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## ADVERTORIAL

### Advertorial issued by CGF Research Institute and Sentigol

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#### PROCUREMENT: CARVING THE TENDER ROT

After hearing President Jacob Zuma's State of the Nation 2014 Address, many people have agreed that "South Africa is a better place for all to live in", since the dark days of apartheid was dismantled in 1994. But, President Zuma also stated that a lot more work must be done to uplift the millions of South Africans who still live in abject poverty, and in completely undesirable conditions. He also spent some time discussing the rampant corruption in South Africa, and that this scourge would need to be dealt with decisively in the new administration. Of course, President Zuma discussed -- and rightly so -- the matter of corruption and its devastating effects on the nation as a whole. Expectedly there is a direct link to these issues. If corruption in South Africa (at its current magnitude) is left unchecked, millions of people will continue to suffer and the country's democracy will be threatened. Needless to say, South Africa's ratings have dropped 22 places in the *Corruption Perceptions Index*, and an estimated R30 billion is being lost annually by South African taxpayers due to graft, incompetence and negligence in the public service. In addition, the recent World Economic Forum (WEF) Report, called the *Global Competitiveness Index 2012-2013*, ranks South Africa 52<sup>nd</sup> out of 144 countries vis-à-vis our global competitiveness. At international levels, South Africa has dropped a further two places from the previous WEF survey – which measures amongst other indices, South Africa's institutions, policies and other factors that determines the level of productivity of a country. Interestingly, Kazakhstan is rated one level above South Africa and stands at 51<sup>st</sup> position.

Considering some of the enormous challenges that face South Africa, and notwithstanding the many accusations of collusion, tender rigging, bribery and corruption, one does have to question why these practices still continue. In fact, tender rigging and the associated crime syndicates could be halted in their tracks if the correct leadership and political will was in place. The irony of course is that sometimes it is quite unnecessary to write legislation to curb (or halt) some of these business malpractices. In the case of irregular tender practices, it is possible that computerised software could entirely eliminate the "sticky fingers" involved with directing tenders to certain politically connected cadres, who continue to win tenders in spite of their poor credentials and delivery. Clearly, existing legislation such as the Prevention and Combating of Corrupt Activities Act, 12 of 2004 would then deal with the results flowing from the fraudulent activities and information discovered through the intelligence of such software.

#### Using tenders for maximum value

The intention of issuing tenders to the business community is to, primarily, find the best value for money and to ensure that the requirements of the person issuing the tender is met as closely as possible by the service provider. In many instances, price may not always be the determining factor that clinches the deal. However, any process where there are financial gains involved, will eventually come under some form of pressure (or manipulation) from the potential suppliers bidding for the work. In some cases, suppliers may bid very aggressively on their pricing, whilst others may collude and fix their pricing in order to oust any potential or unwanted competition. As such, all around the world stories of tender manipulation appear in the media with devastating results upon the credibility of the parties involved;



reputational damage to brand and many more negative consequences usually also follow. For those in charge of procurement systems (both in an audit capacity and in the decision making process) the question companies must be asking themselves is: how best must the company act to ensure the tender process produces the best decisions, and that these decisions to choose one supplier over another is free from undue influence?

A further dimension to this question is how early can (must) the company act? If an irregular decision is discovered in audit, or after the decision has resulted in action, monies have usually already been spent. Monies spent may be impossible to recover, especially when they go into salaries or construction.

Depending on how late an irregularity in the tender process is discovered, reversing the decision may be too costly and the incorrect decision is followed to its conclusion, with promises that “this will not happen again”. Surely, if the first interests of the decision making were in fact made for the company, then the emphasis must be on making the right decision the first time round. This would be the correct way of fulfilling the fiduciary responsibilities owed to the company, and proper governance.

### **European Union (EU) report on public procurement irregularities in EU countries**

In order to find evidence regarding tender corruption (which is not anecdotal) the EU recently published a report in conjunction with PricewaterhouseCoopers and Ecorys pertaining to a lengthy study which estimates the costs of corruption in the EU. The report was intended to help identify, and suggest measures to reduce corruption in public spending in the EU. See ([http://ec.europa.eu/anti\\_fraud/documents/anti-fraud-policy/research-and-studies/identifying\\_reducing\\_corruption\\_in\\_public\\_procurement\\_en.pdf](http://ec.europa.eu/anti_fraud/documents/anti-fraud-policy/research-and-studies/identifying_reducing_corruption_in_public_procurement_en.pdf))

Some of the conclusions made in the report were surprising. Given the resources available to the EU in administration, one might think that corruption in the EU was low. Instead, the report indicated that the cost associated with corruption in the tender process is as high as eighteen percent (i.e. for every €100 spent, one would only receive €82 in value). In some sectors, the probability of corruption is estimated to be as high as fifty three percent (i.e. for every 100 tenders, 53 are unduly influenced in some manner or form). Corruption is reported to be present in all the EU countries. Interestingly, the definition of corruption in these figures is “*the abuse of power for personal gain*”. Considering the EU’s findings, it is quite likely that South Africa’s performance may be worse than those found in the EU.

### **Universal indicators of corruption in tender processes**

Among the findings of the EU report are ‘indicators of corruption’ which include the following:

- **Strong inertia in the composition of the evaluation team:** i.e. the evaluation team responsible for evaluating the bid must be completely independent and rotated regularly.
- **Conflict of interest for members of the evaluation team:** i.e. have the members of the evaluation team declared any forms of potential conflicts of interest and is there a process to support this?
- **Multiple contact points:** i.e. the flow of information to bidders must be consistent and transparent, with a single point of contact.
- **Contact office or person not subordinated to the tender provider:** i.e. the inclusion of ‘middlemen’ must be eliminated in the tender process and all forms of ‘fronting’ must be avoided.
- **Preferred supplier indications:** i.e. a supplier may have unique products, as well as being a historically reliable supplier who offers additional services over and above competitors and so on. However, on investigation, the products may prove not to be unique, where historical records can be



slanted and the value added services may not add as much value as projected.

- **Shortened time span for bid process:** i.e. some prices must be sourced from overseas and this may delay pricing quotations and the bid. If multiple bidders complain about, or withdraw from the bidding process because of short time windows to produce a bid, questions need to be asked.
- **Tender is very large:** i.e. in countries where tender corruption is low, it is the big contracts that attract undue influence. The larger the reward, the more bidders may be willing to risk.
- **Few bidders:** i.e. when there are few bidders, the opportunity arises to divide the market up amongst those involved and they collude on price.
- **Bids accepted after closing time:** i.e. bids must not be accepted after the closing date.
- **Artificial bids:** i.e. phony companies submit bids to fill out the numbers and make the process seem competitive.
- **Complaints from non-winners:** i.e. there must be full disclosure and transparency on the decision making process and bidders who lose should receive feedback in order to improve their future bids.
- **Changes in the scope of tenders:** i.e. there must be consistent communication and fairness to all bidders, including proper notification regarding any changes which are associated with the tender and the tendering process.
- **All bids are higher than expected cost:** i.e. a group of bidders will collude to agree who should win the work. The winning bid is then loaded with whatever extra is needed to guarantee participation of the other bidders. The other bidders who are involved in this scheme then purposefully over-price their own bids knowing that their bid will be declined.
- **Inconsistencies in reports:** i.e. this should be a red flag for any audit. There may be valid reasons for inconsistencies, but these reasons need to be found and shown to be valid.

The volume of tenders, or even the detail of the tender documents often means that the fine detail cannot be investigated by senior management in every case. Knowing about the red flags, helps to identify which projects need additional attention and where to look for indications of malfeasance.

The EU report also makes recommendations on how to combat corruption. One of the key solutions is to implement *Self Monitoring Analysis and Reporting Technology* (or SMART) systems. Interestingly, Tendersure is one of three systems outside of the EU and which is recommended by the report, and the only solution from Africa.

### **What Tendersure offers**

Tendersure removes much of the drudgery in compiling an early window into the relative merits of the tender bids. By presenting a comparative report with high visibility early in the tender evaluation process, it becomes more difficult to force a decision and provides early indicators, useful for flagging unusual decisions later in the process.

As mentioned earlier, the volume of tenders and the associated documentation makes it time consuming for senior management to follow the fine detail in the tender. But with the early visibility offered by Tendersure, an audit committee can red flag and investigate poor decisions before any irreversible commitments are made.

Acting as an autonomous third party, Tendersure has no vested interest in the outcome of the tender and no ability to influence the decision. Tendersure provides recommendations from the data submitted by bidders, which serves as a departure point for further evaluation. When decisions deviate marginally (or radically) from recommendations, the reasons for the deviation should be scrutinised.



Tendersure was designed with many of the corruption indicators in mind and has processes aimed at preventing the corruption indicators mentioned in the EU report. Tendersure includes a vetting process that can assist in the defeat of artificial bids. The Tendersure evaluation report lists *who was invited, who placed the bid, what information they submitted* and keeps archives of all the information, independent of the evaluation committee. The Tendersure feedback process to bidders can be used to highlight bidder concerns about the tender before the closing date. Bidders are part of the process and help police the process through reports sent to them when the process concludes. These reports provide confirmation that bidders have been evaluated on the information they provided, and not an edited version of their data.

In addition to the corruption combating features of Tendersure, the product makes the entire process far more efficient with automation of scoring and grading, leading to savings in time and money. This product is Proudly South African and has been recognised as a Technology Top 100 Finalist 2011, 2012 and 2013 as well as the prestigious International Supply Chain Awards.

Tendersure has processed 5,678 tenders to date, with a combined value of several billion rand. Clients include Vukile Property Fund, Sanlam Properties, JHI, Broll, UNDP, PG Group, Mediclinic and Sun International. Tenders range through every conceivable industry; from the supply of office equipment and medical supplies, to construction, maintenance and professional services.

## **ENDS**

**Words: 1,987**

More information regarding CGF can be found at [www.cgf.co.za](http://www.cgf.co.za)

More information regarding Sentigol can be found at [www.tendersure.co.za](http://www.tendersure.co.za)

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