The Star
TENDERS

Tender process should insist on quality

SOUTH Africa's ineffective tender process could be the major contributor to the 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, asserts Bert van den Heever, president of the Association of SA Quantity Surveyors.

Van den Heever says the inability of a contractor or PSP to perform professionally can have wide repercussions, and filter right through to all members of the building industry involved in a failed project.

Apart from contractors or subcontractors, it also impacts negatively 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.

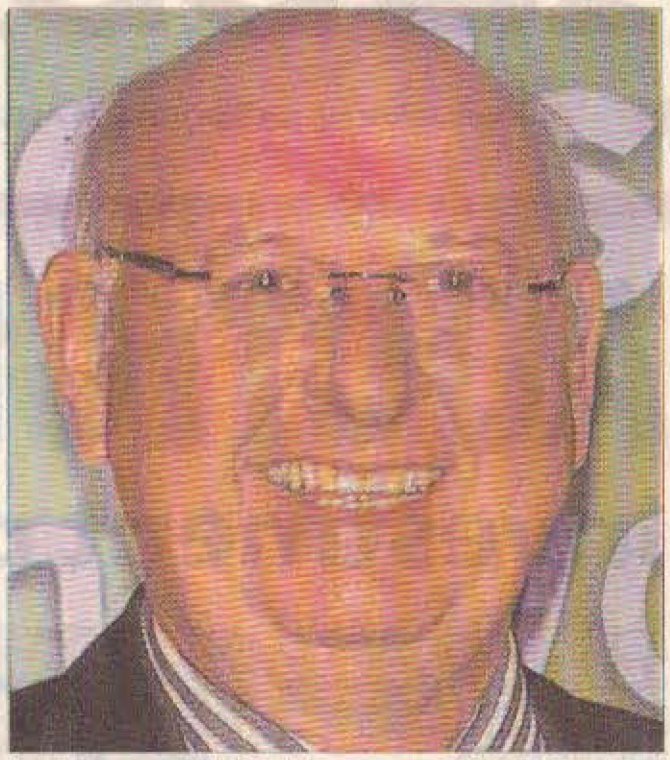
"But is the contractor or PSP solely to blame? Can he or she be held accountable if the selection process is flawed? In South Africa, the Preferential Procurement Policy Framework Act allows the measurement of only two criteria in awarding tenders for government projects: price, as the dominant dimension, and then preference.

"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," Van den Heever says. "Here methodology refers to the procedures or innovative methods the tenderer proposes to use to achieve the specified end-results.

"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 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. "Professor 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 and 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, 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 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 to place more emphasis on quality and proof of relevant experience and competence, than mainly on price and preference as matters now stand."



Bert van den Heever, president of the ASAQS, says the tender process is worthless if the contractor fulfils price and preference requirements but can't do the job.