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Topic

Public Private Partnership for Service
Delivery in South Africa

By

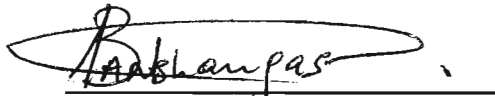
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Declaration

I Bheka. Alson Ntshangase, Reg. No. 9509228 declares that, Public Private Partnership is my work.


Mr. B. A. Ntshangase

Acknowledgment

I wish to thank god for the strength he gave me to complete this work. A special thank will also go to my supervisor Prof. M Wallis for his dedication and support he gave me.

I wish to thank my family for love, support and encouragement they gave me. First and foremost I want to thank my parents for giving me the opportunity to study at tertiary institution. Mr. and Mrs. Ntshangase you mean a lot to me. I thank you. I then wish to thank all members of my family for everything you have done for me.

I think it is the greatest opportunity that, I want to thank my wife (Zinwezinhle Bajabulile) for support and encouragement she gave me. In all difficulties she was supporting me and assisting me. Ngiyabonga. Zama you are facing a challenge of doing better than me in what ever you want to do in life. Take this candle and run with it and use it in times of darkness.

I thank you all.

Abbreviations

ASD- Alternative Service Delivery

BOOT- Build-Own Operate Transfer

BOT- Build-Operate Transfer

DBSA- Development Bank of Southern Africa

DoSE- Department of State Expenditure

DPW- Department of Public Works

PPP- Public Private Partnership

MSP- Municipal Service Partnerships

NGO- Non Governmental Organizations

CBO- Community Based Organizations

RDP- Reconstruction and Development Programme

KWANOLOGA- KwaZulu Natal Local Government Association

NBI- National Business Initiative

NLRF- National Labour Forum

NBC- National Bargaining Council

NIIF- National Infrastructure Investment Framework

MIIU- Municipal Infrastructure Investment Unit

LED- Local Economic Development

PIMSS- Planning Implementation Management Support System

IDP- Integrated Development Plan

MSA- Municipal System Act

SEEG- “Societe d’ Exploitation de l’ Eau de Guinee”

SONEG- “Societe National de l’ Eau et Gestion”

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CHAPTER ONE

1. JUSTIFICATION OF STUDY

1.1 INTRODUCTION

The concept of Public Private Partnership (PPP) needs to be researched because government is trying to involve the private sector in service delivery. One suitable way to eliminate the problems in this process is for research to be conducted and for its findings to be implemented. The historical background of South Africa was a better one and that is why radical policy changes are required. There are many legacies such as poverty and unemployment that require serious attention. Furthermore, South Africans were divided according to racial lines, which resulted in inequity in terms of service delivery. In particular, favourable treatment was given to the white community.

The democratic government of South Africa has realized that it will not be able to render a service alone that is why the private sector has been involved. Due to the pressure that government faces together with limited or scarce resources, it became a government policy to out-source its activities. This process is aiming at improving the quality of services and enables the previously deprived groups to receive better services. This can include shelter, clean water, electricity, health care and other vital services for those communities. In the post-democratic era some of the

infrastructure was destroyed in areas like townships, KwaMashu, Soweto, Esikhawini. Whilst in the case of rural areas very little was there in the first place.

Research on PPP's needs to identify whether the process is working or not. This research aims at identifying the feelings of affected workers in relation to the introduction of PPP's in their departments. The PPP process is part of the transformation process of the public sector and automatically it creates uncertainty for employees. In this case this is a human problem, and people are resistant to change. There is fear as a result of changing what they know best for something new.

1.1.2 WHAT ARE PPP's?

This is an Alternative Service Delivery (ASD) that government has taken into account. Alternative service delivery is a new concept in the public service. The Institute for Public Administration of Canada in its 1997 study, ASD, (Sharing Governance in Canada) gave much consideration to defining ASD in the government context. ASD is a creative and dynamic process of public sector restructuring that improves the delivery of services to clients (Ontario Public Sector: 1999:03). This is about the re-thinking the role of government in direct service delivery and looking at other options for better service delivering programmes and services. This encompasses a wide range of activities, arrangements and funding options involving the broader public sector, the private sector and not-for-profit

organizations (Topical Supplement, issue Number 3, September 1997). The primary goal of ASD is to improve service delivery to clients, sharing responsibilities for service delivery functions between government and private organizations.

Although this can sound as a new concept it is also crucial to understand that, for a number of years a number of organizations have used it to encourage service delivery. For example,

- Corporations that contract out the management and provision of food services in the cafeteria of a large office building.
- Commercial property development of a corporate office complex to a property management firm.
- An automobile manufacturer that uses outside suppliers to design and assemble car components such as seats or steering wheels.
- A small textile business that has its payroll services administration by a large payroll processing company that specializes in such services.
- A group of community child cares centres that pool their funds to hire an external bookkeeper to do all their accounting on a standardized system.

ASD is not just the latest management tool for cost reductions. Many organizations have gone through a number of methodologies to improve services, cut cost and streamline process. Most organizations are familiar with such management terms in Total Quality Managing, bench marking; activity based Costing, downsizing, delaying, business process re-engineering, and business processes.

Before giving details it is vital to know why PPP's have been introduced and what it means. This is a forged relationship between the government and the business sector.

This relationship is aimed at achieving some goals set by government, to provide better services to all. This is a goal-oriented relationship. According to the PPP Annual Review in May (1999:01) this type of partnership has demonstrated that it can be successful.

In 1997 to 98 almost 800 councillors and officials countrywide were exposed to presentation, capacity building training courses aimed at identifying the success and benefit of such partnerships. As the population grows, more pressure is put on local government to provide adequate services for everyone. Nevertheless local authorities in this country are having a severe backlog of insufficient skills and huge debts. This type of partnership endeavors to enable government to render services to all. This will also reduce the burden on the side of government.

This section will give an overview of all chapters that are covered in this piece of work. Firstly, it will deal with the aims and objectives of the Public Private Partnerships for service delivery in South Africa. This is not an easy task for a person to judge this partnership needs to be given time.

1.3 (A) CHAPTER TWO (Different types of PPP's)

Chapter two deals with a historical background, introducing the South African situation before and after 1994 national elections. It is important to identify and to know the past before attempting to solve present problems.

Before the 1994 national elections local authorities were divided according to racial lines. There were so called "White, Coloured and Indian" Local Authorities and Black Local authorities. (Reddy 1996: 39).

That division in the service rendering process in this country brought a serious lack of infrastructure. Chapter two is dealing with the infrastructure backlog in South Africa and it identifies the reasons for that backlog.

1.3 (B) CHAPTER THREE (Planning and procurement in the public sector)

Chapter three is dealing with MSP policies. These policies serve as the structure to be followed in the formation of MSPs. It also deals with the MSP procurement process. In this case the company (service provider) must be examined before the tender is given to that company or organization.

The feasibility of the organization performing adequately must be checked. The financial status of the organization must also be evaluated.

MSP planning is one of the issues that need to be taken into account. This planning is important in the sense that it provides a clear way forward to the parties involved. Planning gives priority to services that are more urgent than other services. Planning for MSP provides the time frame for the project and it assumes the budget required for the service.

The PPP's also overlaps partnerships with community organizations and non-governmental organizations. It is also important to identify the relationship between these organizations and to see whether it works for the people.

1.3 (C) CHAPTER FOUR (Capacity Building for MSP)

Chapter four deals with Municipal Service Partnerships from the viewpoint of capacity building. This part evaluates the feasibility of the Municipal Service Partnerships. It must be clear that partnerships between these sectors are for a certain purpose, not partnership for the sake of it. This relationship can last as long as the sectors are happy with the terms of their agreement.

The duration of this relationship depends on the nature of the agreement signed between the parties.

There are different types of agreements that can be signed under the PPP's. For example there are leases, concessions, management contracts and full privatization. This chapter also deals with the ways and means that can be taken into consideration to encourage private sector involvement in service delivery. In this case the private sector must understand its role clearly.

There must be a clear division of job and responsibilities between the parties. The general principles that guide PPP's need to be stated clearly and all parties must agree to them. These general principles will help in times of conflict.

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The PPP's also overlaps with partnerships with Community organizations and Non-governmental organizations. It is also important to identify the relationship between these organizations and to see whether it works for the people.

1.3 (D) CHAPTER FIVE (Data Analysis)

Chapter five is data analysis. Information from organizations that have implemented the PPP is presented, as well as the views of the employees. For example the research has been conducted in Dolphin Coast and Nelspruit. These two areas have been selected because there are the once who firstly implemented PPPs.

1.3 (E) CHAPTER SIX

Chapter six compares PPP in different countries. The purpose is to identify all the experiences of PPPs and to obtain lessons for South Africa. In this comparison the background of the samples will be taken into cognizance. Finally the research will find a problem and must make some recommendations that will solve the problem. This is the stage where the research will be evaluated either to see whether it achieved its goal and prove or disapprove the hypothesis.

1.3 (F) CHAPTER SEVEN (Recommendations and Conclusion)

The last section is chapter seven with recommendations and conclusion. This is where then researcher is coming with possible resolution to all problems identified above. These recommendations can be applied if necessary.

1.4 AIMS AND OBJECTIVES

The study is aimed at identifying the role that PPP's can play in service delivery in South Africa. It is important to understand that the private sector is aimed at making profits. This is a statement of fact but in this case one needs to evaluate this statement in relation to service delivery. There are many uncertainties in the community about the introduction of the private sector to service delivery. For example, employees think of job losses while households think about an increase in the cost of services. This study looks at whether all these threats can be real if the private organization is introduced. It is important to look at this relationship with a very critical mind.

The aim of PPPs is to improve the level of service rendered to the majority who were previously disadvantaged. When one looks at this aim of the PPP's and look at the economic condition of South Africa, thousands of people have lost their jobs. This economic condition will accelerate the problem of non-payment of services. This is the serious problem in South Africa. Before the 1994 elections people in townships were not paying for services. That resulted in huge debts to local authorities. Most South Africans citizens still have the culture of non-payment of services.

It must be clear that South Africans engaged in this kind of boycott because they were not happy with the services rendered to them. Besides the dissatisfaction that they had, they were on a defiance campaign. Most people of South Africa were unhappy with the structure of ethnic classification, gender segregation and racial groupings. Before the 1994 first democratic elections Africans were not part of government, and that meant that their needs were not addressed.

Democratic government took over and must see to it that this defiance kind of thinking changes. After the democratic election people had to change their thinking and have a sense of belonging. They must pay for services they are receiving. Nevertheless it is not an over-night issue to change people's minds, behavior and attitude. It was government responsibility to spread this change among the people. Government has formed the Masakhane campaign to encourage people to pay for services.

Democratic government has tried to encourage people to pay for services. The former President Nelson Mandela launched the Masakhane campaign. The Masakhane campaign encourages people to pay for services. Local authorities will never be able to sustain service delivery if people are not paying for services. People need to understand that it is a two-way stream. Government must render services and people must pay for it.

The study is aiming at obtaining lessons of PPPs from other countries like USA, United Kingdom, New Zealand, Japan, Australia, Tanzania and other countries. But at the same time as South Africans gets relevant lessons all these different countries and must be studied, the best alternatives must be given more attention and must be practiced.

1.5 RESEARCH DESIGN

Chapter seven is the data collection and analysis. The open ended and close-ended questions have been used to collect analysis. The researcher was interested to conduct a qualitative kind of a research but due to financial limitations the researcher was not able to do it. The way to get information for this project was structured questionnaires. These questions have been directed to both employees and employers. In this case the main objective is to collect sufficient information on both sides.

The data collected has been analyzed so that it reflect to a true relation to the way people view the Public Private Partnerships. The research sample is divided into three categories. The first are the managers in the public sector, secondly the employees of the public sector and finally the general public. This sample has been selected to get different views from different constituencies of the public. The samples have been selected from two different provinces. KwaZulu/Natal and

Mpumalanga is the main samples for the project. KZN Richards Bay and Durban were used to collect data for PPP's. The number of samples in Richards Bay is 5 officials, 15 employees and 25 community members. In the case of Durban 10 officials, 30 employees and 50 community members were interviewed. This makes a total of 135 people in KZN.

In Mpumalanga, Nelspruit was used as the most crucial sample due to the fact that there is an apparently great success on concession. In the case of Mpumalanga 10 officials in Nelspruit, 20 employees and 35 community members were interviewed. This makes a total of 60 interviewees. The sum of all interviewees is 200.

1.5.1 METHODS

It is very crucial to identify research methods. There are different methods that can be used to conduct research.

All these methods will help to make a research a successful one. Different methods are used to collect information. Each and every method has its own advantages and disadvantages. The first two to be considered here are qualitative and quantitative methods of a research.

There are also three types of questions to collecting data: structured, semi-structured and unstructured.

In the structured data collection method a new questionnaire is usually drawn up for each particular investigation in order to obtain the information that is required.

The list of questions is drawn up made to guide the both the interviewer and interviewee in terms of information required. In this case the researcher usually visits the respondent at his or her home or work station.

There are also advantages than need to highlighted:

- (a) **Personal contact:** this is the most positive factor of personal interviewing. It is probably the interaction process between the researcher and the respondent.
- (b) **Use of visual material:** display cards sketches and other aids can be used to facilitate the interview and enhance the validity and reliability of responses.
- (c) **More flexible than postal and telephone questionnaire.**
- (d) **It provides an opportunity to explain and make clarets.**
- (e) **Literacy more unnecessary:** the interviewer records all responses and it is not necessary for the respondent to be able to read and write, (Dixon, 1989: 17).

Disadvantages:

- (a) **High unit cost:** this is the most expensive method, since the researcher has to travel to respondents.

- (b) **Heterogeneous stimulus: the impression gained by the respondent differs from interviewer to interviewer.**
- (c) **Limited geographical coverage.**
- (d) **Time limitation, (Dixon, 1989: 18).**

The unstructured questions for data collection is free in the sense that the researcher can ask any question at the time, and an in-depth discussion can be the characteristic.

1.5.1.1 QUALITATIVE RESEARCH

This is a quantitative research because it constructs social reality, cultural meaning. It focuses on the interactive process, events, authenticity are the key, values are present and explicitly, situational constrained. (Cresswell, Denzin and Lincoln Guba: 1997; 14).

1.5.1.2 QUANTITATIVE RESEARCH

This measures objective facts and it focuses on variables, reliability is key value free, Independent of context; many cases, statistical analysis and researcher is detached, (Cresswell, Denzin and Guba: 1997; 14)

1.6 LIMITATIONS

This project has never had serious limitations in terms of the participation of people interviewed. Almost 90% of the samples have responded well to the questions asked of officials from Richards Bay, Durban Metro and Nelspruit. The officials were cooperative. The problem that one experienced was the employees at Richards Bay; some really did not know what PPP's are all about. That caused me not asking anything about PPP's. At the same time one realized that some of our people do not have access to information. Most of the laymen do not know that it is involvement of the private sector in service delivery in their organizations. That has hampered a researcher to get their views in terms of the implementation of the PPP's in the organization.

The main limitation that one has, was in terms of money allocated to a researcher in order to conduct a research. The researcher was given a very limited amount of money to conduct this research. That money was not sufficient for one to collect data and compile the research of this nature and size. What one can say is that if UDW is serious about improving research and competes with other institutions like Wits, UCT and Natal University they must finance masters research with a reasonable amount. That was the main limitation the research had.

1.7 TERMINOLOGY

Public Sector, this is a the collective term to refer to any State department, local authority, provincial authority, board, institution, corporation or any other organization established by any law. Public service authorities should produce goods and services on a nonprofit basis.

Private Sector, This is privately owned institution and government has nothing to do with this. Government can only create a conducive environment for operation. This is a profit- oriented organization.

Accountability, According to the Concise Oxford Dictionary (1991: 9) this means being required to account for one's conduct. Accountability means being put in a position to give account of one's stewardship. Stewardship includes financial accountability and representational accountability. Financial accountability requires that all public resources entrusted to the local authority be "judiciously" used for the projects they were intended and that public funds should not be diverted for personal usage (Reddy 1996: 12).

According to Gildenhuis (1997: 35) accountability is the traditional cornerstone for democratic administration political representatives and public officials are subjected to accountability. Public accountability is the obligation to expose activities and the

results of such activities and to explain and justify them to the public (Gildenhuis, 1997: 37).

Transparency, According to the Concise Oxford Dictionary this means the condition of being transparent, easily seen through, understood, frank or open. It means openness. In this case government must not hide any information or activity. The people must be aware of what government is doing.

Effective, According to Gildenhuis (1997: 20) this means that government policy is accomplishing its goals and objectives. According to the Concise Oxford Dictionary (1991: 374), this means having a definite or desired effect, powerful in effect, impressive in the greatest possible measure. An activity has been performed effectively if it has reached its objectives or goals.

Efficiency, this means to be productive with a minimum input and waste or effort (Oxford dictionary 1991:374). In this case government officials must utilize financial resources efficiently. Officials must not waste resources but they must obtain maximum output at a minimal input. The unit cost should be low if resources consumed divide output, or if the output units divide the cost of input. An action should be performed in the most economical fashion. Most people easily confuse it with effectiveness.

Governance, this is the act of governing, the office or function of governing (Oxford Dictionary 1991: 511). This can be determined by the ways in which government operates. Issues like accountability, transparency, effectiveness and efficiency can result in good governance.

Governance is an elusive concept " Governance, according to Landell-Mills and Serageldin (1991: 304), is how people are ruled, how the affairs of the state are administered and regulated as well as a nation's system of politics and how this functions in relation to public administration and law".

World Bank visualizes governance into two related "yet slightly" different manner. This is how the political power is exercised to manage a nation's affairs (World Bank, 1989:60). Governance is the use of power in the management of a country's economic and social resources for development (World Bank, 1992: 1). Governance is seen as something achieved by the interaction of states, markets and communities (Colebatch and Larmour, 1993).

Governance is also viewed as a relationship between government and the citizens.

Municipalities, are created to render services in defined geographical areas, primarily because of the inability of central government to attend to all the detailed aspects of government (Reddy 1999: 10). Municipalities are goal oriented; bring government to the grass roots, encouraging people to participate in the political processes that control their lives (Reddy, 1996:04).

In many democratic countries local government is the face of government, because most ordinary people see it in their lives on a daily basis through providing a variety of services to the community (Sinnott, 1996: 39).

Decentralization, According to the Concise Oxford dictionary (1991: 229) this means the transfer of power, authority, task, responsibility from a central to a local authority. Decentralization is about transfer of power, authority, legislative, judiciary or administrative from high level of government to lower level (Reddy 1999: 16).

Delegation is the transfer of responsibility for specifically defined functions to organizations that are outside the regular bureaucratic structure and are only indirectly controlled by the central government (Meenakshisundaram: 1994:11). Delegation is apparently derived from the Latin word "*delegare*" which means to hand down or to give to. In practice this refers to an institutionalized activity whereby certain activities are handed down from one hierarchical level to subordinate levels (Roux, 1997:95). It is to give someone a right to act in someone's name.

Devolution: According to the Concise Oxford Dictionary (1991: 320) this also mean the transfer of power from central to local. According to Reddy (1999: 17) it is the creation and strengthening of sub- national units of the government, the activities of which are substantially outside the direct control of the central government.

Public Management: Public Management is the broad term that comprises many activities, such as human resource management, financial management and other kind of management. Public Management is a very important part of public administration (Fox and Meyer 1996: 195).

CHAPTER TWO

2 Different Types of Public Private Partnerships.

2.1 Introduction

This chapter will try to identify different types of partnerships, as it is vital to understand various forms of partnerships and to make distinctions among them. In this case the public sector hires the private sector to carry out a particular task in rendering services to the people. This usually takes place for a period of a number of years depending on the contractual terms between the two, (Penz: 1998:6). The management of contracts differs from the service contract by the number of responsibility that is directed to the private sector. This arrangement encompasses a fuller range of operations and maintenance. The next one is the Lease contract, which is where the private sector hires the enterprise from the state at its risk.

The disadvantages of these types of contract are discussed in this work. Concession has a long duration and it makes a private operator to accept investment obligations. De- Monopolization and a new entry in this case the private company will transfer all facilities back to government at the end of the contract. The last one will be full privatization. This usually takes place when the private sector takes full responsibility of a service, and government has little say.

This chapter also covers the criteria used on the introduction of Public Private Partnerships. It covers the views of different constituencies such as Trade Unions (COSATU) Local Government structures, for example KwaZulu Natal Local Government Association (KWANALOGA). Finally, it deals with the aims and objectives of PPP's, Regulatory Framework, conditions of Partnerships such as financial sustainability and must demonstrate other sources of funding, and infrastructure backlogs in local government. All these are areas that need to be looked at and understood.

It is critical for us to understand the reasons why partnerships are formulated. Most organizations enter into partnerships because of the following reasons. It might be because they will lose if they do not, because they will gain something if they do or because they have to. These types of partnerships can be classified into three categories: defensive, offensive or shotgun.

A defensive partnership takes place when one of the sectors fails to render services on its own. In this case the public sector can formulate a partnership because it failed to serve the community. In South Africa's case, government has realized that it cannot be able to render services on its own due to the lack of resources. So one can say that South Africa did enter into a partnership with a private sector to protect its resources. Other examples that can be taken into consideration are the reduction in budget, other income reduction, staff cuts and changes in legislation. All those

mentioned above are the negative causes but there are positive causes that need to be conceded. Positive factors are when there is an increase in the demand for services and production. (Pierre, 1996:74).

Offensive partnerships develop when one of the parties wishes to achieve new objectives, which require resources, expertise or knowledge beyond its competence and hence demand contributions by partners who possess the necessary competencies. Most of the time, this type of partnership takes place when there is a change in environment that results in a change of demand. The change in demand requires the assistance to be given by one partner to the other.

A shotgun partnership takes place when the authority that governs or shapes a particular council, wishes to achieve certain objectives. This type of arrangement depends on the side of one of the parties that will decide either they will be interested in the partnerships. This type of partnerships is made when the council wants to render certain services that it cannot be able to render for itself.

Public Private Partnerships are the formal arrangements made between the public and the private sector with the aim of improving services that are rendered to the public. There are many types. It could be a contractual arrangement with other bodies such as Non Governmental Organizations (NGO's) Community Based Organization (CBO's) and Civic Organization for service delivery. (Municipal Service Partnership Policy: 1999: 05). Partnership can cover services such as Water

and Sanitation, Municipal Public Works, Fire Fighting Services, Municipal Public Transport, Local Tourism, Municipal Health and others. According to Chris Strydom, (1999:17), municipalities enter into an agreement with the private sector for municipal service provision. It is crucial for people to understand this relation between the public and private sectors. This can only occur where a public sector reaches consensus to provide services jointly to satisfy public needs. In South Africa, for example, a private company is supplying water to the Nelspruit community in Mpumalanga together with the public sector.

A second definition states that Public Private Partnerships are where local authorities give the exclusive right to one or more private company for the delivery of a service or a portion of a service. (Pentz: 1999: 09).

This partnership can be made in different ways. Local authorities can totally transfer the responsibility to a private company or a portion of the responsibility.

2.2 Different Types of Public Private Partnerships

It is crucial for us to make a clear distinction between privatization and PPP's. Privatization is where the private organization took over full responsibilities of activities or from a public sector. The private organization is in full control of all activities of the organization and has almost autonomous powers over the company. The difference between these two is that PPP's do not leave out either of the parties.

In PPP's, work can be given to a Private company in the forms of service management contracts, leases, de-monopolization, management service and new entry.

2.2.1 CORPORATISATION

Municipality forms a separate legal corporate entity to manage municipal service delivery. The municipality continues to own the enterprise, but it operates with more freedom and flexibility generally associated with a private sector business. Section 21 of the companies Act is one of a variety of possible forms of corporation. (The Department of Constitutional Development, 1998: 2).

2.2.3 PUBLIC – PUBLIC PARTNERSHIPS

This is one of the ways in which municipalities can enhance service delivery. The relationship between the Public and the Public sector is also important in dealing with the problems of poor service delivery. The municipality enters into an agreement with another public entity for municipal service provision. A variety of contracting forms and compensation schemes are possible. (The Department of Constitutional Development, 1998: 2).

2.2.4 Municipal Debts Issuance

Municipality issues capital directly from private investors to finance the capital costs of building an infrastructure system. The municipality maintains total control of the project and bears all associated risks. The insurance process is usually facilitated by underwriting firms, (Public or Private Banks) and may also involve financial advisory service providers. The duration of debt normally takes 10 –20 years. (Department of Constitutional Development, 1998: 3).

2.2.5 Service Contracts

In this case, the Public Sector hires the private company to carry out a particular task, usually for a period of some years. The contracting years vary according to the duration of that project. Normally the minimum is five years to a maximum of thirty years. (The Department of Constitutional Development, 1998:3). In terms of these contracts the public sector sets performance criteria for the activity and scrutinizes bidders on how to supervise contracts and pay the agreed fee for the service. The public sector does not give the offer randomly. It compares the bidding and takes the best that can result to a greater efficiency in service rendered. Contractors must be given sufficient time so that they will be able to write off the cost of any equipment purchased. Nevertheless when the equipment can be easily resold or leased in the local market, the length of a contract is more flexible. (Pentz, 1999:19).

It must be also noted that those bids can also be compared against those of the public agency. (The Department of Constitutional Development,1998:3).

This service contract can be used effectively under the following situations the operation and maintenance of standpipes, meter reading, billing and collections in the water supply and sewerage sector can easily be contracted out. Collection of public waste by private organization is popular these days. Others are ticketing, cleaning and food catering for railways, which are good candidates for, service contracting.

2.2.6 Management Contracts

This type differs from service contracting in terms of the amount of responsibility that is given to the private sector. This arrangement encompasses a fuller range of operations and maintenance. In this type of contract, private sector managers manage the state owned enterprise without committing its own investment capacity. In this case private sector managers are not taking full commercial risks. (Pentz: 6:99). There are two elements that need to be taken into account. These elements are internationally known. The first is to give a contractor enough freedom to introduce commercial reforms. The second element is that the contract must contain effective incentives for good performance, including penalties for failure to meet set standards of performance, (Pentz:1999:6). The duration of a management contracts is typically five years or more, which gives private managers long enough to operate

and implement changes and to be accountable for results. This type is seen as an attractive option when fuller private participation is not appropriate. This can also help to improve information about the enterprise and the market before further private involvement options are considered, (Pentz:1999: 7).

2.2.7 Leases

This is where the private sector hires the enterprise from the state at its own risk. The income under this contract is directly from levies and tariffs. There is no difference in terms of investment between the management contracts and lease contracts. Private companies are entitled to invest in the infrastructure. The only obligation is to maintain and carry out the task agreed upon. Lease contracts have a longer duration than other contracts. Lease contract ranges between six to ten years. This is normally done because the contractor must finance working capital and the replacement of short-lived assets, for example small sized pipes in the case of water supply. Government must commit the tariffs that can cover the operating and maintenance costs and give the operator powerful incentives to ensure that tariffs are collected and operating expenses are minimized. (Pentz, 6: 99).

2.2.7.1 Disadvantages of Leases

Different parties, on the other hand and for investment on the other share the task of co-operations and maintenance. These result in different investment decisions and

operating needs. At the end of the day, the leaseholder ends up blaming the public manager or vice versa. Due to the fact that municipalities retain responsibility for financing investment and budget constraints this can lead to deterioration in the quality of infrastructure has resulted in hindering the performance of the operator. For example, France and Spain have been using this type of contract for decades in urban water supply and sewerage.

2.2.8 Concession

It is interesting to note that this goes back to the colonial days. This is not a new concept as it was awarded on more than one occasion in more than one territory. For example much of Cecil Rhodes activities were based on this arrangement (meaning concessions and others).

This is one of the long duration and it makes the private operations managers to accept investment obligations. The private operator manages the infrastructure facility on a commercial risk basis. This contract generally runs for 25 to 30 years and allows the private operator to recoup invested capital expenditure. This type of a contract is often applied in instances of water supply and treatment, airports, railways and toll roads, where government desires private investment but does not want to relinquish rights to ownership of sector assets in the long run. This contract also exists for solid waste disposal and treatment. This contract has many interpretations but it can include private projects constructed under Build-Own

Operate Transfer (BOOT). Build-Operate and Transfer (BOT), type arrangement has operated in developing countries mainly in power, transport projects, water supply and treatment, (The Department of Constitutional Development, 1998: 4)

2.2.9 De-monopolization and new entry

The concession approach just described typically involves the temporary transfer of state owned assets to a private operator. This is done by the construction of a new facility on condition that it can be transferred to government at the end of the contract. De-monopolization and new entry is the alternative approach to a market segment in whole or in part. This allows the private investor to enter at his/her own risk. This type of entry can improve the level of performance and the commercial aspects of the public enterprise. “Where a complementary entry strategy is adopted, the demonstration effects of more efficient private operation may influence the performance of the public enterprise indirectly”(Pentz, 1998:7). The private sector involvement in the provision of infrastructure is strengthened by the sale of government shares on state owned assets. (Pentz, 1998:7). Another source of income for government is to privatize its own assets. This brings resources so that it can be able to pay debts and carry out other obligations. This approach is common with telecommunications, energy utilities, railway companies and ports and airlines around the world. (The Department of Constitutional Development, 1998: 5).

2.2.10 Full Privatization

Full privatization can also takes place. This is when the private company is in full control of the service. Full privatization may be appropriate for certain non-core municipal enterprises such as leisure resorts, abattoirs, and camping facilities. It will increase quantity coverage and quality of existing infrastructure facilities and their effectiveness in meeting present and the future user demands and define what is required. It is crucial to determine the strength of a company by the following.

- (a) A municipality institutional capacity for providing competitive services in infrastructure.
- (b) The management and technical capacity of the public and private sector.
- (c) The ability of government to create an enabling environment for private participation, and
- (d) The private sector interest and response.

It should be noted that small municipalities could sometimes better attract the private sector by offering multi-sectoral contracts and by joining together with nearby municipalities in the bidding process, thereby offering the bidders potential economic scale. As municipalities weigh the options available to them, they will need to take into account the principles and procedural guidelines. (The Department of Constitutional Development, 1998: 5).

2.2.11 CRITERIA USED TO INTRODUCE PPP's

Looking at the South African case, after some months of negotiations between Unions such as COSATU, National Government and Local Government progress has been made. The Executive Committee of the South African Local Government Association has approved the draft framework agreement on municipal service partnerships. The agreement puts in place the necessary framework to ensure that municipal service partnerships took place in a structured manner. It puts emphasis on building the capacity of municipalities as the preferred providers of services and allows for private participation in municipal service delivery, if the municipality lacks the capacity to provide services on its own. It further establishes basic guidelines on private sector involvement in municipal service provision. (SALGA 1998: 3).

As indicated in the South African Constitution of 1996, municipalities are responsible for ensuring delivery of basic services to all South Africans. There is a huge backlog presently in S.A with regard to access to basic services as defined in the Reconstruction and Development Programme (RDP), the Constitution and in applicable legislation. There after municipalities do need to transform public sector delivery through a process of reconstruction. All parties must be involved or must be consulted on the process of restructuring.

The parties include the users and providers of services, not excluding workers and community representatives. It must contribute to the restructuring of government departments.

The KwaZulu Natal Local Government Association (KWANALOGA) in collaboration with the National Business Initiative (NBI) the School of Public Policy and Development Management held Training Workshops on PPP's. This was supported by USAID. Similar Workshops were hosted in Gauteng and Western Cape. The objectives were to revisit the way in which services are being provided to communities. Local government is facing a demand from communities to provide services such as water, electricity, health care and infrastructure. To provide these services, municipalities find themselves in the dilemma of either increasing rates or ignoring such demands.

Municipalities are called upon to be innovative by exploring different mechanisms of service delivery in more efficient, sustainable and cost -effective ways. One of these mechanisms, which is suggested in the Local Government White Paper, is Public Private Partnerships (PPP). PPP have been propagated by government as one of the options available to municipalities in their quest to deliver better services to residents within the context of limited resources. Municipalities must apply strategies that will enable them to maximize services with limited resources.

The concept of PPP's has been the subject of negotiations initially in the National Labour Relations Forum (NLRFB) and subsequently at the National Bargaining Council (NBC). To understand the criteria properly, it is important to understand how Durban Metro works in terms of policy planning and analysis. It is divided into six sub-regions, Durban North, Durban South Central, Durban North Central, Durban South, Outer West and Inner West. These discussions will be based on North and South Central, which is the council comprising of Executive Chief Officers of the council as a joint venture. They have different standing committees at one level. These committees have different responsibilities. For example, the standing committee is responsible for Development and Planning. Different standing committees came together and form one joint working committee, which is comprised of senior officials, politicians, and councillors. Meanwhile on the other hand there is a Technical task team, officials comprise them and service clerks they are responsible for procedures and framework.

Both the Working Committee and Development Planning Unit or Technical Task Team discuss issues and policies with joint council. Nothing can be implemented without their agreement that also indicate that PPP's were accepted or agreed upon by both of these teams as the project that need to be introduced immediately to eliminate and solve problems that municipalities are facing on a daily basis. First of all, the Council outlines the main basic objectives as to why PPP's are required by municipalities.

2.2.11.1 FROM PPP TO MSP

It is crucial to identify the difference between the PPP and MSP and know why it is important to have them both. PPP is the Public Private Partnership that is responsible for partnerships between National government and private firms. This is the broader structure of a relationship between government and firms.

Municipal Service Partnership are based on local government. MSP is operating at a local sphere of government. It is the relationship between local governments and private firms. MSP is the most useful tool to render services to the local people. In most cases this relationship is forged mostly for services such as water, sanitation and electricity.

Both national and municipal governments are involved in PPP and MSP because they cannot provide people with all services required. Government does not have sufficient funds to provide basic services to all the people. PPP and MSP are required as an option to satisfy the unlimited needs of the people. It is not compulsory for both governments to engage PPP or MSP.

2.2.12 OBJECTIVES OF PARTNERSHIPS

It is vital for all to understand the previous problems of municipalities. In the past municipalities were divided according to racial lines. There were White Indian and

Coloured Local Authority. In the early 80s people were resistant to that apartheid structure. Much of the infrastructure, such as schools, Houses and Clinics were destroyed. Service delivery in townships was stopped indefinitely.

Local Government realized in the 90s that it was going to be very difficult to render services alone. The introduction of private business in service rendering will enhance municipal capacity to render services.

- (a) This arrangement is aiming at increasing the council's ability to deliver services and infrastructure more effectively and thereby improving the quality of life of residents.**
- (b) To increase the resources available to the Council to undertake its business and thus increase Council's ability to render services.**
- (c) To strengthen civil society by increasing their capacity to make informal choices and by increasing community involvement in decision-making.**
- (d) To benchmark Council's delivery against the private sector to measure if the ratepayers are getting service for the value of their money.**
- (e) To institutionalize and strengthen civil society participation in projects and delivery of services without reducing local government's role in this process.**

2.2.13 REGULATORY FRAMEWORK

The Department of Constitutional Development organized a regulatory framework now the provision of traditionally public services by the new private provider does not diminish the responsibility of local Councils. Local Councils have to ensure that services are rendered at a reasonable price at a good standard. This framework is aiming at promoting participation on the side of private companies, to develop sustainable infrastructure services and ensure efficient and effective delivery. The framework clarifies institutional and legal responsibilities and requirements and assists local government in implementing PPP's. This framework focuses on the quality of the service rendered, individual and environmental health and safety and compliance with regulations. In the introduction of PPPs there are regulatory autonomous institutions which are professional and play an important role in supervising contracts and which facilitate adaptation. PPP's are as independent agency and professional advisers who form a permanent review board. They are separate from any operational responsibilities, including these not divested from municipal management. This agency establishes the process and principles for regulatory decision-making, (The Department of Constitutional Development 1998: 21).

The office that is dealing with PPP's is appointed for mixed ventures. It is a small professional agency but it can contract out specialized tasks. Municipalities have a right to establish a multi-sectional regulatory agency to promote consistency of benefits from carrying out similar functions for different services, and strengthen

core skills. The chosen arrangement should provide assurance to investors, stakeholders, elected officials and all consumers of the service. A Contract Compliance Office can be established as a step towards an independent regulatory authority. The purpose of this office is to assist municipalities in the implementation of the provisions of the contract and the protection of the interests of consumers.

The office focuses on standards of services and safety compliance with regulations and sanctions. They establish procedures to hear and respond to the customer's complaints. Given the changing nature of needs and technology, guidance must allow officers a level of flexibility.

2.2.14 CONDITIONS OF PARTNERSHIP

There are conditions that need to be taken into consideration when dealing with partnerships. These conditions serve as a guideline to parties in the partnership. It is also important to ensure that parties comply with the conditions set for the good of service delivery. The conditions are set to harmonize the relationship between different stakeholders. It must be noted that these parties have different purposes and aims in terms of management, so a common ground should be clearly stipulated. In the case of the private sector, they are interested in making profits. The public sector is not necessarily making profit but needs funds for sustainability. If these two sectors are combined together each sector must know exactly how to

behave, what to do when and how and to whom they have to contact and report.

These conditions are as follows.

- (a) **Non-partisan and sustainable beyond the election term of Council.**
- (b) **Legal and financially accountably to engage in partnerships.**
- (c) **Financially sustainable and must demonstrate other sources of funding.**
- (d) **Ensuring service provided by the partnership that is economically viable to local government.**
- (e) **Link building capacity to tangible projects.**
- (f) **Sustainable beyond the election terms of local government councillors and beyond the life of the partnership.**
- (g) **Have clearly defined relationships between the specific structured the relevant councillors and others in the geographical areas. (Department of Constitutional Development, 1998:06)**

2.2.15 PRINCIPLES THAT SHOULD GUIDE PARTNERSHIP

These principles are important in the sense that it should be applied to guide the parties involved in the process. At the same time, it must provide clear responsibility on the side of each party. These principles will state clearly the duties, powers and

the duration of partnership, this will differ according to the type of partnerships (The Department of Constitutional Development, 1998: 07).

- (a) Improve efficiencies in the provision of services and facilities.
- (b) Risks must be shared with the private sector partner. Beneficiaries of services must gain from PPP's.
- (c) Actions of the Private Partnerships should be defensible and there should be strict monitoring of delivery.
- (d) The Local Authority must carry out its social responsibility function and must monitor the service provision closely.
- (e) Co-ordination and integration of services must be maintained.
- (f) Certain firms should be prevented from dominating PPP thereby creating monopolies.
- (g) The Local Authority should retain non- profit producing activities.
- (h) Mechanisms around intervention should be flexible.
- (i) The standard of providing services should not deteriorate.
- (j) Local Government should maintain its commitment and accountability to customers.
- (k) The services should also be affordable to consumers.

- (l) **The PPP's should also be in support of Council's vision.**
- (m) **Involvement of all stakeholders and the acceptance of PPP by labour are important.**
- (n) **Councils should retain responsibility to determine tariffs and policy.**
- (o) **Ensuring that training and development is part of PPP's contractual agreement.**
- (p) **Service providers must adhere to environmentally sound principles.**
- (q) **Service must be extended as fast as possible to the historically disadvantaged sector of the population.**
- (r) **Displacement of current council works should be kept to a minimum.**
(Gordhan: 1998: 3).

It is important for public sector managers to ensure that it would not vest the responsibility of rendering services to a private sector firms. The public sector must make it a point that people will receive all services accordingly. All these guidelines need to be in black and white for reference purposes and ensure effectiveness and efficiency. Finally the public sector must not allow itself to be taken over by the private sector, which must serve the public sector under supervision.

2.3 Typical risks of MSP contracts

It is very crucial to understand the risks that might arise as a result of Municipal Service Partnerships. Each project such as water treatment plant or solid waste disposal system has a contractual arrangement. These are contractual arrangements or concessions. There are other situations of municipal finance that need to be taken into account. All these sort of issues will result to a unique problem. Although it is not simple to anticipate the risks that might occur, it is important to:

- be aware that variety of risks might occur.
- be prepared to identify and allocate these risks in particular MSP contracts between the municipality and the service provider.
- For councils to have had previous experience in the formulation, implementation and enforcement of capital formulation and enforcement of capital work contracts.

2.3.1 DIFFERENT TYPES OF RISKS

2.3.1.1 Design Risk

The serious problem about the design risk is when it fails to fulfil the intended goals. The more complex the facility and the associated technology the higher the risk. When this is happening the re-design or rebuilding will be needed.

2.3.1.2 Construction Risks

The risk is often that a facility will not be complete on time or on budget. As same as above, the larger and more complexes the facility, the greater this risk will be. Delays in completion can result in failure to deliver services on time. Cost overruns can result in high charges or lower levels of service.

2.3.1.3 Operational Risks

In this case the cost of operating a service was higher or lower than anticipated by the parties as the time the MSP contract was signed. This type of risk is caused by unanticipated events that may adversely affect the operation of the MSP enterprise and the delivery of the service, for example:

- Unanticipated breakdown of equipment,
- Unavailability of supplies, spare parts or fuel,
- Strikes and other labour action.

These are the main causes of this type of risk.

2.3.1.4 Maintenance Risk

The risk that the operations assets constructed or operated by the MSP service provider may be in poor condition on their transfer to the municipality at the end of the term of a lease or concession.

This usually occurs because budgeted maintenance and repair costs were insufficient to maintain the facility properly or because the maintenance was improperly performed, (The Department of Constitutional Development, 1998:05).

2.3.1.5 Tariff Risks

The risk is that tariffs for service will be lower or higher than anticipated by the parties to the contract. This typically risk for the MSP services provider and its lenders, rather than for the municipality since the municipal council retains ultimate control over tariff levels requirements of sectoral regulators. This can also be a risk for a municipality if the tariff-setting rules imposed by sectoral regulators do not allow the municipal council to set tariffs at the levels that the council anticipates to be necessary to support the delivery of services by the MSP service provider in the quantity and quality called for in the contract:

- On the one hand, if tariffs are lower than anticipated, the level of service may be adversely affected or the MSP service provider may not be able to meet its financial obligations to suppliers, lenders and subcontractors.
- On the other hand, if tariffs are higher than anticipated, the MSP service provider may realize greater profits than anticipated for the agreed level of service and consumers may not be able to afford the service, (The Department of Constitutional Development, 1998:06).

2.3.1.6 Demand Risk

If demand for the service is less than anticipated, it may mean that tariff revenues will be insufficient to support the MSP service provider's debt service and operating costs, and that tariffs may have to be increased.

If the demand is greater than anticipated, it may mean that the MSP service provider is unable to meet the demand with the available technical, financial, human, management and other resources and that the additional demand may remain unsatisfied, (V. Moosa, 1998:07)

2.3.1.7 Collection Risk

The risk is that the tariff collection rates will be lower or high than anticipated by the parties to the contract. A municipality or an MSP service provider may have assumed a minimum rate of tariff collection, for example a percentage of total potential tariff revenues. If the tariff collection rate is lower than the anticipated level, the MSP service provider may not be able to meet its financial obligations or may be unable to deliver the expected level of service, (The Department of Constitutional Development, 1998: 08)

2.3.1.8 Credit Risk

The risk part to MSP contract is that it will not be able to pay its obligations when due:

- From the point of view of an MSP service provider, this includes the risk that the council will be unable to pay the agreed fees to the service provider in full and on time or that the council will be unable to meet its obligations under a guarantee to the MSP service provider or its lenders.
- From the point of view of the council, this includes the risk that the MSP service provider lacks the resources to meet its obligations to its suppliers, subcontractors or lenders and its operations cannot be sustained.

The above risk, to the extent that they are applicable to the circumstances of the particular project, and all other risks that may have been identified, will be allocated in the contract between the municipal council and the MSP service provider (The Department of Constitutional Development, 1998:09).

2.4.1 OTHER CHARACTERISTICS OF PPP's

Partnerships tend to start from whatever basis there is in terms of organization, commitment and commonality of aims and objectives of the parties.

- (a) Clearly the process is easier for those initiatives, which set themselves limited development aims and hence demand only specific time limit commitments.

- (b) **Most infrastructure developments in S.A partnerships were created in the boom conditions of the late 1980s. In these years the public sector was recognizing the problem of solely rendering services to the public.**
- (c) **They contrast with other in that, they include a number of projects, city wide, and work to more or less complex agendas.**
- (d) **There is no doubt that in most case partnerships are created in a situation of crisis and response.**
- (e) **The shotgun partnerships have developed in UK localities as a direct requirement of initiatives by national government and the European Commission.**
- (f) **In the UK etc, private sector representatives hold the bulk of formal positions**
- (g) **Within economic development partnerships and the public sector rarely have half the total representatives.**
- (h) **Consensus building is crucial for partnership building. The parties that are involved in the partnership must make some compromises that will move them towards consensus. (Pierre, 1998: 85).**

2.4.2 INFRASTRUCTURE BACKLOG

When one looks at the South African case, it is one of the countries that suffered a severe infrastructure backlog mostly in black areas, such as rural areas and townships. This happened intentionally, but is the result of the past segregation that was endorsed by the National party government. This was led by the National party and was not developing black areas but developing white areas only. Another factor that has accelerated this backlog was violence in townships. During the political intolerance, schools clinics and other infrastructure were destroyed and burned down. That worsened the situation so that even today government is trying to rebuild this infrastructure. Government has realized that it is difficult to render services on its own. That is why the private sector is introduced to the process. Public Private Partnerships is one of the available means to address the overwhelming municipal infrastructure backlog and poor service delivery. It must be clearly understood that government is in full support of public sector provision of services. South African local authorities are facing problems of insufficient funds to meet their daily operations.

The alternative way for government to inject local authorities is to introduce the private sector in the service rendering process. (The Department of Constitutional Development, 1998: 15).

Several studies have been conducted to quantify the extent of the infrastructure backlog. The National Infrastructure Investment Framework (NIIF) has estimated that S.A overall economic infrastructure investment needs about R 170 Billion. The municipal infrastructure project needs capital expenditure amount of R 35 – 59 Billion over five years. In 1996, looking specifically at basic services to urban households, the (Municipal Infrastructure Investment Unit MIIU) modeled three different capital investments with progressively higher levels of service and lower levels of subsidization.

The total capital required to the middle scenario annually was R 6,8 Billion over a period of ten years. At the launch of the Municipal Infrastructure Investment Unit (MIIU) the former Minister of Constitution and Development Valli Moosa said “Local Government should not run as business, but should look at outsourcing non-core functions”. This issue of Public Private Partnerships is moving government from government to governance.

Local Government needs to concentrate on its core functions of governing, regulating and setting frameworks. According to the Annual Report on MIIU (1999).

The MIU is the association incorporated under section 21 of the Companies Act 61 of 1973). The aim of this company is to develop a market for technical assistance for project preparation in the sphere of municipal infrastructure and services. This intervention is aiming to take only five years. The MIU was established on 20 March 1998, pursuant to Cabinet Memorandum Number 14 of 1997 which approved the national development of Constitutional Development's recommendation to establish a unit for the MIU Annual Report (1999).

Before starting to get into grasp of the Municipal Infrastructure Investment Unit (MIU) it is vital to state the mission statement and identify the mandate and scope of activities. The mission statement for MIU is to encourage and optimize private sector investment in local authority service, on a basis that is sustainable for both local authorities and at national level. There after, the aim is to assist the development of an established market containing informed local authority clients, private sector advisers and private sector investors and service providers, so that the MIU can be finished up no later than five years after the date of its original establishment.

Nevertheless, after the identification of its mission statement it is crucial to have a look at the mandate and scope of activities. MIU is conceived as a five-year intervention to develop a market for technical assistance for project preparation in the sphere of municipal infrastructure and services. The scope of activities involves the following.

- **Provision of grant funding to local authorities on a cost-sharing basis to hire expertise for project preparation assistance from the private sector.**
- **Assistance to the local authorities in the process of hiring private sector consultations.**
- **Assistance to local authority with the management of contracts with the private sector.**
- **Marketing and publicity of the MIU service.**

The scope of activities is divided into two. These normally take place with a local authority that develops project proposals involving private sector investment.

- **Private sector financing of municipal debt.**
- **Contracting out of the management of ongoing services.**
- **Concessions to operate the local authority's assets over a defined period.**
- **Contracts requiring the private sector to design, build, finance and operate assets to deliver services for local authority.**
- **Privatization of assets and services, (Hesketh, 1999:03)**

The scope and mandate of activities that has been identified above are trying to fulfil the mission statement of the Municipal Infrastructure Investment Unit. It is

strongly believed that an involvement of the private sector in public service delivery will improve the quality of services.

MIU intends to encourage and optimize private sector investment in local authority service delivery. “ To assist the development of an establishment of the market containing informed local authority clients, private sector investors and service providers, so that the MIU can be wound up on later than five years after the date of its original establishment”. According to Monhla Nlahla the Chief Director of MIU told the Urban Management Forum that was conceived as five years intervention to develop a market for technical assistance for project preparation in the sphere of municipal infrastructure and services. This will give local authorities the opportunity to become world-class organizations by tapping into the standards and the framework for Public Private Partnerships that has been created by national government. A lack of clear regulations in the past resulted in a negative perception of Public Private Partnerships or Municipal Service Partnership, as now is the more politically correct term.

The MIU will advocate MSP in South Africa, not as the penacea for problems in utility management, but as a very important part of a solution, (Hlahla, 1999:05).

The formulation of MIU formed the part of legislation of the Municipal Structure Act aiming at restructuring Local Government. This Bill is part of a new way to

govern at Local Government level and is crucial for implementation of the Local Government White Paper. There are two ways in which Local Government will move away from providing non-core services. The first is that Local Government must start to think about innovative ways to deliver services to the public. In this case Local Government will come up with a strategy that will result to a better service delivery. The second one is that it has to create a business interest from the private sector. It is the responsibility of local government to clearly identify the role of the private sector in rendering public services.

According to Moosa's Report in September (1998: 17) the market does exist and there is a great deal of interest from both parties (Local Government and Private sector). The creation of MIU is aiming at improving the levels of Infrastructure Investment in South Africa. This is seen as one of the ways that need to be given an enough time in operation. In this case South Africa really need MIU to ensure that there will be an infrastructure that will enable people to develop and start their small sources of income.

When looking at the MIU one must think beyond the point of receiving services from the Government. It is also crucial to take into account the issue of Local Economic Development. "MIU grant funds are available on a cost sharing basis with the municipality to hire technical advisors for the preparation of feasibility studies and documents, and to help negotiate final contracts, subject to a successful

application to MIU to funding, and use of fully competitive procurement procedures in hiring consultants”(Hlahla, 1999:06)

The way to attract investors to a town or city, a strategic direction for the area is important. In the past council had had a tendency to grab whatever business is going. Durban for example, should attract different investors to different segments in the city. This should be done by promoting tourism that is regarded as a source of income for Durban. This can be more than encouraging tourism, as it can be a case of encouraging investors. To encourage investors demands a lot from the people of that area. For example the place must be crime free and have a stable political environment and sound economic policy.

According to the MIU Chairperson's report (1999: 4) the focus of the MIU for the next few years will be given to the following aspects.

- Delivering more transactions for private sector participation.
- Improving existing operational systems and procedures.
- Supporting key National Government Departments in their efforts to create appropriate legislation to govern partnerships.

- **Increase the Project Preparation Fund with more donor funds.**

There are steps that need to be followed in this process. All these steps give a clear way forward in terms of what are the need of the public and what projects must be implemented.

Phase one is Project Conceptualization. This is the most important phase and it can be called a kick off point. In this phase, the need for a project is identified and the problem area is identified. The project conceptualization phase is the one which is the most crucial for the eventual success of a project. The ultimate goal of the project must be compatible with the constraints of limited resources. As the project progresses, the influence of this phase on the possible project success will diminish if the scope of the project is unrealistic in terms of the given constraints, (De La Rey, etcl, 1998:34).

The determined scope of the project must be realistic in regard to cost, time quality, risk and human resources. Sufficient time must be spent on this design phase of the project. Referring to projects, for example, the movie house has to be built within a reasonable distance by private car or public bus. The price of the ticket must be within the budget constraints, the reason for seeing the movie must be justifiable, and the time slot must be scheduled for Friday, (De La Rey, etal, 1998: 34).

Formal Application for MIU Assistance. This is the second phase that needs to be taken into account. After the need for such a project has been identified, the formal application needs, to be taken into account.

The third step is to conduct a feasibility study. In this phase the municipal structure must be evaluated to be see if it has resources to carry its task of service delivery to the public.

The fourth sphere is that of bid document preparation and negotiation of contracts. This step is more about taking the best bid to render the services for local government. In this case the local authority must make it a point that the private organization that will take over the service delivery is capable of doing that and the needs of the public will be satisfied. The fifth step is the implementation of PPP and contract monitoring.

If the contract is given to the private organization, it must be monitored by the municipality in such a way that it must not divert from its aims and objectives of rendering services to the public.

- (1) **Project Conceptualization Phase:** This comprises the identification and formulation of a project proposal.

(2) Formal Application for MIIU Assistance: This is under project preparation. This is where the project proposal is subjected to a series of feasibility analyses, based upon which a project will be compiled and submitted

(3) for project appraisal, (H.J Nel, 1997:12).

Proceed to feasibility Studies?

(3) Feasibility Study Preparation

Proceed to RFP preparation

(4) Preparation of Bid Documents, Negotiation of Contract

(MIIU Grant funding available)

Sign PPP Contract

(5) PPP Implementation, Contract Monitoring

Feasibility analysis examines whether or not it is possible to implement a project given the standards and criteria set forth in the preliminary design. Well prepared feasibility analyses question every aspect of the preliminary design within the context of the actual project environment and determine whether the project can be

satisfactorily carried out with the financial, technical, human, material, and institutional resources available, (H.J Nel, 1997:18).

Testing the feasibility of a project should relate to factors such as the:

- Objectives in view,
- Overall nature of the measures contemplated in the attainment of these objectives,
- Mutual consistency thereof, (Nel, 1997:19).

The Minister has noted that the department has to look at other countries experience and realized the best ways to facilitate the establishment of PPP's. The independent body with a board of directors, which covers the spectrum of interest, is needed. In this case the unit will play an assisting role for Local Government when entering into PPP's as councils are not as capacitated as private sector and need whatever help they might need to improve delivery.

According to Andre Fourie's article in September 1997, where the local authority debt to banks had soared to R3.6 billion. This was more than 100% increase from the previous year. This financial crisis is accelerated by inefficiencies, unacceptable levels of non-payment of services. An increase on the debts of local government has attracted the concern of national government. The Minister of Finance Mr. Trevor Manuel made an alarming statement to local authorities that they swim or they sink.

In this situation even if local authorities can collect 100% of its debt they may not be able to carry their mandate, and a more imaginative resolution is required.

The National Business Initiative (NBI) is a private public interest organization and it has 160 of South African leading companies as members. The task of this organization is to contribute collectively to socio-economic development in South Africa. This organization noted three major challenges that are facing S.A.

- (a) To increase economic growth.**
- (b) Reducing the level of crime and**
- (c) Implementing socio-economic development.**

The NBI has chosen to focus on a collective contribution of the S.A business community to socio-economic delivery.

In the national interest NBI is encouraging the business community to provide skills, employment creation, housing and the delivery of basic services. (Urban Management, April 1998:4).

The NBI recognized the critical lack of management skills in local government and has embarked on the programme to help. In association with Deloitte and Touche, ABSA Bank and Republican International Institute it has developed a handbook on Financial Management on Local Government.

NBI has completed the pilot project in KwaZulu/Natal, Western Cape, Northern Province and Gauteng. The main aim of this pilot project was to accelerate Councillor's training in financial management. This pilot insisted that both elected councils and officials were attending such a training course. It focuses on budgeting skills, financial reporting, financial accountability and cash management. All these are essential to local authorities. This can be called a transformation of councilors mindsets because they will realize the need for less spending. (Urban Management, April, 1998:5).

2.4.3 NELSPRUIT CONCESSION

This is the first town in South Africa to tackle such a comprehensive project of this nature with the private sector. This joint venture is intended to only improve service delivery but also to be cost effective for the council. The needs of the people are unlimited and the council does not have resources to meet them. So the way to meet these unlimited demands is to forge a relationship with the private sector for sustainable service of an acceptable standard. (Roelf Kotze, Urban Management, May, 1997: 4)

Due to the complexity of the project the Development Bank of Southern Africa is assisting the Nelspruit council in facilitating the process. Most of comprehensive project was successful in the developing countries such as Mexico and Malaysia. The

Councils are sure that such an agreement will solve many of the problems to render basic water and sanitation service to our urban and rural areas. The council had invited eight local, French and British companies to tender for the R330-million contract. All these companies participated in the bidder conference at the beginning of December 1996 where the detailed specifications of the project was discussed. This relationship between Nelspruit and private companies was for rendering basic services such as water and sanitation to urban and rural communities. (Urban Management, May 1997: 4).

2.4.4 NELSPRUIT DELEGATED MANAGEMENT SYSTEM

In this case the United States Agency for International Development invited the chief executive Mr. Roelf Kotze and the town engineer, Leon Kallat to attend the course on PPP's. This was a very good opportunity for these public officials to know more about the PPP's and that will intensify their ability to implement PPP's in their area. This course was dealing with the implementing of Building Own Operate and Building Own Transfer. The Institute offered this course for Public Private Partnerships in Washington and Florida from March 10-28-1998. This course was funded by the USAID. These two officials from Nelspruit were also asked to present during the course on the Nelspruit model.

If that needs to be noted that Nelspruit as a capital city of Mpumalanga after 1994 national elections, grew rapidly. According to a report by the town council's

department of urban planning, the town has recorded a much higher growth rate during the past financial year than projected. The Maputo

Corridor is also bound to become a major draw for development of the capital. The Maputo Corridor is the joint project between South Africa and Mozambique to build or construct a road from South Africa to Mozambique. These two governments will jointly run this development project, in terms of financing the project. This project was launched after the 1994 national elections. The objectives of the project are accelerating economic growth in these countries.

2.4.5 MUNICIPALITIES URGED TO ATTRACT INVESTMENT

To ensure economic development in South African cities and towns, municipalities need to pursue investment more aggressively. The City Council of Durban in KwaZulu/Natal took an in-depth look at this council's successful investment strategy and what needs to be done by other local authorities to implement sustainable growth. In the 1997-98 financial year the Development Bank of Southern Africa (DBSA) granted millions of rands in loans to the local authority for various projects to include water and sanitation, social infrastructure, energy, education entrepreneurial development as well as roads and drainage. The bank was concerned more with the ability of the local authority to manage funds effectively and efficiently and to maintain the infrastructure once implemented.

Resulting from the fact that the local authorities loans fund has been dissolved and all assets and liabilities transferred to the Development Bank of Southern Africa (DBSA) on January 1, 1998, the DBSA has become the largest finance of infrastructure project on the municipal level in South Africa. (Rudi Botha, Urban Management, February 1999; 5). Local authorities find themselves compelled to comply with the legislative stipulation of the LED and therefore it is vital that municipalities succeed in the stimulation of economic growth. In the marketing strategy efforts to attract investments, local governments should focus strongly on the quality of service rendered in their towns. People must understand that economic development is the responsibility of every member of the community. The community must make it a point that they pay for services, so that local government will be able to deliver services in return.

The other point to be taken into account is the statement made by Both, (Urban Management) "Consumer satisfaction is an extremely important element in the enhancement of local economic development, it is very difficult, if not impossible to attract investments to especially small and medium size towns if existing entrepreneurs are dissatisfied with the performance of the local government"

✓ In this respect the IDP process could be utilized to involve all segments of the community, also as far as local government development is concerned. According to Botha, February 1999: it is important to understand that while there is great pressure on local authorities to fulfil the role of local managers in the development of towns and cities, municipalities are still coming to grips with the new dispensation in

South Africa. The major obstacles to economic growth and investment are non-payment, delivery problems, and enforcement of regulations, general service and maintenance. South Africa is facing these problems that need to be addressed as soon as possible. The Masakhane campaign has been introduced to solve the problem of non-payment of services but it looks as if more effort is required.

2.4.6 CITIZEN GUIDE TO MSP'S

The concept of Municipal Service Partnerships is confusing, and many people do not understand and know what MSPs are. This concept is coming with new needs and approaches to service delivery. It is government's responsibility to make people understand what MSP's are all about, and to know what are the benefit of the systems, (The Department of Constitutional Development, 1998:02).

According to the Department of Constitutional Development Guide MSP (1998: 02) government is committed to render services that are articulated to Restructuring and Development Programm (RDP). Government must make it clear that MSP's are valuable options for municipalities to ensure better service delivery to the people across the country. Government is in this joint venture with the private sector not for the sake of just doing it, but this project is goal oriented. Government is facing a problem of rendering services to the public, because government is not having sufficient resources to meet these requirements. This is not just an overnight problem. There are many things that need to be taken into account. In this case

government must develop infrastructure, upgrading and expanding service delivery. These are the first issues that need to be addressed, (The Department of Constitutional Development, 1998: 02)

It is the responsibility of a municipality to ensure that services are rendered to the people. The strategy that could be used to attract private organizations to contribute to public service delivery can have positive and negative impacts to general people who do not know much about PPP. Private organizations can be private business, Non Governmental Organization (NGO's) and Community Based Organization (CBO's), Moosa (1998:01).

According to Citizens Guide to MSP's, the services that are rendered by the municipalities are identified. The Constitution provides municipalities with the responsibility to ensure that essential household services are provided to people. Section 153 of the Constitution of South Africa also makes these provisions.

(a) Municipality must "structure and manage its administration and budgeting and planning process to give priority to the basic needs of the community, and to promote the social and economic development of the community".

(b) Municipality must also participate in the national and provincial development programmes, (The Constitution Republic of South Africa 1996: 81).

At this point, people must understand which services the municipality renders. In most cases a municipality render these services,

- **Water supply**
- **Sewage collection**
- **Refusal removal**
- **Electricity and gas supply**
- **Municipal health care**
- **Municipality transport service**
- **Municipal roads**
- **Street lights**
- **Municipal parks and recreation. (Department of Constitutional Development: 1998: 01)**

The adequate provision of these services improves the lives of the community. People must know what services are expected. Municipalities as the closest sphere of government to the people are expected to understand people's problems and must understand future demands. It is the choice of municipalities to have relationship with private organizations. If municipalities see to it that it does not have the capacity to meet people demands, then the private organization can be invited. In

this day most municipalities are unable to provide services to the people. This can be the result of many circumstances such as scarce resources, poor infrastructure, poor management or lack of capacity, (The Department of Constitutional Development, 1998:01).

It is the task of all government spheres to improve service delivery, which is why national government is helping municipalities to find new techniques to provide and extend services. National government is providing these options for municipalities.

1. *Capacity building*: This can happen when the municipality improves and extends service delivery, improves its capacity to plan and implement and manage service delivery. In this case the municipality must improve the skills of their employees, such as good communication with citizens, good financial management planning and technical skills. These skills will enable municipalities to render better public services.
2. *Cooperation* means that municipalities can create a company that will render services to the people, (Moosa, 1998:03). This company can be set up to operate independently with the department, of a municipality, but while acting under municipality supervision and control. This can enhance service delivery for example by implementing new technology and management techniques. This company can be able to provide services effectively and efficient and at a low possible cost, (Moosa, 1998:03).

3. The last option is the "*Municipal Service Partnerships*", in which the municipality can hire a private sector firm to provide a service. Municipality can go for this option because private organizations have better financial capacity, better technology and better management skills.

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4. Private organizations can provide service at a low cost, or management will be able to meet other goals such as community participation better than a municipality. Private organizations can also be able to invest for the construction of new facilities, for example sewerage treatment plants, purchase new equipment which municipalities cannot be able to buy. It does not matter which option the municipality is going for, the main objective is to improve the quality of service and extend services to those who do not have them. In this case the public sector must not lose its focus and services must be provided at a low and affordable cost, (Moosa, 1998: 04).

According to Moosa (1998: 04) people need to know what MSP's are. The MSP can be the private, public, Non-Governmental and Community Based Organizations. The main objective of introducing this is to accelerate the speed for service delivery. People must know the terms and periods of contracts. These contracts can only be given for certain services such as water supply, electricity, house, schools and other development projects.

2.4.7 MUNICIPAL PLAN TO DELIVER AND IMPROVE SERVICES.

A municipality must determine the existing conditions of services before they can plan to develop their areas. This is one of the main tasks of a municipality. Municipality must know who are the target groups. This means that a municipality must know who need what and who has what. There after the municipality needs to identify services that need to be expanded. In this case the services should be prioritized, and those of high demand must be given a first priority. Moosa (1998:10) has provided the steps that need to be covered in the planning process of municipalities.

- Determine the quality of present services;
- Determine needs of the community;
- Determine priorities for meeting these needs and;
- Planning how to deliver improved, expanded and affordable services;

After that determination has been made, a municipality must check its capacity to meet the new challenges when a municipality finds that it does not have sufficient resources to meet these new challenges, then the private sector must be invited. The Municipality should decide among different types of MSP's agreement. These agreements are Service Contracts, Management Contracts, Lease and Concession.

Municipality must choose the right contract for its circumstances, (Department of Constitutional Development: 1998: 10).

2.4.8 ROLE OF CITIZENS IN PLANNING AND IMPLEMENTING MSP's.

This is the most crucial aspect of these guides. There is nothing that can make MSP more successful than people participation. This will create a good understanding, trust and a direction between the stakeholders. People can play the following roles.

- Making their wishes for better and expanded services known to the council, especially in the planning process and implementation.**
- Asking a municipality to explain publicly how it will make decisions regarding service delivery and that the council consult with citizens important points during its decision making process.**
- Following the council's service delivery decision-making procedures by attending council meetings and making their opinions known regarding the matters being considered by the council.**
- Joining CBO's, NGO's, Political Parties, Consumer Organization and other groups that monitor the councillor's decisions and develop proposals for the council to consider.**

- Assessing each step in the council's decision regarding the planning and implementation of MSP to make sure that the citizens opinions are taken into cognizance and the council focuses on improving and extending services when they are needed most, and on getting value for money.

If all citizens can recognize these roles and implement them there can be a conducive environment between the stakeholders, (Department of Constitutional Development 1998: 11).

After all these points discussed above it is important to note that there is Municipal Community Partnerships. This is the most important part of partnership; if community does not take into account the community contribution partnership will be useless, (Cranko, 1999).

2.4 CONCLUSION

It is important to understand that the PPP must be taken very carefully and the municipality that intends to enter into an agreement with the private firms must know that there are varieties of contracts available. The municipality needs to know the advantages and disadvantages of such contracts. This chapter is encouraging different institutions to work together to accomplish common goals. This partnership can between be the private and the public sector or Public and Public relations. All these kind of relations will accelerate service delivery in the public sector.

This relationship is voluntarily. The municipality is having a choice whether to be the part of MSP. If the municipality does not think that the involvement of the private sector in service delivery will not benefit the people it is free not to enter.

CHAPTER THREE

PLANNING AND PROCUREMENT IN THE PUBLIC SECTOR

3.1 INTRODUCTION

The study tries to indicate the importance of MSP planning for the procurement process in the public sector. It has been highlighted in the previous chapters that MSPs or PPP's are about contracting out certain services. In this case local government needs to know how that can be done. The process of tendering needs to be taken into cognizance in order to get best bidders and the best people to deliver such services. At this stage it is crucial to be fair to all bidders and avoid corruption in this process.

This chapter deals with the options that are available for a municipality if they are to make a service partnership with the private sector. In this case, the council can interview the bidders and finally select the one that will be able to satisfy its demands. After the council has conducted the interviews, they may not select any if they are not convinced of the expected performance of the bidders. Nevertheless, councils are not forced to engage in any form of partnership with the private sector. This is an option for a local council. The local council cannot enter into any agreement with the private sector if the cost of rendering the service will be high after the involvement of the private sector.

The main aim of inviting the private sector for this process is to minimize the cost of services. If the private intervention does not comply with this provision the council might not engage in service partnerships.

3.2 PROCEDURAL GUIDELINES

"These guidelines work as a framework through which municipalities can work to choose a delivery option and maximize the benefits of any contract entered into with the private sector". These four phases described below are not fixed and linear, (The Department of Constitutional Development, 1998:88).

Phase 1 Project preparation: this is where the problem has been identified and means to solve them is being taken into account. There are steps that are taken in this steps, are:

- ❖ **Data gathering and preliminary assessment,** this is the assessment of the available infrastructure in order to determine how best to improve service provision.

The internal task team is responsible to gather information on the full current costs of service delivery, determining the unit costs, and compare this to the current

tariffs. It also takes into account the complaints received from customers over the last six months. The level of coverage should be assessed, with an intention to cover those areas, which are not covered, (The Department of Constitutional Development, 1998:11).

- ❖ **Creation of a Review Team, multi discipline team must be established to do a more thorough assessment of the current infrastructure delivery system, to involve the stakeholders, and to investigate concession and the various PPP option. This team of multi disciplinary must include a legal financial concept and technical concept. A consideration should also be given to an Economist who understands tariffs issues and an Accountant. Outside advisers might be hired if required. The process of hiring the external adviser must be competitive so that the municipality will get the best adviser possible. The municipality can ask for assistance from the Municipal Infrastructure Investment Unit that is established by government, (The Department of Constitutional Development, 1998:11).**

- ❖ **Evaluation of Existing System, the review team established should ensure that the evaluation of the infrastructure system is done thoroughly. This should include financial assessment and a legal and administrative assessment. This financial assessment should include an examination of the current debt of the municipality, the actual cost of service provision including the overhead and interdepartmental charges- the level of cost recovery that is being achieved and**

the current tariffs structure. The technical team should include the preliminary and broad inventory of the infrastructure assets, an assessment of the standard of service being provided as compared to available benchmarks and a study of current staffing. Finally, the legal administrative assessment should include a study of jurisdiction and the proclaimed area of the municipality.

- ❖ **Investigation of Alternative Delivery Mechanisms**, This involves looking at the options available to the municipality and evaluating possible effects. Municipality must not deviate from its goals particularly the objectives of good governance, affordability, consumer protection, reliable delivery, broad coverage, transparency, real efficiency, sensible allocation of tasks, and strict performance monitoring. A system of evaluation should be developed for measurable objectives, against which the predicted results of the alternatives, and eventually the progress of the option choice can be compared.

- ❖ **Investment of Stakeholders**: stakeholders play a key role in the determination of policy, its implementation and outcomes. Stakeholder analysis is a vital tool for strategic managers, as it gives an indication of whose interest should be taken into account and why they should be included in the decision making process. It is vital for municipalities to identify the stakeholders before involving them. Community organizations and customer groups can be considered as stakeholders. There after the interest of the stakeholders needs to be investigated, (M.V Moosa, 1998:12).

Phase 2: Soliciting private sector participation.

This phase includes the development and distribution of requests for proposals for the infrastructure project. The following steps are taken during the this phase:

- ❖ **Municipalities should choose an infrastructure delivery operator through competitive bidding because this kind of selection process seems the most fair and successful for making the ideal choice. A municipality might decide to enter private negotiations with a few selected investors or conduct more open and competitive bidding arrangements. The advantages of competitive bidding are:**
 - ✓ **Ensuring that the municipality gets the best deal possible,**
 - ✓ **Reducing the concerns over corruption or patronage in the award process, and**
 - ✓ **Reducing the risk of the contract later being challenged or cancelled,**
- ❖ **The Time Factor. Competitive bidding is a complex procedure that requires a lot of time to organize. The alternative is direct negotiation.**
- ❖ **Development costs. It must be noted that investors are concerned and justly so, with the often high development costs associated with preparing competitive bids for projects in smaller or more risky markets without the assurance of recovering their expenses through award of contracts.**
- ❖ **Incentives to develop unsolicited proposals. The private sector does not want to put money or develop unsolicited proposals for private infrastructure project if there is a risk that their labour and intellectual property will not be rewarded through the award of a contract. There are many responses to this situation, for**

example a system of a competitive bidding can still allow unsolicited proposals to be accepted through direct negotiations in some circumstances.

- ❖ **Risk Assessment and Allocation:** efficient risk allocation and mitigation are central to providing appropriate incentives during infrastructure construction and operation. Efficient risk allocation occurs where risks are not allocated according to this principle, but costs and ultimately tariffs will be higher. The best way to make the project more attractive for investors is to secure the risks as much as possible. There is no one way to deal with this, but it depends on the nature of the problem.
- ❖ **Risks will include the construction risks, delay risks, performance risks, legal risks, currency risks, commercial risks, political risks, operational risks, interest rate risks and financing risks. All risks must be allocated a various parties of the contract and the responsibilities for the risks set out, (The Department of Constitutional Development, 1998:14).**
- ❖ **Preparation of Tender documents and Pre-Qualification, the type of PPP and contract that is desired by the municipality will determine the nature of the tender or bid document and the effort that will be required to prepare it. The preparation of a bid for private sector involvement in the provision of infrastructure services is a time consuming and expensive process. The following**

should be taken into account so that the process assists the municipalities to achieve the best service and success and contribute to a healthy environment for private sector investment:

- 1) **Performance standards, tender document must clearly state the requirements of the municipality that is preparing to engage the private sector provider in the provision of services and should make clear the obligations of the service provider.**
- 2) **Compliance with existing national legislation, Municipalities should ensure that proposed projects are in compliance with existing national legislation.**
- 3) **Reporting, monitoring and penalties, the contractor should report to the municipality at specified times regarding its performance. The municipality has the responsibility to monitor the operational performance of the contractor and ensure the project's agreed upon timeframes are adhered to. Monitoring should be clearly spelt out in the tender documents, as should penalty measures.**
- 4) **Training and capacity building, the provision of infrastructure at the local level depends on the technical capacity of the municipality and providers. Areas of expertise needed include financial planning, project evaluation, strategic planning and managerial expertise.**
- 5) **Consumer protection, the increased involvement of the private sector in the provision of infrastructure to local communities is a relatively recent one in the history of South Africa. Municipalities must request plans from contractors in**

regard to consumer advisory committees, customer protection provisions and management system for consumer complaints.

- ❖ Issuance of Requests for Proposals, the municipality's intention to solicit private sector participation in infrastructure service delivery through competitive bidding should be published in local and international media.

Phase 3 Proposal Evaluation.

Evaluation of proposals needs to be conducted in order to ensure the quality of service provision. The evaluation steps must be followed.

- ✓ Reject and return, unopened, any proposals received late.
- ✓ Reject any proposals not providing all the required information.
- ✓ Adjust remaining proposals for variations in presentation
- ✓ Reject any proposals not meeting minimum standards
- ✓ Using benchmarks, evaluate technical and financial proposals
- ✓ Grade components of a technical proposal per published evaluation procedures
- ✓ Score financial proposal per published procedures
- ✓ Rank bids based on combined technical excellence empowerment objectives and cost.

Phase 4 Project implementation and Monitoring, this phase includes those steps taken after the selection of PPP option or after the establishment of a restructuring plan for the public provider, the steps include:

- Disclosure of the project.

- **Monitoring.**
- **Re-negotiation for special circumstances, (The Department of Constitutional Development, 1998:15).**

3.3 MSPs PLANNING AND PROCURMENT

This section describes policies for municipal planning and procurement of MSPs. MSPs planning and procurement legislation and regulations deal only with those issues that DCD believes must be mandated uniformly for all MSP procurement. DCD will provide advisory guidelines, additional information and advice regarding best practices for MSP's planning and procurement, the municipal council might wish to consider in connection with their MSP decision-making. The first part of this section reflects the MSP procurement life cycle. This will also begin with the integrated. "Procurement is the stage in the MSP cycle when the municipal council takes its proposed MSP to the market".

According to Charlene Scott (2000: 12), "e-Procurement transforms the corporate procurement function by linking new technology with new business processes and organizational capacities, allowing government to be come more service delivery oriented". This is the model that impacts on the way the procurement function manages suppliers as much as it changes the processes for ordering goods and services.

The way in which the procurement function in the public sector is executed, is an essential tool through which departments and organizations satisfy their requirements and obtain the necessary tools with which to execute their tasks effectively and efficiently, (Bredell, 2000:23). Currently the national departments satisfy their requirements in terms of the State Tender Board Act and through the new National State Tender Board. The Provinces satisfy their requirements through the Provincial Tender Board and in terms of their respective provincial tender board legislation. These two levels of government delegate powers to the relevant role players as determined by the tender boards.

3.3.1 Constitutional Provision for Procurement:

The main focus of the Constitution of South Africa on Procurement is that an organ of state may contract for goods and services in accordance with a system that is fair, equitable, transparent, competitive and cost-effective. It may also provide for categories of preference and the protection or advancement of persons or categories of persons disadvantaged by unfair discrimination. The national legislation must prescribe the framework for implementing the contemplated preferences, (Bredell, 2000:23). According to the Constitution of South Africa (1996:Sec, 217).

With the promulgation of the new Public Financial Management Act, Act 1 of 1999 and as amended by Act 29 of 1999, the face of procurement might change slightly, the accounting officer now must ensure that the organization maintain an appropriate procurement system that is fair, equitable, transparent, competitive and cost effective. The Accounting Officer can delegate powers in writing to any of the departmental officials.

The procurement regulations, on 08 April 2000 the Department of State Expenditure published draft Treasury Regulations for comments. This draft spells out how procurement must be conducted in Public Private Partnerships agreements. The procurement must be dealt with openly for the benefit for all, (Bredell: 2000:23).

3.3.2 Planning and Implementation Management Support System (PIMSS).

This is the important step for a municipality to understand and implement in order for it to reach its objectives. The PIMSS is a new concept and type of assistance that many municipalities require.

According to DDP News letter vol. 03, December (1999: 01), this will help local authorities to:

- Manage their process of integrated development planning in an appropriate manner.

- **Make use of adequate tools for managing the implementation of the plans.**
- **Promote local economic development.**
- **Monitor and evaluate performance.**

This is a nation wide support system with several inter-linked components. The figure below will give an explanation on how this plan works with other constituencies.

The Planning Implementation Management Support System (PIMSS) has Four components that need to be taken into account.

- **National government will provide clear legal and policy framework, some methodological guidelines and the framework for training programmes.**
- **Provincial government will be capacitated to fulfil their roles of regulation, procedure guideline, overall co-ordination of the process within the process provision of sector-specific technical "know-how" process monitoring, product assessment and vertical as well as horizontal co-ordination according to requirements.**
- **Private and NGO's sector will continue playing their roles, but local authorities will be able to approach the right type of service provider for each type of outsourced service, thereby establishing a real municipal service partnerships with planning professional and other contracts.**

- The core elements of the new system will become the (PIMS) centres at district level. These PIMS have two major functions.
 - (a) linking municipalities to existing data, service and advice,
 - (b) provides such information, service and advice which are not available or accessible, or which are not suitable for outsourcing to consultants.

Nevertheless they will be in charge of district level planning. The PIMSS is a joint and co-ordinated effort of all three sphere of government to enable local government to play its development role. The PIMSS centre and the related support systems are not intending to take ownership away from municipalities. Local councils, Authorities and CEO's will be in-charge of managing and coordinating the process within their municipalities. This will enhance their chances to obtain professional capacity, which they cannot afford to have on their payrolls. They will get a more capacitating type of support, guided flexible in the course of the process of fulfilling their management roles. This service will be available to them in accordance with their demand and being paid for those services. The PIMSS is aiming at capacitating local government to plan and implement and perform management system.

The PIMSS uses three-pronged strategies to enhance this objective, (Denton 1999:02).

- (1) Strategy Component: Providing a simplified method. A user-friendly tool will encourage local ownership, increase the people who feel confident in making use

of those tools themselves and consequently will reduce training and support needs.

- (2) **Providing Appropriate Skills:** A well structured programme and targeted training programme will be offered for all types of actors involved in the municipal planning and implementation process. Each group of actors will be capacitated to play in the process competently.
- (3) The envisaged PIMSS is within this overall strategy. This support is meant to cover the remaining gap between simplified methodological requirements and develop skills. The IDP will remain the complex process even after simplification. Skill development needs to be provided to each and every municipal council. The support system will provide for resources that cannot be established within each local authority, Denton (1999: 03).

3.4 Integrated Development Plans

The Municipal Integrated Development Plan (IDP) sets out the overall strategy for achieving its development objectives.

The IDP is the municipal techniques, strategies for accumulating resources and capacity and transforming service delivery mechanisms. In this case the councillor must decide which services can be directly provided by the council or awarded to the private provider.

A procurement process must be effective in the sense that it will achieve value for money for the local authority and its residents and promote important societal goals such as empowerment. The existing procurement legislation and regulations are geared to conventional procurement activities such as civil works construction and the purchase of equipment and services. (White Paper on Municipal Service Partnerships 26 April 2000: 23).

3.5 Municipal Systems Act

This Act will not specify detailed requirements for the content of an Integrated Development Planning (IDP). Nevertheless, the MSA emphasizes that the IDP must:

- Be prepared by council within one year of its office,
- Be prepared in a process established by the council to ensure appropriate citizen participation
- Integrate local sectoral plans, land development objectives, budgets and implementation plans,
- Consider the integrated development of adjacent municipalities and other sphere of government.
- The completed IDP will be a tool for municipal council in consultation with stakeholders, to articulate their short, medium and long term for the municipality with regard to:
- Meeting the basic needs of community

- **Ensuring the provision of municipal service in a sustainable manner.**
- **Accelerating socio-economic development**
- **Creating a livable and spatially integrated community**
- **Promoting a safer and healthy environment**
- **Structuring and managing its planning, budgeting and administrative process in ways appropriate to achieving its development goals.**
- **Providing democratic and accountable government**
- **Accelerating citizen involvement in local government affairs.**

The MSA will also provide for a hierarchy of competitive procurement methods, ranging from the most complex (formal competitive tendering) to the least complex, competitive soliciting. This Act will also provide that the minister of provincial affairs and constitutional development, in consultation with the Department of State Expenditure (DoSE) and Department of Public Works (DPW) will be authorized and directed to prescribe by regulations of the thresholds for the use of each competitive procurement method. It also provides guidelines for the minister's exercise of discretion prescribing these regulations.

- **The Bill will require pre-qualification for competitive negotiation.**
- **Regulations prescribed by the Minister in consultation with the DoSE and DPW, for competitive negotiation will specify thresholds for**
- **Contract duration, less than one year or the**
- **Monetary value, more than R100, 000 less than R 20 million.**

Regulations prescribed by the Minister, in consultation with DoSE and DPW, for competitive negotiations will set minimum requirements for:

1. **Contracts of expressions of interest for pre-qualification**
2. **Contracts of tender document, including:**
 - (a) **A description of the nature of the MSP**
 - (b) **A summary of the key provisions of the proposed MSP contract.**
 - (c) **Bid evaluation criteria.**
 - (d) **A description of how the council will proceed to negotiate with bidders and select the preferred bidder, (Department of Constitutional Development, 1998:52).**

The Bill also goes deep into the procurement procedure that needs to be followed. It also sets out the minimum requirements for requests for expressions of interest by potential bidders who wish to be considered for pre-qualification in a formal competitive tendering process:

- **A brief description of proposed MSP service to be provided.**
- **A brief description of the information to be provided by the prospective bidder in its expression of interest.**
- **A complete description of the criteria that will be used by the council in evaluating expressions, of interest for selecting pre-qualified bidders.**
- **The deadline, format, time, place and manner for submitting an expression of interest and**
- **The time, place and manner in which the council will announce the selection of pre-qualified bidders.**

In addition, the Act will also require that a council engaging in a formal competitive tendering process or in a competitive negotiation must notify all pre-qualified bidders in writing of:

- The time and place that the tender document may be obtained and the amount of any required payment for the tender documents.
- The time and place of any bidders conference to be held by the council prior to submission of bids, (Department of Constitutional Development, 1998: 54).

This will also set out the minimum requirement for a content of formal competitive tender documents:

- A clear and concise statement of the nature of the MSP service to be provided,
- The form of contract to be entered into by the council and the preferred bidder,
- A clear and concise description of the criteria, include their relative importance, the council will use in evaluating bids and selecting a preferred bidder,
- The deadline, format, time, place and manner for submitting a bid, and
- The time and place in which the council will announce the selection of a preferred bidder, (Department of Constitutional Development, 1998: 53).

3.5.1 LEGAL NATURE OF MUNICIPALITIES AND INTERNAL RELATIONS

A municipal is a corporate entity within the local sphere of government exercising Legislative and executive authority within an area determined in terms of the local government:

Demarcation Act, 1998, consist of, structures, functions and administration of the communities, residence and ratepayers of the municipality. The functions are in accordance with the political, statutory and other relationships between its structures, functionaries and administration and its communities and ratepayers. It also has a separate legal personality, which excludes liability on the part of its communities, residents and ratepayers for the actions of the municipality.

3.5.2 CO-OPERATIVE GOVERNMENT

Municipalities engage with the constitutional system of co-operative government envisaged in section 41 of the constitution. Municipalities are entitled to receive funds from the national government. All spheres of government and all organs of state within each sphere must -

- Preserve the peace, the national unity and indivisibility of the Republic,
- Secure the well being of the people of the Republic,
- Provide effective, transparent, accountable and coherent government of the Republic as a whole,
- Be loyal to the constitution, the Republic and its people,
- Respect the constitutional status, institutions, powers and functions of government in the other spheres,
- Not assume any power or function except those conferred on them in terms of the Constitution, (The Constitution of South Africa, 1996:25).

3.5.3 PUBLIC PARTICIPATION

Municipalities must seek to develop a culture of municipal governance that complements formal representative government either, a system of participatory governance, and must for this purpose encourage and create conditions for communities, residents and ratepayers in the municipality to participate in local affairs through:

- **Structures for participation in terms of the Municipal Structures Act,**
- **The mechanisms, processes and procedures for the participation in municipal government established in terms of this Act, including -**
 - **The preparation, implementation and review of the Integrated Development Plan (IDP),**
 - **The monitoring and review of its performance.**
- **Other appropriate mechanism, processes and procedures established by the municipality,**
- **Generally apply the provisions for participation as provided for in this chapter, (MSB: 1999: 14).**

The Act encourages public participation in municipal service delivery. People must take this as their responsibility to ensure that local authorities will render relevant services to their needs and desires. At the same time it provides guidelines on how that will be done.

It is quite important to encourage people to participate in government activities, because one cannot separate government from the people or the people from the government. National and provincial government is entitled to give local government funds. At the same time they are also entitled to generate funds for themselves, in the form of rate collection and other service charges, (Municipal Systems Bill: 1999:12). To facilitate compliance with the principle of cooperative government and intergovernmental relations as set out in section 41 of the constitution. Subsection (1) (a) applies to the extent that subsections does not compromise or impede a municipality's ability or right to exercise its powers or perform its duties.

3.5.4 RIGHT AND DUTIES OF GOVERNING STRUCTURES

The council of a municipality has the right –

- To govern on its own initiative, the local government affairs of the communities, residents and ratepayers of the municipality.
- To perform duties and exercise powers of the municipality,
- To perform its functions without interference or fear of intimidation and threats,
- To finance the affairs of the municipality by:
 - Charging fees for services,

Imposing surcharges on fees rates on property and to the extent authorised by national legislation other taxes, levies and duties, (Municipal Systems Act: 1999:12).

3.5.5 MUNICIPAL POWERS AND DUTIES

It is very important to know the powers and duties of municipalities, because this will eliminate conflicts of interest. Municipalities have all powers and duties conferred by or assigned to it in terms of section 44 (1) (a) (iii), 104 (1), 156 and 229 of the constitution, and must exercise them subject to chapter five of the Municipal Structures Act.

A municipality may do anything that is reasonable and necessary for, or incidental to, the effective performance of its functions.

3.5.6 CONSULTATION WHEN ADDITIONAL FUNCTIONS AND DUTIES ARE ASSIGNED TO MUNICIPALITIES.

In this case the municipality must get assistance from the National and Provincial structures to ensure that the municipalities will accomplish its obligation. The Cabinet members initiating the assignment of municipalities, generally by way of National legislation in terms of section 44 (1) (a) (iii) or 156-(1) (b) of the constitution, must, before the draft legislation providing for the assignment is introduced in Parliament:

- (i) Consult the Minister and organized local government representing local government national wide.
 - (ii) Consider any assessment by the financial and fiscal Commission (FFC) in terms of sub-section.
- The MEC initiating the assignment of a function to municipalities in the province by the way of the provincial legislation in terms of section 104 (1) (c) or 156 of the constitution, must :
 - Consult the MEC for local government in the province and organised local; government representing local government in the province.
 - Consider any assessment by the FFC in terms of sub-section (4).

The Cabinet member or MEC initiating the assignment of a function in terms of section 44 (1) (a), 99, 104 (1), 126 or 156 (10) (b) of the constitution to municipalities, general municipalities in the province or to any specific municipality.

The appropriate steps must be taken to ensure sufficient funding for a performance of the assigned functions by the municipalities. The assignment of function imposes a duty on the municipalities or municipality concerned when,

- a) That duty falls outside the functional area listed in part B of schedule four or part B of schedule five of the constitution.
- b) The performance of that duty has significant financial implication for the municipality concerned.

The cabinet member or MEC initiating the assignment of a function referred to subsection (3), organised local government may request the FFC to make an

assessment of the financial implications of the assignment for the municipalities or municipal concerned, (Municipal Systems Act, 1999: 17).

3.5.7 EXECUTIVE AND LEGISLATIVE AUTHORITY

The council of the municipality exercises the executive authority of a municipality and the council takes all the decisions of the municipality except those taken in consequence of a delegation, sub-delegation in terms of section. Municipality may exercise executive and legislative powers within its boundaries, but may, by writing another municipality, exercise executive authority in the area of that other municipality.

A municipality exercises its legislative authority by:

- a) Developing and adopting policy, plans, programmes and strategies, including setting targets for delivery.
- b) Promoting and undertaking social and economic development.
- c) Implementing applicable national and provincial and its own legislation.
- d) Administering and regulating its affairs and affairs of its communities.
- e) Providing municipal service to communities, residents and ratepayers.
- f) Regulating municipal services where service providers other than the municipality provide those services.
- g) Establish and maintaining its budgets.
- h) Imposing and recovering rates, taxes, levies, duties, service charges including setting and implementing tariffs.

I) Monitoring the impact and effectiveness of any service, policies, programmes including

Establishing and implementing performance management systems.

j) Passing by-laws and taking decisions on any of the above mentioned matters,

k) Doing any thing else within its legislative and executive competence.

The decisions taken by the municipal council or any other structure or functionary of a municipality in the exercise of the municipality's executive authority, must be in writing, (Municipal Systems Act, 1999:18).

3.5.8 LEGISLATIVE PROCEDURE

The provision is important in the sense that it identifies all people who can or cannot introduce a draft by-law to the council in that particular area. In this case only members of the committee of a municipal council may introduce a draft the to council. A by-law must be made by a decision taken by a municipal,

a) In accordance with the rules and orders of the council,

b) With a majority vote of its members.

A municipal council may pass no by-law unless:

a) All the members of the council have been given a reasonable notice.

b) The proposed by-law has been published for public comment in a manner that allows the public an opportunity to make a representation to the proposed by-law, (Municipal System Act, 1999: 18).

Subsection (1) to (3) also apply when the municipal council incorporates by reference, as by-law, provisions of:

(a) Legislation passed by another legislative organ of the state or,

(b) Draft standard by-laws in terms of section 18(municipal Systems Act, 1999:18).

3.6 MSP Feasibility Studies.

The purpose of MSP feasibility studies is to scrutinize a potential MSP project's techniques and financial viability, environmental sustainability and its threats and weakness for the council, residents and stakeholders. (White paper on MSP 2000: 22). This study can be more or less detailed and "exhaustive' depending on the complexity of the proposed MSP. The council can prepare a more detailed and exhaustive feasibility study for less complex MSPs. For example if the MSP is one of the first being undertaken by the council or if it is for the first in that section and if it is politically controversial (White Paper on MSP, 2000: 22).

Nevertheless, it is crucial to identify the role that, the Municipal Infrastructure Investment Unit has done to strengthen feasibility studies. The MIIU has provided the guideline to municipal council in developing a feasibility study. These guidelines

will be complemented by the guidelines that will be provided by the DPLG. Municipal councils receive assistance from the MIU for the initial structure of potential MSP projects and in obtaining assistance in engaging professional consultants to assist the council in preparing feasibility studies (White paper on MSP, 2000:22).

There are differences that need to be identified between the conventional procurement and procuring an MSP service provider. In conventional procurement, the council is procuring assets and services. In the case of MSP the council is instead procuring an arrangement under which someone else renders municipal services on behalf of the council. As Municipal Service Partnerships involves the delegation of tasks and council functions, the risk between the council and service provider is higher than in a conventional procurement. This is owing to the fact that there are huge risk implications that need to be considered in an MSP arrangement and a "correspondingly more sophisticated approach to procurement is required".

MSP procurement will be carried out using a competitive procedure unless it falls into a category of exceptions, (see Section 4.7 below). MSPs with long duration and huge monetary value require more formal and complex process than simpler MSP projects. This is because the MSP with a long duration needs proper planning and it requires extensive financial management. There are three general classes for MSP policy that need to be looked at. A tendering process must be open and it must comply with the rules set by government. For example in this case the Small and

Medium organizations must be given a first priority in terms of black empowerment. The competitive procurement activities are covered below. (White Paper on Municipal Service Partnerships 26 April 2000: 24).

3.6.1 Competitive Procurement Methods and Thresholds

Competitive Procurement Process	Typical Duration of Project	Approximate Monetary Value
Formal Competitive Tendering	10 years (leases) to 20 or High	For example, greater than R20 million
Competitive Negotiation 1 to 9 Years	25 years (BOT's and Concessions) Medium	For example , from R100,000 up to R20 million
	Competitive Solicitation 1 year or less Small.	For example, Less than R100,00

The above table identifies the steps and procedures to be followed during the procurement process.

White Paper on Municipal Services Partnerships (29: April 2000: 23).

3.7 FORMAL COMPETITIVE TENDERING

The leases, BOTs and concessions are the most complex, demanding and risky types of MSPs for both the council, consumers, service providers and other stakeholders.



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All these three types of contracts will be subjected to formal competitive tendering. This is the most thorough and comprehensive of the proposed procurement arrangement. This formal competitive tendering requires the use of a bidder pre-qualification process that will enable the council to select the best bidder.

The council must use this type for complex, long duration, high value MSP projects that are most likely to provide responsive and cost effective proposals. This also enables municipal councils to identify those bidders that are most likely to perform in terms of their contractual obligation, when it is awarded such a MSP contract.

The pre-qualification will hamper all those bidders who do not qualify for contract and that will save the resources of the council because there will be a limited number of bidders and there should be no unqualified bidders in the process. This proposed legislation will provide minimum requirements for expressions of interest by potential bidders who wish to be considered for pre-qualification in a formal competitive tendering process. (White paper on MSP 2000:24).

It is in the discretion of the council to determine bid evaluation criteria and other important aspects. After the criteria has been set the bid that suit the set criteria must be awarded with a contract. In this case the council has a choice either to award the contract or not. There are circumstances that can result in a contract not being awarded to the bidders.

In the case where the bidders failed to convince the council, the contract might not be provided, and in the case where the cost of contracting-out is enormous, it does not make sense for the local council to contract-out services that cost less for them to offer than the private organization.

The councillors are the trustees of their communities and have to comprehend actions that suit their constituencies, White Paper on MSPs (2000:April, 25). While the bidders are evaluated the councilors must take into cognizance the issues of fly-by night organizations. In the case of South Africa there are number of cases where the tender was given and the organization failed to perform and just disappeared. The track records must be taken into account although to a certain extent they should not predict the future.

After all these exceptions, it is vital to have the formal regulations that outline the exceptions. According to the White Paper on MSP (2000:25) it will be normal to apply a competitive procurement process. The proposed legislation will provide a Minister with the authority to issue regulations that outline exceptions. This legislation will deal with the conditions where the circumstances make competitive tendering necessary.

These are the mechanisms used before a tender can be granted.

Integrated Development Plan
Qualification

Resolving Appeals (if any) against the Pre

Bids Process

Monitoring and evaluation performance

In terms of IDP objectives
Entities

Invitation to bid issues to Pre-Qualified

Municipal Infrastructure Investment Plan

Bidder's Conference

Direct Service Delivery Service Delivery through MSP

Bids Received

Competitive between service delivery mechanisms

Contract Negotiations

Feasibility Study
Project Feasibility as MSPs

Publication of bidders results
Resolving Appeals (if any) against the

Bidding

Pre-Qualification
Invitation to Pre-Qualify

Contract Signing

Issuing Pre-Qualification Document*

Pre-qualification Evaluation

Publishing the results of the Pre-Qualification.

Transition to MSP Service Provision

3.7.1 Competitive Negotiation

The council ensures probity, and a simple tendering procedure is adequate for MSP that is less complex, demanding and less risky and of lower monetary value as compared to the quantity of goods. It is the task of the municipal council to monitor the process when the less formal process is used rather than full competitive tendering. Nevertheless, the council is not prohibited to use a more demanding formal competitive tendering procedure for these MSP's. This proposed legislation should provide a minimum requirement for competitive negotiations. In this case the pre-qualification of bidders will be required.

Moreover, a tendering process following this procedure will be simpler and more flexible as compared to formal competitive tendering. The minister must provide regulation for competitive negotiations. The councils must be permitted to issue a simplified tender document and give it to the pre-qualified bidders, rather than a formal bid evaluation process. After all these processes, the council must select the preferred bidder and enter into contract negotiations with that bidder. (White Paper on MSP's, 2000:25).

3.8 SOLICITING PRIVATE SECTOR PARTNERSHIPS

In South Africa the public sector has been struggling to render services to all its people, but due to financial constraints too little has been done. The Democratic government of South Africa has embarked on a partnership with the private sector to render services to the community. The slow growth in South Africa's economy has forced government to form ties with the private organisations. "It is presented as a way of reducing the public sector deficit and realizing new profit centres, in South Africa it is a panacea for the slow growth that the economy is experiencing". (Hemson, 1998: 11).

The private organizations must be encouraged to contribute to service delivery. It is an essential strategy to attract foreign capital to provide for investment.

According to The Sunday Independent (20, 04:997), on occasion it is argued that the state can no longer act as the agent of development. According to Sunday

Independent (20, 04 1997) politically, the involvement of the private sector to service delivery is recognized as the strategy for black empowerment. Black empowerment is the most crucial aspect that is recognised by PPP. This is because the small businesses are given first preference in the process of issuing tender. The small and medium businesses are given the priority in the tendering process. In this case the big business do not compete with the small and medium business partner for tenders, (Hemson, 1998: 12).

3.9 COMPETITIVE SOLICITATION

According to the MSPs White Paper (2000:25) a competitive solicitation takes place to MSPs of shortest duration and the lowest monetary value. Due to the fact that these MSPs have the least risk and complexities this results in a simple procedure. At the same time it is not compulsory for councillors to use this stream, they can use the complex form if it is necessary. This provides an option to council.

The soliciting processes for MSPs are regulated by the office of the Minister. The soliciting provision is that the council must solicit proposals from two or more potential MSP service providers. At this point, the council is responsible to determine the duration of a contract and money or budget for that contract.

After all the fairness and transparency that is required in the public sector activities it is the responsibility of public officials to be fair and transparent to all parties. It is

the responsibility of the council to set the required standards for bidders that they must comply with. For example, the bidders must have a capital to a value of R100 000, including fixed assets. (White Paper on MSP 2000:25). This has advantages that need to be considered.

- Ensuring that the municipality gets the best deal possible.
- Reducing the concerns over corruption and patronage in the award process.
- Reducing the risk of the contract later being challenged or cancelled.

If all these advantages are met the MSP can achieve its goals and objectives, (The Department of Constitutional Development, 1998:13).

When one looks at the time factor, this kind of bidding is complex in nature and it requires a lot of time to organize. The alternative is direct negotiation. Nevertheless negotiations can be complex and delay the whole process. The solution can be the pre-qualifying bid. This is the way to reduce the number of bidders in the process, (The Department of Constitutional Development, 1998: 13).

3.10 Bid Evaluation

According to the White Paper on MSP the council should select the best bidder amongst others. This does not mean bidders with best presentation but the one that is fully responsive to the bid document and offers the best value for money for both the residents and other users of the service in the long run.

The council has the task of showing transparency and fairness in awarding contracts. The council must make it a point that the process will demonstrate to the people, bidders and to other constituencies that a MSP contract has been awarded by the council in a manner that suits their interest. (White Paper on MSP, 2000:25). This can reduce the rate of corruption and other forms of mal-administration in the process of tendering. These exceptions would contain the following.

- "Emergencies" this is where the time required to engage in a competitive procurement process is likely to endanger public health and safety or the quality of the natural environment.
- Where only one potential provider presently exists for the service.
- Where the MSP services are delivered to the municipality through a multi-jurisdictional service authority in which the municipality is a member.
- Where an administrator is appointed for any municipal service by a province that intervenes with respect to the performance or delivery of that service in terms of section 139 of the constitution and any applicable legislation. This section provides the following.

(1) When a municipality cannot or does not fulfil an executive obligation in terms of legislation, the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfillment of that obligation, including the following.

- (a) Issuing a directive to the Municipal Council, describing the extent of the failure to fulfil its obligations and stating any steps required to meet its obligations.

- (b) Assuming responsibility for the relevant obligation in that municipality to the extent necessary.**
- (i) To maintain essential national standards or meet established minimum standards for the rendering of a service.**
- (ii) To prevent that Municipal Council from taking unreasonable actions that is prejudicial to the interests of another municipality or to the province as a whole, or,**
- (iii) To maintain economic unity.**

(2) If a provincial executive intervenes in a municipality in terms of subsection (1)

- (a) The intervention must end unless, it is approved by the cabinet member responsible for local government affairs within 14 days of the intervention.**
- (b) The notice of intervention must be tabled in the provincial legislation and in the National Council of Provinces within 14 days of their respective first sitting after the intervention began.**
- (c) The intervention must end unless it is approved by the Council within 30 days of its first sitting after the intervention began and,**
- (d) The council must review the intervention regularly and make any appropriate recommendations to the provincial executive.**

(2) National legislation may regulate the process established by this section. (The Constitution of the Republic of South Africa, 1996: 74).

All these exceptions need to be utilized to make procurement processes effective, efficient and economic.

There are other forms of awarding contracts that need to be considered. For example, unsolicited proposals, in which case a contract can be awarded after it has been subjected to an extensive competitive bidding, process. Councillors can negotiate with the offers of the unsolicited proposal to do the following.

- To provide the bidders with a commercially reasonable preference in the bid evaluation process. Such preferences should provide fair recognition of the value of the proposal and the cost of developing the proposal. The preference provided to the bidders shall be fully disclosed to all parties in the invitation to bid.
- Purchase from bidders all or part of the valid intellectual property rights owned by the private party in respect of such an unsolicited proposal. (White Paper on MSP, 2000:26).

The council is free to offer the underlying project for open competitive bidding if:

- The council and the party submitting the unsolicited proposal fail to agree on a commercially reasonable preference.
- The council and the other party fail to agree on an acceptable purchase price for valid intellectual property right.
- The council elects not to negotiate, however in so doing councils should not violate the valid intellectual property rights of the council to the bidder.

There is another aspect of issuing tenders or contracts to bidders.

This is called probity. According to the White Paper on MSP (2000:26) procurement processes create opportunities and temptations for a lack of probity. Mal-administration and corrupt practices are totally unacceptable since they undermine democratic principles and sacrifice the public interest for the benefit of personal interest.

The council has a right to reject the proposal of any contract awarded as a result of corrupt procurement process and must be declared void. The bidder that has engaged in any corrupt practices in a government procurement process should be barred from bidding in any other government procurement process, (White paper on MSP, 2000: 26).

This is a strict measure that is implemented to ensure that bidders would comply with the set rules. This will result in a transparent bid and awarding process. It is the responsibility of the council to inform the community, bidders and other stakeholders about the development that has been made on the MSP procurement process. This ensures that public officials or local councils and bidders follow the procedure set by law and council. (White Paper on MSP 2000:27).

3.11 CONCLUSION

Procurement is the most crucial aspect of PPP's. Government must ensure that the procurement process is as transparent as possible and the best candidate must be selected. There are many requirements that are needed for the bid to qualify for a tender. This needs to be understood, it is not a reverse discrimination but it is trying to address the imbalances of the past.

This is one of the ways in which government can utilize to develop those communities who were not developed in the past. In this case it is also quite vital to prevent corruption where you find that the public official is making profits out of this process. Government must come up with policies that will prevent window dressing. This takes place where you find that the firm will be under the name of an African, but only to find that it is owned by the whites. These are technicalities to be considered.

The bidding process needs to be handled in a professional manner. The Minister in-charge must be liable for any mal-administration activities that take place during a tender offering process.

CHAPTER FOUR

3. Capacity Building For Municipalities in South Africa

4.1 INTRODUCTION

There could be many benefits denied from MSPs that can be theoretically identified. For example, it might be that all the hypothetical statements are correct and the conclusion made that MSP has more benefits than costs. If the involvement of a private sector firm in service provisions is effective and efficient it will be to the greater benefit to the customers. Thus involvement of the private sector must be encouraged. Legislation must be passed to regulate the activities. In this case one need to evaluate government's provision on the MSP.

These provisions can be identified as related to the role private sector should play in the partnership with the public sector. It will also provide for legal aspects in partnerships. MSP is responsible for capacity building to local councils. The involvement of a private company is also about fuelling resources in the public sector.

4.2 MSP CAPACITY BUILDING:

This is the council's ability to perform its task and functions in terms of the Constitution and the White Paper on Municipal Service Partnership (2000: 28). According to the constitution local government must be able to provide clean water, housing, electricity, streets, parks and recreational services.

The focused attention on capacity building in these areas will support improved development of feasibility service delivery goals and implementation strategies. If it has suitable cost and performance data, a council is in a better position to determine how effectively and efficiently it is delivering its existing services. For example, a council may be considering the completion of a new water treatment plant. If the council finds that repairing leaks is more cost effective than building a new water treatment plant, the resulting savings can be re-deployed to improving another municipal service such as trash collection (Department of Constitutional Development:1998:68).

4.2.1 **Building Management Capacity**

Support for municipal capacity building is integral to achieving sustainable improvement and expansion of municipal service delivery. It does not matter, whether the municipal services are delivered by traditional direct delivery or through MSPs, councils require functional capacity to:

- ◆ **Determine appropriate service levels.**
- ◆ **Prepare an IDP.**
- ◆ **Plan for service delivery on a sector-by -sector basis.**
- ◆ **Marshall management, human and financial resources to ensure service delivery.**
- ◆ **Determine tariffs and promote effective and efficient tariff collection.**
- ◆ **Monitor service performance and ensure compliance with service delivery goals and standards.**
- ◆ **Manage and implement stakeholder consultation.**
- ◆ **Coordinate service delivery activity with other spheres of government and,**
- ◆ **Adjust service delivery activities over time.**

The municipal capacity in these areas requires many specialized skills, including the following.

- ◆ Governance skills such as identifying community needs, setting priorities, exercising political leadership, and decision-making.
- ◆ Facilitation skills, identifying stakeholders, eliciting their view, consensus building, resolving conflicts, developing and implementing consultative processes, and communicating with shareholders.
- ◆ Management and administrative skills planning, preparing and reviewing finance, budgeting, accounting, and ensuring legal and regulatory compliance, (The Department of Constitutional Development: 1998:68).

4.2.2 Management System and Processes

These management systems and processes are serving as guidelines to monitor and evaluate the whole process.

- ◆ Management and planning activities also require information. For example, to determine the cost effectiveness of a municipal service reliable information is required on the cost of the service and its performance. A sound accounting, reporting and budgeting system and systems for collecting and processing performance indicators add to a council's capacity for:
 - ◆ Measuring the cost effectiveness of service delivery.
 - ◆ Measuring the cost and benefits of alternate approaches to service provision.
 - ◆ Service delivery budgeting and financial management.

- ◆ **Monitoring and regulating service provision performance.**
- ◆ **Fulfilling reporting obligations to the public, local and provincial government and national government.**

While all councils need financial and management systems processes and information, councils should also consider:

- ◆ **The diversity in the scope, size and nature of their operation-while large metropolitan councils may require comprehensive, technology-intensive system, smaller councils may be better served by smaller and more accessible systems.**
- ◆ **Whether such systems should be developed "in-house" developing "in-house" systems will often require outside assistance, training activities and specialized staff, while contracting with a suitable service provider to develop and manage such systems or provide required information may be more cost effective.**

4.2.3 Capacity Building to Support MSP Service Delivery.

The municipal capacity requirements outlined above apply whether council elects to provide service itself, using the traditional public sector delivery methods or through an MSP. Ensuring effective service delivery through MSP arrangements typically requires councils to acquire additional functional capacity in:

- **Financial analysis to:**

- (a) Determine the financial costs and benefits of alternate service delivery options and to structure MSP projects.**
- (b) Analysis and determine optimum levels and forms of municipal financial support for MSPs, when appropriate.**
- (c) Carry out the financial evaluation of bids.**
- (d) Establish financial performance standards for MSP.**
- (e) Monitor the financial performance of MSPs service providers,**
- (f) Set and adjust tariffs.**

➤ **Technical and engineering analysis to:**

- (a) Determine the technical viability of alternate service delivery options.**
- (b) Establish technical performance standards for MSPs.**
- (c) Carry out the technical evaluation bids.**
- (d) Monitor technical compliance of MSPs service providers.**

➤ **Contracting and contracting management skills to:**

- (e) Negotiate contracts that allow for practical monitoring and enforcement.**
- (f) Identify and allocate risks appropriately.**
- (g) Monitor, service delivery and ensure contract compliance.**
- (h) Re-negotiate contracts.**

➤ **Project management skills to:**

- (i) establish and monitor implementation schedules for all stages of the MSP project cycle.**
- (j) Design, supervise and review feasibility study.**
- (k) Manage the procurement process, (The Department of Constitutional Development: 1998:71).**

4.2.4 Capacity Building for MSPs.

The following measures will be supported by DPLG to increase municipal capacity for planning and implementing MSPs:

- ◆ **Providing guidelines for:**
 - a) Stakeholder consultation.**
 - b) MSP project identification, feasibility studies and project structuring.**
 - c) Financial support for MSP projects by municipal councils.**
 - d) MSP procurement.**
 - e) MSP contracting, contract monitoring and compliance.**
 - f) Municipal council internal management structures and decision-making process for planning and implementing MSPs.**
- ◆ **Establishing an MSP information clearinghouse within DPLG.**

- ◆ **Providing technical assistance in key aspects of MSP planning and implementation including contract negotiation, contract monitoring and compliance.**
- ◆ **Training for university faculty, municipal councillors and municipal officials in Planning and implementing MSPs, (Department of Constitutional Development:1998: 71).**

4.3 Institutional Roles and Responsibilities

It is the responsibility of the council to select or utilize MSPs and for ensuring that the MSP service provider performs in accordance with the contract. Nevertheless, the council must be satisfied by the following:

- **The capacity to do so.**
- **Carried out adequate stakeholder consultation**
- **Identified MSP projects that are sensible and consistent with the IDP.**
- **Procured MSP service providers using competitive and transparent procedures.**
- **Ensured that MSP service providers fulfil their contractual obligation.**

(White Paper on MSP: 2000:30).

The councils also have the responsibility to determine the institutional and management framework for carrying out MSPs. The council must provide a clear designation of responsibilities for the management and implementation of each stage of the MSP project cycle, including:

- **Project planning and identification.**
- **Procurement.**
- **Contract preparation and negotiation**
- **Overall management of the MSP project, (White Paper on MSP: 2000: 30).**
- **The council must be effective in planning and in reporting systems:**
- **Describe how service delivery will be implemented within their IDP framework.**
- **Monitor the implementation of the IDP.**
- **Monitor service delivery performance.**

4.3.1 Batho Pele Principles

➤ **PUBLIC CONSULTATION**

- **The municipal councils are elected to serve the interest of their public and are accountable to them through the democratic process of local elections. The White Paper on Local government advocates augmenting the process of representative democracy with a more accessible and day-to-day system of participatory democracy. Councillors and public officials must therefore advocate and practice the Batho Pele principles, (The Department of Public Service and Administration, 1997:01).**

➤ **Service Standard**

National and provincial government departments are entitled to publish service standards for existing and new services. They will be evaluated once a year and be

raised progressively, (The Department of Public Service and Administration, 1997:01).

➤ Access

"One and all should get their fair share". The Department will have to set targets for extending access to the public servants and public services. They must introduce special programmes to improve service delivery to all people, (The Department of Public Service and Administration, 1997: 01)

➤ COURTESY

"Do not accept insensitive treatment". All departments must set standards for the treatment of the public and incorporate these into their codes of conduct, values and training programmes, (The Department of Public Service and Administration, 1997:01).

➤ INFORMATION

" You are entitled to full particulars". The public must get full, accurate and up to date facts about services they are entitled to. Information should be provided in service points and in local media and languages. Contact numbers and names should appear in all departmental communications, (The Department of Public Service and Administration, 1997:01).

➤ OPENNESS AND TRANSPARENCY

"Administration must be an open book". They will have the right to know. Departmental staff numbers, particulars of senior officials, expenditure and performance against standards will not be secret. Reports to people will be widely published and submitted to legislatures, (The Department of Public Service and Administration, 1997:01).

➤ REDRESS

"Your complaints must spark positive action". Mechanisms for recording any public dissatisfaction will be established and all staff will be trained to deal with your complaints fast and efficiently. Regular feedback will be provided on the outcomes, (The Department of Public Service and Administration, 1997:01).

➤ VALUE FOR MONEY

"Your money should be employed wisely". You pay income, VAT and other taxes to finance administration of the country. You have the right to insist that your money should be used properly. Departments owe the proof that efficiency savings and improved service delivery are on the agenda, (Department of Public Service and Administration, 1997:01).

4.4 CONSULTING USERS OF SERVICES

- **All national and provincial departments must regularly and systematically consult not only about the services currently provided but also the provision of new basic services. This will give people the opportunity to influence decisions about public services.**
- **There are different ways to consult the customers, interview with the individual users, consultation groups and meetings with consumers and representative bodies, Non- Governmental Organisations and Community Based Organisation.**
- **The result of the consultation process must be reported to the relevant minister, portfolio committee and publication through the media.**

SETTING SERVICE STANDARDS

- **National and provincial development must publish for the level and quality of services they will provide. In the case of certain services such as Health and Education national departments set the standards.**

INCREASING ACCESS

- **South Africa is divided into two categories, there are those who receive the world class services and others are not receiving any at all. It is the responsibility of government officials to ensure that this gap is narrowed.**

- **One factor that is affecting access is geography. Many people who are living in remote areas do not have services at all. Many people in these areas do not have infrastructure such as schools, clinics, clean water, electricity and roads.**

ENSURING COURTESY

- **This is more about the public official who respects the public, treating them with respect and dignity. This is the provision of the code of conduct.**
- **Both national and provincial government must specify the standards for the way in which customers should be treated. These are to be included into their departmental code of conduct. This include the following:**
 - (a) **Greeting and addressing customers,**
 - (b) **The identification of staff by name when dealing with customers, whether in-person on the telephone or in writing.**
 - (c) **The system and tone of writing communication.**
 - (d) **Simplification and customer friendliness of forms.**
 - (e) **The maximum length of time within which responses must be made to inquiries.**
 - (f) **The conduct of interviews.**
 - (g) **Gender, all people must be treated equally. Gender identity must not be the case in giving people jobs to do.**
 - (h) **Language is very important such that a service provider must be able to communicate with customers.**
 - (i) **How complaints should be dealt with**

(j) Dealing with people who have special needs.

PROVIDING MORE AND BETTER SERVICES

- **Information is the most liberating tool. When people have the information they will understand and participate in development activities. Information will discourage public officials from being corrupt.**

INCREASING OPENNESS AND TRANSPARENCY

- **Openness and transparency are the hallmarks of a democratic government and are fundamental to the public service, (White Paper on Transforming Public Service, 1997: 17).**

4.5 Role of Public Protector.

Residents require timely and effective ways to express their opinions regarding service delivery and to obtain redress. This applies to services delivered directly by the council and those delivered through the MSPs. This strategy promotes resident empowerment, helps curb possible abuses of monopoly positions by service providers and gives effect to participatory democracy.

Councils, in consultation with their residents, should therefore consider creating the position of a municipal service Public Protector. The functions of this position includes:

- **Actively soliciting resident and consumer opinion on municipal service provision**
- **Collecting, analyzing and evaluating resident and consumer complaints.**

- **Meeting with the complaints and advising them regarding the validity of their complaints and potential solutions.**
- **Assessing valid complaints and proposed solutions to the council or officials.**
- **Advising the complainants of the council's decision and proposed remedial actions.**
- **Monitoring the council's remedial actions and informing residents and consumers, (White Paper on MSPs, 2000:31).**

It is the responsibility of all South Africans to ensure that the development of their country is on their shoulders. Capacity building will save South Africa's millions of rands. For example human resource development in Information Technology (IT) will make people able to operate more effectively.

4.6 RURAL CAPACITY BUILDING.

Rural areas need serious attention as a priority. Rural areas were not developed in the past. It is the responsibility of government to ensure that these areas are getting proper services now. PPP's will only be successful if it will serve the most needy communities.

These areas are mostly found in the so-called ex-TBVC and self-governing states. According to the statistics provided by the Rural Development Task Team the majority of poor people are living in these areas.

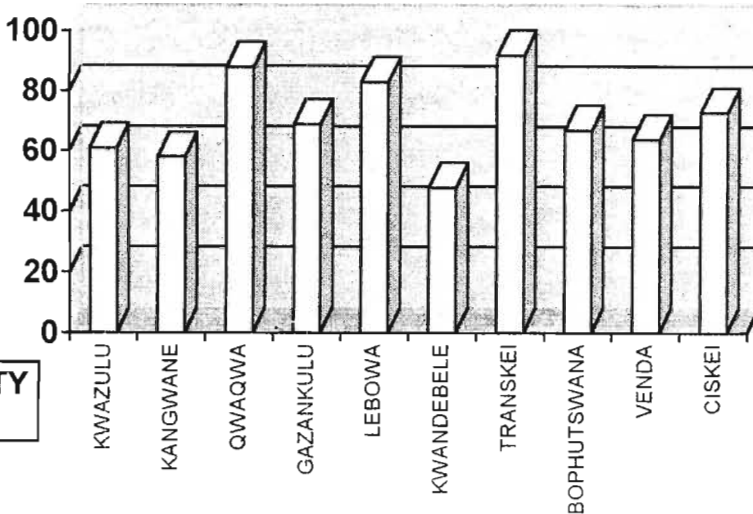
Poverty can be defined as a condition whereby people do not have factors of production, such as money, land and other valuable resources.

Table 4.1 Poverty Rates for Former Homelands (1995/ 05)

HOMELAND	Rate %
KwaZulu	61
KaNdwane	58
Qwaqwa	88
Gazankulu	69
Lebowa	83
KwaNdebele	48
Transkei	92
Bophuthatswa	67
Venda	64
Ciskei	73

Figure 4.1 Poverty Rates for Former Homelands

(% of population of former homelands who are poor) 1995/05



The above statistics clearly identify the areas that need to be taken into account. South Africa is divided into three categories. The first category is for those who have more than enough, second are those who can survive and third those who would not survive. Most of those who suffer are in rural areas. Due to high unemployment, people are moving to the cities. This is the problem that needs to be addressed by the government of the day. It is vital to create job opportunities where people are. Private businesses must be encouraged to open firms in rural areas, to ensure that those people are actively involved in economic matters of the country. Although the above diagram is reflecting the borders of the past but even today there are no massive changes that have taken place. In the past the economy of the country and firms were in urban areas rather than in rural areas. This is the more challenging fact that needs to be addressed by government.

4.7 CONCLUSION

Before government can think about PPP's the main problem is that government does not have the capacity to render services to the people. It has identified the problem first before trying to solve it. It has been identified that government is lacking capacity in many ways. Firstly government does not have money to render services to the people. The alternative for government is to involve the private sector in all activities to ensure sustainability and delivery.

Government is facing a challenge, the needs of the people are changing each and every day. This means that government must have staff who are creative and have the skills to deal with new challenges. The public sector needs to develop its staff. And it must be competent enough to solve daily problems in the public sector. Capacity building is the most suitable way to ensure that government will be effective in the future. In terms of infrastructure government must also encourage the private firms.

In this case government must take into account the rural areas. These are the areas that really need infrastructure development. Government needs to target these people for development policies. The majority of people who are living in rural areas do not have roads, clean water, electricity and other basic services. In this case it is important to consider how to develop firms and industries in these areas.

Chapter Five

5. Data Analysis

5.1 INTRODUCTION

Different departments were interviewed to get the views about Public Private Partnerships. These responses will identify whether the PPP is seen as a right policy to bring about development in South Africa. There are many views that have been shared, for example from public officials, communities and trade unions.

5.2 FINDINGS

All these are the views from uThungulu Regional Council, According to Biyela (26 June 2000).

According to Biyela the municipal manager from uThungulu District Council, (26 June 2000), PPP is cooperation between the public and private institutions created in terms of the constitution of the Republic of South Africa, Act 108/ 96 and the private sector established in terms of the Companies Act. Nevertheless, it has been identified that it is important to involve the private sector in service delivery in this country. The public sector does not have sufficient resources to render services to the public. There is a great need to establish the infrastructure.

The private sector is the only available option for the public sector. The private sector must inject money into the public sector.

The cooperation between the public and the private sector will benefit the public at large. In order to achieve maximum profit, the input costs must be low and the output must be high, and the private sector is good at that. The public sector will benefit and it will be able to increase the rate of services rendered to the public.

The District Council has forged a relationship with the private sector. The creation of companies has happened to deal with the housing backlogs, provision of potable water to the community. There are different forms of contracts that the council can decide to enter into, but in this case the concession is the most suitable, (Biyela, 26 June 2000).

It is important to note that the introduction of the private sector in service delivery does not mean the end of the public sector. The public sector will be there, it will not disappear at all. By introducing the private sector in service delivery, government is trying to increase efficiency in service delivery. It is a fact that one can not deny that the majority of our people do not have need adequate services, such as water and electricity, housing and other basic infrastructure. But all in all, the public sector will be there to conduct and mandate service delivery to the people, (Biyela, 26 June 2000).

The relationship between the Public and Private sector will benefit the public if efficient management tactics will be exercised for the benefit of the public. The nationalization of the infrastructure will be an added advantage. This really means that the public sector will have access to infrastructure for the private sector. These are the strengths and opportunities that the public sector will have. To be realistic one cannot just assess the good side only it is also vital to look at the bad side. An introduction of the private business may make services a bit more expensive because of the profit motive of the private sector. Another problem is that of the unwillingness of certain communities to pay for service charges and the politicization of service delivery.

In terms of power relations between the managers from the public and private sectors, there will be no conflict in terms of power relations. But this depends on how one views the situation. The management of the private sector institutions and public institutions should complement each others hence no conflict should be expected to arise. The conflict can be avoided through a clear job description amongst managers.

Each manager must know what to do with whom and to whom they have to report. The institutional arrangement to manage the project must consist of role players from both the public and the private sector, (Biyela, 26 June 2000).

In the case of making a profit the private sector must accept reduced profits because political processes drive service of the public sector, which looks at the total community because politicians need the votes of both the poor and rich. In order to reach equilibrium Local Councils must ensure Local Economic Development, which means opportunities for job creation. This will enable the community to pay for services, such as water and electricity.

The public point of view is not quite clear as the major unions are still fighting this concept. Some members of the community are also members of these unions, at all spheres it has not been given the issue sufficient publicity as the unions have done.

It is not a bad idea to opt for a much longer period of years. This will give the cooperation a long duration to ensure that they increase the perfection of in the work they are doing.

It is quite important to note that the public sector in this country is having more than the required number of staff, that it is costing government millions of Rands.

The government of the day has realized that it is important to increase funds for service delivery and reduce money for salaries. Instead of having six people doing one job, one person will do the job.

That will save thousands of rands for government and with that money government can improve service delivery. Although it might look as a result of private sector involvement but it is not the absolute reason, (Biyela, 26 June 2000).

In terms of Rural Development the PPP's will accelerate Economic Development in these areas. Due to the fact that private sector has resources those resources will be used for the benefit of the people. The involvement of the private sector will be encourage and speed up development projects in rural areas. The speed of service delivery in these communities can increase and the wide range of communities can be covered. The involvement of the private sector will encourage sustainable services and it will improve the standard of services.

In the case of the workforce attitude towards PPP's, this is important in the sense that it must be clearly noted and mentioned. The involvement of PPP's, of course caused some sort of uncertainty because each and every employee will think about his/ her job security. After it has been clearly mentioned that PPP's would not take peoples jobs, and then employees morals will not be affected. PPP's are not the means to an end. This is just a beginning but it seems as if this is the process that will never stop.

Finally the PPP is the policy that is trying to make other policies possible, such as the Reconstruction and Development Programme (RDP). The RDP is about delivering service to the disadvantaged communities.

When you look at the PPP policy this is all about rendering better service to the people.

The Responses from COSATU

According to Jomo (Chair Person) of COSATU in KZN, PPP's is a strategy to gradually facilitate the privatization of state assets and the removal of the state from active economic activities.

The COSATU supports the relationship between the public and the private sector. This must not be done at the expense of government assets. In the meantime it remains the duty of the state to render services to the people.

In terms of PPP's benefiting the public there will be no such thing. The nature of the private sector aims at maximizing profits and that has a negative impact on the poor. The neo-liberals intend to do away with the public sector. But this is contrary to what Trade Unions seek to achieve within the context of a developing state.

The opportunity will be a regulated price for service delivered, and the weakness is that when prices are not properly regulated the service charges can be very high.

General Responses from the Public in Durban about PPP's.

The response to the first question asked to the people, asking them what do they know about Public Private Partnership? Almost 90% do not know what is that. 90% they never even heard about the terms. Only 10% who was having a clue of what is PPP.

The response to the second question was that the private sector must not be involved to service delivery because the rates or service charges will be increased. In this case almost 100% interviewees they do not think it is a brilliant idea to involve the private sector to service delivery. All these people they foresee the problem of very high rate for basic services and an increase in the unemployment. They strongly believe that government must be the main service provider to the people. All in all these people they do not see any benefit for the people.

They do not think there must forge any relationship with the private sector. These people do not want the relationship with the private sector because they see this as an end of the public sector.

Another point that they highlighted is that they will be a conflict of interest between the two sectors. The private sector is interested in profit making while the public sector is serving the public. They also mentioned that the involvement of the private sector would accelerate unemployment in the country.

In terms of developing rural areas 55% do not think that the involvement of a private sector can change anything. And they suggested that the governing structure needs to be changed to suit development. They raised other concerns such as resistance from the side of traditional leaders.

Findings from Richards Bay

Out of the total of 100% =(45 interviewees) only 2% have heard about the PPP's. The rest that is 98% has never heard of PPP's. This is the challenge one is facing, researchers need to make it a point that people know about this. It will be very difficult to implement PPP's if people does not know about this.

After explanation, almost 30% of the people do support the idea of PPP's, 40% of the people do not have any idea and 30% do not support it at all. These people have a different idea for example the first 30% is saying this is the best alternative for government to accelerate service delivery mostly in rural areas.

This group is saying now it is the high time for private sector to contribute to the development of the people who are their consumers. The 40% group does not know exactly what to do, because they try to balance both the advantages and disadvantages of the PPP's.

The last 30% do not want private sector to be involved to service delivery process. The main reasons are: there will be an increase in service charges, increase in unemployment.

Almost 100% people have foreseen the conflict of interest between the private and the public sector. The private sector is interested in the profit making and the public sector is rendering services to the public.

Findings from the people of Nelspruit.

Out of a 100% (55) people interviewed almost the people really does not know any thing about the PPP's. 95% of the interviewees has never heard about the PPP's. Another problem here is that these people confuse the terms they regard PPP's as privatization.

After explaining what PPP is, 40% supported the process, and they see it as an alternative for better service delivery. 55% was not for the whole process. This group really do not want to involvement the private sector, because they are more concerned about jobs and the rate of service charges.

Findings From The Municipal Infrastructure Investment Unit (MIIU)

According to Barry Jackson the (Policy Coordinator) for MIIU, (2001/ 01/ 10). The PPP's are the purposive relationship between government, government and private firms. The objective of this relationship is to improve service delivery and effective utilisation of scarce resources to satisfy people's needs. It is good for government to work with the private sector, because government does not afford the expenses of rendering services to the public. The involvement of a private sector will inject capacity for both the sectors.

It must emphasized that the aim of this relationship is to help the community. Thousands of people in this country do not have access to basic services such as clean water and sanitation and electricity. The involvement of the private sector will speed up the process.

Municipalities are free to choose any among kinds contracts that will suit its needs. The choice of a contract is determined by the need and nature of service needed.

The relationship between these organisations does not necessarily mean the end of a public sector. The public sector must be there to exercise control over that kind of partnership. The public sector must not shift its tasks. The public sector will need new management skills.

In terms of conflicts, there is no conflict at the moment. Nevertheless, it is very important for both parties to follow the guidelines and principles of MSPs. This is the best way to minimise conflict of interest. The involvement of a private firm in service delivery will not increase the cost of services. In the case of job losses all employees are ensured that they will no job losses instead more jobs will be created. For example numbers of employees have increased in both Nelspruit from 150 to 180 and Dolphin Coast from 22 to 38. Employees were not happy with the system but after this assurance the SAMWU fully supported the idea.

In terms of rural development the onus is up on the local council to forge the relationship with the private sector. As it has been previously mentioned, that local councillors are not forced to inter into MSPs. Each and every local council must seek help from the private sector to satisfy it's unique needs.

5.3 CONCLUSION

Looking at what PPP's, it is clear that some of the public officials do understand what PPP's are, but the vast majority of the general public really do not understand. Looking at three sample areas it is clear that people must be educated and local authorities also need to be trained. In this point in time more than 80% people really do not understand and this is not just for general people but even the academics need to be trained.

The serious threat is that most of the employees does not want PPP's because this come with a word "Privatization". People are loosing jobs that are why people do not fully support the PPP's.

The most important strategies are to train people so that they will understand the differences between Privatization and PPP's.

CHAPTER SIX

6. Comparison of PPP implementation in different countries

6.1 INTRODUCTION

This chapter deals with the similarities and differences that can be identified between South Africa and other countries that have implemented the PPP's. The aim of this chapter is to ensure that South Africa learns some lessons from other countries. It is the responsibility of good administrator to learn from other country's mistakes. South Africa needs to take into account the systems that accelerated development in the developed countries. It must be clear that the PPP's are not the new concept to other countries such as Britain and America.

These countries had been selected because the researcher has access to information from these countries. And another reason is that it is vital to learn from the countries that have been in the process for years. The lessons from these countries will enable us to avoid the mistakes they have made. Although one shall not deny the fact that there are other countries, which are involved in PPP process, but one, must select countries that have similar background. It must be clear that South Africa and United States were UK colonies and as a result these two countries adopted UK's approach.

6.2 Public Private Partnerships in the UK.

According to Jon Pierre (1998:71) the UK was lacking a sense of dynamic change. The introduction of the private sector has resulted in many development projects being implemented. In this case the introduction the private sector will accelerate accountability on the side of Public Officials. Although UK is doing well with the PPP's this is not the old concept.

The emerging of the PPP's in UK was based on two main ways, one when the parties identify the problem and each does not have sufficient solution. The level or rate of partnership between the public and private sector can increase because of an increase at the levels of problem complexity. The second is the fragmentation in infrastructure capacity. In this case it is highly unlikely to find a partnership when the institution is having the capacity to deal with it.

In this situation all over the world the partnerships is because of a lack of capacity.

The parties enter into partnership because of one of the following reasons.

- They will lose something if they do not.
- They will gain something if they do enter.
- They have to.

The first one is relevant to the public institution. The public sector does not have a choice but it is a must for them to encourage the private sector to be involved. Government does not have sufficient money to satisfy public needs. This is common all over the world although it varies in terms of levels of incompetence.

In the developing countries the level of incompetence is massive, but in the developed countries the level of incompetence is very low, (Jon Pierre: 1998, 74).

The main aim of the PPP's in the UK is not to simply introduce the private sector to assist the public sector to render services, but it encourages the private sector to render services that it shall not offer in the market, (Pierre: 1998, 78). Although UK is better than South Africa, it is less competitive than America and Germany. UK capital is much less decentralized, business organisations such as the Chamber of Commerce, foundations and clubs are less powerful and lack public status. There are few formal and informal networks linking key individuals, (Pierre: 1998, 79).

In this case when one is comparing UK and SA, the problem is that SA does not have many big local companies to contribute as it happens in UK. The second point is that the levels of development are totally different. UK is a highly developed country. It does not need much of the infrastructure as SA does. South Africa is lacking an infrastructure and the level of poverty is high. The level of unemployment is also high. There are many uncertainties that need to be taken into account in this case. In South Africa Trade Unions are skeptical of this approach. Unions can think about job losses that can take place if this is introduced. In UK even if employees can be skeptical about this the level is not the same because the level of privatization is very high in UK.

There are many differences in terms of types of contracts. The only difference that need to be identified is that, in the UK the PPP's are the to improve the standard of services that are in place. Government developed most infrastructures. The private sector is to ensure that the services are sustainable. In the case of South Africa, the private sector must take the initiative to implement infrastructure. There are very large numbers of people who need services. The private sector in South Africa is having a large load. These are differences that need to be highlighted.

South Africa must learn some lessons from the developed countries. These lessons are:

- Avoid all the mistakes of these countries.
- How powers are described between the public and the private sector.
- How UK, USA and other countries solve their problems.
- How to encourage the participation from private firms.
- What skills are required to make this project sustainable?
- What training is required for councillors to become more effective and efficient?

6.3 Case Studies

Case 1

This case is dealing with a concession type of contract. This is a Water and Sewerage Concession in Manila, Philippines.

In Manila, Philippines there were 12 million people during the late 1980's the government of the Philippines faced a growing crisis in its water and sanitation

sector. Within the Metropolitan Waterworks and Sewerage System (MWSS) unaccounted for water ran at over 60% and the system had become overstaffed at 11 employees per 1,000 connections due to patterns of political patronage and cronyism established during the previous Marcos regime. It must be noted that water resources were becoming polluted due to virtually no water- born sewerage. After undertaking a Water Sector Reform Study in 1993, which identified over \$1 billion of needed investments in Manila's water and sewerage system. Conditions reached a head in 1995 with the passage of the Water Crisis Act of 1995 accelerating the privatization of MWSS. The Act was passed to empower the President to reform urban water delivery that had previously been the near exclusive domain of an entrenched bureaucracy, (White, 1998: 14).

The Philippain had achieved considerable success since 1990, attracting more than \$15 billion of new private investment in its power, transportation, and telecommunications under its BOT regulatory framework. In applying this, Manila was split into two concession zones, East Manila and West Manila. Comparing tariffs and service levels between the zones would offer indirect competitive pressure on service providers as well as become useful information in the hands of government regulators. Procurement was prohibited from winning both zones, (White, 1998: 14).

During the public ceremony marking the opening of financial bids by the remaining concessionaires the team of Ayala and Northwest won the East Manila Zone by

proposing a tariff that was 74% below existing tariffs for consumers. Ayala and Northwest water also had the lowest bid for the West Manila Zone, but were precluded from winning both zones. The West Manila Zone was awarded to the next lowest tariff level bid by Benpres and Compagnie Lyonnais des Eaux that was 43% below existing levels. A household in the East Zone that consumes 31 m³ of water per month paid 200 (R 38.50) before privatization and 84.5 (R 16) after privatization.

A household that consumed 100 m³ per month in the East Zone paid 1,035 (R 200) before privatization and 382 (R 73) after privatization. In managing the labour issues associated with private sector participation, government decided to implement an organizational and personnel restructuring of MWSS pre-privatization. Government offered early retirement service packages along with the new reorganization plan and the number of employees decreased from 6,900 to 5,000 by the time the concessions began in 1996. To many stakeholders this was an important contribution by the government to the long-term success of the project. Having helped create the problem of overstaffing in the first place, government was perceived to be in a good position to help undo the problem. The concessionaires have offered the remaining 5,000 employees full employment. The concession contracts required that all employees hired by the concessionaires receive salary and benefits equal or better than what they had been receiving as MWSS employees, (White, 1998: 15).

Case 2

In the Indonesian City of Bandung, the population of 2 million, and Medan with a population of 1.5 million, the cities public waste management departments were transformed in 1995 into a government owned waste Management Corporation. This required only substantial input from outside accounting specialists to establish new accounts and to inventory and value assets and liabilities.

It has also been possible for management in these two cities to accurately assess the high level of borrowing required to provide services and to take cost cutting and efficient reforms to improve performance. Public waste services managers now have reliable performance data on operating cost, capital cost, output per worker and cost per unit that they can use to accurately compare to waste management services in other cities. In Bandung, the waste management corporation has even determined that it will be cheaper to contract out a concession to building-operate-and transfer (BO) its next solid waste transfer facility rather than to construct it itself, (White, 1998: 04).

Service Contracts

The objective of a service contract is to "unbundle" or carveout a single specific function from a public service for a limited period, usually 3-5 years, for a specified price per unit. The example of services that fall under this type of contract are garbage and solid waste collection, repair and maintenance of water and sanitation pipes and maintenance of streets and roads and the provision of metering, building, and collection for local water and electricity, (White, 1998:04).

Case 3

The City of Santiago, Chile with a population of 4 million sought to reduce its operating expenses for water and sanitation services. In 1979, Santiago's public water and sewerage agency began to contract out many services such as pipe repairs and maintenance, engineering design and other services, to new companies established by its current employees. Service contracts were competitively tendered and awarded and the company started-up capital and entrepreneurship training.

Santiago has contracted out over thirty services worth over \$ 13 million per year, which account for 52% of its annual operating costs. As a result of services contracting and other water sector reforms, from 1990 to 94, the Water Supply Company has become one of the most efficient water utilities in the development of the world. This company has improved its working ratio from 52% to 45%, it has reduced unaccounted-for-water from 28% to 22%, and the number of employees per thousand connections has dropped from 2.1 to 1.9. To preserve competition within the market, this company has make it ensure that for each area that it contracted out for, it had at least two pre-qualified service providers, (White, 1998:05).

Management Contracts

This is one of the different types of contracting government services. A management contract is similar to a service contract for providing the management of operation and maintenance service for a utility or public service. The objective of a

management contract is to bring in a specialized team of experienced managers to reach specific operating goals such as reducing unaccounted for water. Improving the collection ratio, and reducing the cost of authority to make all day-to day decisions, long term planning and financing decisions remain the jurisdiction of the Board of Directors. Management contracts usually have a term of five years, which is a long enough period to analyze operations, identify problems, institute changes, and to deliver the benefits of those changes to the government and the public through reduced subsidies, lower tariffs, and increased profitability.

Case 4

The Indianapolis Management Contract. The USA city of Indianapolis, with a population of 800,000 faced a difficult time in 1994, it was overdue for a \$ 200 million rehabilitation of its sewerage collection and wastewater treatment system, and the only available option to pay for it appeared to be through raising local property taxes. Businesses were already leaving the city to re-allocate in the suburb citing property taxes as one of the main reasons. Instead of raising taxes the city analyzed and then entered into one of the first management contracts in the USA for the operation and maintenance of its White River wastewater treatment plant. The contract for this Public Private Partnership provides considerable detail listing the spare parts inventory of the operator.

The contract specified that all city employees who were hired to work for the new private operator receives salary and benefits equal to or better than what they had been earning from the city. While the contractor only needed to hire 305 of the existing 512 city employees who ran the plant, the city honored its commitment to the local public employees union to find other jobs within city government for the remaining 207 workers. Now in its fourth year, the management is projected to save the city of Indianapolis, \$ 165 million or over \$ 700 per household over the period of five year life of the contract, (White, 1998: 07).

Case 5

Enhanced Management Contract in Trinidad and Tobago. In the Caribbean Island country of Trinidad and Tobago with a population of 1.3 million government faced a deteriorating system in its water and sewerage authority. While water service was available through household connections or standpipes to 90% of the population, for most customers it was available for less than 12 hours per day and in some cases not available for weeks a time. Unaccounted for water ran at over 50%, only 1% of the 240,00 residential accounts were metered, only 30% has access to water-borne subsidies over 30 years. The government selected a stepwise method of bringing private sector participation and competition into the water and sanitation sector. The government first entered into a 3 to 5 years management contract to be followed by a long-term concession arrangement for up to 30 years, (White, 1998:08).

Part of the problem facing the project was that accurate information about the water and sanitation system was not available, including volumes of water supplied volume of water consumed and technical losses. During the middle of the contract negotiations government and selected contractor, Severn Trent International, agreed, with the assistance of the World Bank, to take three months to gather more accurate information about WASA, the system and its performance. Prior to signing the contract, this organization undertook its own restructuring to make initial improvements in leak repair and overstaffing in preparation for the contract. A management contract was signed in April, 1996 which targets the contractor to reach performance goals in six specific categories. However, the contract in many ways represents a hybrid between a management contract and a lease, (White, 1998:08).

The contractor receives 40% of its compensation as a fixed fee for providing management services and 60% by reaching performance targets in the areas of:

- Continuity of supply of water to customers,
- Maintaining a ceiling on the connection costs per customer,
- Maintaining a ceiling on the operating debt to income,
- Achieving targeted operating sales levels,
- Maintaining a targeted water treatment capacity,
- Providing a targeted level of operating staff to WASA, (White, 1998: 08).

The leases are the next most advanced technique in terms of commitment by the private sector. Like in management contract, the private sector is responsible for providing management service to make operating and maintenance decision. The private sector contractor must also provide the enterprise with working capacity in exchange for paying the lease payment fee and for being able to keep any net profit the system planning decisions.

This kind of project structuring has been used most often in the public service in France and in Francophone Africa. In order to make this lease succeed the lease contract must be specific about defining which decisions constitute operating and maintenance and therefore the responsibility of the government lessor. The lease contract must ensure that the lessee and lessor coordinate effectively on issues where operating and strategic decision-makers must cooperate in order to successfully address the issue.

Case 6

In the West African countries of Guinea, by the late 1980's a lack of investment in the water and sanitation system and operating inefficiency led to a financially and technically unsustainable situation. Only 40% of Guinea's 2.3 urban dwellers had access to potable water, services were unreliable, the government's lack of foreign exchange prevented it from 40% and collections from users covered only 15% of operating cost, requiring massive operating subsidy payment from the government, (White, 1998: 11).

In 1989 government invited proposals from the private water system operators to enter into a 10-year venture lease the system. A new two level structure was created consisting of a public corporation called, Societe Nationale de l' Eau et Gestion (SONEG) which owned the system, was responsible for long term planning, would be responsible for monitoring the performance of the private lessee, and would own 49% of the company.

The private lessee, called Societe d' Exploitation de l' Eau de Guinee (SEEG), and would be 51% owned by the private foreign water operation and 49% by SONEG, and would be responsible for operating the system, including making all new connections. The 51/ 49 joint venture structure was intended to ensure that the government would not take any regulatory decisions to adversely affect the private lessee as well as to promote capacity building among the government and local officials in competitive water utility management. Importantly, the lease contract specified that SEEG would be responsible for making all new connections and the reticulation pipes of a diameter less than 160 millimeters in diameter would be the responsibility of SONEG. (White, 1998: 11).

Five years into the 10 years the results have been mixed. The contract appears to have been successful at improving operating efficiency. Nevertheless, collections have previously covered 15% of operating costs, now they account for 21% meaning that capital costs are being recovered as well. One problem that the previous system faced was that the tariffs were kept artificially low. This \$0 15m³ in 1989, tariffs have increased each year to a current level of \$1. 00/m³. This level is one of the

highest in the world. This transition to cost recovery has been helped by \$58 million credit from the World Bank to the government which covered the operating subsidy for the system at a declining rate. As tariffs rose each year the amount of the subsidy decreased, which greatly eased the transition to cost recovery.

As a result of such high tariffs many government, commercial and households accounts have fallen into default. The increased incentive for illegal connections has caused unaccounted for water to increase from 40% to 47%.

The most problematic issue of the lease relates to coordination problems between the lessor and lessee. The urban population with access to potable drinking water has to date only raised from 49% to 52%. Part of the problem stems from disagreements over responsibility for new connections.

While SONEG claims that SEEG is responsible for making the actual connections, SEEG complains that SONEG has not extended the major network mains to those areas from which SEEG can make connections to new users. It appears that SONEG is without an effective or clear regulatory structure for monitoring SEEG performance, and while SONEG has the ability to partially influence SEEG through its 49% ownership, SONEG lacks the capacity in corporate governance the joint venture as a minority shareholder.

While the contractor has been able to increase the profitability of the system through reducing operating costs, it has not seen the expected increase in revenues

from new connections and from the high level of illegal connections to the system. Therefore, from the perspective of a management contract, the project appears to be a success, but the perspective of a lease, the private lessee has not been able to realize the benefits of the extra mark risk it had assumed and as hope for new connections have not occurred,(White, 1998:12).

During the public ceremony marking the opening of financial bids by the remaining concessionaires the team of Ayala and northwest won the Philippine zone by proposing a tariff that was 74% below existing tariffs for consumers.

Ayala and Northwest water also had the lowest bid for the Philippine zone but was precluded from winning both zones.

The Philippine was awarded to the next lowest tariffs level bid by Benpres and Compagnie Lyonnais des Eaux that was 43% below existing levels. Households in the East zone that consumers 31 m³ of water per month paid 200 (R 38.50) before privatization and 84.5 (R 16) after privatization.

A household that consumed 100 m³ per month in the East zone paid 1,035 (R200) before privatization and 382 (R 75) after privatization. In managing the labour issues associated with private sector participation, government decided to implement an organizational and personnel restructuring of MWSS pre-privatization. Government offered early retirement service packages along with the new re-organization plan and the number of employees decreased from 6,900 to 5,000 by the contribution by the time the concessions began in 1996. To many

stakeholders this was an important contribution by the government to the long-term success of the project.

Having helped create the problem of overstaffing in the first place, government was perceived to be in a good position to help undo the problem. The concessionaires have offered these 5,000 employees full employment. The concession contracts required that all employees hired by the concessionaires receive salary and benefits equal or better than what they had been receiving as MWSS employees, (White, 1998:15).

6.3 The South African Experience

In this case South Africa is introducing the PPP's because it is trying to balance the imbalances of the past. In this country it is well known that the people were divided according to racial lines. The services were rendered according to these racial connotations. That has resulted in a situation where others better off and others are worse off. The involvement of the private sector in this case is not the same as in other countries such as United Kingdom and America. South Africa is taking this option because the demand is far more than a supply. There are many people who need better services and government cannot be able to render these services alone. Government does not have sufficient money to build infrastructure and provide services. It is important to encourage private firms to contribute to the development of the country.

There are many PPP's projects that had been implemented in this country although it is too early to determine whether are, or not successful. There is a project that was implemented at Klapmuts, Western Cape Province. The original water supply in this area was in the form of borehole that had becomes polluted over a period of time.

With MIP funds, the community constructed 1.2 million reservoirs, bulk water supply and a water reticulation system using labor- intensive methods. This project has given a head on challenge of development in the previously disadvantaged community. At the same time it demonstrated how residents could assume responsibilities for improving their living conditions through self-reliance. In this case this people driven development project has accelerated the payment of service charges by 95%. This project has responded to the needs of the squatter community of La Rochelle and Mandela City, a housing project was implemented with strong support from the community. In this area the project has been successful because the people has been told at the beginning that they have to pay for the new service delivered.

Development in this area does not only deal with the building of houses it also has been service centre for both agricultural products and small business development. This development project has rehabilitated the infrastructure, including water reticulation; sewage treatment works, roads and storm-water surface drains.

All these types of development instilled a sense of hope and pride in the community and economic opportunities are increasing.

Atteridgeville, Gauteng Province

In this case, a water reticulation system had fallen into a state of disrepair. This is because the government does not have money to repair the infrastructure. This is one of the reasons why the private business is required in service delivery. With the involvement of the MIP funding, the main waterlines were upgraded, individual water meters for on-site taps were installed and other services were improved. This system was designed to supply 200 l/c/ day and to the population of 70 000.

The labour intensive development programme, includes the employment of a substantial number of women, has resulted in approximately R3 million in wages being injected into the local economy, contributing to the development of the area. This is a form of sustainable development that needs to be ensured. The residents of the area are able to pay for services they receive.

Water meters are read every month and people are able to pay for water that they consumed. The houses are also upgraded and extended in this area. In general the environment is changed completely in this area. A good value for service s has led the residents to appreciate the value of money they pay for services. At the same time the aims and objectives of the Masakhane campaign are accomplished.

Mhluzi, Mpumalanga Province

At this place the infrastructure that was not proper has been developed. For example the meters were in the state of disrepair. With the MIP financing the water supply was upgraded and new meters were being read. Sia emerging plumbing contractors receive training in small contract management and meter installation before undertaking the work. The municipalities were trained under a capacity building there were training in project management. This is the real important empowerment of people. The housing project has been given to the hands of the small and emerging contractors. 2500 unit RDP housing has been built in town.

Itsotseng, Northern Province

This area is having a population of 45000 residents, and it was lacking transport facility. The real problem was on the less defined ranking system made commuting difficult for residents and visitors, streets vendors had no defined location or shelter thereby limiting economic activities.

This problem has been solved through the involvement of the private sector.

Ndaleni, KwaZulu/Natal Province

The development is taking place differently in different areas; in this case the development that is underway was based on the infrastructure such as road and recreational facilities such as stadiums, sports field, and general facilities.

Nevertheless, when one is looking at the development projects all over South Africa it is about infrastructure development. It is very important to identify that the involvement of private business in service delivery is boosting the levels of services provided. Although it is still too early to judge this relationship, it seems as if it is fruitful. The feasibility of these projects is questionable to a certain extent. For example the people in these areas are paying for services because they are employed in the process of service delivery that is taking place in their areas. The question is, what will happen when the projects are finished? This development is more of infrastructure development but not more on job creation. The sustainability of this project is at stake. It does not make any sense to supply water and electricity to people who are unable to pay.

DOLPHIN COAST CASE

This area is involved in a concession contract to render services to the people. The Dolphin Coast Transitional Local Council was created in February 1, 1995. It's population at that time was estimated at about 28 000 people. The Port Natal Ebodwe Joint Services Board provided water and sanitation services in this area.

After March 1996 the Dolphin Coast Municipality was forced to take over services provision and all other responsibilities such as:

- **Infrastructure development in the formal towns and improve service provision generally. Half of the population was virtually non-service at all.**
- **One municipality took over a relatively small number of staff members responsible for maintenance and operation, no technical or management staff was transferred to the municipality.**
- **In two years time the population grown to over 40 000 people.**
- **Population growth estimates commissioned by the municipality indicate that the area's population would reach 250000 people by the year 2020. The estimated investment by that time is R 200 Million (1997 price) would be required for the upgrading of the water and sewerage service in the area (DBSA, 1997).**

The Dolphin Coast council has realized an extreme need to begin an expansion of affordable services to half of the population living in the deprived informal settlements. At the same time the municipality has to begin upgrading the poorly maintained infrastructure in the formal towns.

Nevertheless, the municipality was not in the position to provide for the required capital expansion to upgrade and provide service because of budget constrains and reduction of social expenditure by national government. The municipality has decided to engage into an agreement with the private sector for concession contract to provide water and sanitation in the area, (Kotze: 1999:04).

In the procurement process for Dolphin Coast the Development Bank of Southern Africa (DBSA) experts continued to act on advisor to the Dolphin Coast council with regard to the preparation of the concession contract. In December 13, 1996 the process was publicly initiated with an advertisement in Business Day, announcing the initiation to enter into a municipal service partnership and calling for expressions of interest from potential partners. A shortlist of firms was developed according to published evaluation criteria. After final nine months of negotiations, Dolphin Coast has also received financial and technical injection from the Municipal Infrastructure Investment Unit (MIU).

Dolphin Coast officials took an initiative to undertake a variety of workshops and seminars to build their capacity to successfully complete contract negotiations as well as supervision of contract implementation after signing. The project has been implemented. Although there were some difficulties in terms of reaching consensus with municipal unions, but finally they reached an agreement and the project was implemented.

Nevertheless, it is too early to judge the whole project.

The project needs to be given a number of years for evaluation, (Roef Kotze: 1999:13).

Durban Transport

It is responsible for the provision of public transport to Durban residents. The objective is to provide a cost effective service at a competitive rate to the entire

metro area. The problem arises that Durban Transport does not service the entire area. The department does not, however, wish to expand its service would reduce operating costs and ensure better service delivery. The risk to the private sector is the viability of the business. These risks must be managed to the extent that council monitors the budgetary constraints and the delivery requirements, (Moonsammy: 1998:13).

Durban Water

Durban Water is involved in the provision of good quality water at an affordable price. The gap in the provision of water to all is that 120 000 households do not receive a supply of water. In order to rectify this situation and increase the speed of delivery in a cost-effective way a partnership with the private sector provides the water. The various areas, which can involve the private sector, include managing contracts, billing, maintenance, meter reading and reticulation.

Risks to the council involve insolvency, deterioration in the quality of the service provided, the delivery not meeting expectations and finally the creation of monopolies within this field. The risk with the private sector is the profit margins and social issues. These can only be overcome through council monitoring the contracts, which would have built in guarantees and insurance, (McLeod, 1998:13).

6.3 CONCLUSION

This chapter was looking at similarities and differences between International and National PPP and MSP. The aim of this chapter was to learn from other country's experience. It is crucial to understand or to know what are the problems of PPP's or MSPs in the country and abroad. This will enable all parties involved to anticipate problems that they might encounter. It will also provide them with the information that will result in fewer complexities in the process. The South African government must make use of the cases to implement trouble free PPP or MSP. It is also very important for the government to know that S.A is a developing country, other policies that can do well in developed counties cannot do well as it was in those counties as compare to SA. Although the involvement of the private firm in service delivery is service standard and quality, the ordinary people must afford to pay for those services. There are many projects that are in place, but all of them need to be given times to be evaluated.

There are projects such as Dolphin Coast in KwaZulu Natal, Igoli 2002 project, Nelspruit water supply project and others all these need to be evaluated on the bases of service standard improvement, feasibility, satisfaction of the target group and protection of employees.

CHAPTER SEVEN

RECOMMENDATIONS AND CONCLUSIONS

7.1 RECOMMENDATIONS

It is a fact that South Africans need services from government. The historical background of this country did hinder Africans from being (independent) able to do things on their own. At the first place they were forcefully made to be inferior, dependent and ignorant. This was implemented in many different forms, examples being torture, arrest and killing. Africans were purposefully denied an access to better and reasonable services. Their areas were intentionally not developed. Therefore it is the responsibility of this government to ensure that these people get better services.

Coming to the issue of privatizing government owned firms with an aim of increasing service delivery, it looks like a contradiction. Looking at the conditions of this country it is very difficult to implement these policies and expect a return. The involvement of the private sector is a possible alternative that can be conceded but it requires a thorough examination.

The involvement of the private sector could increase service charges paid by the people. It is a fact that a private business is interested in making profits. Private firms will make profit out of poor people. This idea is quite good for developed

countries like America and Britain. These two countries are well developed and the people from these places can afford to pay a private provider. In South Africa, the vast majority of the people are poor and unemployed. How can one expect these people to pay for services? For example the project for development will be given to a private firm, because it has money it will reach many people. But what will be the implications if those people who reserved the service are unemployed. These people will not be able to pay for services.

Looking at the concerns of Trade Unions the involvement of the private sector will exacerbate the level of unemployment. The unemployment rate in this country is more than 29%, just imagine what will happen if the private sector will be involved, this will increase. For example the municipal employees that were working for Dolphin Coast they were given to the hands of private business and 50% of them were chopped out. This is the real problem that one is facing in South Africa. It is the responsibility of government to make it a point that the foundation is good before introducing the private business.

If one can look at rural development the most of these areas do not have the infrastructure in place. The majority of the residences are not working. At this condition government is putting the water supply and electricity. Government is expecting these people to pay for these services, which is impossible.

In terms of housing government will not be able to accommodate all these people by the project of building cheap housing. It is useless to try to solve the symptoms

leaving the virus. In this case government must encourage industries and firms to go and invest in rural areas so that the process of urbanization will reduce dramatically. If this is not attended to the problem of informal settlement will never stop. Government must encourage firms to construct industries where people are. Almost 90% of the people who are living in informal settlement do have homes, but they are building these informal settlements for them to be able to stay around urban area to look for jobs.

This study has shown that people need to be informed because they do not know and understand any thing about Public Private Partnerships, then it is the responsibility of government to educate people about this. This is not a problem of the illiterate people even the academics and other educated people does not know much about this concept. The problem that one can foresee is that people will be resistant to this kind of relationship because they do not understand it. The researcher strongly believes that PPP's must be introduced to the curriculum in all tertiary institutions such as Technikons and Universities under Development Management.

The Public Private Partnership process is a very long one and its mission, vision is to bring about full privatization, according to the researcher, strongly support other steps such as management contract, service contract, lease, and de-monopolization. These steps are acceptable because both sectors are involved. And in this instance government is a watchdog. The private sector does not need to be a sole provider of services, maybe after some years.

Other areas of concern are that over a period of five years a Nelspruit and Dolphin Coast Concessions need to be evaluated. This will provide information's that will lead to conclusion either these areas are doing well. Other researchers must look at accessing the above situation and also looking at new forms of PPP.

7.2

CONCLUSION

It has been identified that the PPP is a new phenomenon that is taking place in the public sector in National, Provincial and Local Government. This is the way to bring about changes in service delivery in South Africa. There are many areas that could be used as a sample for the project of this nature. For example Dolphin Coast, Richards Bay and Nelspruit. In South Africa these are the areas that took the stage first in terms of involving the private sector in service delivery. There are different types of contracts that are taking place under these projects. In this case the public official is free to select the contract that will suit their needs.

It must also be identified that it is not compulsory for any government structure to forge such a relationship with the private sector. In the case of municipalities they can forge this partnership if that is the alternative for better service delivery in their areas.

The fact is that government cannot be able to render all the services to the public without the assistance from the private firms. Government does not have money to

satisfy all our needs. The involvement of the private sector is essential. Although there is some kind of uncertainty that people are having in terms of involvement of the private firms. For example the Trade Unions and the employees are not happy about the involvement of the private sector in service delivery.

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