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Commercial Construction and OC

BUILDING A **SAFE** AND **RESILIENT CANADA**

The economic and regulatory environment in which the Canadian commercial construction sector operates is at moderate to high risk of corruption and organized criminal activity.

This report is based on a literature review, interviews and a descriptive analysis of economic data from the commercial construction sector in British Columbia and Quebec. The authors state the lack of prosecutions in the Canadian court system demonstrating direct involvement of organized crime in the Canadian commercial construction sector makes it difficult to assess their prevalence in the sector. While the presence of organized criminal groups in the sector remains unknown, however, based upon an analysis of the broader political, economic and regulatory environment, the authors conclude that the commercial construction sector is at a moderate to high risk of corruption and organized criminal activity.

The study asserts that the vulnerability of the commercial construction sector is based upon a number of factors. For example, tighter competition in the sector since the 2008 recession could potentially increase the opportunities for activities such as collusive bidding or other illegal practices. The fragmented state of regulation, which is split between different levels of governmental authority, also creates risks of organized criminal activity. More broadly, the nature of large-scale commercial construction projects, and their exposure to numerous risks such as poor weather, labour market fluctuations, and supply chain risks, contributes to vulnerabilities from both unscrupulous industry insiders and external criminal organizations.

The Canadian construction sector plays a key role in the overall economy. In May 2010, the sector's contribution to Canada's gross domestic product was approximately C$ 71 billion (5.7 per cent). The influx of the federal government's C$ 40 billion infrastructure stimulus fund assisted with construction sector activities during the economic downturn. Additional stimulus is being provided from infrastructure investments by provincial and municipal governments.

In 2010, more than 480,250 people were employed in non-residential construction trades. Industry Canada estimated that, in 2009, about 99.6 per cent of construction companies had fewer than 100 employees. The majority of firms (59.8 per cent) qualified as micro-businesses with fewer than five employees, small firms with 5 to 99 employees accounted for 39.2 per cent of construction sector businesses, and just one per cent of firms had more than 100 employees. The majority of businesses (54.2 per cent) hire contract workers rather than employees. The small size of many firms, and the competitiveness of the market overall, may also create opportunities for organized criminal activity where small firms are vulnerable to any disruptions which may negatively affect their operations or work schedules.

Although the Canadian Commission on Building and Fire Codes, established by the National Research Council of Canada, is responsible for the development of national model codes for Canada, responsibility for construction regulations in Canada resides with the provinces and territories. The provinces establish regulations – building, fire, plumbing, and electrical codes – while their enforcement is the responsibility of the local authorities. In addition to building codes, the provinces regulate the health and safety regulations, wages and labour practices, benefits, conditions of work, licensing and employment of workers, and the roles of tradespeople and professionals of the sector.

Generally speaking, there are no limitations on companies that can become involved in the commercial construction sector. While in some provinces, and for some trades, individuals must hold a professional or trade certification or designation, or be registered as an apprentice to work, this is not always the case. While this lowers the barriers to entry for new firms, lack of regulation of market participants can also create opportunities for infiltration by organized crime. For example, it is possible that a new firm may enter the market, either as a general or sub-contractor, for the primary purposes of laundering capital gained through illicit activities. High initial start-up costs, such as for heavy equipment, may offer opportunities for money laundering. It is important to note, however, that the commercial construction sector is not alone in being susceptible to these vulnerabilities.

The authors identify a number of factors contributing to the vulnerability of the construction sector to organized criminal groups, with complexity being the common thread linking these factors. Large commercial construction projects are complex in almost every aspect. Multiple phases of large projects, for example, require the control and coordination of very large and diversified workforces, as well as the maintenance of supply chains from multiple suppliers. Each phase is thus exposed to numerous risks, which may come from a disruption to the supply of needed materials, labour problems, or other factors. This can make such projects vulnerable to those who can gain control over these processes by criminal means such as extortion.

The complexity of projects also makes the understanding of cost overruns more difficult. As each major project in commercial construction is frequently a ‘one-off’, gauging the accuracy of the estimated costs of any project becomes very difficult, and opens up the possibility of fraudulent activity. This is compounded by a current low level of expertise within the public sector in the area of acquisitions in the real estate and construction sectors.

The authors also contend that, due to this lack of expertise combined with the unique nature of many commercial construction projects, the procurement phase of such projects can be particularly vulnerable to organized criminal influence. This influence may be exercised on those in positions to award contracts through such means as bribery, intimidation or extortion, but may also take the form of cartel-like collusive bidding among firms without the knowledge of public authorities.

While the authors found numerous examples of potential vulnerabilities in the commercial construction sector in the two jurisdictions examined (Montreal and Vancouver), there was no indication that these vulnerabilities have been exploited by criminal organizations. The authors attribute this finding to both the limitations in available data, as well as the lack of prosecutions of members of criminal organizations in this sector of the economy.

Gabor, T., Kiedrowski, J., Hicks, D., Levi, M., Goldstock, R., Melchers, R., and Stregger, E. (2011) *Economic Sectors Vulnerable to Organized Crime: Commercial Construction.* Ottawa, ON: Public Safety Canada.

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