Government tender process to blame for poor building performances

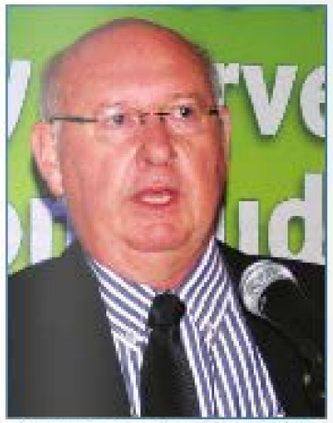
Bert van den Heever, president of the Association of SA Quantity Surveyors (ASAQS), contends that South Africa's ineffective tender process could primarily be contributing to the rising number of complaints regarding the inability of contractors and professional service providers (PSP) employed on 'government projects' to deliver good quality buildings on time and within budget.



Construction site, image courtesy of MBA North.

Van den Heever says the inability of a contractor or PSP to perform professionally can have far-reaching repercussions that could spread to all members of the building industry involved in a failed project. "Apart from contractors or subcontractors, it also negatively impacts on the client's perception of his or her consulting team's performance when the final redress for bad performance, the termination of the contract, is the inevitable result," he says.

"But is the contractor or PSP solely to blame? Can he or she be held accountable if the selection 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," van den Heever continues.



Bert van den Heever, president of ASAQS. "The tender process should place more emphasis on quality, and proof of experience and competence," he has urged.

"In my opinion, many of the problems that arise during the construction phase could be avoided if tenders were to be awarded using weighted criteria that, 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," he explains.

"In the Rainbows Civils court case, in which Rainbows 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, adequate personnel or financial resources."*

"The High Court in this case expressed a strong preference for use of functionality, or in other words, quality, as an award criterion," van den Heever observes. "Prof Geo Quinot of the Department of Public Law at Stellenbosch University, in his article titled 'The Role of Quality in the Adjudication of Public Tenders' published in the Potchefstroom Electronic Law Journal, explored the quandary that the quantity surveying industry finds itself in. He 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: "This, I argue, is one of the root causes of the procurement problems quantity surveyors face in this country. I believe the time has come for ASAQS, in collaboration with other willing role players in the building industry, to call for the public tender adjudication process to be improved – to place more emphasis on quality and proof of relevant experience and competence, than mainly on price and preference as matters now stand."

Charl Venter, president of Master Builders Association North, says he completely agrees with the comments of ASAQS. "The government should realize that quality will always be questionable when awarding contracts to the lowest tender without properly assessing the expertise of the party awarded the contract. When such a contractor fails to perform, the tender tends to simply be awarded to another – whose credentials were also not properly checked. And so the process continues. We hear of many projects where contractors had to be replaced more than twice," Venter remarks.

"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," he cautions.

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