Mbombela Local Municipality DRAFT MUNICIPAL PRIORITY ACTION PLAN
Workshop: 30 July 2015

Context Information		MuSSA Status	Comments
a)	Municipality name	Mbombela Local Municipality	
b)	Date of completion	30 July 2015	
c)	Municipality type	B1 - LM	
d)	Water service provider type	Combination of internal and external	Rand Water and Sembcorp
e)	Wastewater service provider type	Combination of internal and external	Rand Water and Sembcorp
f)	Water system maintenance	Combination of internal and external	Rand Water and Sembcorp
g)	Wastewater system maintenance	Combination of internal and external	Rand Water and Sembcorp
h)	The key staff (i.e. managerial) turnover in your WSA	Low: < 10% (i.e. not an issue, good staff retention)	
i)	Your WSA has developed and implemented a scarce skills policy	No, not developed	
j)	Your WSA is preparing for the impacts of pending and or new regulations (e.g. Regulation 17 (WTW	In process	

FIGURE 11 The MPAP is supported by both Excel and Web-Based tools for capturing thereof

Based on the progress to date between DWS, the IUCMA and the Kingfisher Programme, the authors recommend that the next steps forward include a jointly determined programme to join forces and combine efforts to prioritise specific and integrated support to the municipalities to address the identified short-comings and challenges faced in the IUCMA area. This should include the completion of MPAPs for all nine WSAs within the IUCMA.

Furthermore, the learnings from the Kingfisher Programme at the IUCMA should be taken forward to the other eight CMAs for South Africa, and their WSAs, thus covering the entire country.

ACKNOWLEDGEMENTS

Special acknowledgement is given to the many contributors to the afore-described initiative including, but not limited to, the many governmental staff involved therein.

REFERENCES

1. Water Research Foundation (2014) Performance Benchmarking for Effectively Managed Water Utilities Web Report #4313b
2. Naidoo, P., (2013), Supply-side municipal service delivery trends in South Africa: 2006-2010.
3. Municipal I|Q (2016), Press Release: Gauteng and national service delivery protest figures fall.
4. Wensley, A.J.P., de Souza, P.F, Moorgas, S. and Mackintosh, G.S. (2015), Utilising a Vulnerability Assessment and Associated Prioritisation Process to Support Effective Planning and Efficient Investment in Water Services, Proceedings from the IWA Congress 2015, Lisbon, Portugal

SOLVING OUR MUNICIPAL SERVICE DELIVERY CRISIS THROUGH PPPS - NOT-SO-NEW SOLUTIONS TO OLD PROBLEMS

STEPHAN F JOOSTE[1] and WILLEM VAN ZYL[2]
1. Management & Advisory Unit Manager: Aurecon
2. Infrastructure Investment Expert: Aurecon

ABSTRACT

South African continues to be plagued by significant service delivery challenges at a local government level. Among the issues facing the South African Government are unskilled municipal staff and irregularities in the spending of allocated budgets. Government has to urgently find a solution that can be rolled out in a programmatic way across the country.

Part of this solution could be to involve the private sector through Public Private Partnerships (PPPs). Not only can PPPs help Government avoid increasing general taxation, but they also provide an avenue for solving capacity and capability constraints in the short term. Over the past decade, the South African Government has undertaken various initiatives at supporting the adoption of PPPs at the municipal level (including the enactment of various pieces of legislation, the publication of support guidelines, and setting aside funding to support project development). Despite these efforts, very few Municipal PPPs have been signed to date, and their impact remains insignificant.

This paper attempts to propose a possible solution for this impasse. By gleaning learnings from the very successful Renewable Energy Independent Power Producer Procurement Programme (REIPPP rolled out over the last three years by the Department of Energy), we identify initial foundations for a programmatic solution for the municipal domain. This programmatic solution would allow for streamlined soliciting (and awarding) of private sector interest in municipal service delivery.

INTRODUCTION

South African local government continues to face significant challenges in responding to the service delivery needs of their constituents. Underperforming municipalities have caused widespread service delivery protests. The poor performance has been linked to a lack of skills, corruption, political interference, intergovernmental relations challenges and weak basic administrative systems.

The involvement of the private sector through Public Private Partnerships has long been touted as a possible solution. Proponents of this approach point to private sector efficiencies, access to private capital, and the superior technologies and skills the private sector bring to the table. In a time of mounting fiscal pressure, PPPs can help government avoid increasing general taxation[1] , while solving the public sector capacity and capability constraints in the short term.

In fact, the South African Government has illustrated their intent to this end through the publication of a range of supportive legislative, policy, and guidance documents to enable Municipal PPPs. Among others, this includes the original Municipal Systems Act (2000), Municipal Finance Management Act (2006), and Municipal PPP Guidelines. Refer to the next section for a brief history of municipal PPPs in South Africa.

Yet, despite these efforts, the number of successful Municipal PPPs remains insignificant. Clearly PPPs have not (yet) served as a solution for local government in South Africa. This paper lays out our assessment of the main challenges facing Municipal PPP development and delivery in South Africa, and suggests a possible solution to overcome these challenges. To start off, we present a short introduction to PPPs (for readers unfamiliar with the concept).

WHAT ARE PPPs?

1. This is really only the case where PPPs recoup (fully or partially) investment and operational costs directly from users.

Option	Asset Ownership	Operations and Maintenance	Capital Investment	Commercial Risk	Duration
Service contract	Public	Public and private	Public	Public	1-2 years
Management contract	Public	Private	Public	Public	3-5 years
Lease	Public	Private	Private or Public	Shared	8-15 years
Concession, BOOT and variations	Private or public	Private	Private	Private	25-30 years
Divestiture	Private or private and public	Private	Private	Private	Indefinite (may be limited by license)

TABLE 1 Distinguishing the different PPP delivery models *(Source: Adapted from Davis 2005)*

PPPs are a means of engaging private sector capital (i.e. resources such as manpower, innovation and ingenuity, and funding / investment) in the provision and improvement of transport infrastructure and services, by sharing investment risk with the public sector. Although the benefits of PPPs, as stated in the literature, are extensive, the primary gains from PPPs are (SADC, 2006):

- Private sector funding (off-balance sheet for public sector);
- Private sector innovation and ingenuity;
- Optimal whole life lifecycle costing (long-term sustainability);
- Improve asset utilisation and efficiency; and
- Optimal sharing of responsibilities (risks) between private & public sectors.

However, the requirements of developing countries may also include the following:

- Increase in capacity of public sector (ability to initiate and oversee projects) while reducing the burden of management;
- Identification of an additional source of revenue (through direct user charging based on the user-pay principle);
- Arrangement of funding by private sector ("off-balance sheet" financing for public sector) and additional investment in transport infrastructure and services; and
- Provide opportunities and develop local construction industry.

The options for private sector participation can be arranged along a spectrum: At the one end are those in which the government retains full responsibility for operations, maintenance, capital investment, financing and commercial risk such as service and management contracts – at the other, those in which the private sector takes on much of this responsibility such as Concessions and Build-Operate-Transfer Contracts. Even in the case of concessions where the private sector takes on full responsibility for operations and financing, it does so within a framework created by the government. The most important parts of this framework are regulatory arrangements to protect consumers from monopolistic pricing and to enforce the required transportation standards and subsidy arrangements to ensure equitable access to public transportation assets.

The main options for private sector participation can be clearly distinguished by how they allocate responsibility for such functions as asset ownership and capital investment between the public and private sectors.

A SHORT HISTORY OF MUNICIPAL PPPs IN SOUTH AFRICA

To understand the lack of progress in municipal PPPs in South Africa, it is useful to review the history of PPPs in South Africa. The challenges posed by building infrastructure under severe fiscal and capacity constraints have long been greatest at the municipal level (Bahl and Smoke, 2003). In this context the Department of Provincial and Local Government (DPLG), with support from the donor community (specifically the World Bank and USAID) and the Development Bank of South Africa, identified PPPs as a possible solution in the mid-1990's (Smith, 2008). This culminated in 1997 in the formation of the Municipal Infrastructure Investment Unit (MIIU), a government-owned, non-profit organisation "tasked with providing technical assistance and grant funding to municipalities investigating innovative [PPPs]" (Hlahla, 1999: 565). Formed more than three years before the central PPP unit in Treasury, the MIIU acted as an early PPP unit in the municipal sphere[2].

Over the next eight years, the MIIU was highly successful in developing projects, initiating over 100 projects on behalf of local authorities (Maguguмela, 2006), and implementing about 40 of those (Plummer, 2013). These projects were mostly within the municipal waste, electricity, waste provision, and fleet management domains. From the start the unit was envisioned to only operate for a finite term, and by 2006 the organisation was dissolved and its activities "taken over" by the PPP unit in Treasury.

Unfortunately, very few projects have been closed since the dissolution of the MIIU. The introduction of the Municipal Financial Management Act (MFMA) in 2004 added an additional layer of complexity to the contracting of PPPs over that of the existing MSA. The PPP unit has more recently undertaken significant work to streamline the process of implementing municipal PPPs (specifically clearing up the confusion surrounding the duplicate requirements of the MSA and MFMA). However, this did not seem to have the positive impact envisaged, with very few deals still getting closed.

WHY ARE MUNICIPAL PPPs NOT HAPPENING?

As noted before, the dealflow in municipal level PPPs remains trifling. We believe the municipal context in South Africa has a number of inherent complexities that have limited the number of PPP deals that can be successful. The three main issues are:

1. A cumbersome PPP framework and approval process

Most prominently, the current mechanisms for involving the private sector in addressing municipal service challenges remain cumbersome. Projects are required to, on a project-by-project basis, pass through a rigorous feasibility and procurement process under the watchful eye of Treasury. We have explained elsewhere that the very centralised and suspicious approval approach emerged in response to some improper public sector contracting during the run-up to the PPP program establishment (Jooste, Levitt & Scott, 2011). This imprinted "logic of control" has upheld the quality of project delivered. Unfortunately, it has made it very expensive and time consuming – often to the total detriment of the actual delivery of the project. To be fair, Treasury has more recently tried to streamline the approval requirement with the introduction of the requirement for only providing input and not formal approval (referred to as Treasury Views and Recommendation or TVR, again as certain milestones in the project).

2. The lack of specialised capacity of municipal employees

We have previously written extensively (Jooste and Scott, 2011; Jooste and Scott, 2012) on the fact that public sector capacity in South Africa is greatly limiting the ability of government to lead and implement PPPs.

2. The unit was partly funded by USAID, and staffed by a combination of World Bank-appointed international consultants and local specialists. What should be noted is that the MIIU had no formal tie to National Treasury (Ibid), which at that stage was only starting to consider its role in PPPs (as noted above). It was hoped that this independence would help the MIIU "make deals happen, even in the face of taking some risks" (Ibid: 5).

Unfortunately, the current PPP framework requires Government to take the lead in identifying and delivering (developing, procuring, negotiating, and overseeing) PPP projects. The reality is that the commercial and market acumen required for taking this leading role are very seldom found in municipal employees[3] . As a result, very few projects get put forward by the public sector. Moreover, the one-off nature of PPP project development means that municipal managers do not develop experience over successive transactions. Not only does this lead to an imbalanced negotiating table, but often also opens the door to financial impropriety[4].

3. An inability to (easily) accommodate unsolicited private sector ideas

Even within the challenging context laid out above, the private sector appetite to participate in municipal service delivery remain strong. Over the last two years we have personally interacted with a number of international private sector companies wishing to fund and implement projects in various municipalities on an unsolicited basis. Unsolicited PPP projects have been implemented in many countries but some do not entertain such proposals especially because of the risks they raise for competition and transparency. Only under very limited circumstances are local government agents allowed to accommodate unsolicited bids without open competitive procurement[5].

So although the interest from both local and international industry to be involved remains strong, the complex approval process and the inability of municipalities to stay the course if PPPs are developed only occasionally point us to arguing that there is a need for a programmatic approach that can collectively solicit and guide this involvement in local governmental service delivery.

OVERVIEW OF THE REIPPP PROGRAM *(Source: DOE)*

As noted in the introduction, we believe there is much to learn from the very successful Renewable Energy Independent Power Producer Procurement Programme (REIPPP) rolled out over the last three years by the Department of Energy (DoE). The REIPPP was designed as a programmatic approach for soliciting (and awarding) private sector interest into the generation of power from renewable sources.

South Africa has a high level of renewable energy potential and presently has in place a target of 10 000 GWh of renewable energy generation by 2030. The Minister has determined that 3 725 MW generated from renewable energy sources is required to ensure the continued uninterrupted supply of electricity. This 3 725 MW is broadly in accordance with the capacity allocated to renewable energy generation in IRP (Integrated Resource Plan) 2010-2030.

The REIPP Procurement Programme has been designed to contribute towards the target of 3 725 MW, to support socio-economic and environmentally sustainable growth, and to stimulate the renewable industry in South Africa. The following technologies are considered as qualifying technologies for selection under this IPP Procurement Programme:

- Onshore wind
- Concentrated solar thermal
- Solar Photovoltaic
- Biomass solid
- Biogas
- Landfill gas
- Small hydro.

In terms of the REIPPP, the Bidders are required to bid on tariff and the identified socio-economic development objectives of the Department. The tariff will be payable by the Buyer pursuant to the PPA (Power Purchase Agreement) to be entered into between the Buyer and the Project Company of a Preferred Bidder.

The generation capacity allocated to each technology is in accordance with specific targets and the maximum tariff that a Bidder may bid for purposes of the REIPPP is as set out in the RFP. Each Facility procured in terms of the REIPPP is required to achieve commercial operation by not later than the target date set out in the RFP (Request for Proposal).

LEARNING FROM THE REIPPPP

In a review of the programme in May 2014, Eberhard et al (2014) note that "to date, a total of 64 projects have been awarded to the private sector, and the first projects are already on line. Private sector investment totalling US$14 billion has been committed, and these projects will generate 3 922 MW of renewable power. Most impressively, these achievements all occurred over a two-and-a-half year period. Finally, there have been notable improvements in the economic development commitments, primarily benefiting rural communities. One investor characterised REIPPPPas "the most successful public-private partnership in Africa in the last 20 years" (Ibid).

Within the context of the municipal PPP challenges discussed above, the advantages of the REIPPP programme included:

- The programmatic nature of the procurement meant that both the public sector **transaction costs, and the project development timeframes, were greatly reduced**. A quick turnaround of projects reduces the upfront investment required by the private sector, thereby undergirding the credibility and attractiveness of the programme, while making it possible for smaller companies to also take part[6].
- Project concepts were identified by the private sector (within some guidelines), but had to compete for award in successive bid windows. The impact of this **competition** is evidenced by the way in which feed-in tariffs reduced through the successive bid windows. Prices have dropped over the three bidding phases with average solar photovoltaic (PV) tariffs decreasing by 68 percent and wind dropping by 42 percent, in nominal terms.
- The consolidation of projects also meant that a relatively **smaller team of experienced and skilled experts in the DOE** (the IPP unit but also including a team of local and international consultants), oversaw the successive implementation of the programme. This ensured consistency and learning from one round to the next.
- Furthermore, the **procurement process was well designed and transparent,** so that all private proponents knew exactly where their bid placed in each round of the programme. This is critical for ensuring that the private sector limited the amount of (sovereign and political) risk priced into the projects.
- Lastly the transactions had **reasonable levels of profitability,** and key risks were mitigated by Government. The non-transfer of demand risk (through take or pay agreements) was key in ensuring projects could attract debt funding.

We recognise that the renewable energy generation market differs quite

3. Salamon (2002) refers to these "enablement skills" having three aspects: activation skills, orchestration skills, and modulation skills. Activation skills are needed to set up the networks needed to address each of the different public problems. As third parties are not compelled to participate in any projects, the public agency can address this directly, by marketing the new opportunity and encourage new partners to step forward. This can also be done indirectly through ensuring the terms of the "tool" being used are attractive enough to stimulate sufficient interest. Orchestration skills are taken from the analogy of an orchestra conductor, trying to guide a variety of members to perform in sync and on cue. The focus is one the fact that the conductor (representing the state) cannot play all the instruments himself (do all the work), but rather needs the cooperation of the other players in order to attain the goal. Modulation skills are needed to apply rewards and penalties in order to extract cooperative behavior from the different players in the network. This requires the skillful use of incentives to obtain the optimum outcomes for the ultimate benefit of the general public.

4. As a perverse type of irony, this lack of capacity is the original reason for the cumbersome program design overseen by Treasury as we explained above.

5. The detailed rules can be found in the National Treasury Guide (Republic of South Africa, 2005:Section 4.4.5.6), The main criteria for an unsolicited bid to be considered are that one or more of the following must apply: (i) The product or service offered must be unique or innovative; (ii) the product or service must be especially beneficial or provide excellent cost advantages, (iii) the bidder must be the sole supplier of the product or service, and (iv) the reasons for bypassing the normal bidding processes are sound. Alternatively, the normal procurement process can be followed and the unsolicited bidder be invited to tender along with any competitors.

substantially from municipal service delivery, including the limited demand risk, the mass standardisation of proposals, and the political differences between national and local government level roll-out. Regardless, we believe that the REIPPP offers invaluable guidance to a solution for the municipal PPP space. We lay out an initial concept for such a solution below.

TOWARDS A SOLUTION

Using the four principles outlined above, we propose a municipal PPP programme that is centrally run by a Municipal PPP unit (probably to be located in the Department of Cooperative Governance & Traditional Affairs or COGTA) inviting private sector partners to tender for pre-identified municipal service delivery needs in successive bid windows.

We propose that the implementation framework for this municipal PPP programme will require at least the following main cornerstones:

1. A single national entity overseeing the programme

Similar to the REIPPP, a single team of experienced and skilled experts should oversee and drive the roll out of the programme. As was the case with DoE, this will probably require support from a number of local and international consultants. The location of this task force should be at a national level, possibly within DPLG, or SALGA. This will both ensure consistency of message to the market, but will overcome the capacity constraints within local government.

2. Guidance on which projects will be acceptable

Rather than have Government take the lead in identifying priority investments (the current approach), the programme would welcome proposals from the private sector. This needs to be done within quite strict guidelines such as a list of project type, with a description of the facilities and services involved, the output measures to be achieved, and the circumstances under which it should be considered in a particular municipality. We suggest that the description should leave some scope for private innovation and risk taking.

3A predeveloped list of municipal service delivery needs

It can start quit generically, but to make this initiative resemble the programmatic nature of the REIPPP a proper list of possible projects will need to be developed. This list will show the type of project (e.g. waste water treatment works, revenue management contract, public clinics, etc.) per specific municipality, with an indication of the type of PPP foreseen (lease, availability payment, concession, etc.), i.e. the level of market risk transfer. This list should take cognisance of the characteristics of the host municipality and the appetite that the private sector will likely have for risk transfer – some municipalities will for example not qualify for availability payments (only for concessions) because they are insolvent.

4. Commoditised contracts

The programme will further require standard, proven bankable contracts in which the minimum of terms can be changed. This is similar to the national PPP contract template. This standard contract will leave room for negotiation on some terms, but not on others (e.g. ensure that there is no currency risk to Government).

5. Pre-accredited Transaction Advisors

Although the intention of the programme will be to reduce the need to significant up-front work, municipalities will require the support of transaction advisors to act on their behalf in the evaluation, procurement, and negotiation of specific deals. To this end a panel of approved transaction advisors (TA panel) should be appointed by the national task force so that the procurement is simple and not financially constraining to municipalities. The panel might include a rating of the advisors, possibly an "A" and "B" tier, allowed to work on projects of different complexity. For a transaction, the TAs will only quote a price since they are already technically approved. Remuneration could also be standardised across advisors.

6. Standardised Bidding Rules/Conditions

The rules for bidding should be standardised and clearly outlined for all private proponents. This would include indicative timeframes (of anticipated contract signature) and the stepwise roadmap to reaching that point.

7. Standard Financing Packages

Players like the Development Bank of Southern Africa (DBSA), Industrial Development Corporation (IDC), Department of Trade and Industry (DTI) and even private lenders should be encouraged to put financing packages on a shelf from where qualifying bidders can shop. This aspect might face some resistance from private banks (who are reticent to standardise).

8. Some form of independent oversight

The programme will probably do well to have a form of independent oversight (to ensure credibility is retained). A likely candidate would be the Government Technical Advisory Centre (GTAC) of National Treasury, DPLG, or even a completely independent oversight body.

9 A panel for other services

A last optional component would the possibility of developing a list (or panel) of other role players such as contractors, service providers, advisors, etc. that private companies could draw from. Continued listing would depend on qualifying (beforehand) or performance (afterwards).

CONCLUSION

This thinking piece outlines a possible approach for solving the apparent impasse in the delivery of municipal PPP projects in South Africa. To this end, it leans heavily on the REIPPP rolled out by DoE since 2013, to suggest a similar municipal PPP programme run by COGTA. The devil is of course in the detail for the development of this type of programme. More work is needed to develop a robust framework for this PPP programme. Our intention here is to provide initial ideas of what it could consist of.

REFERENCES

1. Bahl R & Smoke P 2003. Overview of fiscal decentralization in South Africa. In R Bahl & P Smoke (eds.), Restructuring Local Government Finance in Developing Countries: Lessons from South Africa. Edward Elgar: 1-22

2. Davis J 2005. Private-Sector Participation in the Water and Sanitation Sector. Annual Review of Environment and Resources 30(145) 83

3. Eberhard A, Kolker J & Leigland J 2014. South Africa's Renewable Energy IPP Procurement Program: Success Factors and Lessons. Public-Private Infrastructure Advisory Facility (PPIAF) report. The World Bank Group, Washington, DC

4. Hlahla M 1999. The municipal infrastructure investment unit: The government's PPP-enabling strategy. Development Southern Africa 16(4): 565-583

5. Jooste SF, Levitt RE & Scott WR 2011. Beyond "one size fits all": How Local Conditions Shape PPP-Enabling Field Development. Proceedings of the Engineering Project Organization Conference. Fallen Leaf Lake, CA. November 2010

6. Jooste SF & Scott WR 2011. PPP-enabling organizations: an organizational field-level analysis. In WR Scott, RE Levitt & RJ Orr (Eds.), Global Projects: Institutional and Political Challenges. Cambridge University Press. Cambridge, UK

7. Jooste SF & Scott WR 2012. The Public Private Partnership Enabling Field: Evidence from Three Cases. Administration & Society March 2012 vol. 44 no. 2: 149-182

8. Magugumela D 2005. The local government perspective on PPPs. IPFA Conference 2005, Pretoria, South Africa

9. McDaid L and Wood D 2013. Open Climate Network Case Studies in Climate/Low Carbon Policy Implementation: South Africa's Renewable Energy Independent Power Producer Program. Electricity Governance Initiative S.A., World Resources Institute for the Measurement and Performance Tracking Project

10. SADC 2006. Guidelines for Public Private Partnerships. SADC PPP Capacity Building Programme, Tanzania

11. Smith L 2008. Power and the hierarchy of knowledge: A review of a decade of the World Bank's relationship with South Africa. Geoforum 39(1): 236-251