

## Smart Procurement World COVID-19 SMME Survival Tips

As the reality of a new business landscape starts to take hold, SMMEs are faced with adapting to and coping with the accompanying economic challenges. Smart Procurement, organisers of the annual Smart Procurement World regional conferences and Enterprise & Supplier Development (ESD) Expos, spoke to a number of industry players about some suggestions for coping during lockdown and in the subsequent post-COVID-19 environment.

Hugo du Rand – CPO at Afrimat – told Debbie Tagg, COO of Smart Procurement, that now is the time for SMME teams to start brainstorming and focusing on possible viable projects they could embark on once the lockdown is lifted and the economy starts to recover. “It’s a good idea to look at how things can be done differently in your business and to quantify this by putting it in writing. We know that SMMEs look to what big businesses are doing to achieve sustainability in the future. Our first goal is to ensure the health and safety of our employees returning to work.

“You should also be considering who your future clients could be and looking to your current clients to see what they are currently doing and how they foresee their future relationship with you. Don’t be caught on the back foot – stay in touch with your customers. It’s really important in these unprecedented times to be patient, be flexible and have the ability to adapt quickly – the lockdown will not go on indefinitely.”

Vusani Gurrine, Regional Procurement Manager for BP Southern Africa, says that the company had already implemented pre-lockdown crisis planning to mitigate the effects of the physical lockdown. “This was a natural evolution for us, given our obvious risk status, which involves having a comprehensive crisis management plan in place. What we needed to achieve as our primary goal, was business continuity in the face of adversity.

“We assessed our existing strategies then made some adjustments in line with the current pandemic and its negative effect on the economy. To ensure sustainability it was necessary to ensure that all of the players in our supply chain were able to maintain the same capacity as previously to continue providing an essential service. We also had to ensure that we had the financial capacity to continue paying these suppliers in a timeous manner. Wherever possible, we have avoided implementing *force majeure* as we believe this can be counter-productive. What we have done is find a balance between early payments and staying fluid,” he adds.

Gurrine says that there has often been an over-reliance on ‘three bids and a buy’ in the procurement sector but there is a large possibility that some people may now use this an opportunity to ‘squeeze’ others on pricing. “The problem here is that these bad practices could cause SMMEs to face closure and liquidation in the future. So how do we ensure that businesses remain profitable and that payment terms are maintained? I believe that many businesses have realised the value of having a stable supply chain and we have put in place ongoing conversations with all our stakeholders to drive this philosophy.”

Gurrine advises SMMEs to embrace this fundamental shift and how they do business by adapting to the new world with flexibility and out-of-the-box thinking. “Perhaps consider the removal of the middle-man syndrome wherever possible and put your energy into providing those products that were sourced overseas pre-lockdown. Don’t just take the easy route – find ways to capture market opportunities and fill the much needed local manufacturing gap.”

### **Force majeure and SMMEs**

Joshua Kadish, an attorney at Fluxmans Attorneys, says that while *force majeure* is generally not enforced in contracts, the current COVID-19 climate has led us all into uncharted waters. Not actually defined in the South Africa legal system, *force majeure* is generally considered to be an act of nature or man that usually cannot be foreseen and is beyond the reasonable objective control of either or both of the parties to the contract to perform their obligations in the contract.

“If *force majeure* is enforced, the general rule is that once the ‘crisis’ affecting the contract has passed, then the terms of contract will once again come into play. Only where the time period is unreasonably long would cancellation of the contract be considered. With regard to commercial rental contracts, the terms would be entirely dependent on each individual case. One needs to remember that although a company may not be physically occupying premises with human resources, there is a high likelihood that its other assets and goods will be stored on the premises and it is therefore reasonable for the landlord to request a storage and security fee,” says Kadish.

“As with rental contracts, it is advisable to speak to your legal counsel about payment to other creditors and to find an amicable solution to ensure that neither your rights nor your creditor’s rights are infringed. Be careful not to admit to liquidity problems in writing as this could give rise to the ‘Act of Insolvency’ which could trigger unwanted remedies,” Kadish explains.