POOR BUILDING PERFORMANCE BLAMED ON TENDER PROCESS



South Africa's ineffective tender process could be the major contributor to increasing complaints regarding the ability of contractors and Professional Service Providers (PSPs) employed on 'government projects' to deliver good quality buildings on time and within budget.

According to Bert van den Heever, president of the Association of SA Quantity Surveyors (ASAQS), the inability of a contractor or PSP to perform professionally can have wide repercussions. "Apart from contractors or sub-contractors, it also negatively impacts on the client's perception of his or her consulting team's performance when the final redress for bad performance and termination of the contract is the inevitable result."

He questions whether the professionals can be held accountable if the process is flawed. "In South Africa, the Preferential Procurement Policy Framework Act (PPPFA), only allows the measurement of two criteria in awarding tenders for government projects: price, as the dominant dimension and then preference. In my opinion, many of the problems that arise during the construction phase could be avoided if tenders were awarded using weighted criteria which, along with price and preference, also factored in relevant experience, past performance, technical skills, management skills and resources and the methodology to be used. Here methodology refers to the procedures or innovative methods the tenderer proposes to use to achieve the specified end results."

Van den Heever cites the example of the Rainbow Civils court case, in which Rainbow Civils took the government to court to apply for the review and setting aside of the award of a government tender. The court held that it is a constitutional imperative under section 217(1) of the SA Constitution, particularly the cost-effectiveness principle that functionality be taken into account in deciding which bid should be awarded the contract. In this regard, the court reasoned: "It is self-evident that it is not cost effective to award a tender to a party who ticks the right boxes as regards price and preference; but is unable to get the job done properly - whether through lack of experience, inadequate personnel or financial resources."

"The court in this case expressed a strong preference for use of functionality, or in other words, quality, as an award criterion. Professor Geo Quinot of the Department of Public Law at Stellenbosch University, in his article on 'The Role of Quality in the Adjudication of Public Tenders' concluded that 'the precise role of quality, expressed as functionality, in public procurement adjudication in South African public procurement regulation, remains unclear'.

Van den Heever adds: "And this is one of the root causes of the procurement problems Quantity Surveyors face in this country. We believe that the time has come for the Association of SA Quantity Surveyors, in collaboration with other willing role players in the building industry, to call for the public tender adjudication process to be improved and to place more emphasis on quality and proof of relevant experience and competence, than on price and preference."

Charl Venter, President of Master Builders Association North, says he agrees with the comments of ASAQS.

"Government should realise that quality will always be questionable when awarding contracts to the lowest tender, without properly assessing the expertise of the party awarded the contract."

He says, "When such a contractor fails to perform, the tender tends to be simply awarded to another - whose credentials were also not checked properly. And so the process continues: we hear of many projects where contractors had to be replaced more than twice. The alarming fact is that all these failures push up the cost of a project - and ultimately the taxpayer has to carry the burden for a tender policy that urgently needs revision. There is also no guarantee on the quality of structures that were completed by contractors selected purely on price and preference." ■