



Partners for Water and Sanitation

Note on project reports

The following report has been prepared by Partners for Water and Sanitation in response to a project Terms of Reference.

The content of the report is based on the opinion of the author(s) and does not necessarily represent the opinions of the wider PfWS partnership, or the project funders.

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PAWS Visit Report
South Africa dplg Project (Project reference number 79 SA)

Visit Team

Christopher Causer and Peter Dzakula, both from K&L Gates.

Dates of visit

13-18 May 2007

Places visited

Meetings were held in the dplg offices in Pretoria and then a four day workshop was held at the Colosseum Hotel, Pretoria.

Indication of extent to which Objectives were met

The objectives set out in the Terms of Reference were:

1. to help create an enabling environment for municipalities to establish Municipal Services Partnerships ("MSPs") between themselves and other public sector organisations as well as between themselves and private sector organisations;
2. to train the dplg and Provincial Government officials in conducting the workshops on the Municipal Services Partnership Guide and Contract Management.

The structure of the visit was an initial planning meeting at dplg's offices, held on the Sunday afternoon, followed by four days of workshop sessions at the Colosseum Hotel in central Pretoria.

Planning meeting

This was attended by officials from dplg including Victor Mathada, Alfred Legoabe and Moddy Sethusha. We reviewed the draft Programme for the five day workshop and made some changes to it. We also identified which individuals would be responsible for presenting the different sessions.

Workshop from 14 to 17 May 2007

We had earlier indicated that we thought the material available for the workshop could be covered in a three day seminar. As it transpired, we decided with dplg that the PAWS presenters did not need to be involved on the final day (18 May). The PAWS presenters were continuously present for the first four days of the workshop. The attached copy of the programme shows the topics covered during the workshop.

On day 1 there was an introduction by Muthotho Sigidi of dplg and this was very positive and helped to show high level commitment to the objectives of the seminar.

The second day was led by Strover Maganedisa from the National Treasury. This session concentrated on the financial mechanisms connected with MSPs and on procurement processes.

The remaining sessions were presented by either dplg officials, principally Alfred, or by the PAWS presenters. The main text used for the workshop was the document "A Practical Guide on Municipal Service Partnerships" and during the course of the workshop we covered all the guidelines as well as looking at the Contract Management Guidelines.

The delegates were all representatives from the Provinces and all nine Provinces were represented by at least one delegate - some sent two or three delegates. The delegates ranged in seniority but on the whole we were impressed with the intelligence and calibre of the Provincial delegates and in all the interactive and discussion sessions we had a lively participation from the delegates. Two of the most successful interactive sessions were:

- (1) an exercise during which we split the delegates up into Provinces and then each group completed a risk allocation matrix (see the version in Annex C to this report), deciding whether risks should be allocated to the Government, the private sector partner or shared between the two. We then went through the matrix line by line and discussed the delegates' solutions and compared them with the position in the United Kingdom; and
- (2) some legal drafting exercises, converting over-complex and old fashioned documents into plain simple English. This again was completed with great enthusiasm by the delegates.

Were the Objectives set out above achieved? In relation to Objective 1, this was partly achieved, in the sense that the Provincial delegates left the workshop with a much better understanding of the MSP regime. However the MSPs will be created between *municipalities* and private sector partners, or other public sector organisations, and there were no delegates from the *municipalities* attending the workshop.

Objective 2 was achieved - the delegates now have sufficient background knowledge about the MSP Guide and the Contract Management Guidelines to provide introductory training for representatives from the municipalities.

Recommendations for way forward

1. The intention of the workshop was that it should be a "train the trainer" session, with the expectation that the delegates attending our workshop in Pretoria should then be enabled to run workshops themselves in the provinces. dplg would like to hold MSP workshops in the provinces, with Provincial officials and dplg officials doing the presenting. This is a sensible way forward.
2. We think there would also be some merit in identifying a limited number of potential MSPs (ranging from short term outsourcing contracts to longer term projects involving some element of construction and operation). It would then be possible for dplg and Provincial Government officials, with assistance from outside consultants or from PAWS, to help the relevant municipality all the way through the procurement process,

from identifying the initial need to negotiating and signing a contract with the provider. Municipalities and Provincial officials would "learn by doing" and in due course a number of pilot projects would become available for use as wider case studies.

Next steps

1. dplg to consider Recommendations 1 and 2 and confirm to PAWS whether it accepts them.
2. If so, dplg to select three or four pilot MSPs by end October 2007.

Annex A

The PAWS Project Terms of Reference



PAWS Project Terms of Reference

Project Title	Train the Trainer on Practical Guide on MSPs and Contract Management training
Objectives What is the project seeking to achieve	<ol style="list-style-type: none"> 1. To help create an enabling environment for municipalities to establish Municipal Services Partnerships (MSPs) between themselves and other Public sector organisations as well as between themselves and Private sector organisations. 2. To train the dplg and Provincial government officials in conducting the Workshops on the Municipal Services Partnership (MSP) Guide and Contract Management.
Scope Background, Analysis of the problem and description of project areas	<p>Due to low involvement and participation of municipalities in MSPs arrangements, the dplg has undertaken to raise the awareness in municipalities about the MSPs as well as to workshop the same municipalities in the legal framework and the processes to enter into MSPs.</p> <p>PAWS (UK) is requested to train about 20 government officials, from both the dplg and 9 provinces on MSPs. The trainees will in return transfer the skills acquired by conducting the district workshops in which all municipalities will participate. The trainees will be conducting a two – day workshop focusing on “a practical guide on msp’s” and contract management guide. PAWS (UK) will be provided with the two Guides to study (prior to the Train the trainer workshop) and to prepare a structure of the training.</p>
Deliverables Tangible product as an output of the project Expected impact	<p>Skills transfer to the trainees i.e. 20 officials from the National and Provincial Departments.</p> <p>20 Officials will be expected to conduct workshops in all the District municipalities in which the Local municipalities will also be participating.</p>
Roles and Responsibilities UK project lead: The UK project owner – named person must agree with the terms of the project as described UK project team: SA project sponsor: Named person must sign off the terms of reference the project as described SA project team: Steering Group:	<p>The dplg will be responsible for the organisation and coordination of the Train the Trainer workshop.</p>
Organisation and methodology How the project will be carried out	<ol style="list-style-type: none"> 1. The Train the Trainer workshop will run for 5 days in which PAWS (UK) will train the 20 officials on Municipal service partnerships and Contract Management Guidelines 2. PAWS (UK) is also requested to train the 20 officials on how best to conduct the district workshops and how to ensure maximum benefit to the participating municipalities, using the two Guidelines. 3. PAWS will be expected to use recent and practical case studies and demonstrations to enhance participation.
Milestone plan Critical events within the project Estimate of timescale – particularly the start of project or where visits might occur	<p>This Train the trainer workshop is earmarked for the fourth week of April 2007.</p>
Resource estimate Hours required by skill group from -PAWS partners -In Country -Secretariat Other Costs -no. of visits if necessary etc -travel/subsistence/meeting needs	<p>This will be a 5-day train the trainer workshop. It is also suggested that the last two days, if possible, can be spent on a real district workshop, conducted by the PAWS (UK) officials. This would be a demonstration to the trainees how to conduct the district workshops.</p>

	<p>This will require travel to the venue for the 20 officials and the PAWS (UK) partners, as well as costs for accommodation and catering for the officials. The participants from the provinces would shoulder costs for their own travel and accommodation.</p>
<p>Review Mechanism Reporting and monitoring mechanisms etc Quarterly /monthly</p>	<p>Monitoring and after-care will be conducted by the 20 officials after the district workshops. Quarterly reports will be compiled by all trainees on the impact of the workshops conducted in the municipalities. This is to ensure that the accepted contract management practices are implemented.</p>
<p>Issues Not addressed in project</p>	

Annex B

The MSP Activity Programme

Alfred - contracts



the dplg

Department:
Provincial and Local Government
REPUBLIC OF SOUTH AFRICA

MSP ACTIVITY PROGRAMME
14 – 18 May 2007

Schreiner
Galiseum
Visaghi Sheet
R hand side
R McDonald
R Schreiner

TIMES	DAY 1	DAY 2	DAY 3	DAY 4	DAY 5
08:00- 08:30	Registration and Tea	Review of Day 1	Review of Day 2	Review of Day 3	Review of Day 4
08:30 – 9:00	Introduction <ul style="list-style-type: none"> • Introductory Remarks (DDG/CD) • PAWS Introduction (T. Khambule) Context and Objectives (V. Mathada) <i>ika</i>	Public Financial Support for MSPs (National Treasury) <ul style="list-style-type: none"> • Mechanisms for public finance support • Discussion: Pros and Cons of financing alternatives 	Procurement on MSP (National Treasury) <ul style="list-style-type: none"> • Legislative Framework • Group Discussion and International Experience (PAWS) on legislative framework <i>Bid process + time tables</i>	Contract Management (PAWS) <ul style="list-style-type: none"> • Approaches to Contract Management • Types of Contract Agreements <i>Standard contracts SOPC</i>	Institutional Arrangements (PAWS) <ul style="list-style-type: none"> • Group Discussion
10:15-10:30	TEA BREAK	TEA BREAK	TEA BREAK	TEA BREAK	TEA BREAK
10:30-13:00	Stakeholder Consultation (PAWS) MSP Project	Risk Identification and management (National Treasury) <ul style="list-style-type: none"> • Group Discussion 	Procurement processes (National Treasury)	Partnership Management (PAWS) Service Delivery	Institutional Arrangements (PAWS) <ul style="list-style-type: none"> • Group Discussions

Chief Director Matha

+ 1/2 line

Analysis of basic Matha's contract

	Identification (Maha Sigidi) <ul style="list-style-type: none"> • Input on IDP • Group Discussion / Role Play 			Management Contract Administration (PAWS)	Evaluation of the workshop (Participants) Rollout plan to municipalities (V. Mathada) Closure
13:00-14:00	LUNCH	LUNCH	LUNCH	LUNCH	LUNCH
14:00-15:00	Feasibility Studies and Project structuring (M. Sigidi) <ul style="list-style-type: none"> • Group Discussion • International Experience (PAWS) 	MSP Procurement (National Treasury)	Tendering Process (National Treasury)	Case Study Group Discussion PAWS case study	
15:00-16:15	BREAK	BREAK	BREAK	BREAK	
15:15-16:30	S78 Process and MFMA 120 Experience (Karen van der Merwe) <ul style="list-style-type: none"> • Group Discussion Summary & Closure	Group Discussion on challenges on MSP Procurement Summary & Closure	Group Discussions Summary and Closure	Group Discussion Summary and Closure	

SC, OBC.
failures/NATS.

Fred 083 395 8531
 Adi 082 979 4294
 Joe 084 508 8385

Annex C
Risk Allocation Matrix

**Specimen Risk Matrix
Proposed allocation of risk**

RISK				
	Government	Shared	Private Sector	Commentary
Outline Planning Permission				
Detailed Planning Permission				
Site availability (legal title)				

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	Government	Shared	Private Sector	Commentary
Site conditions				
Design				
Construction cost overrun				
Variations requested by the Government				
Delay in completion				
- if Compensation Event				
- if not a Compensation Event				



	Government	Shared	Private Sector	Commentary
Effecting the transition from existing buildings to new buildings ("decant")				
Theft or damage by trespassers during construction				
Utilities				
- provision				
- cost				
Latent defects in existing buildings				

12/1



	Government	Shared	Private Sector	Commentary
Maintenance and repair costs				
Asset renewal (eg elevators, boilers)				
Operating costs not as anticipated				
Failure to meet service requirements:				
- failure to provide service to required standard and quantity				
- unavailability of part of facilities				
- services wrongly specified				



	Government	Shared	Private Sector	Commentary
Failure to provide appropriate staff				
Failure to meet quality standards				
Liability to third parties				
- generally				
- where arising from negligence, breach or wilful default of the Government				
Malicious damage to, or theft from, buildings and/or contents				



	Government	Shared	Private Sector	Commentary
Unplanned events affecting the services: - if Relief Event - if not a Relief Event				
Changes in demand - need for prison spaces increases - need for prison spaces falls - third party use and income				
Variations requested by the Government				



	Government	Shared	Private Sector	Commentary
Consequences in event of major Project Co default:				
- cost of providing alternative facilities				
Unforeseen disruption of power/utilities/fuel supply (except where qualifying as a Relief Event)				
Force				
Default of the Government				
Default of Project Co or any subcontractor etc				



	Government	Shared	Private Sector	Commentary
Legislation				
Legislative changes				
- general				
- specific/discriminatory (ie only affecting PPP projects or prisons)				
- environmental				
- tax				
- VAT scope				
- VAT rate				

	Government	Shared	Private Sector	Commentary
Residual value of the assets at the end of the contract term				
Inflation and general price changes (to the extent not covered by the indexation mechanism)				
Insurance				
- buildings and contents				
- employer's liability				

	Government	Shared	Private Sector	Commentary
- theft				
- terrorist attack				
- cost of premiums (future increase/decrease)				
Default by lenders				
Interest rate movements				