about fairness. In a free and democratic society, there should be no restrictions that limit otherwise qualified companies from bidding on publicly funded work because of the private affiliation of their employees. It's simply not fair.

I submit to this committee that the onus should not be placed on those asking for public tenders to be open to all Canadians, but the onus should be on those who wish to close public tenders to a select group, whoever that group might be. What public policy goal is served when bidding is restricted? I've not yet found out.

This is not simply a municipal or provincial issue. It's a national issue. Significant amounts of federal funding are subject to closed bidding, including \$263 million in Ontario alone, according to our review of federal infrastructure expenditures. Union Station in Toronto—most of us have had a chance to visit that—and the Pan Am Games stadium in Hamilton, my town, are two of the more high-profile examples of federal funds being restricted.

In Manitoba, the Red River floodway expansion project and the East Side Road project are subject to project labour agreements with certain unions, which effectively bar companies affiliated with other unions and non-union companies from bidding on public infrastructure projects under the labour relations model chosen by their employees. These projects have received \$324 million of federal funding and a significant portion of this work has been subject to restrictive project agreements. So it is a national issue.

• (1605)

British Columbia, too, has their law structured in a manner that allows restricted worker choice and reduced competition. Unions

there—whatever union or any group—may apply to the minister for the right to bargain collectively and enter into project collective agreements for the duration of major projects. This effectively allows a given union or labour pool to petition the minister for exclusive rights on major projects. This politicizes public works in unhelpful ways.

We recognize that there are significant interests at play in this discussion. My colleague Ray Pennings noted in our 2003 "Competitively Working" paper that, "Given the significant dollars, organizational reputations, and market shares at stake for the various companies, unions, and associations involved in Canadian industrial construction, sorting through the spin is an inevitable necessity for any publicly held discussion about labour relations" and the role of infrastructure funding.

Governments have a significant task to sort through the spin and recognize that open tendering is a strategic concern for the country. It is connected to the heart of the country's jobs and training program, a program that has been laid out by this government. It will help engage diverse communities such as aboriginals. Open tendering will assist responsible resource extraction and it will ensure that Canada's infrastructure deficit is brought back to surplus in an affordable and fair manner, combined with increased funding.

This is a question of whether we're going to live up to our reputation as a country that recognizes diversity, encourages innovation, and promotes excellence. As such, we have three recommendations.

The first is that a study be commissioned to examine the cost savings that the federal government stands to gain from open tendering or making open tendering a requirement.

The second is that the government make reception of federal infrastructure funds conditional on opening public tenders to all qualified bidders regardless of the labour affiliation of their employees, except in jurisdictions that are prevented by provincial law from doing so. Places where it's a voluntary signing on to a project labour agreement that would close bidders out should not receive federal funding. Jurisdictions that are currently handcuffed by that because of provincial labour law should still be eligible.

The third is that the government initiate meetings with provincial counterparts to determine ways to ensure fair, open, and transparent bidding on projects receiving federal funds with a particular emphasis on removing barriers to multiple labour pools.

Thanks for your attention. I welcome your questions.

The Chair: Thank you very much.

We'll now move to questioning. Ms. Chow, you have seven minutes.

Ms. Olivia Chow (Trinity—Spadina, NDP): Thank you.

My question is to the Federation of Canadian Municipalities. FCM has asked for dedicated funding. That didn't happen. We're still in a grant lottery situation. You requested a \$2.5 billion direct transfer. Then the gas tax has been indexed, but because of the \$100 million incremental, really, municipalities won't be seeing the first nickel until 2016.

Having said that, my question is very specific. The Obama team did a red tape reduction initiative. They managed to halve the time that it now takes them to approve an application. There are examples. I believe with the Tappan Zee Bridge replacement, the approval process was cut by three years. Another project was cut by six months—that was the Red Line rail transit corridor. It looks like what they're doing is looking at the best practices from all the different applications and municipalities. They have a very sophisticated IT tracking system. They were able to reduce the approval time by at least 50%.

Is that something the FCM has been pushing for? Would you be interested in the federal government going in this direction?

• (1610)

Mr. Michael Buda: Thank you for the question.

Certainly one of FCM's interests in working with the federal government in the design of the new programs is to take the best of what we learned in the economic action plan and apply those lessons to the new programs. This essentially means reducing approval times so they are as limited as possible while at the same time allowing for sufficient review, and simplifying application forms.

The best way to accomplish that is to focus the federal government's accountability mechanisms, which are built into the new plans, to ensure there is value for money in the outcomes produced by those investments. So rather than focusing on the inputs on what kind of concrete to use or what shape the bridge should be or procurement rules, the government should be ensuring and testing and auditing to ensure every dollar it invests in local infrastructure through municipalities is used as efficiently as possible.

The best way to do that is to look at outcomes not at inputs. That means identifying clear priorities for the programs, improving the predictability of the funds, making sure that approval processes at provincial, territorial, and federal levels are transparent, and then tracking everything as mentioned.

Certainly what's happening in the States is laudable, although I should mention I think the federal government has learned a tremendous amount over the last decade. Canada is still well ahead of the United States, but that doesn't mean we can rest on our laurels. We have to keep going because they are catching up. The more efficient and the more streamlined we can make our programs, the more attractive it will be for the private sector to bid on and participate in projects here.

Ms. Olivia Chow: Do you support the federal government putting conditions on funds? I know you prefer the gas tax, which is a direct transfer, but would you prefer to see various conditions attached to the grant program that was just reannounced? I've always heard from my friends on the other side that they want the local municipalities to have full autonomy to make their own decisions, because when planning, the local municipalities have the direct say.

I noticed they are now drifting toward applying conditions where there are P3 screenings or whatever other conditions might be applied. Is that something you support?

Mr. Michael Buda: Obviously the building Canada fund is intended to be a three-way, cost-shared program, which means in our view three partners are involved. I think our members would say it's absolutely fair for each partner to ensure its own accountability is met through various restrictions or limits or strings or whatever you want to call them.

We certainly understand that there needs to be restrictions. The federal government has its own objectives it needs to ensure are met. We think the money will be best spent if we try to minimize and limit the restrictions that are placed on the funds by each order of government to those that will maximize the outcomes the investments will bring. In other words, trying to do too much using regulation is another word for adding red tape.

Let's focus on maximizing outcomes and then holding every order of government accountable for doing so. That means any time a process is added to an approval process, for instance for a new program, we need to make sure that's going to produce outcomes greater than the costs of carrying out or meeting those restrictions. Really, it comes down to a cost-benefit analysis.

Ms. Olivia Chow: The Parliamentary Budget Officer reported two weeks ago that there is a reduction of up to \$2 billion of infrastructure funds per year for the next two years for the municipalities.

Is that also your analysis?

Mr. Michael Buda: Not entirely. This is a silly, complex issue in that the budget reports on the funds that leave Ottawa and are sent to the project partner, in our case municipalities, but the way the federal government administers its application-based programs it doesn't send the cheque to the receiving municipality until an original receipt is submitted here in Ottawa from the municipality.

Municipalities typically don't pay off their contractors until the project has received final approval, which includes after final engineering assessments. It could be three years after the project is finished. This means there's a massive delay between when a project is approved and when the money leaves Ottawa. You'll see that in the budget; \$6 billion in funds have been reprofiled from programs that go back all the way to 2004.

So in our mind the budget profile that's seen in the budget isn't as important as how the program is developed and designed, and that will happen in the next six or eight months. This will give an indication of the pace of project approvals the government will be following.

Our expectation is, and our position is, that the new building Canada plan should be maintaining investments roughly at the average, if not more so, of the past seven years, which is \$1.25 billion. The new program allows for about \$1.4 billion on average over the next 10 years, so it will be really important to see that project approvals are maintaining that pace as we move through the first few years.

• (1615)

The Chair: Thank you very much.

Ms. St-Denis, you have seven minutes.

[*Translation*]

Ms. Lise St-Denis: Thank you.

You say that the federal government should not impose too many restrictive policies. How do you feel about the cost overruns? The project costs are always twice what you asked for. What solutions are you considering to solve this problem of cost overruns?

[*English*]

Mr. Michael Buda: Thank you for the question.

To clarify, on a cost overrun on a three-way, cost-shared project through the building Canada fund, for example, 100% of the cost overrun will be borne by the municipal government. Even if the cost overrun is a result of delays in approving the project—so between when an application is submitted, with a cost estimate of the project's cost, and when the project is approved—sometimes those delays can be two or three years. Of course, over that time construction costs increase because of inflation and the rest. One hundred per cent of those cost overruns are borne by the municipality. So for cost-shared programs like the building Canada fund, there's a tremendous amount of accountability on the municipality to stick to the budget required because they're not going to get a dollar more from the federal or provincial government than was promised originally. In that regard, there's really not a lot of room or a need for restrictions around that because the cost overruns are borne by the municipal government.

Of course, if the project comes in under budget, the federal contribution is in fact scaled back. It's kind of a ratchet effect. If the costs go up, it's a municipal responsibility. If the costs go down, the savings are shared among all three partners.

I hope that answers your question.

[*Translation*]

Ms. Lise St-Denis: Thank you.

Mr. Dijkema, you referred to unionized and non-unionized employees. Are there any studies that demonstrate that the efficiency of unionized employees is greater or lesser than that of non-unionized employees?

What makes you say that it would probably be better that workers not be union workers?

[*English*]

Mr. Brian Dijkema: Thanks very much. I actually never said that if people were not unionized things would be better. What I said was that there are a variety of ways of organizing labour, including new unions, and various ways of organizing even unionized workforces. What I said was that it was not fair to restrict bidding to only one type of the seven options available.

As I said at the very beginning, this is not a question of union versus non-union. It's very clear that unionized contractors in this country do very fine work and do good work, and build it well. It's also very clear that non-unionized companies do the same. It's also very clear that companies whose workers are affiliated with different ways of unionizing do work, and that's demonstrated on the ground

across the country. Various ways of organizing labour do good work, so it's not a question of union versus non-union.

[*Translation*]

Ms. Lise St-Denis: You said that people had adopted new models and abandoned the old way of doing things.

Can you give us some examples that prove that the work performed in the context of P3s is much better in terms of the lifespan of the infrastructures built than those built under the old system, without P3s?

• (1620)

[*English*]

Mr. Brian Dijkema: Again, and I'm sorry if I'm not being clear, but it's not a matter of using P3s or using traditional procurement methods. Our concern as a think tank is to ensure the variety of ways in which Canadian workers choose to organize themselves on the ground in the construction workforce, whether that's in publicly procured projects without P3s or with P3s, so that they are able to bid and to work on projects that their tax dollars pay for.

There are many examples of P3s that work well. There are examples of P3s that don't work well. There are P3s that use unionized labour of the traditional building crafts. There are P3s that use other labour. What we're saying is that the reality on the ground in terms of the way workers organize themselves has changed from the time that the laws were originally set up. What needs to happen is that policy needs to recognize that there's a spectrum of ways in which workers choose to organize themselves, and those workers should not be disqualified from working on projects their tax dollars pay for.

It's not a question of P3s or not. We are not taking a position on P3s here. It's simply a question of whether or not publicly funded projects should be available to the full spectrum of Canadians who pay for them.

[*Translation*]

Ms. Lise St-Denis: Very well.

[*English*]

The Chair: You still have a minute and a half, Madame St-Denis.

[*Translation*]

Ms. Lise St-Denis: Fine.

How do you control the overpricing problems?

You more or less said that federal rules should be abolished, for instance. We will limit our discussion to the federal government, even though a large part of the funding for construction projects does come from provincial and municipal governments. You say that the rules should be abolished because there are too many, they are too complicated, they take too much time, and so forth. How are you going to solve the overpricing issues, and the collusion problem, among others?

I am from a province where it is clear that this exists. Was everything brought into play, in my province? Whether through P3s or union rules, rules were applied at all levels.

What solutions are you considering to lessen collusion, if on top of everything, you are suggesting that regulations be curtailed?

[English]

Mr. Brian Dijkema: We are not suggesting the rules for procurement need to be reduced per se, although I'd like to see rules that are efficient and provide the best value for tax dollars. Our concern is that closing tendering to one particular party, or one particular organization, is a recipe for collusion. Economic analysis suggests that as you restrict bidding, the chances of collusion rise. The OECD has put out a number of papers on that. It's a fairly well-established economic reality that as you reduce the pool of competitive bidders, the chances of collusion increase.

In the situation in Quebec, it's very unique in the sense that they do have choice among unions—

[Translation]

Ms. Lise St-Denis: I am not certain about that.

Mr. Brian Dijkema: Yes, it is true.

[English]

There are six choices and that's it. It's very easy for those groups to collude. You don't actually have a non-union choice in Quebec. Not that I'm particularly in favour of that over the others, but I would encourage a wide variety, a wide spectrum. That full spectrum should be able to bid.

As I said, I've not yet heard a good argument that would suggest that certain Canadians, because of choices they make as private citizens, should be barred from working on projects that their tax dollars pay for. We think that competition, especially amongst labour pools, and therefore companies, is a good tool for reducing costs but also for reducing collusion.

The Chair: Ms. Chow

Ms. Olivia Chow: I have a point of order, Mr. Chair.

I would like to read into the record a quick motion:

That the Committee invite the Minister of Transport, Infrastructure and Communities to defend the Supplementary Estimates (A) and the Committee study this estimate prior to three sitting days before June 18, 2013.

• (1625)

The Chair: That was to be at the next meeting with 48-hour notice.

Ms. Olivia Chow: I'm not moving anything. It is just a point of order.

The Chair: Mr. Poilievre.

Mr. Pierre Poilievre (Nepean—Carleton, CPC): Thank you to our witnesses for being here.

Mr. Buda, municipalities have been very successful in augmenting their revenues over the last two decades and the last decade in particular. Between 2001 and 2011, municipal revenues grew by 71%, while inflation and population growth totalled 30%. In other words, revenues to municipalities have been growing at twice the pace of the need.

I think it's fair to say that taxpayers are funding municipalities adequately and that the revenue issue is now completely resolved.

The question becomes why there is still a shortfall in the municipalities' ability to keep infrastructure up to speed. That question prompted this study.

We have found that one of the reasons could be an absence of competition for projects. Does your organization have a position on the issue of closed tendering, that is to say policies that ban union-free workers from participating in infrastructure projects in certain jurisdictions?

Mr. Michael Buda: We certainly don't have a position specific to that question. When we looked at the question that this committee had forwarded on how to improve competition within the infrastructure sector, we had identified other areas that would in fact increase competition and improve the outcomes of those investments.

But just a note on your revenue data, I think we'll have to put our heads together and look at the discrepancies. Data that comes from Statistics Canada shows that between 1988 and 2008 municipal own-source revenues, which mainly are the property taxes, have only increased 1.5%, while at the same time, transfers from other governments have decreased 22%.

The notion that municipal revenues are galloping ahead doesn't seem to be supported by the data we have, but we're certainly open to seeing other data.

Mr. Pierre Poilievre: Well, I do have the data here and it is the total revenues, which is really the only number that matters. It does come from Stats Canada, and it does show that between 2001 and 2011 municipal revenues have grown by more than twice the rate of inflation and population growth combined. I'd be very pleased to share this data with you as well.

On the issue of closed tendering, though, we have a case in Hamilton, for example. I quote Peter Shawn Taylor, who is an editor-at-large at *Maclean's* magazine.

...eligible bidders for construction contracts in Hamilton [were] reduced by over 90 per cent. Of the 260 firms that had previously bid on city jobs, city staff calculated that only 17 were affiliated with the carpenters union.

The article goes on to point out estimates of increases between 20% and 40% for projects in Hamilton as a result. A similar problem is now emerging in Kitchener—Waterloo.

The FCM has been concerned about the difficulty municipalities have in funding their infrastructure. Why has the FCM not spoken out against this unnecessary price inflation that provincial policies are imposing on municipal governments?

Mr. Michael Buda: Certainly if you were to ask us if this committee or Infrastructure Canada should carry out more thorough research related to how closed tendering is driving infrastructure costs, we'd absolutely support that.

Mr. Pierre Poilievre: That's what we're doing right now.

Mr. Michael Buda: The research that we've undertaken has only uncovered very anecdotal evidence. Certainly the cases in Hamilton and Kitchener do appear to require further research. Having said that, it does appear that these are the result of provincial regulations that have been in place for almost 20 years now.

I think when it comes to defining the federal role in solving this, it goes back to my earlier point that we need to look at ensuring that these new programs are designed to be as streamlined as possible, and at attacking the areas where the federal government has the greatest impact. I'd be concerned that adding federal regulations to address an area that perhaps might be an issue in only one province is going to be a bit of overkill and will end up having all sorts of unintended consequences elsewhere.

For example, the City of Montreal has a closed tendering rule in place right now, and it's specific to preventing construction companies named in the Charbonneau commission from bidding on their projects. I would be worried that federal rules that usually come with a one-size-fits-all approach, which can be quite cumbersome and time-consuming, are going to end up having these kinds of unintended consequences of preventing a very common-sense application of closed tendering.

But as I said, there doesn't appear to be a lot of thorough data on this question. Indeed, if with more thorough research it's proven to be widespread, it does make sense for the federal government to ensure that value for money is being maximized. But thus far, we've seen no evidence of that.

• (1630)

Mr. Pierre Poilievre: Well, there is evidence that the municipality of Hamilton has actually issued a report indicating the costs are between 20% and 40%. There are similar instruments for Waterloo. But presumably the FCM, if it were interested in keeping costs down for its members, would oppose this kind of practice and its imposition by another level of government.

The FCM does comment on the policies of higher orders of government all the time, so it would not be unusual for it to do so in a case like this one.

I'd like to ask Mr. Dijkema. Are you aware of any data on the cost inflation related to closed tendering?

Mr. Brian Dijkema: Yes. In fact, our work has done a survey of the various estimates that are out there. Those estimates range, as I said, from 2% to 40%. If you look at the City of Hamilton report, on the estimate of increase on one particular project, the low bid for this project was 83% higher than the city's budget. So the facts are actually quite clear. Economists suggest that reducing competition increases prices. In all of the evidence presented to us by cities and staffers, whom I presume are quite competent otherwise they wouldn't be there, nobody suggests that costs decrease because of closed bidding. In fact even the beneficiaries of closed tendering suggest that costs increase.

I've yet to hear why this is of benefit to taxpayers, why this is of benefit to governments, why this is a benefit to Canadians at all. The data shows otherwise.

Mr. Pierre Poilievre: Do you have specific data linking reduced competition to increased collusion?

Mr. Brian Dijkema: Yes, there are a number of papers. The OECD has a number of papers on that.

Mr. Pierre Poilievre: Could you share those with us?

Mr. Brian Dijkema: Yes, I can certainly find those and pass those along to you.

Mr. Pierre Poilievre: Can we get those to the analysts for their report?

The Chair: Yes.

You'll get them...?

Mr. Brian Dijkema: I'll have to go through my files, but I can pass them on.

The Chair: That's fair enough. Thank you.

Mr. Adler, you have seven minutes.

Mr. Mark Adler (York Centre, CPC): Thank you, Chair. I want to thank the witnesses for being here today.

I do have some questions for Mr. Buda initially.

In an ideal world, what is your solution to what you perceive as the underfunding of Canadian municipalities?

Mr. Michael Buda: For sure, thank you.

In fact, our submission to budget 2013 outlined what we believe is our prescription for that. The principles are pretty simple. One is that we need to improve the ability of municipalities to plan their infrastructure in the long term. The best way to do that is to actually marry the funding provided from other orders of government with that long-term interest. So increasingly, time horizons of federal infrastructure investments massively increase the predictability of those funds, which improves planning. In fact, that's what the economic action plan 2013 did. It increased the building Canada plan term from seven years to 10 years. The seven-year, which is the current building Canada plan, was also the longest term time horizon. So that alone reduces costs, increases competition, without actually increasing annual investment. It's a great value for money proposition.

Long-term funding and predictable funding are the most important ones, and then ensuring that you're balancing, as I said in my remarks, investments in infrastructure with maintaining your existing infrastructure. It's always a really difficult balance municipalities face when you're faced with fiscal constraints. On the operating side, you need to keep the water running, you need to keep the streets plowed, you have to balance your operating budget by law. If your finances are such that it becomes a challenge, you end up underinvesting in rehabilitation, which of course ends up costing you manyfold down the line. It's the adage that if you don't fix a pothole for a dollar, you can fix a major structural repair down the road for \$2,000.

In fact, economic action plan 2013 actually achieves that balance with the gas tax fund, including the index—it's been permanent—as well as the application-based funds like the building Canada fund. Then the third is, as I mentioned earlier, really being clear as to what the objectives of each order of government's investment are, and then tying reporting to those objectives so we can actually mark progress.

In fact, FCM worked with three other organizations to develop an infrastructure report card that really sought to evaluate the current condition infrastructure. Our plan is to repeat that infrastructure report card every three years so that all Canadians can see the progress that all governments are making towards improving infrastructure and then hold all of us accountable for that progress or lack thereof.

• (1635)

Mr. Mark Adler: It seems to me then that we have in essence lived up to our end of the bargain. Would you say therefore that municipalities have to share some of the blame, too? We've given the municipalities long-term funding, long-term predictable funding. There's only one taxpayer at the end of the day. Do you not agree that municipalities need to share some part of the responsibility, that perhaps they're just not spending their money as wisely as they should be?

Mr. Michael Buda: I work for them so I'm not sure I would agree with that, but for some specific reasons.

First of all, up until just a couple of years ago municipalities spent 90% of what Canada spends in municipal infrastructure in the country. The rest was coming from provincial and federal governments. Up until very recently, the federal government was a welcome but fairly minor player. That picture has changed significantly in the last two or three years, especially with budget 2013.

So the federal government's role in local infrastructure is actually quite significant now, but it's a very recent one. It comes on the heels of about 30 years of underinvestment and disinvestment by all orders of government, including municipal orders of government. So we've never suggested the municipal governments don't have.... If you want to point fingers, they definitely deserve to have fingers pointed at them. But the reality is that the problem has roots in 30 years of disinvestment by orders of government.

If, as a country, we agree this core local infrastructure is in fact a foundation of our economic growth, we can either choose to point fingers and lay blame, or work together to solve the problem. While we put the plans in place to solve that problem, we obviously have to make sure we're not creating new ones down the road, and we're holding our governments to account so that the problem doesn't recur.

We believe that's happening, but it's not a short-term solution and the investment levels that are currently being invested are making up lost ground. As our reaction in the budget showed, we think it's a really important foundation. The light at the end of the tunnel is there, but we still have a way to go.

Mr. Mark Adler: Thank you for that.

We're reversing a 30-year trend here, so we are moving in the right direction. We're reversing 30 years of neglect in a lot of instances, so we're doing the right thing.

We're interested in outcomes. In terms of getting the proper outcomes, is it not wise to perhaps look at solutions we haven't looked at in the past? One of those solutions that has been offered in some of our previous sessions, from Merit Canada and Cardus today, is that perhaps we should be looking at utilizing labour that is not

unionized, because municipalities may be getting better outcomes as a result of that.

Is that not something municipalities should be encouraged to do?

Mr. Michael Buda: Absolutely. I think the question is: how big of a problem is it? Also, is the size of that problem large enough to offset the costs of trying to solve that problem?

By Cardus' own research in the province of Ontario, which seems to have the most significant challenge in this regard, 91% of Ontario municipalities follow open tendering for those projects, and make up 70% of the population.

So is that 100%? Obviously not. What is the cost of getting to 100%?

Then, the last thing I'd say to that is, of course, it sounds like Ontario has the most significant challenges, partly as a result of provincial rules. But does it make sense for the federal government to solve a problem that appears to be more localized in one province or region? That will, as I said, have unintended consequences elsewhere, and add delay and red tape to federal programs that already have a tendency towards that.

• (1640)

Mr. Mark Adler: Mr. Dijkema, do you want to try that?

Mr. Brian Dijkema: We've done a review of the municipal budgets at stake in Ontario alone, and our estimates suggest that if the region of Waterloo—we're talking about the whole region—is subject to closed bidding, that will be almost \$942 million at stake. I think that is a big problem.

That's just in the province of Ontario. That doesn't include some of the Red River projects that are going on, the floodways, which have taken \$324 million of federal funding alone.

That \$942 million is from the cost of the projects themselves, but the federal government is investing hundreds of millions of dollars in these projects. Some Canadians are being barred from working on these projects because of their private choices, and that's simply not fair. It's not fair, and it doesn't provide good value for taxpayers' dollars.

So you have a situation where it's not fair. It's not providing any value for the taxpayer. I'm not sure why the status quo should be continued.

Mr. Mark Adler: Why is that, Mr. Buda? Why is that continuing?

Mr. Michael Buda: Well, as I said, several anecdotal examples have been raised, and I don't have the information because we're not experts in tendering.

Again, we're a national organization representing municipalities from across—

Mr. Mark Adler: The municipalities aren't getting into this reckless manner with taxpayer money.

The Chair: Go ahead and answer, Mr. Buda.

Mr. Michael Buda: I hesitate to describe it as reckless since I believe closed tendering is employed by other orders of government, including the federal government. I think there are lots of reasons for closed tendering. The City of Montreal is one example. Provincial regulations certainly play a pretty big role and were enacted in the late eighties. There are many reasons to do this. Some of the reasons are definitely no longer valid, as Mr. Dijkema suggested, and they need to be reviewed.

I'm not sure that federal regulation is the most efficient way of doing that in every case. One of Mr. Dijkema's recommendations was that the federal government work with the provinces to ensure that provincial procurement rules ensure that federal infrastructure dollars are invested as efficiently as possible. To me, it feels like a more flexible and targeted approach than a one-size-fits-all federal regulation.

I'm not suggesting that FCM is in favour of rules that are going to drive up costs. That's a leap of logic that isn't necessarily borne out by quantitative evidence, which there doesn't seem to be a lot of.

The Chair: Thank you very much.

Mr. Aubin, you have five minutes.

[Translation]

Mr. Robert Aubin (Trois-Rivières, NDP): Thank you, Mr. Chair.

Welcome, and thank you for being here with us.

My first question is for the representatives of the FCM.

For several months now, we have been hearing a comment at these committee meetings that has now become infamous: people say that the municipalities have never received so much money from the federal government. That may be true, but are these increased federal funds accompanied by new responsibilities for the municipalities? Do these new responsibilities mean that the deficit remains the same? And has the situation gotten worse, considering the amounts you have at your disposal and the work to be done? Are we really experiencing just a momentary decrease?

[English]

Mr. Michael Buda: Certainly the needs facing municipalities on infrastructure in particular have grown through things that are outside anyone's control, such as the need to adapt to a changing climate. That's a reality municipalities face. There are other things like new federal waste water regulations. Municipalities welcome any requirement to improve the quality of our natural water bodies, but at the same time they come with very significant costs: \$20 billion to \$40 billion. As I said earlier, these are new costs that are added on top of the already significant costs of 30 years of disinvestment by all orders of government.

Again, this speaks to Mr. Poilievre's point that municipalities may well be spending more on infrastructure, probably because they haven't been spending enough for the last 30 years, but probably because of significant new costs. This doesn't include non-capital costs that are increasing because of downloading from other orders of government. This could be provincial downloads, for instance housing responsibilities in some provinces or indirect federal downloads like reductions in federal policing, which require municipalities to undertake border patrols on the Great Lakes.

These costs aren't traditionally meant to be borne by property-tax-based municipalities, but nevertheless are. We believe it's those kinds of areas we're working with the federal government to solve. We're working very productively in some areas. It definitely drives up costs, and it makes it more difficult for municipalities to invest the kind of money and energy to ensure our infrastructure is there for the entire economy.

• (1645)

[Translation]

Mr. Robert Aubin: Thank you very much.

My next question is for Mr. Dijkema.

I received the Cardus study over the noon hour. Unfortunately, I did not have time to read it all. Despite that, I was struck by certain points. I would like to hear your reaction. First, I read in the document that "this paper is the first in a series of attempts to encourage broader discussion". How many will there be? When will these other analyses become available?

In addition, could you give us a brief overview of the methodology used to give as much credibility as possible to this study?

[English]

Mr. Brian Dijkema: Right.

There are a number of other studies. The closed tendering issue also affects school boards in Ontario. This one was a provincial focus on school boards. It also affects major energy producers, and so on. We are going to be looking at that. Those should be released this year.

As far as the methodology is concerned, this paper in particular was a survey of the estimates available from a variety of sources. You'll note we cited the City of Toronto study. We cited the building trades who cited the City of Toronto study. We looked at the City of Hamilton study and a number of others. None of them has shown anything but increases. That's a concern, obviously, and we have applied that.

As far as looking for the amount of funds that are subject to that, as noted in our paper, we reviewed the various budgets. I don't want to get too technical here but the labour law suggests that certain projects would fall under those closed tendering practices and certain things wouldn't. We reviewed the city budgets line by line and that's how we came up with our total.

[Translation]

Mr. Robert Aubin: From the beginning of this study, we have been hearing approximately the same figures about the costs related to competition. If there is no open tendering process, the cost increase will range from 2% to 40%. That is quite a broad range, and I have trouble making sense of it.

On page 13, you say that there is a lack of empirical data, and I quote:

But what are the *actual* cost increases, if any? Unfortunately, none of these estimates can be considered scientific and none of the calculations on which they are based—if any ever were conducted—are publicly available.

So no empirical study justifies this cost increase ranging from 2% to 40%. In my opinion, this requires a far more thorough explanation.

[English]

Mr. Brian Dijkema: We are hoping to undertake such a study. What is needed is a counterfactual, of course—and I don't want to get into scholarly debate in this.

What's key to note is that there are two things at play here. One is that the City of Hamilton estimate, which was 40%, for instance, is based on comparing the number of bids that it used to receive for a similar project and for other ones. It is thus not a perfect, counterfactual study that would gain peer review, but neither is it a study that we can just ignore, because it's the city that actually has to pay for this work at the end of the day.

The cost increase on their water treatment plant, for instance, came in 83% over budget as a result of this. The standard is not what we would like to see as a think tank, but I don't think we can ignore that. The preponderance of evidence would suggest that it's over.

The second point is that if you're looking for value, the question of justice and whether this is a question of justice for all Canadians actually matters in this case. Why is it that a taxpayer who chooses to join the CEP or another affiliated or alternative union, or who decides that he or she would prefer not to be unionized, should be disqualified? I have not yet heard a good response to that.

So there are the economic issues, and then there are the democratic issues. I think the two are married.

• (1650)

The Chair: Thank you very much.

Mr. Poilievre is next, for five minutes.

Mr. Pierre Poilievre: I'm looking at page 11 of your report, Mr. Dijkema. It says, in figure 6, that the percentage of taxpayers in restricted municipalities is 62%. Does that mean the combined population of Toronto, Hamilton, Kitchener, and Sault Ste. Marie?

Mr. Brian Dijkema: Yes. That has been updated now.

Would you like me to answer?

Mr. Pierre Poilievre: Yes, go ahead.

Mr. Brian Dijkema: If Waterloo remains open, as it currently is.... Its case is in front of the OLRB. Without Waterloo, 26% of Ontarian taxpayers—and I think that's about 11% of all Canadians, because Ontario is so populous—are subject to closed bidding. It's the 26% number there. Among all Ontario municipalities, 26% are subject to closed bidding. If Waterloo becomes subject to closed bidding, it's 28%.

It's one-quarter of Ontario's population. It's more than 10% of the country's population. That's a big chunk of taxpayers.

Mr. Pierre Poilievre: I see 38% and 62% in that figure. What do those numbers refer to?

Mr. Brian Dijkema: We surveyed 44 municipalities. We didn't survey all the municipalities, because there were too many.

Mr. Pierre Poilievre: Right.

Mr. Brian Dijkema: Out of the surveyed municipalities—out of the 44—of the total number of taxpayers surveyed, 38% were under closed bidding. If you extrapolate that number to that entire province and assume that the other municipalities are open—the smaller ones that we didn't study—then it's 26%.

Mr. Pierre Poilievre: I understand. But it could be higher, given that some of the ones you didn't survey are also closed.

Mr. Brian Dijkema: It could be. We don't know, because we don't use that—

Mr. Pierre Poilievre: It is a fairly large problem, if you take into account that we're talking about some fairly big municipalities, including Toronto and Hamilton.

Do you see future certifications in Ontario that could further ban union-free workers from competing on public projects?

Mr. Brian Dijkema: I want to repeat the point I made at the beginning. This is not a question of union versus non-union. There are other models out there, other unions that are not—

Mr. Pierre Poilievre: Right, but do you see closed tendering expanding, based on the existing rules and the trajectory of events?

Mr. Brian Dijkema: In fact it has, under our very eyes. Waterloo has recently had an application for certification. It is a problem that can potentially grow quite a bit more.

Mr. Pierre Poilievre: On the issue of downloading, I want to point out that the federal government has massively uploaded costs for municipalities. Back in the early 1990s, there was no federal funding for municipal infrastructure. It was only in 1992 or 1993, roughly, that it even began. The one-third capital contribution to projects across the country represents an enormous uploading of capital costs, an uploading that has only grown with time and has reached a record high under the last two capital infrastructure programs that the Government of Canada has implemented.

One of the reasons for our needing this study is to examine how, given that the revenue side has been addressed, we can get the cost down. One way is to expand competition.

I wonder whether either of the two groups of witnesses has suggestions for increasing competition on projects, and I mean suggestions beyond just the open versus closed tendering, and beyond long-term versus short-term funding.

Are there, for example, restrictions on cross-jurisdictional bidding that could be eliminated? Is the system allowing for parochial policies whereby one municipality won't allow bidders from another municipality in order to protect local firms? Is there something in that area that we could look at?

Mr. Brian Dijkema: It's interesting to note, and I think it should be noted, that various provincial municipal acts prevent monopolies of this sort. There was an attempt in, I think, Essex County—I'm not exactly sure—by one particular trade union that would have disqualified some of their brother or sister unions, with whom they normally work quite closely. It was an attempt to close the bidding. They were prevented from doing so because the Ontario Municipal Act prevented them from doing so. There is that.

I also want to note, though, that this is a federal issue. It's not simply a municipal or provincial issue. It's affecting big dollars in Manitoba and potentially affects big dollars on other major infrastructure projects as we try to responsibly extract our resources in this country and build the infrastructure needed to get them to market. It is a concern across the country, not simply for municipalities.

• (1655)

The Chair: Thank you.

Mr. Sullivan, you have five minutes.

Mr. Pierre Poillievre: Chair, Mr. Buda did not get a chance to address the question. Would it be possible?

The Chair: Yes, I think we can do that.

If you would, respond briefly to that.

I'm sorry, Mr. Sullivan. I'll be back to you. We won't lose any of your time.

Mr. Michael Buda: I was going to agree with Mr. Dijkema that in fact there are various provincial rules. In fact, the Agreement on Internal Trade ensures that these kinds of monopoly practices are theoretically illegal.

Because we don't become involved in this detail in municipal operations, we can't say for sure, but we certainly know that in discussions around TILMA—which is called the new west partnership now, I think—between various western provinces, and CETA, the Comprehensive Economic and Trade Agreement, these kinds of practices are already rather baked in to municipal procurement. As Mr. Dijkema pointed out, these kinds of practices are already not permitted.

The Chair: Thank you.

Mr. Sullivan.

Mr. Mike Sullivan (York South—Weston, NDP): Thank you.

This is for the folks from FCM. Part of your initial presentation was to the effect that with a \$100-million floor for P3 projects, rural and smaller municipalities generally don't ever go that high, so they don't have that problem of having to go through a P3 screen.

But you said that P3s are not generally an efficient way for them to do business anyway in the rural areas. That in turn, then, means that there's \$2 billion of federal infrastructure money that's really not available to rural and smaller municipalities.

Am I correct in that assumption?

Mr. Michael Buda: The new P3 fund is worth \$1.25 billion.

Mr. Mike Sullivan: Yes, \$1.25 billion.

Mr. Michael Buda: I mean for every rule of thumb there are exceptions.

Mr. Mike Sullivan: Generally speaking....

Mr. Michael Buda: Certainly one of the recommendations we made to the federal government and to PPP Canada was that a portion of the P3 Canada fund be set aside or dedicated to actually investing and building a municipal capacity to consider and possibly use P3s. So it's really around capacity building and part of that envelope be designed and really customized for access by rural communities who in fact do have those exceptions to the rule.

But otherwise, generally speaking, you're right. But as I said, I think the P3 fund and PPP Canada are really about experiment and looking for ways to expand the use of P3s where it makes sense. I guess that's where our position is. If it makes sense, then municipalities should be the ones making the decision because they are the ones who will be held accountable. The P3 fund can play a role in really building the capacity and resources and expertise to do that.

Mr. Mike Sullivan: Municipalities also like to employ local people. One of the things the federal government has signalled that they're going to do is attach conditions to some money that will require local training, local apprenticeships on big municipal projects. I think that will dovetail with something that municipalities—at least my municipality—has been trying to do, when unemployment is 8% and 10% and 12%, to try to use the money that's being spent to create employment in the municipality, which seems to be a good thing.

In fact, in the City of Toronto they made sure that people in Thunder Bay stayed employed by sole-sourcing with Bombardier against quite a bit of controversy, but at the end of the day they're getting a good product for a good price and the province of Ontario is keeping a whole lot of people employed.

But you mentioned CETA. I know that the City of Toronto is very worried about CETA in that it may prevent them from having these local hiring policies that would in fact force them to take their own infrastructure money and spend it somewhere else, even though it doesn't make economic sense for the city. Can you comment on that?

• (1700)

Mr. Michael Buda: FCM developed seven principles to help guide the federal government's negotiations with the European Union to ensure that the subnational procurement provisions of CETA treated municipal procurement as fairly and reasonably as possible. One of those provisions, for instance, was that there should be an allowance for exempting certain strategic or regionally important sectors from that particular rule. Indeed most provinces are forwarding to the federal government sectors that they believe are of regional significance or of strategic importance.

The reports, because all of the negotiations are secret, are that the province of Ontario would be certainly seeking to exempt its transit industry from the provisions of CETA, so our principles are designed to protect municipal accountability and responsibility for procurement in a fair and reasonable manner, understanding that freer trade will also benefit all communities as well. So we're trying to seek a balance there. Thus far the Minister of International Trade has been fairly firm that he believes our principles are in fact fair and reasonable and he intends to adhere to them.

Thus far, we're pretty happy with the progress, but of course the final agreement will tell the tale.

Mr. Mike Sullivan: I have a question for Mr. Dijkema. There are certain sectors of our economy that I as a private citizen can't get involved in even though it's publicly funded. What you're advocating, and others before you have advocated, is that if the public funds it anybody should be able to do it, essentially. But I think of things like the Supreme Court, the Court of Appeal for Ontario. Unless I'm called to the bar and spend \$200,000 to get my union ticket to be a lawyer, I can't appear there. I am barred. Do you have anything to say about that?

Mr. Brian Dijkema: Yes. That is actually not what I said, but I appreciate the question.

What I said was that those who were qualified should not be disqualified because of their private choices. Ostensibly certain companies that are otherwise qualified to do the work, and in fact, do the work a municipal line away or in a different province, or what have you, are disqualified because of the choices their workers make.

So we're not actually advocating for Brian Dijkema Inc. who has two guys who have never plumbed before to set up the water treatment plant. But what I'm saying is that if you're a qualified contractor, if your workers are qualified to do the work, you should not be disqualified because of the choice that your workers make.

The Chair: Thank you, Mr. Sullivan.

Mr. Watson, you have five minutes.

Mr. Jeff Watson (Essex, CPC): Thank you, Mr. Chair.

Thank you to our witnesses for appearing today on what I think is an important study on how we can ensure or how competition can make infrastructure dollars go further. Obviously various levels of government deal with the reality that resources, being tax revenues, are not unlimited. Taxpayers expect value for the hard-earned money they pay out in taxes, whether it's property tax or provincial or federal income tax. I think this is a valuable study for us to be undertaking.

Mr. Buda, if I fairly summarize your position, you've been critical of any requirement in a federal-provincial agreement on infrastructure that would stipulate there must be open tendering, if you will, for infrastructure projects. You've said that such a requirement would increase costs on municipalities by an undefined amount. Do you have any sense of what it costs municipalities in Nova Scotia, for example, to comply with that? I understand that the Canada-Nova Scotia agreement in effect since 2007 stipulates, "The contract award process will be competitive, fair and transparent". That rules out not only sole-source contracts but union-only processes.

Do you have a sense of what it costs municipalities there?

● (1705)

Mr. Michael Buda: No, I don't.

I wouldn't characterize my analysis as critical. I think I'd counsel caution that a one-size-fits-all national approach to this might end up costing everyone more money instead of maximizing benefits. So a province-by-province approach is certainly something we would advocate, primarily because procurement regulation and oversight falls within provincial jurisdiction.

I think the example you bring up in Nova Scotia is a perfect example of our understanding. It was the province alongside the federal government that was mainly interested in using this agreement to continue its own efforts to do exactly what it was doing. So a province-by-province, territory-by-territory approach is going to allow the kind of flexibility and context sensitivity to ensure that the new regulations are as streamlined as possible.

All I'm counselling is caution that a one-size-fits-all regulation at the national level might end up costing more than it needs to.

Mr. Jeff Watson: But you have no idea what it would cost. I'm not sure it's fair to suggest that it's going to increase costs without being able to demonstrate that it does increase costs. You've made the point I think, in contrast to Mr. Dijkema, that maybe his numbers are wrong where you've taken issue with some of his numbers. But at least he's come to the table with something that represents a range of potential increased costs relative to closed competition. I don't think it's fair to come to the committee and suggest that it will increase costs to make this a core element of how we negotiate infrastructure agreements.

Mr. Michael Buda: But I certainly expect Infrastructure Canada to be able to demonstrate that the cost of complying with any regulation, not just this one, outweighs the benefits that regulation will bring. That's all I'm suggesting.

Mr. Jeff Watson: You said it was overkill. That's pretty strong language, Mr. Buda. I would expect you to back that up with some numbers.

Mr. Michael Buda: I'm counselling caution so that doesn't end up being the case. But some of the approval processes for federal application-based funding programs can reach three or four years. That is a very real cost to capital. Every day that public funds sit in Ottawa, rather than being invested in economically productive infrastructure, produces an opportunity cost.

But you're right, I certainly don't have empirical evidence other than to point to the \$6 billion in reprofiled money, in part because of extensive approval processes.

Mr. Jeff Watson: I'm merely pointing out you used the word "overkill" today, not me.

Mr. Dijkema, in your report to the committee, were this to become a core part of the negotiating strategy for the federal government with respect to the provinces, in Ontario, for example, that processes be open and fair and to insist on that as a condition of an infrastructure agreement, what percentage of municipalities would have to worry about whether or not they're captured under such a new system, if you will, of open competition?

Mr. Brian Dijkema: Thanks very much for that question.

I would say this transcends issues of municipal politics as well. I'd like to just note that again, there are major energy and other infrastructure projects that the federal government funds—

Mr. Jeff Watson: I'm focusing on municipalities because your report focuses on municipalities, so—

Mr. Brian Dijkema: Absolutely, and I'm just repeating my point. In terms of a percentage, what percentage of municipalities would be affected? It's a very small percentage of municipalities if you're looking just in terms of the number.

Mr. Jeff Watson: About 91%, I think, according to you, say that they don't have to worry at all about this because they're already open competition.

Mr. Brian Dijkema: Fair enough. But as I noted earlier if Waterloo goes forward, that's 28% of Ontario taxpayers so—

Mr. Jeff Watson: But it is only four municipalities—

The Chair: You're actually well out of time, if we can just let him finish.

Mr. Brian Dijkema: You're right, it's only four municipalities, but Toronto, Hamilton, Sault Ste. Marie, and the region of Waterloo are very populous municipalities. They're also centres of industrial and other economic action and therefore very strategic and important.

• (1710)

The Chair: Thank you.

We'll now move to Ms. Chow for five minutes.

Ms. Olivia Chow: Can I go back to where we left off, Mr. Buda?

On the gas tax funding formula, you prefer a gas tax partially because it's predictable, long term, and it's direct. You don't have to get bogged down with all the red tape, the application forms, and the administrative trivia. The problem with some of the P3 screenings and the rest is that there are rural municipalities that feel if there's a block grant, often they get left out in the cold.

In your next round of negotiations, are you looking to pull a block of money to protect it so that the rural municipalities would have some form of assurance that their projects would be accepted, especially the water treatment programs that they so desperately need? Is that an area that FCM is focusing on?

Mr. Michael Buda: For sure. Our submission to Mr. Lebel, as part of his consultations into a long-term infrastructure plan, called for essentially a renewal or continuation of the existing small communities component of the building Canada fund, which essentially is a dedicated envelope of funds within the larger

building Canada fund. It's a program that's designed specifically for access by smaller communities.

There are two important aspects to that. One is that small communities know that there's a dedicated envelope, so they know roughly how much money they think they can access. Second, and just as important, the programs have been designed with their needs in mind, so it's not a one-size-fits-all.

An application process that the City of Toronto can carry out is obviously going to be well in excess of what a small community can manage, so the program has actually been designed with much more streamlined application processes. They actually provide technical support in the form of federal and provincial officials to help municipalities carry out the application process, the reporting, and all the rest. So we would certainly advocate for a continuation of that kind of envelope.

Ms. Olivia Chow: On affordable housing, for example—which doesn't quite fit into the infrastructure funds, and FCM has been pushing the importance of building affordable housing—perhaps you can take the opportunity to describe where you think that should land. For awhile, a few years back, municipalities were pushing to have affordable housing as part of the infrastructure block funding. Is that no longer the case?

Where are things at in terms of affordable housing?

Mr. Michael Buda: You're certainly right that at the local level many municipalities consider housing—especially publicly owned housing—as a form of infrastructure because indeed it is. It's a very large capital cost, especially for Ontario municipalities. But when it comes to translating municipal needs into the federal structure, we came to realize that it wasn't a great fit, primarily because the federal government delivers funding for housing and housing-related programs through CMHC and HRSDC, and funds for all other types of publicly owned infrastructure through Infrastructure Canada.

We suspected that trying to conflate the two would either lead to confusion or in fact it would lead to underinvestment, likely in both areas, because you'd end up with a confusing mix of objectives and a program that's run by one department or the other. So we really separated the two.

I think in some ways for administrative efficiency in terms of being able to interact with each department according to what its accountabilities are...but the needs are the same. Our position on the federal role in supporting municipal infrastructure or municipal housing needs are the same, but we're looking at the two different departments separately.

Ms. Olivia Chow: Have you heard from the department, Infrastructure Canada, that the funding that is rolling forward in 2014 and 2015—because it's really from within an existing program.... As you said, much of the existing funding has been dedicated, has been committed. It's being spent. It just hasn't rolled out yet, because the receipts are just coming in.

Has there been an indication whether there is sufficient funding, or of what funding is left for application purposes? If the small municipalities are very confused with all these big numbers, what precisely are you folks telling them about what is available for them—I'm not talking about 2016—for 2014 and 2015?

The community infrastructure funds of \$150 million are done; that's over. What is available for 2014 and 2015?

• (1715)

Mr. Michael Buda: The building Canada fund I think allocates \$200 million in 2014, if I'm not mistaken. But that only speaks to the amount of money that Ottawa would expect to send out of Ottawa in the form of a cheque.

We believe that this is a vast overstatement of what will actually occur, and that very little will be spent in the first year. Even though our target would be that around \$1 billion of projects would be approved in that first year—or more—it will take years for the receipts to actually make their way back to Ottawa.

What we're telling our members is that we believe the new building Canada fund is in fact increasing existing investment levels above the current building Canada plan, which of course is good news, and that the line item in the budget is really reflective more of Ottawa's accounting practices than of the objectives of the department.

As I said earlier, the investment plan by Infrastructure Canada will have to be.... We'll soon be advocating for a more transparent approach to their plans for how quickly they plan to invest each dollar. That means not looking at the cheques leaving Ottawa, but looking at how much they'll approve in projects each year, which is different.

Right now, we're telling our members that it should be full steam ahead, according to the past practices.

The Chair: Thank you.

Mr. Holder, you have five minutes.

Mr. Ed Holder (London West, CPC): Thank you, Chair.

I'd like to thank our guests for being here today.

It's rather interesting that I heard Mr. Sullivan ask some questions supporting our Canada jobs act, which was announced in the budget. He was so positive about it that I'm actually looking forward to the official opposition supporting the budget, going forward.

Some hon. members: Oh, oh!

Mr. Mike Sullivan: It's too bad there are so many bad things in it.

Mr. Ed Holder: When he broached the issue of CETA to you, Mr. Buda, I was impressed that you said you're pretty happy with the progress of the dialogue relating to CETA that has gone on between our trade team and the provinces it is communicating with.

You made another comment that I thought was interesting. You talked about the unprecedented level of federal support. If you think about it, it really is true. Under this government, we made permanent the gas tax, we have doubled it, and now we've indexed it to the cost of living. I think those are reliable funds that municipalities can look

forward to. So I appreciate your vote of confidence, but I'd like some clarification, if I may have it.

Mr. Thompson, you seem lonely over there. I'd like to bring you into the discussion, if I can.

We have heard in discussion here a lot of talk about the issue of union shops and non-union shops, from the standpoint of bargaining or being able to compete for work. We heard that there may or may not be a financial difference. Mr. Dijkema made it clear that he felt there was. Mr. Buda expressed caution.

Mr. Thompson, even if there were not one cent of financial difference between a union shop and a non-union shop, assuming that the skill levels were the same—and I think that's what we heard Mr. Dijkema say—on what grounds could you justify the FCM's taking the position that we discriminate against non-union workers?

I'm trying to understand the moral imperative there. I'm trying to ask the question: how could we imagine that we could say to folks, just because they don't belong to a union, they don't have the right to work? Can you help me understand that, please?

Mr. Adam Thompson (Senior Analyst, Policy and Research, Federation of Canadian Municipalities): Sure. As my colleague Mr. Buda said, municipalities are in the business of already providing the best value for tax dollars, and that comes with a predictable stream of investments that you can bank on and plan on.

From what we've heard from the members we've consulted with, the discussions at the council table rarely involve moral imperatives. Most of the time, municipalities are fully consumed with their primary business model, which is how to provide infrastructure to both create jobs and enable the private sector to flourish within their community.

• (1720)

Mr. Ed Holder: Mr. Thompson, I'm sorry to interrupt you. Do you not believe that there's a moral obligation that the FCM must take up to give every worker the right to work in Canada, regardless of their union or non-union status, as long as they're qualified?

What's your view?

Mr. Adam Thompson: Well, certainly the work FCM does in Ottawa is about enabling and facilitating our members in their work. Decisions about the best case at the local level we reserve for discussions around the council table. In that sense, with that frame, we rarely get into presenting moral imperatives to our members.

Mr. Ed Holder: It's just the right thing to do.

Mr. Buda, you can chip in here. If someone has a view on doing the right thing.... Now, maybe I'm wrong, but it strikes me that whether I'm a union worker—and I have belonged to unions in the past in my part-time jobs as a kid growing up. When I worked full-time I did not work in a union environment. By the way, these are good, decent people whether they work in a union or don't work in a union; I don't particularly care.

But do you have a personal view? You already said earlier that your bosses are who they are, and I get that. Let's forget even the personal view. At what point do you—or do municipalities, more fairly—have the right to say to a person, even if they're legally allowed to do so through their provincial regulations, and I understand that as well, that just because of their union or non-union status that person does not have the right to work with you?

You'll notice that I haven't touched on any financial issues here. I'm just talking about the decent and right thing to do.

Let's even forget the words “moral imperative”. Those are big words. Let's just talk about the right thing to do, and tell me why you as a senior policy adviser to FCM wouldn't come back and say to these folks, “Sometimes we just have to do the right thing”?

Help me get that part, because I just don't.

Mr. Michael Buda: Personally, I think that in an ideal world what you're suggesting should apply. I think the real world is incredibly complicated, and politics in fact is really deciding among a series of greys, not black and white.

I'll give you a very specific example. Obviously a portion of the municipal workforce, especially on the operational side, is unionized. That's just the way it is and has been—just as it is, in fact, at the federal government level. There are certainly cases in which collective bargaining agreements that have been negotiated with the municipal union have been negotiated with the understanding that some of their outsourced contracts are going to include closed tendering.

So hypothetically, if that were the case and you used it as a negotiating tactic to reduce the cost of your contract terms with the bargaining units of your operating unions, and the savings outweighed any potential increase in costs of your outsourced work, might that not be a trade-off that a politician sitting around a council table would have to take an interest in?

Mr. Ed Holder: Sir, maybe a bureaucrat with FCM finally has to say that we need to look at things in black and white, that it is not shades of grey and sometimes it is just the right thing to do, and let's be measured by doing the right thing.

I would hope, going forward, that when you're giving advice to your people, you would say that ultimately, we sometimes just have to do the right thing.

Thank you, Chair.

The Chair: Thank you.

Mr. Watson, you have the last question.

Mr. Jeff Watson: How to follow Mr. Holder...

Mr. Dijkema, let me just pick up where I left off before.

Were an agreement between Canada and Ontario for the next generation of building Canada programs to include the requirement that contracting be open for infrastructure projects, we already established in your report that 91% of Ontario municipalities wouldn't have to be concerned about such a procedure. They already have open tendering.

Four municipalities in your study, you say, representing a quarter of the population of the province of Ontario, are subject to labour monopolies. You identified that three-quarters of a billion dollars of infrastructure funding is subject to these restrictions currently.

Did I read your report correctly? The estimated inflation that your organization has identified on that three-quarters of a billion dollars is about \$83 million. Is that the number? I read that in one of the charts there.

Is that what you're saying?

• (1725)

Mr. Brian Dijkema: The number—if we're including Waterloo and let's presume that is the case—is actually \$942 million in Ontario alone. It doesn't include, for instance, any funds that have gone into energy infrastructure in Ontario, which is also subject to closed bidding but on which we haven't done the fine work that we've done at the municipal level. It doesn't include Manitoba, as well, and there are hundreds of millions there. So if we're looking at that number, the range that we've suggested is anywhere from 2% to 40%. So on \$941 million, that's anywhere from about \$4 million to \$78 million of savings.

Mr. Jeff Watson: In figure 11, what does the \$83-million figure attributed to Cardus mean?

Mr. Brian Dijkema: That is the percentage.... I'm just going to refer back to my paper for a minute.

Mr. Jeff Watson: It's on page 12, figure 11.

Mr. Brian Dijkema: That's 10% of the initial study, which was \$747 million.

Mr. Jeff Watson: The inflation would be higher than that.

Mr. Brian Dijkema: Right.

Mr. Jeff Watson: Okay.

That number, if it's higher than that, would purchase the entire capital plan for the City of Belleville, Ontario. If my numbers serve me correct, I think that's a value that the taxpayers should be concerned about.

We've had witnesses here who've testified that U.S. studies show that closed tendering increases the inflation, if you will, to taxpayers 12% to 18%. The Greater Essex County District School Board, after religiously tracking purchase order invoices for a period of three years for one of the six unions that used to be part of the monopoly there, said 10% to 20%. So these numbers are not insignificant when you're looking at value for money.

Is closed competition troublesome because it removes the possibility of a low bid coming in that keeps the pack honest? How would you characterize the inflation in terms of the mechanics of the process?

Mr. Brian Dijkema: As I noted in my initial presentation, there are really three factors at play when you open bidding up to competition. One is that, as the bidders increase, you have an incentive to try to beat your competitor. As there are more competitors, you are less able to anticipate the behaviour of somebody else. If you're regularly competing against the same two players, for instance, in the local environment, you may know that they're busy right now and aren't going to be able to handle it. So you're going to read their behaviour and bid slightly higher and deal with that accordingly.

But there are also times in the construction world where companies are what they call hungry. They want to keep their workforce employed because they know they have work two years down the road and they'll take a haircut on their profit to win. That's the second one. Then the third reason, of course, is that it does have the tendency to reduce collusion.

Mr. Jeff Watson: The collusion factor, that relates directly to the predictability of knowing the players in the bidding pool?

Mr. Brian Dijkema: There are a variety of reasons for collusion. Infrastructure is big dollars. It's a major source of revenue for construction companies, so there are a variety of reasons for collusion. Sometimes there are unsavoury elements at play. Other times it's if you scratch my back, I'll scratch yours.

Mr. Jeff Watson: Just for folks who are watching, and with respect to Ontario, for example, how does a municipality become a construction employer? It seems a little strange.

Mr. Brian Dijkema: Right. This a matter of provincial legislation, this particular issue. But the way in which the construction labour relations legal regime was set up, it was set up in the seventies to anticipate certain types of unions and certain types of relationships, and it was modified slightly later again. But as I've said, it's outdated. There's a lag between the policy and the reality on the ground. The reality on the ground is that there are a variety of labour players in the spectrum. The reality is that the policy does not recognize that.

• (1730)

Mr. Jeff Watson: So tendering is not anti-union?

Mr. Brian Dijkema: Not at all.

Mr. Jeff Watson: Very good.

Thank you.

The Chair: Thank you very much.

Mr. Dijkema, Mr. Thompson, and Mr. Buda, thank you very for being here and for participating in our study. It is very much appreciated.

The meeting is adjourned.

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