

THE SOUTH AFRICAN VALUER



The real price of competitive bidding for general valuation projects

Talking MPRA

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cover story

THE REAL PRICE OF COMPETITIVE BIDDING FOR GENERAL VALUATION PROJECTS

Janet Channing, a well-known professional valuer in the municipal rating space, presented a controversial paper at the Northern Branch MPRA Seminar held in December 2013. Janet cautioned that the content of the presentation would prompt debate and it certainly did.

As municipal valuers we have an ethical commitment to our profession and an obligation to deliver a quality product and service to our clients. We all subscribe to a professional code of conduct through our professional registration. We also live in Africa where corporate governance, especially in the public sector, is riddled with fraud and corruption. Locality is, however, not an adequate justification for unprofessional behaviour. The Registrar of the SA Council for the Property Valuers Profession has raised concerns regarding allegations of certain valuation firms 'gifting' municipal officials to influence procurement processes. The Council has indicated that it intends to raise this issue with the Department of Cooperative Governance (DCoG). Janet's presentation highlighted good and bad practices prevalent within general valuation projects and made a strong case for professional collaboration towards raising the standards of the service which we deliver to our clients.

The Local Government: Municipal Property Rates Act, No 6 of 2004 (MPRA), and its subsequent amendments and regulations, is a complex piece of legislation. As we move into the second cycle of general valuations (GV) under the MPRA, we must recognise a more sophisticated approach from ourselves as the valuer profession as well as our clients, being local municipalities and their ratepayer constituencies. The GV process starts with the bid specifications. A poorly drafted 'cut and paste' bid specification will inevitably lead to a wide price spread. Each bidder will interpret the scope differently.

The first MPRA general valuations were costly affairs. Subsequent general valuations ought to have diminishing costs. These projects should use the municipality's existing property attribute data, building on the accuracy and integrity of these data sets. The focus should be on verification and gap filling. All the prop-

erty data collected and captured by the municipal valuer belongs to the municipality. The resistance of certain municipal valuers to hand over property data which they have been paid to collect is unprofessional conduct. Municipalities must take ownership of the property data and these must be accessible to them. Municipalities are in the customers' faces. While it is common practice, municipalities should not be dependent on externally appointed municipal valuers to respond to queries about the details of a particular property.

Another fundamental issue is poor procurement planning by municipalities. Delayed supply chain management (SCM) procedures impact negatively on the ability of service providers, however competent, to deliver quality valuation rolls. In most municipalities bid evaluation and bid adjudication processes take between 90 and 120 days. Objections to the recommended award are the norm rather than the exception, adding further time delays to the project start dates.

We are all familiar with the 90:10 (bids over R1 million in value) and 80:20 (bids under R1 million in value) points split reflected in the Preferential Procurement Framework legislation. There are various court judgments supporting that price is the ultimate determinant for award. The inception of the two-envelope system for GV projects is a mechanism to protect municipalities. This approach secures adequately capacitated service providers with solid track records and experience. A prescribed threshold, say 75 points, for the functionality evaluation sorts the 'men from the boys', eliminates the chancers and 'fly-by-nights'.

The second 'pricing' envelope should only be opened for bidders who meet the functionality threshold and then it is back to price. Bidders are cautioned that all administrative compliance requirements should be included in the functionality envelope. These include original tax clearance certificates. Colour photocopies are not good enough, so don't take that chance because SCM departments are wise to this practice and your bid will be invalidated. If the bid requires qualification certificates to be certified, make sure that you don't slip up on these details. Attention to

detail is critical, read the question, ensure that company principals, rather than junior staff, take responsibility for the final bid assembly.

More and more municipalities are requesting details of previous contracts and contactable referrals. They talk, they network, so don't misrepresent the facts as they will catch you out. Ensure that your professional registration certificates are valid. If the bid calls for proof of technical qualifications for the nominated project manager, include this documentation. Municipal valuers should also guard against over-commitment; a small team can only handle so much. Overextension and exposure is a concern for our clients, especially the smaller municipalities.

There is an increasing focus by municipalities on skills transfer. This is traditionally a difficult section of the GV project scope as there are usually extremely tight project time frames. The municipal officials to whom we must transfer skills and competencies are not working for our companies and may lack the necessary commitment to acquire these skills. My recommendation is to target the training content to focus on areas within the maintenance cycle. Consider aspects of the maintenance operation which will enhance your performance as the municipal valuer, through preparation of the subsequent supplementary rolls.

Another emerging bid submission favourite is the demonstration of the use of local resources. Most general valuation project bids call for proof of commitment to local spend. This is not limited to the use of local data collectors but should include office rentals, staff accommodation, use of local service providers and suppliers. Janet cautioned against robust statements regarding the recruitment of local data collectors, especially at council meetings. This is an inflammatory issue and may explode in a direction which you may not be able to accommodate. Another area of bid scope to be wary of is the public communication required in terms of both the Municipal Systems Act and the MPRA. Ratepayers are not overly fond of consultants. Municipal valuers should provide technical support to the road shows and information sessions, which ought to be fronted by senior municipal officials and political appointees, preferably the honourable mayors. Public sector SCM processes with regard to bid awards are clear. All bidders must be informed in writing of the recommended award and provided with a period within which to lodge an objection. Mere publication on the municipal website is not compliant. Lodging objections costs money and raises the risk of 'objecting' service providers being labelled by the municipalities. The Council of Professional Engineers has initiated a 'war chest' or fund and the professional body takes control to manage and finance valid objections on behalf of the objector. This may be an avenue which we, as professional valuers, should consider.

Section 45 of the MPRA, provides for "generally recognised valuation practices, methods and standards and the provisions of the MPRA", to guide the valuation methodology selected by

municipal valuers. There are currently no mass appraisal standards to adjudicate what is a good or poor valuation roll. There has been limited disciplinary action by the statutory professional council. The SACPVV has received various complaints from municipalities, but no prosecutions have followed so far. The MPRA and the subsequent Amendment Bill excludes any provision on how to treat municipal valuers who are negligent in their duties. Clearly this is an aspect which must be policed by the Council. I recommend that, as a profession, we develop a transparent 'tool kit' to adjudicate the roll deliverables of our profession to local municipalities.

Roll review is a critical phase of the general valuation project scope. Please plan adequate time for roll review with the municipality. This initial internal draft value sample should check the properties owned by councillors, municipal officials, high-end and low-end properties. If possible, municipalities should broaden this sampling review to include local property practitioners and representatives of the respective ratepayers associations and chambers of business. The point of this exercise is to limit the exposure of the municipalities to the expense of objections, both administratively and through fees per objection review payable to the municipal valuer. Another consideration is the budgetary implications for municipalities through objection reviews, as a property in the roll at R36 million, which is reduced to R4 million on review, is a cause for revenue concern.

How long should the objection phase take? The MPRA says 'promptly'. Well promptly has a different time frame for 65 000 objections than it does for 15. These time frames must be negotiated between the municipal valuer and the municipality at the close of the objection submission period. Some municipalities now include the cost of objection reviews within the fixed valuation price. This practice will certainly curb the pervading valuer practice of using the objection phase to 'clean up' the general valuation roll and for the municipality to pay for this privilege.

Moving on to appeals, the MPRA requires that any objection review in excess of 10%, either up or down, must be reviewed by the valuation appeal board. This is in addition to the applications appealing the decision of the municipal valuer's objection review. Convening a valuation appeal board is a costly exercise for municipalities. I am often asked what recourse a ratepayer has after the provisions of the MPRA have been exhausted. There is always the conventional legal recourse. Rates Watch recently represented Bairos Property Holdings against the Ekurhuleni Metro where the municipality was found to have unfairly enriched itself at the expense of the ratepayer because of a mistake made by their municipal valuer. Who pays? The municipality.

In closing, I will focus on the cost of the general valuation projects. Professional valuers generally have a high level of integrity, we pride ourselves on our work and the services we provide to our clients. Given the time frames for the delivery of certified

general valuation rolls, ie 31 January, it is often our team and their families who forfeit Christmas and other festivities to get the job done. If municipalities persist in putting out poorly drafted bid specifications through poor planning and poor management, they will continue to pick up the tab for this bad practice. General valuation projects are lengthy partnerships between ourselves as the valuation service providers and our municipal clients. I recommend that we invest in these relationships through genuine consultation and participation.

The MPRA is primarily about property rates and revenue for local government. Municipalities are reliant on our profession to provide credible, complete and equitable valuation rolls from which to platform their rates revenue. It is our responsibility to collaborate and step up to this task in a manner which elevates our profession.



By Janet Channing, MD of MetGovis

Property valuation objection outcomes: City of Johannesburg 2013 GV (May 2013)

The City of Joburg has started to release notices telling property owners what the outcome of the May 2013 property valuation (and classification) objections are. There are about 85 000 notices that are due to be released. They will be released in batches, between now and the end of April.

Because the COJ lodged 64 000 objections to its own roll, property owners may be affected by these outcome notifications, even if they did not lodge an objection themselves (this would be the case where the COJ lodged its own objection to the valuation on its own roll, for the property concerned).

Many of the objections are being rejected. This has severe financial implications for clients who will be compelled to pay rates for the next four years based on inflated property valuations. Property owners have only a short time period from receipt of the notice (which may arrive many days late, by post, thereby limiting the owner's response time substantially) to lodge an appeal if they are unhappy with the property valuation.

If they miss the window period to lodge an appeal, there is little that they can do otherwise (outside of a different process called a section 78 enquiry) to have their valuation adjusted, for the next four years. Although it is hypothetically possible to apply for and receive condonation for the late filing of an appeal, this is a lengthy and time-consuming process, which may require a client to bring an application to the High Court (which is very costly). Property owners are thus advised to lodge within the prescribed time periods. All appeals must be properly motivated, with the necessary supporting documentation, failing which, they too will be rejected.

By Chantelle Gladwin, partner Schindlers Attorneys, Conveyancers & Notaries: gladwin@schindlers.co.za