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Towards The Implementation of Public-Private-Partnerships (PPPs) for Efficient Service Delivery in Public Institutions in South Africa

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ABSTRACT This paper used an explorative secondary data approach to understand how public private partnerships (PPP's) can be harnessed by the South African public sector to address service delivery challenges. National Treasury reports, government statistics, annual progress reports and current existing academic literature was used as data. In addition to this qualitative approach the paper used the functionalist framework to examine the different facets of PPP's that exist and their essence on service delivery in South Africa. Through the functionalist approach the study analysed the role of the private sector in service delivery. The study revealed that historically in South Africa, the responsibility of service delivery rested primarily within the government and the delivery of efficient public services has become a challenge confronting the government. The study concluded that there are various types of PPP's that can be harnessed by the public service for efficient service delivery to the public.

INTRODUCTION

The primary objective of this paper is to explore on the variant models of PPP's and how they can best be implemented in South Africa for efficient service delivery. The National Treasury of South Africa developed guidelines on PPPs which provide a framework for the development and implementation of PPPs by the national and provincial government departments (National Treasury 2004a). The National Treasury Regulation 16 of the Public Finance Management Act 56 of 2003 (PFMA) in South Africa defines PPP's as a contractual agreement whereby a private party performs a departmental function on behalf of a national or provincial department for a specified time. The role of the private party is to perform an institutional function on behalf of the public institution. The private party acquires the use of state property for its own commercial purposes and assumes the substantial financial, technical and operational risks in connection with the performance of the institutional function (English 2015). Hence through the use of the state property, the private party receives benefits for performing the institutional function (National Treasury 2004b). The debates and policy agendas are characteristic of the fact that the role of State institutions should be to only ensure that services are provided to the public rather than directly providing those services (Biginas and Sindakis 2015).

The public sector of South Africa has taken the duty of enhancing service delivery through partnering with the private sector to deliver public services. Despite the commercial marriage between these two sectors, the public sector still assumes the leading role in the provision of services because the private sector cannot individually take into account the socio-economic well-being of the service users (Fombad 2015). A fundamental inquiry made in this paper is that can PPP's help improve the situation as a mechanism to provide viable and quality service delivery in South Africa.

Background of Public Private Partnerships

PPP's are an integrated approach to service delivery which is in line with New Public Management (NPM). NPM emphasises on alternative ways of solving governmental problems, not just as public entities but through cooperation between public and private actors. Several authors agree that through the NPM approach, governments need to look at alternative service delivery methods like PPP's (Fombad 2015). PPP's first emerged in the United States of America in the late 1970's and early 1980's in response to poor performance of the public sector which had reached its financial limits in service provision (Farlam 2015). PPP's were then introduced in the United States of America as an acceptable alternative to privatisation to enable efficient and effective service delivery (Biginas and Sindakis 2015). The International Financial Institutions (World Bank and International Monetary Fund) prescribed the initiative to African governments as a mechanism to improve quality services. The South African government recognised in the Growth Employment and Redistribution (GEAR) the need for cooperation with the private sector in order to recognise and address infrastructural backlog (Bvuma and Russell 2001: 251). The Department of Public Service Commission developed a framework for improving service delivery, and this framework emphasised PPP's as a strategy for better service delivery. National Treasury (2009) acknowledges that in April 1997, the South African Cabinet approved the appointment of an interdepartmental task team to develop a package of policy, legislative and institutional reforms to create an enabling environment for PPP's. Thus the development of PPP's around the world has urged governments to look at other service delivery methods because of increasing pressures on public expenditure since PPP's present governments with a means of generating private funds for sustainable public service delivery (Biginas and Sindakis 2015).

FUNCTIONALIST FRAMEWORK

PPP's are a network of independent public and private actors who form a cooperative and interdependent working relationship to provide better services effectively, efficiently, equitably and economically (Fourier 2001: 13). This approach presupposes the sharing of responsibilities and risks and the sharing of decision making responsibilities. The functionalist theory advocates for the harmonious working relationship between heterogeneous groups and sectors to achieve a common goal. (Pierre and Peters 2000: 7) emphasise on the creation of heterogeneous networking to facilitate the merging of links between interdependent actors within the relevant networks. Public and private sectors are viewed as interdependent organs of a larger organisation, with each having its own specialised function, which cumulates to functioning as a whole towards the common goal of delivering effective services to the public. Bailey (1994: 11) verifies on the aspect of the functionalist perspective, through the definition of PPP's as the mobilisation of a coalition of interests drawn from public and private sectors to prepare and oversee an agreed strategy for regeneration of a defined facility. This implies that public and private sectors have different roles but they can create a conjoined goal and work for the common public good. The public sector prefers PPP's because, they enable them to utilise the skills, finance and management of the private sector for municipal service delivery (Khosa 2001: 34). Therefore this partnership is relevant to the public sector, since public institutions are considered weak in management and operations while the private sector is perceived to be better at designing, construction and creative in the use of technology. Fourier and Sindane (2000: 14) indicate that the economic strength of the private sector combined with the social responsibility, environmental awareness and job concern of the public sector, will resultantly fetch more than expected results.

PUBLIC PRIVATE PARTNERSHIPS

PPP's are not new because they have evolved over the decades in different forms and in different countries as a development strategy. The term PPP has been used to refer to a variety of partnerships between the government and private sector investors. Ogebeide et al. (2013: 215) in Ijeoma and Nwaodu (2013) define PPP's as a government service or private business venture which is funded and operated through a partnership of government and a private company. The National Treasury Regulation 16 of the Public Finance Management Act 56 of 2003 in South Africa defines PPP's as a contractual agreement whereby a private party performs a departmental function on behalf of a national or provincial department for a specified time. The private party performs an institutional function on behalf of the public institution and acquires the use of state property for its own commercial purposes. Flinders (2015) notes that, all types of PPP's are an extension of various forms of privatisation. However in this paper privatisation involves a permanent transfer of control as a sequence of ownership rights from the public to the private sector, with the state having no power to control the operation of the private sector. PPP's do not simply mean the introduction of market mechanisms or of privatising public services as some scholars have proposed above. Rather, with PPP's, the public and the private sectors both have common goals and aim to achieve mutual objectives to efficiently serve the public. Spackman (2015) alludes that PPP's are contractual agreements that ensure the flow of resources, risks and rewards of both the public and private sector to be safely combined. Thus Ogebeide et al. (2013: 216) in Ijeoma and Nwaodu (2013) indicate that the broad goal of PPP's is to combine the best capabilities of the public and private sectors for mutual benefit.

Models of Public Private Partnerships

Ogebeide et al. (2013: 215) in Ijeoma and Nwaodu (2013) note that PPP's take various forms with varying degrees of public and private sector involvement due to the risk transfer from the public to the private sector. Different PPP models can be applied depending on the specific needs of the particular government because different factors impact on the success of these partnerships. PPP's come in several arrangements and this section of the paper reviews some of the common models which are inclusive of service contract, management contract, concessions, affermage and Build Own, Operate and Transfer (BOOT)

Service Contract

This occurs when a public partner inclusive of national, provincial or local government agency merges into a contract with a private partner to provide a specific service (Plummer 2010: 32). The public sector remains in control of the operation and maintenance of the service, but specific components of the service are contracted to the private sector (National Treasury 2004b). The infrastructure remains a belonging of the public sector; which is why service contracts normally run for one to two years.

Management Contract

The public sector contracts with a private partner to maintain or operate and manage a facility providing a service under this PPP model (McDonald and Ruiters 2005: 120). The public sector retains ownership of the public institution, but the private party may invest a certain portion of its capital so as to undertake reshaping of the public institution and the role of the public sector is to maintain oversight by monitoring the private sector (National Treasury 2009). Management contracts cover a time-span of about two to ten years.

Concession

In a concession the service provider manages, operates repairs, maintains and invests in public service infrastructure, basing on specified standards and outputs (National Treasury 2011). The service provider receives all revenue from consumers for the provision of the service. The private service provider pays a concession fee to the government and assumes existing debt (National Treasury 2009). The government remains the owner of the public institution operated by a concessionaire and is transferred to the government at the end of the concession period which is fifteen to thirty years.

Build Own, Operate and Transfer (BOOT)

BOOT contracts are generally used to construct new parts of a service system within an already existing organization (National Treasury 2004b). Within a BOOT contract, the facility is transferred to the relevant public authority after a predetermined period. Hence this PPP model stretches for twenty-five years or more the Department of Finance (2010). Similar to a BOOT contract is the Design, Build and Operate (DBO) model, which is awarded to a private institution for the designing, construction and operation of an infrastructural project according to the PFMA Act 56 of 2003. The title of a facility within the BOOT or DBO agreement remains with the public sector (National Treasury 2011).

Lease or Affermage

This PPP arrangement enables the private sector to finance and build a new facility, which it then leases to the public sector (National Treasury 2011). The public sector makes scheduled lease payments to the relevant private party involved. The public sector accrues equity in the facility with each constant payment and at the end of the lease term; the public agency either owns the facility or purchases it at the cost of any remaining unpaid balance within the lease. However McDonald and Ruiters (2005: 125) note that, within this PPP agreement the private sector can also rent a facility from the public authorities, who will transfer complete managerial responsibility for operations and maintenance of the facility to the private sector for ten years or more.

DYNAMICS OF PUBLIC PRIVATE PARTNERSHIPS IN SOUTH AFRICA

South Africa has the greatest cumulative experience of public-private partnerships in Africa, with over fifty such partnerships in progress or implementation at national or provincial level, and three hundred projects at municipal level since 1994 (Fombad 2015). The South African National Treasury is the key ministry that approves these deals, and it has developed a PPP Manual and Standardised PPP Provisions to guide all PPP projects. The National Treasury PPP Practice Note 01 of 2004a defines a PPP as a contract between a public sector institution 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.The National Treasury PPP Practice Note 01 of 2004b refers to two specific types of these PPPs where the private party performs a function usually carried out by a public institution, such as providing water or maintaining a road or where the private party acquires the use of state property for its own commercial purposes. The National Treasury PPP Practice Note 01 of 2009 notes that payment can involve a public institution paying the private party for the delivery of a service or the private party collecting fees or charges from users of the service or a combination of these. PPP's involve long-term collaboration between both parties to share the costs, rewards and risks of projects and all the possibilities that the project could go wrong unlike the once-off transaction involved in public procurement (Fombad 2015).

Legislative and Regulatory Framework of PPP's in South Africa

Governments need to look at alternative service delivery methods like PPP's as a part of the New Public Management approach (White 2016: 2). Legislative and regulatory frameworks are critical factors in the advancement of PPP's as a strategy to effective service delivery. International experience has shown that in order for PPP's to be successful governments need to establish firm regulatory legislative frameworks, to ensure effective implementation of PPP's (White 2016: 2). If correctly guided and structured PPP's are quite an effective strategy to service delivery. The legislations governing PPPs at the national and provincial levels of government is the PFMA Act 1 of 1999 and Treasury Regulation 16. Municipal PPPs are governed under the Municipal Finance Management Act 56 of 2003 (MFMA) and its regulations are supported within the Municipal Systems Act 32 of 2003.

PPP's in South Africa are nationally regulated by the PFMA, Act 1 of 1999, Regulation 16 and PPP's for local government are governed by the Municipal Systems Act 32 of 2000 and the MFMA Act 56 of 2003. Municipalities are not subject to the PFMA or to Treasury Regulations 16. Provincial Treasuries can however give advice but cannot enforce any legislation upon municipalities. The Department of Finance (2010) notes that Treasury Regulations should make sure that the monetary cost of PPP's does not inflict unfavorable risks on the value of the public. Therefore these legislative frameworks give clear procedures on the aspect of the PPP cycle and the implementation projects. The Constitution of the Republic of South Africa 1996, the Preferential Procurement Policy Framework Act 5 of 2000, the Intergovernmental Relations Framework Act 13 of 2005 and the Municipal Property Rates Act 6 of 2004 also govern PPP's. All these legislations reflect the government's policy objectives for efficiently delivering public services, in line with the constitutional mandates.

CONCLUSION

In summation it is observable that the government plays quite a pivotal role in the PPP process by giving the necessary political, regulatory and legislative support to ensure the trust of foreign investors. Perhaps there was once a world in which the private and public sector were completely independent, but today that world is nonexistent. The contribution of the private sector through the PPP's cannot be ignored and if adopted by the public sector it could actually enable the fostering of efficient and effective service delivery for public institutions in South Africa.

RECOMMENDATIONS

Several governments today are increasingly relying on private sector organisations for direct service delivery in areas where the public institutions cannot efficiently provide these services, hence PPP's have become one of the best methods of service delivery to the public. Therefore PPP's can be best used in South Africa as an effective alternative to service delivery to decrease the infrastructural backlog. It has been explained that different PPP's can be applied depending on the specific needs of the public institution, this is because certain models have been used frequently yielding positive results, but others might not suit a particular public sector.

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