Article issued by CGF Research Institute

DATE: 30 March 2009

Bottlenecks caused through fear of the MFMA

No business in the world can operate in a vacuum - there have to be buyers and sellers within a market where there is a desire to trade. Understandably, for trade to occur there must be some sort of infrastructure that can facilitate such trade, including willingness and trust between the interacting parties.

If business and its trade is based upon willing buyers and sellers who are able to trade within a conducive environment, more obstacles seem to be blocking municipal government officials from much needed support from willing and able companies, in a bid to assist local government develop and improve service delivery and infrastructural development.

This situation has been caused as a direct result of the tightly worded provisions of the Municipal Finance Management Act, No.56 of 2003, and instituted by National Treasury. Municipal government officials, in many instances, have become paranoid over any possible accusation of “fruitless expenditure”, that they rather not engage the transaction. Ironically, even where the potential transaction is attractive, the decision to engage takes an inordinate amount of time. This fear-based mentality stymies entrepreneurial thinking, common logic, good business judgments and well-qualified risk taking which directly impacts the services delivery, its supply chain and ultimately the tax paying citizens of our country.

Admittedly, governance clamp-down against corrupt and incompetent officials is critical, however attempting to do so through the MFMA - which is meant to facilitate building and improving infrastructure and service delivery - may be too much ‘policing’ within one piece of legislation. (The MFMA is the only act which directly addresses the much needed service delivery and infrastructural development at local government level.)

Because of the onerous provisions found within the MFMA, private and public companies find it almost impossible to conclude Public Private Partnerships (PPP) with local governments to deliver services and assist local government fulfill their service delivery and infrastructure obligations. Most PPP proposals die a natural death. This is largely due to the general reluctance of municipal officials to embrace and apply the onerous provisions found within the MFMA, including the procedures and detailed feasibility studies of PPP proposals which must be followed.

South African municipalities have, during the last decade or more, been subjected to an extensive transformation process that has impacted every aspect of the business of local government. Supporting the transformation process, new local government legislation was promulgated and which must be read in conjunction with other Acts, namely:

- Municipal Demarcation Act, 1998 (Act 27 of 1998)
- Municipal Structures Act, 1998 (Act 117 of 1998)
- Municipal Systems Act, 2000 (Act 32 of 2000)
- Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA)
- Municipal Property Rates Act, 2004 (Act 6 of 2004)

For more information regarding the corporate governance services offered by CGF Research Institute, call 011 476 8264 / 1 / 0 or access our website on www.cgf.co.za or email tbooysen@cgf.co.za

ENDS, WORDS: 489