

TILMA's Impact on Construction

The Trade Investment and Labour Mobility Agreement was signed between the governments of BC and Alberta and went into force April 1st 2007. It is an agreement designed to remove trade barriers between BC and Alberta for goods, capital and labour.

Through a two year process of negotiation (the implementation period) barriers must be reconciled and removed by April 1st 2009. If the negotiation process has not been successful these barriers will be struck down by each government unilaterally. Following the implementation period any perceived barriers can be challenged before a review panel jointly appointed by each government. The review panel has no power to change regulations but it does have the ability to lay large punitive fines to force regulatory change.

One year into the process we felt it would be appropriate to take another look at TILMA.

Recently the BCCA Human Resources Planning Committee commissioned a report to describe the impact of TILMA on the BC Construction Sector. While there is a lively public debate on the intent of TILMA and the ramifications for the public sphere in BC and Alberta the report focuses on impacts of TILMA, now that the Agreement has been proclaimed, on the Construction Sector in British Columbia. While impacts are possibly similar in the Alberta Construction Sector, this report does not explore those im-

pacts in any detail. The following is a brief overview of the report. The full report can be viewed on the BCCA website under 'reports' at www.bccassn.com/reports.html.

Initial indications suggest that a number of areas of relevance to the BC construction industry will not see significant changes as a result of TILMA. These include building codes, Homeowner Protection Office regulations, procurement processes and taxation. However, two areas that will require significant reconciliation with Alberta and that will impact the construction industry are worker certification standards and safety regulations.

While the Investment articles of the Agreement may or may not have a broad effect on the Province as a whole, the area of the agreement treating employer certification and the mobility will have an immediate impact on worker certification standards and safety regulations which are founded on specific worker qualifications.

Two approaches could be taken to reconcile regulations and occupational standards:

1. **Harmonization** - in which regulations and certification standards are made the same in both Provinces. Likely this would be accomplished across a range of regulations and standards at one time.
2. **Mutual Recognition** - in which

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the technical standards and content of each certification and regulation are compared on a case by case basis. Differences are noted and preserved so long as the basic regulatory or certification standard is maintained for each Province. An example is: If you receive your Millwright Ticket in BC, Alberta would recognise your qualification as equivalent to their Construction Millwright Ticket so that you would be able to work as freely in Alberta as if you had the Alberta Qualification.

The TILMA language seems to create a space for this latter approach. No specific mutual recognition protocol is identified in TILMA and in practice so far in BC industry bodies have provided their own leadership in partnership with regulatory agencies to engage in discussion with their counterparts in Alberta. This discussion – two examples are reviewed in the report – involves a careful comparison of the technical standards underlying each regulation or occupational standard under comparison. The end result is likely to be memoranda of understanding between all relevant

parties to enable mutual recognition of standards which may well still have somewhat different content.

Thus it appears a space is created by TILMA during the two year implementation phase of the agreement for those stakeholders most affected by TILMA in the Construction industry to play the most active role in the process to reconcile BC and Alberta regulatory and occupational standards. This process will hinge on careful review of technical standards, will be time consuming and could be costly to any organization which steps up to lead reconciliation on behalf BC industry of each specific regulatory and occupational standard impacting Construction.

Though costly in time the reconciliation effort will certainly have an impact as no Government organization is mandated to engage in this process with stakeholders. The process may in fact result in better articulated, more ‘stakeholder responsive’ regulatory and occupational standards for the Construction Sector in BC.

NEW CCA & CCDC Documents

Standard Document development is always ongoing however a few noteworthy introductions to newer documents that CCA and CCDC are seeking industry feedback on are:

- CCDC 5A Construction Management Contract Between Owner and Construction Manager as Agent. This document is intended to, in time, replace CCA 5 (5B, the At Risk Contract, will be issued at a later date).
- CCDC 14 Design Build Stipulated Price Contract is intended to eventually replace Document 14 which was endorsed only by CCA, CSC and RAIC.
- A CCA Guide to Calling Bids and Awarding Subcontracts. A Guide to replace the appropriate fundamentals for subcontracts that are absent since the CCA 29 Guide on Standard Contracting and Bidding Procedures has been replaced by CCDC 23 (2005) A Guide to Calling Bids and Awarding Contracts.
- A CCA Joint Venture Guide to assist with developing successful joint venture relationships.

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The mission of the BCCA is to provide leadership and excellence in the representation of and service to British Columbia's construction industry