Municipal public-private partnerships for the delivery of sustainable human settlements: Opportunities and constraints

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Public-Private Partnerships in SA

• PPP defined in South African law as:
  – a contract between a public sector institution/municipality and a private party, in which the private party assumes substantial financial, technical and operational risk in the design, financing, building and operation of a project.

• Key element of PPP is that substantial project risk (financial, technical, operational) is transferred to the private party
  – Private party benefits through: unitary payments from govt budgets and/or user fees

• Three basic tests for whether PPP is appropriate vehicle for delivering an asset or service:
  – Risk
  – Affordability
  – Value for money
Types of PPPs

- Two types of PPPs:
  1. Private company performs a government function
  2. Private partners is given rights to use state property for commercial purposes, under certain conditions

- Private party typically raises debt and equity to finance the project.
- A dedicated business entity—Special Purpose Vehicle (SPV)—often set up whose sole purpose is to deliver the project.

Most PPPs are combination of:

- D-Design
- B-Build
- O-Operate
- T-Transfer
- F-Finance
- M-Maintain

For example:

- Service Contracts,
- Concession
- Build-Operate-Transfer (BOT)
- Build-Own-Operate (BOO)
- Lease/Develop/Operate or Build/Develop/Operate
Growth of PPPs in SA

- Since 1999, PPPs regulated under Public Finance Management Act (PFMA)
- Number of PPPs in SA has progressively increased
  - At present, approximately 70 PPPs registered with National Treasury PPP Unit
- Cover number of sectors:
  - Transport
  - Office accommodation
  - Health care
  - Social development
  - Correctional services
  - Eco-tourism
PPPs at local government level

• At municipal level, PPPs procured for municipal services and infrastructure
  – Examples: solid waste disposal, electrification, property development, sanitation, water services, head office accommodation, social housing, low-cost housing

• Municipal PPPs are subject to different legislation than natl and prov:
  – MSA (Act 32 of 2003)
  – MFMA (Act 56 of 2003)
  – MPPPR MFMA Regulation 309 (drafted to assist in clarifying the MFMA for municipal entities)

• Legal requirements include:
  – Municipal Accounting Officers must notify Natl and Prov Treasury in writing of proposed PPP
  – NT then develops and prescribes a regulatory framework for the PPP
  – Mun must conduct feasibility study (Natl Treasury may assist with this)
  – Natl and Prov Treasury must be consulted on proposed bid and bid evaluations
Challenges with PPPs

- Involve complex contractual and operational arrangements
  - Needs financial, legal skills as well as technical and project management expertise
- PPPS need to have follow open and competitive bidding process and be BEE compliant. All parts documented and scrutinised:
  - Feasibility study
  - Bidding process and tender documents
  - BEE component
  - Formation of SPV
Challenges with PPPs (cont.)

- Govt officials at all levels often view PPPs as complicated, burdensome, difficult
  - Legal requirements daunting for municipalities, especially smaller non-Metros with limited capacity
  - Need to be more widely understood and used, for there to be more familiarity and confidence with their adoption

- Other concerns with PPPs can be:
  - accountability to public and transparency
  - communication with stakeholders and community interface
  - vulnerability to political pressure

- National Treasury’s PPP Unit can assist; plays dual role of providing technical support and acting as regulator
Cross-Sector Partnerships

- Formal PPPs are one form of collaboration between govt and business
- But there are also Cross Sector Partnerships (CSPs)
  - Less formal collaboration between parties with a mix of common and complementary interests and objectives, in which programmes are designed jointly and in which partners bring complementary resources and skills to bear
- With CSPs:
  - Parties operate within legal/regulatory construct but partnership itself is unregulated
  - Shared risk among all partners
  - Direct benefits to business are not financial

Example of PPP: Concessioning of water and sanitation services to a private company

Example of CSP: LED Forum with province, local businesses, civil society groups
Examples of CSPs

• Some examples of CSPs:
  – Consultative partnerships e.g. development of BEE charters, IDP consultation processes
  – Community development e.g. municipality and mining company cooperation on provision of basic services or housing
  – Local and regional economic development e.g. LED forums
  – Civic partnerships e.g. community police forums
• City Improvement Districts are good example:
  – Collaborations between mun, private sector and often NGOs
  – Typically co-funded by govt and private sector
• Cape Town Central City Partnership aims at urban revitalisation:
  – Partners are CCT, South African Property Owners Association, CT Regional Chamber of Commerce and Industry
  – Run through a Section 21 Company set up for that purpose, and managed by Board of Directors
PPPs in Human Settlements Delivery

- Use of formal PPPs in human settlements sector in SA has been rare
- Breaking New Ground (2004) shifted emphasis towards better-located settlements; integrated, mixed income and mixed use; and medium density.
- Two current trends or development areas in human settlements offer particular opportunities for partnership with private sector, if not formal PPP, then less formal collaborative mechanisms:
  1. More emphasis on **social and rental housing**
  2. Increased attention to **GAP market**.
Developing partnerships for social and rental housing

- Main policy intent of social housing is restructuring of cities, as much as it is about provision of rental housing
- Increased recognition of importance of growing the number of affordable rental opportunities
- Institutional vehicles for delivery and management are not up to scratch and must be strengthened
- Examples of successful partnerships between municipalities and SHIs, to make land available for social housing
Developing partnerships for mixed-income and GAP market housing projects

- Proposed reform to Finance Linked Subsidy Programme (FLISP), which has behaved very poorly to now
- Government is doing better at recognising that property sector must be approached holistically i.e. different sectors of the market impact on each other.
- Examples of mixed-use, mixed-income, GAP market projects which involved partnership with private sector
Current municipal PPPs by sector

- At present, 25 municipal PPPs registered as current projects with National Treasury PPP Unit
  - Only one in ‘housing’ sector: Management & Maintenance of Clifton Garages & Adjacent area, by City of Cape Town