"From rowing the ship to steering it"

Reforming the public sector through the tender process: the Msunduzi Municipality as a case study.

by

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January 2007.

FOR COURSEWORK MASTERS:
In partial fulfilment of the Masters Degree in Social Science in Policy and Development
Studies, in the School of Sociology & Social Studies, Faculty of Humanities,
Development & Social Sciences, at the University of KwaZulu-Natal.

As the candidate's supervisor I have/have not approved this thesis/dissertation for
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i) <u>Acknowledgements</u>

ii) <u>Abstract</u>

It is the following quote by E.S Savas (1992) that truly conceptualises and forms the backdrop of this study "the word government is from a Greek word, which means 'to steer.' The job of government is to steer, not to row the boat. Delivering services is rowing, and government is not good at rowing" (Osborne and Gaebler 1992:25).

Government has experienced a reformation of the way it operates, particularly in the way it achieves its policy objectives and delivers services. Governments have discarded the old style of governing and public administration in favour of New Public Management (NPM) and an entrepreneurial spirit. Both NPM and entrepreneurial government are based on the premise that governments must seek the most innovative, efficient and effective way of providing services and must do so under circumstances of fiscal constraints and scarce resources. This has resulted in Alternative Service Delivery (ASD) and Public Private Partnerships (PPPs). Local government, being at the heart of service delivery, has entered into Municipal Service Partnerships (MSPs). Public sector procurement has been used as a means of entering into these partnerships and introducing competition, thereby getting the best "value for money".

The aim of this research study was to determine how the tender process has contributed to the reformation of the public sector in terms of improving service provision. The study was carried out by employing formal social science research methods. Qualitative methods have been adopted, using the Msunduzi Municipality as a case study. As part of the research methodology of this study, basic interviewing was conducted with officials within the Msunduzi Municipality.

The first finding of this study was that government procurement injects competition into the market, thus reducing the cost of services delivered. Secondly, the procurement of goods and services aids government in acquiring much-needed skills, which the public sector often lacks from the private sector. Thirdly, that public procurement in a South African context has a dual purpose. Not only is government procurement aimed at

reducing government expenditure, but also at redressing the equalities of the past by empowering "historically disadvantaged individuals". A fourth finding of this study is that Alternative Service Delivery (ASD) and Municipal Service Partnerships (MSPs), which are entered into through the procurement process at local government, are very controversial. While, on the one hand, ASD and MSPs are advocated by some for assisting government in acquiring much-needed financial and technical resources from the private sector which the public sector often lacks, on the other hand the private sector is often criticised by others for being motivated solely by profit-making.

Thus, analyses of the findings of this study suggest that government procurement introduces competition into the market, thereby reducing the cost of services delivered, increases service delivery coverage and introduces much-needed skills that are required by the private sector. Public procurement has been employed as an important policy tool which fosters job creation and empowers once discriminated against groups such as women and the disabled. South Africa has reformed itself and has become more entrepreneurial and what was once a solely public function is now being delegated to the private sector. Therefore it can be deduced that ASD and MSPs, through procurement, has transformed the public sector in terms of service delivery and has greatly improved it.

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Schedule of Acronyms

ASD	Alternative Service Delivery
BEE	Black Economic Empowerment
BOT	Build/Operate/Transfer
DEO	Disabled Equity Ownership
DPLG	Department of Provincial and Local Government
HDIs	Historically Disadvantaged Individuals
IDP	Integrated Development Plan
MFMA	Municipal Finance Management Act
MSPs	Municipal Service Partnerships
NPM	New Public Management
PFMA	Public Finance Management Act
PPPs	Public Private Partnerships
PPPFA	Preferential Procurement Policy Framework Act
SCM	Supply Chain Management
SEM	Strategic Executive Manager
TLC	Traditional Local Council
WEO	Promotion of Women Equity

Introduction

In the previous two decades the public sector has reformed itself in order to achieve more efficient government. Emphasis on reforming the public sector was placed on "reshaping the boundaries and responsibilities of the state, especially through privatization, the restructuring of the public services and the introduction of private market disciplines into public administration" (Minogue, Polidano and Hulme 1998: 17).

These last two decades have experienced what has been "characterized as a worldwide public management 'revolution', which has redefined the basic parameters of government responsibility, operating procedures and resource allocation" (Mandell 2001: 167). The 1980s and 1990s, in particular, concentrated specifically on "redirecting the state away from 'rowing' (the direct provision of services) towards 'steering', which combines policy guidance, regulation and contracting for services" (Mandell 2001: 167). While the size and scope of the public sector has become smaller, the role of the private sector has increased. Whereas governance prior to the "revolution" solely involved the public sector, today it no longer does so.

Shaped by neo-classical economic principles, the public management perspective has critically engaged in "questioning the size, roles and structures of public sectors, including those in developing countries" (Minogue *et al.*, 1998: 3). Labelled New Public Management (NPM), this perspective contends that in many countries, including developing countries, the public sector has failed in its endeavour "to be the engine of national development, in some countries it is even the main barrier to development" (Minogue *et al.*, 1998: 3). According to this perspective public bureaucracies lack the capacity to effectively manage services such as electricity supply or water services. Thus it is the private sector that is regarded as having the capacity to manage these services. According to Minogue and others, it has the "flexibility and competitive drive essential for the efficient and effective provision of many activities previously assumed to be the province of the public sector" (Minogue *et al.*, 1998: 3).

This has also resulted in government becoming more decentralised, more specifically what can be termed as administrative decentralisation. Cohen and Peterson define administrative decentralisation as "the transfer of responsibility for planning, management, and the raising and allocation of resources from the central government and its agencies to field units of government agencies, subordinate units or levels of government, semi-autonomous public authorities or corporations, area-wide regional or functional authorities, or non-government private or voluntary organization" (Cohen and Peterson 1999:24). According to Cohen and Peterson (1999), although there are three types of administrative decentralisation, namely deconcentration, devolution and delegation, it is the third form of administrative decentralisation, that is delegation which is pertinent to this study. Delegation is undertaken when government recognises that certain limitations exist that render its ability to deliver services inefficient and thus delegates the task of delivering services to the private sector. Cohen and Peterson (1999) argue that the private sector is better equipped to provide services that meet the needs of the public and would provide the services more efficiently, effectively and would be more accountable. Furthermore, private firms are better inclined to provide public services as they are not weighed down by "bureaucratic politics and practices or burdened by complex administrative procedures relating to budgeting, disbursing accounting and auditing" (Cohen and Peterson 1999: 28).

Democratic government in South Africa is specifically reviewing the role of local authorities. Functions that were previously performed by the public sector are now being privatized. Local municipalities are being coerced into tendering for "work in competition with private suppliers" (Minogue *et al.*, 1998: 3). This has led to partnerships being created between the public sector and the private sector. These partnerships have been termed Public-Private Partnerships (PPPs). Thus the public sector has moved from "rowing the ship to steering it". Tenders form part of public management, in that the private sector is used by government to acquire services and goods.

The aim of this dissertation was to firstly explore how the public sector has reformed itself, in that it has redirected itself away from "rowing" (the direct provision of services),

towards "steering", which combines policy guidance, regulation and contracting for services. Secondly, to examine how the tender process has reformed the public sector, in that services that once were the province of the public sector are now being contracted out to the private sector through the tender process and to view the Public-Private Partnerships (PPPs) or Municipal Service Partnerships (MSPs) at local government level which have resulted from this partnership between the public and private sectors. This was done using the Msunduzi Municipality as a case study. The Msunduzi Municipality is located within the city of Pietermaritzburg, the capital of KwaZulu-Natal. The municipality is a local municipality that enters into many partnerships during the course of the year.

Due to a recent raid on the Msunduzi Municipality by the National Prosecuting Authority (the Scorpions), the municipality finds itself in a state of disarray (see Appendix A). One of the areas being investigated is that of procurement and the issue of nepotism amongst high-ranking officials. In addition, it is paramount to note from the outset that the issue of procurement is very "sensitive" in nature and steeped in legalities (see Appendix B). The awarding of tenders is such a "sensitive" issue that only top incumbents such as the Municipal Manager, the Six Strategic Executive Managers (SEMs), the Procurement Manager and one Legal Advisor may attend procurement-related meetings. Although formal social science research procedures were followed, only one SEM agreed to be interviewed, two SEMs referred the researcher to Process Managers that they believed could be of assistance and the Procurement Manager agreed to be interviewed. While the Procurement Manager and SEM for Infrastructure and Services agreed to be interviewed, two SEMs referred the researcher to Process Managers whom they believed could be of assistance. Although a few SEMs agreed to be interviewed and made appointments to do so, these were cancelled on numerous occasions. The Legal Advisor stated that he could not assist with the study, as he had "no knowledge of procurement practices". All avenues were sought and exhausted in order to obtain interviews.

It is the finding of this study that ASD and partnerships in the context of local government has been both criticised and favoured by academics. Another finding of this

study is that the use of procurement as a policy instrument is very important. However, having stated this, the use of procurement as a policy instrument is not without controversies and a number of issues have been raised in this regard. One such issue is that of "fronting". Fronting occurs when fictitious "black" people are signed up as shareholders in essentially "white" owned companies. It also emerged that the use of procurement as a policy instrument did not curtail the quality of goods and services being procured. Today the South African government no longer "rows" but rather "steers". A fundamental purpose of public administration is to ensure the well-being of citizens. It is government's "steering" function that will achieve this.

Chapter One: Problem Definition and Policy Context

"Procurement is an important item of public expenditure, with far-reaching social, economic and political implications. To argue ...that public procurement is a sacred cow which should be 'outside the political arena' is restrictive and unwarranted. Purchasing policies pursued by public authorities should be open to modification in the light of pressing social or economic problems-even if this does require procurement decisions not to be guided exclusively by commercial criteria" – P.E. Morris (Bolton 2004:623).

1.1 Local Government in South Africa

This study uses the Msunduzi Municipality as a case study and is set in a local government context. It is thus necessary to provide a brief background on local government.

Advising the prince, Machiavelli (1515) (quoted in Meyer 1997: 3), wrote almost five hundred years ago that "it must be considered that there is nothing more difficult to carry out, nor more doubtful of success, nor more dangerous to handle, than to initiate a new order of things. For the reformer has enemies in all those who profit by the old order, and only lukewarm defenders in all those who profit by the new order" (Meyer 1997: 3). Never has this been truer than in the case of local government in South Africa.

The Constitution of the Republic of South Africa Act, No. 108 of 1996 no longer regards local government as just a "level" of government. Local government is now regarded as the third "sphere" of government, provincial government being the second and national government the first. The final Constitution probably refers to local government as a "sphere" instead of "level", to highlight the new relationship of co-operation among the three levels of government. Originating in the earliest tribal villages and communities, long before the notion of a nation state was conceived, local government can be regarded as the oldest type of government and the sphere of government that is closest to the

people. As a result, according to Cloete, "local government should in fact be classified as the first tier of government" (De Villiers 1994: 294).

The sphere of local government is so important that the "apartheid value system in South Africa manifested itself strongest at the local government level, where communities of different races were separated by law in every sphere of society, and where the white community enjoyed all sorts of privileges at the cost of the other communities" (De Villiers 1994: 294). In addition, it was evident at this level of government that apartheid would not be sustained as a political value system and ultimately the racial conflict at this level would lead to the demise of apartheid.

Being the smallest government institution, local government is regarded as the "cornerstone of modern democratic systems" (Rautenbach and Malherbe 2004: 273). The reason it is regarded in this way is that local government involves a distinct way of distributing government authority and can be an effective counterweight when it comes to the concentration of power at the other levels of government. Local government is also far closer to a community than other spheres of government and thus brings decision-making closer to the people and affords better opportunities than the other two spheres of government (Rautenbach and Malherbe 2004: 273). It is accepted that local government should have autonomy and a large number of powers and functions must be delegated to this sphere of government. Du Toit and Van der Walt state that, "in terms of section 156 of the Constitution, municipalities appear to be administrative authorities rather than governing authorities" (Du Toit *et al.*, 2002: 78). While national and provincial spheres of government "govern" by making legislation, local government is tasked with administering this legislation. Local government is mandated by the Constitution "to strive within their financial and administrative capacity, to achieve the following objectives:

- ❖ To provide democratic and accountable government for local communities,
- ❖ To promote social and economic development,
- ❖ To promote a safe and healthy environment and

❖ To encourage the involvement of communities and community organizations in the affairs of local government" (Meyer 1997: 9).

In essence, local government has both a developmental and administrative function whereby it renders services to the community. Local government is thus often regarded as "being the closet sphere of government to the community" (De Villiers 1994: 294). The Constitution identifies municipal services in terms of schedule 4 and schedule 5. Although municipalities are responsible for these services, the Constitution does not solely vest these powers with local government, but with the national and provincial spheres of government as well. Local government in South Africa is pursuant of the Constitution by carrying out the following services:

SCHEDULE 4 SERVICES Over which national and provincial government have concurrent legislative competence	SCHEDULE 5 SERVICES Over which provincial government has exclusive legislative competence
• air pollution • building material • child-care facilities • electricity and gas reticulation • fire-fighting services • local tourism • municipal airports • municipal planning • municipal health services • municipal public transport • municipal public works (only in respect of the needs of municipalities in the discharge of their responsibilities to administer functions specifically assigned to them under the Constitution or any other law) • pontoons • ferries • jetties • piers and harbours (excluding the regulation of international and national shipping)	• beaches and amusement facilities • billboards and the display of advertisements in public places • cemeteries, crematoria and funeral parlours • cleansing • control of public nuisances • control of undertakings that sell liquor to the public • facilities for the accommodation, care and burial of animals • fencing and fences • licensing of dogs • licensing and control of undertakings that sell food to the public • local amenities • sports facilities • markets • municipal abattoirs • municipal parks and recreation • municipal roads • noise pollution

• stormwater management systems in built-up areas • trading regulations • water and sanitation (limited to potable water supply, domestic waste and sewage disposal systems)	• pounds • public places • refuse removal • refuse dumping and solid waste disposal • street trading • street lighting and traffic and parking

Table 1. List of Municipal Services as contained in schedule 4 and 5 of the Constitution (Source: **The Constitution of the Republic of South Africa, Act No. 108 of 1996**: 143-147).

Although a municipality, in terms of section 156(2) of the Constitution has the power and function to make and administer by-laws, it must do so in accordance with national and provincial legislation; this is in terms of section 156(3). Section 155(1) of the Constitution of South Africa makes provision for three categories of municipalities:

❖ **Category A**: Category A municipalities have exclusive executive authority and legislative authority (make by-laws) in its area. These municipalities are usually metropolitan-type municipalities.

❖ **Category B**: These municipalities do not have exclusive executive and legislative authority but share these authoritive functions with a category C municipality, a municipality within whose area it falls.

❖ **Category C**: A category C municipality has executive and legislative authority in an area that includes more than one municipality. Category C municipalities are district municipalities.

1.2 The Msunduzi Municipality: Background and Structure

In 1838, after having defeated the Zulus in a series of battles, the pioneering Voortrekkers settled in the now KwaZulu-Natal province. The Voortrekkers named their newly established town Pietermaritzburg after two popular leaders, Piet Retief and Gert Maritz. Overtaken by the British in 1843, Pietermaritzburg then become the administrative seat

of the British government. In 1893, Natal, now KwaZulu-Natal, gained its "independence" by being granted self-government, with a parliament located in Pietermaritzburg (Gaffney's Local Government in South Africa 2002-2004, Official Year Book: 401).

With the advent of democracy and the demarcation of South Africa into district and local municipalities, Pietermaritzburg, or the "City of Choice" is now governed by the Msunduzi Municipality (Gaffney's Local Government in South Africa 2002-2004, Official Year Book: 401). Essentially a category B municipality, the Msunduzi Municipality is just one municipality that falls under the uMgungundlovu district municipality. uMgungundlovu, meaning "Royal Capital", is made up of the following municipalities:

> Impendle Municipality
> Mkhambathini Municipality
> Mpofana Municipality
> Richmond Municipality
> uMngeni Municipality and
> uMshwathi Municipality

After the elections that were held in December 2000, five entities (Pietermaritzburg-Msunduzi Traditional Local Council (TLC), Ashburton TLC, Vulindlela (rural), Claridge and Bishopstowe), which were previously independent, were amalgamated to form the Msunduzi Municipality. The following towns fall within the boundary and are now serviced by the Msunduzi Municipality: Ashburton, Clarendon, Claridge, Edendale, Elandskop, Imbali, Kanzakane, Mkondeni, Northdale, Pietermaritzburg, Sinathingi, Sweet Waters, Taylors Halt and Thornville. Thus, what was traditionally a municipal area now comprises sections which fall under both a municipal and tribal authority (Gaffney's Local Government in South Africa 2002-2004, Official Year Book: 400).

The Msunduzi Municipality is divided into six "Business Units", headed by the municipal manager (see Appendix C). These business units are:

> Finance

> Community Services and Social Equity

> Infrastructure Services and Facilities

> Sound Governance and Human Resources

> Corporate Strategic Planning and

> Economic Growth and Development

The Msunduzi Municipality's procurement unit falls directly under the Municipal Manager's office (see Appendix D).

1.3 Reforming the public sector in terms of service delivery

Apart from the fact that human beings are social creatures by nature, individuals would not be able to sustain themselves by providing all the services that one requires in order to survive (Van Niekerk, Van der Waldt and Jonker 2001: 242). Thus, human beings create communities in which they live and function and this leads to the establishment of states and governments, which "drive" the state. According to Van Niekerk, a fundamental objective of any government "is to promote the good fortune, happiness or well-being of a person or community under the organized efforts of the state or any other organisation and to improve or develop the economic conditions and social services for its inhabitants or employees" (Van Niekerk *et al.*, 2001:242). In essence, then, the ability of governments to legitimately tax and govern its people is based on its capacity to deliver necessary services which no other "player" can provide.

In addition, the <u>Constitution of the Republic of South Africa Act, No. 108 of 1996</u> makes explicit provision for the idea of government enhancing the quality of life for all citizens. According to the Constitution's preamble, one of the functions and roles that

governments perform is to "improve the quality of life of all citizens and free the potential of each person".

Government today is faced with the mammoth challenge of seeking the most inventive, cost-effective and efficient way of providing services. The manner in which services are delivered are largely impacted by the complexities of government. These complexities include "aspects such as internal and external political dynamics, conflicts and ethical considerations" (Van Niekerk *et al.*, 2001: 241). Government is in the "business" of ensuring that the needs, wants and desires of their "customers" are met. However, over the past few decades, populations have increased dramatically. Society today is moving away from the traditional and totalitarian ideologies and forms of government such as monarchies and dictatorships and towards democratic ideologies. Humans beings are becoming increasingly aware of their fundamental human rights and those living in democratic states are guaranteed total freedom of the individual.

In recent decades, government has displayed the inability to adequately carry out public services (Van Niekerk *et al.*, 2001:243). In the new constitutional dispensation the South African government has a multitude of new goals to achieve, but poses a hindrance to itself in that it lacks the capacity to achieve them. Van Niekerk alleges that "the central failure of government today is one of means and not ends" (Van Niekerk *et al.*, 2001:243). He goes on to state that "the ultimate objective is to transform government from a state bureaucracy into an innovative, flexible and responsive organization that is solutions oriented and continually seeks to identify mechanisms to enhance service delivery" (Van Niekerk *et al.*, 2001:243).

There is a dire need for the "public sector" to transform the way in which it functions and there needs to be a paradigm shift in the way government delivers services. Governments must now toy with the idea of utilizing limited resources in order to produce efficacy in the way they deliver services. Osborne and Gaebler (1992) believe that emphasis is now placed on how governments operate, as opposed to what they do. In order to achieve transformation in the way in which governments function and produce better service

delivery, governments must refine their roles, be mission-driven, decentralise and devolve or delegate power and authority and adopt an entrepreneurial style of government.

1.4 Alternative Service Delivery (ASD)

The South Africa government has the difficult task of trying to rectify the enormous infrastructure and service delivery backlogs that are prevalent today, particularly in black areas. The task of quantifying the extent of the backlog is not an easy one, but according to the Department of Finance's Medium-Term Expenditure Framework for the 1998/9 financial year, it was estimated that between R47 billion and R53 billion would be needed to address service delivery backlogs in the next five years. In the foreword to the White Paper on Municipal Service Partnerships, Notice No. 1689 of 2000, by the then Minister for Provincial and Local Government, Fholosani Sydney Mufamadi expressed his concern, saying that "South Africa is facing daunting challenges for municipal service delivery". Since public service delivery falls within the realm of local government, it is this sphere of government that must seek alternative ways to provide services.

The South African government had to rethink the way in which it provided services. The role of government over the years, particularly towards service delivery, has changed significantly. According to Jonker (2001), the role of government today "is not to do everything but to make sure that everything is done" (Van Niekerk et al., 2001: 256). Jonker states that the onus is not only on government to "provide services but to oversee that they are actually delivered" (Van Niekerk et al., 2001: 256). Governments have therefore moved away from rowing (the direct provision of services) towards a position of steering.

In order to provide improved services, meet the needs of citizens and reduce the infrastructure and services delivery backlogs, governments have adopted alternative methods of delivering services. Alternative Service Delivery (ASD) has resulted in governments turning to the private sector and in the emergence of a new global trend

called Public-Private Partnerships (PPPs). Jonker alleges that, "this approach uses the expertise, investment and management capacity of the private sector to develop infrastructure, as well as to improve and extend efficient services to all residents" (Van Niekerk *et* al., 2001: 256).

At first, private sector participation in infrastructure and service delivery was evident at a national level. However, since local government is responsible for infrastructure and service delivery to communities, PPPs are now being adopted and implemented significantly in this sphere of government. At a local government level ASD is in the form of Municipal Service Partnerships (MSPs). The whole philosophy behind the creation of Municipal Service Partnerships was to address municipal infrastructure backlogs and service backlogs. In the years 1999 and 2000, in a collaborative effort, the Department of Provincial and Local Government, along with all relevant national departments and the South African Local Government Association (SALGA), embarked on a four-phased approach which included a consultative process over a twelve-month period. The result of the process has culminated in the White Paper on Municipal Service Partnership. A fundamental objective of ASD and MSPs is to improve service delivery. This can be achieved through procurement practices which uphold the constitutional principles of fairness, equitability, transparency, competitiveness and cost-effectiveness. According to the White Paper on Municipal Service Partnerships, Notice No. 1689 of 2000, procurement is a stage in the MSPs cycle whereby a municipal entity takes its MSPs "to the market". Indeed "a sound procurement process will be one that achieves 'value for money' for the council and its residents and promotes important societal goals such as empowerment" (The White Paper on Municipal Service Partnerships, Notice No. 1689 of 2000: 13).

In South Africa there is evidence that the issue of ASD has generally been embraced. For example, the President of South Africa "in his State of the Nation Address on February 2000, emphasized the importance attached by government to the strategic objective of building partnerships between the public and private sectors" (Development Bank of

South Africa, March 2000: Preface). The issue of PPPs has received mixed feelings, particularly from trade unions which contend that PPPs encourage job losses.

There is a stark contrast in the way ASD has been received in both the developed and developing world. Mmakola and Malunga posit that "these differences of development are closely related to the historical role of local government in these societies, the levels of socio-economic development and the significance of the private sector" (Mmakola and Malunga 2001: 30). The progress that ASD has made in developed countries is attributed to the active participation of local government, "while in the developing world it has tended to emerge as a spontaneous wave, sometimes in reaction to the incapacity of local government to deliver services" (Mmakola and Malunga 2001: 30).

However, the ASD debate is very much alive and not without controversy. In fact, ASD is often criticised, particularly for being insensitive to the poor. The private sector (which comprises businesses, amongst other entities) is driven by profiting-making. Driven by profit the private sector is criticised for not taking cognizance of the fact that services rendered would be unaffordable, particularly to low income citizens. The private sector in South Africa is regarded by many as underdeveloped and still in its infancy. What this means is that this leaves "foreign companies as the only significant players" in delivery of infrastructure and services (Mmakola and Malunga 2001: 30). Even though these companies encourage "foreign investment, in certain instances it causes serious political problems" (Mmakola and Malunga 2001: 30). Apart from causing political problems, the cost of acquiring a foreign company to deliver infrastructure and services would be much higher than a local company and would drastically increase the cost of the services being delivered. In the case of municipalities that have become weak for various reasons, service delivery occurs under an unregulated environment by local companies which can be rather undeveloped. In this scenario, ASD suffers. There should thus always be local government participation where ASD is involved.

On the other hand, ASD is favoured for a number of reasons. Reasons for this include that when governments run into grave financial crises, PPPs are a means for "mobilizing

additional resources" (Mmakola and Malunga 2001: 29). Although it is customary to view government as being the "best positioned to provide public services", recently this has been questioned (Mmakola and Malunga March 2001: 29. Mmakola and Malunga opine that governments nowadays often lack the expertise and efficiency that the private sector displays. Evidence suggests that Non-Governmental Organisation involvement reduces the cost of rendering services (Mmakola and Malunga 2001: 29). ASD also allows the state to be more involved in policy guidance, regulation and contracting for services, thus moving the state away from "rowing" (the direct provision for services) towards "steering". At a local government level, with the implementation of ASD, the role of local government "is not direct delivery by control, partnership, support, regulation and influence" (Mmakola and Malunga 2001: 29). The perks of entering into a partnership with the private sector are further heightened with competition being introduced amongst service providers. Thus, not only will the consumers get the service delivery at the "best" possible price but they are offered choices as well.

The findings of a study undertaken by the Development Bank of South Africa and the Development Information Business Unit, to assess the impact of PPPs on the poor in South Africa, showed "that the private sector is able to provide cost effective service, expand services to the benefit of the poor, create local employment opportunities, develop and empower local enterprises" (Development Bank of South Africa, March 2000:1). The study examined six case studies involving the participation of the private sector in the provision of water and sanitation services, solid waste removal, pre-paid electricity meter systems and municipal bus services (Development Bank of South Africa, March 2000:1). The study used key performance indicators to measure the outcomes of the PPPs, the most important of which included service affordability, service coverage, employment opportunities and local economic development.

In terms of service affordability, by introducing competition the municipal entity, when entering into a partnership with the private sector, would have the best value for money. By competing for the tender, private sector companies are forced to lower their prices dramatically. Thus service becomes more affordable to the public, and particularly to the

poor, who cannot afford these services. Partnerships also allow rebates for many indigent service users. Another finding was that private sector involvement extended the coverage of services. In other words, those who were without services prior to the introduction of PPPs were now receiving them. The extension of services was made possible by "extension mandates". These mandates formed part of the service providers' contracts and were measurable and benefited historically disadvantaged communities in particular (Development Bank of South Africa, March 2000:2).

One of the fears regarding PPPs was that there would be a reduction in employment opportunities. However, the study on the impact of PPPs on the poor proved that this was indeed an unfounded fear, as the involvement of the private sector in the delivering of services actually resulted in job creation. According to the same study on the impact of PPPs on the poor, contracts that were awarded to the private sector "often provide for the creation of other jobs like subcontracting to Small, Micro and Medium Enterprises" (Development Bank of South Africa, March 2000:2). PPPs also provide for the promotion of local economic development, whereby partnerships are awarded to local entrepreneurs.

1.5 Typical Forms of Municipal Service Partnerships (MSPs)

The White Paper on Municipal Service Partnerships, Notice No. 1689 of 2000 provides for different forms of contracts or arrangements (MSPs) that can be entered into with the private sector at a local level, dependent on specific service needs. These include:

Service Contracts

Under a service contract the municipality pays a fee to a service-provider, "to manage a particular aspect of a municipal service" (White Paper on Municipal Service Partnerships, Notice No. 1689 of 2000: 5). These types of contracts are short-term contracts that usually last one to three years. The risk and cost of providing the service is placed on the municipality.

Operations and Management Contracts

Much like the service contract, the service provider has certain managerial responsibilities. Although the private contractor is responsible for the overall management of all aspects of a municipal service, the onus of financing the operating, maintenance, repair and capital costs of the service is borne by the municipal entity. In other words, the municipality "remains responsible for the capital expenditure. Payment is done when the contractor meets the specified performance targets. Typically, management contracts run for three to five years" (Development Bank of South Africa, March 2000: 14).

Lease Contracts

A lease agreement requires the service provider to be responsible for the overall management of a particular municipal service and the local authority's operating assets are leased to the contractor. Once the council's operating assets are leased to the private contractor, that contractor is responsible for the operating, repairing and maintenance of those assets. Even though the risk of operation is transferred to the contractor, the contractor is not responsible for making any new capital investment or the replacement of the leased assets. Leases are typically five to ten years.

Build/Operate/Transfer (BOT)

BOT can be viewed as an "investment-linked contract" that "provides a mechanism through which local authorities can obtain investment for infrastructure" (Development Bank of South Africa, March 2000: 14). This type of partnership arrangement sees the service provider designing, building, managing, operating, maintaining and repairing a facility to be used for the rendering of municipal services, over a period of time and at its own expense. BOT are generally long-term contracts spanning fifteen to thirty years. After the contract has expired the facility reverts back to the council.

Concession

A concession is where the service-provider undertakes the management, operation, repairs, maintenance, replacement, design, construction and financing of a municipal service facility or system (White Paper on Municipal Service Partnerships, Notice No. 1689 of 2000: 5). Although the council still remains the owner of the existing facility, the service provider assumes the responsibility of managing, opening, repairing and maintaining the already existing municipal service facility. The contractor collects and retains all service tariffs, but the local authority is compensated by being paid a concession fee by the service-provider.

1.6 **Public Sector Procurement and the Tender Process in a South African Context**

The notion of tendering and procurement, however, is not a modern concept, dating as far back as the 17th century. Fagan purports that "tendering has been in use for over 300 years now" (Fagan 1997: 4). According to Fagan there is evidence of goods being tendered since 1666, when "Samuel Pepys refers in his diary dated 14 July 1666, to a tender to supply hemp to the British Royal Navy: 'The principal officers and commissioners of their Majesty's Navy will be ready to receive any tenders and to treat and contract with the tenders thereof'" (Fagan 1997: 4). Fagan (1997) opines that, in South Africa the idea of tendering has been in existence since the 19th century when, for example, South African farmers tendered their oats.

The South African government makes many purchases from outside suppliers throughout the year. Contracts are entered into for a host of goods and services. These goods and services range from purchasing computer systems, office equipment and military weapons to tendering for catering functions and building bridges. According to Bolton, "these contracts are referred to as contracts of procurement or, more accurately, public sector procurement contracts" (Bolton 2004: 619). Other definitions of procurement are

offered by Staats, Westing and Fine, while Staats defines public or government procurement as "the science, or perhaps the art, of getting the most for the taxpayer's money in a whole spectrum of buying, leasing or otherwise acquiring goods and services" Westing and Fine contend that "procurement is a business activity directed to obtain materials, supplies and equipment required for the continued operation of an institution" (Reddy, Sing and Moodley 2003: 147).

The tendering process is a means whereby public sector procurement contracts are acquired by way of competition. Tenders can be defined as "a written offer or bid in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services or goods" (Government Gazette, No. 22549, 10 August 2001: 6). Thus tenders respond to an invitation by government for the provision of services or goods and the "preferred" tender, or the tender who can perform the service effectively and efficiently at a "reasonable" cost, will be awarded the tender. Tenders in South Africa are awarded according to a preferential point system. The preferential point system stems from the Preferential Procurement Policy Framework Act, No.5 of 2000 (PPPFA). In essence, the preferential point system is used to empower and award points to Historically Disadvantaged Individuals (HDIs). HDIs means a South Africa citizen who, prior to the introduction of the Constitution of the Republic of South Africa, No. 108 of 1996, had no franchise in national elections, who is a female and who has a disability (Government Gazette, No. 22549, 10 August 2001: 5).

1.7 Public Sector Procurement Prior to 1994

Before the new constitutional dispensation could occur in 1994, "public sector procurement in South Africa was regulated in terms of the State Tender Board Act No. 86 of 1968. The general conditions for procuring goods and services were contained in the State Tender Board's General Conditions and Procedures (ST 36)" (Gounden 2000: 3.11). Whereas the regularity framework governing procurement practices today places emphasis on economic growth and development, as well as empowerment, legislation in the past focused on financial rules and regulations. According to information gathered by

Gounden while conducting an interview with the then Chief Director of the State Tender Board, "the only reference to targeting or preferencing is in section 25 of ST 36, where consideration was given to tender preferences for products with local content or work where processes were involved; preferences for the utilisation of the South African Bureau of Standards standardization mark; preferences related to the regional industrial development incentives in force at the time and in terms of clause 25(1)(4), preferences as may be determined by the Minster of State Expenditure from time to time" (Gounden 2000: 3.11).

The legislation regulating public sector procurement prior to 1994 may have, at face value, seemed free and just. It was, however, implemented during a period which is well known for its discriminatory polices, particularly towards Coloured, Indian and Black race groups. An area which was hard hit during the apartheid legacy was that of procurement. It is noted that, in the past, the system governing procurement tended to favour large and established companies, rendering it virtually impossible for newly established businesses to enter the procurement system (Bolton 2004: 620). In addition, Gounden notes that "a review by the Procurement Task Team, in 1995, of contracts awarded during the five years preceding 1994 indicated that approximately 95% of state contracts were awarded to white-owned and controlled enterprises" (Gounden 2000: 3.11). Apart from the above, procurement practices of the past experienced inefficiencies, in that they were rule-driven and value for money was almost always equated to the lowest price tendered; it failed to take into account budgetary planning and other management activities, which are paramount for a procurement system. Furthermore, instead of ensuring that capital invested in goods, services and assets, enjoyed a good return, asset management focused on inventory control and it lacked standardisation of documents, which led to "inefficiencies and uncertainly", not only on the part of bidders, but municipal officials as well (Department: SA Management Development Institute, Supply Chain Management for Municipalities and Municipal Entities-Course Manual 2006: 4).

1.8 Public Sector Procurement Reform Post 1994

In the new democratic dispensation, and in order to ameliorate the negative social, political and economic implications left by the past, and to curb further inequalities, the South African government embarked on a total transformation of the public sector. One aspect which was given priority on the government's agenda, and which government sought to reform, was that of public sector procurement.

At the outset of the procurement reform process the South African government, in November 1995, released a "ten-point plan" (Bolton 2004: 625). This interim plan encompassed ten principles that were essentially aimed at creating jobs and empowering disadvantaged sectors in society by increasing the participation of small, medium and micro enterprises within the bidding process. In April 1997, a "Green Paper on Public Sector Procurement Reform in South Africa" was published, which included government's ten strategies and made provision for the development and implementation of an affirmative procurement policy (Bolton 2004: 625).

The final Constitution of the Republic of South Africa Act, No. 108 of 1996 made provision for procurement of goods and services. According to section 217(1) of the Constitution, "when an organ of State in the national, provincial or local sphere of government or any other institution contracts for goods and services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective." The section goes on to provide, in subsection (2), that subsection (1) "does not prevent the organs of State or institutions referred to in that sub-section from implementing a procurement policy providing for (a) categories of preference in the allocation of contracts, and (b) the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination." Section 217(3) then requires the enactment of national legislation to "prescribe a framework within which the policy referred to in subsection (2) must be implemented" (Bolton 2003: 625). Thus, in essence, a public procurement system must ensure that fundamental principles such as fairness, equity, transparency, competitiveness and cost-effectiveness that are entrenched in the

Constitution, which is the cornerstone of democracy, are upheld. In addition, a public procurement system must promote and advance categories of people that were historically disadvantaged.

In 2000, and adhering to section 217 of the Constitution, the Preferential Procurement Policy Framework Act, No. 5 of 2000 (PPPFA) was promulgated. The PPPFA stipulated that a procurement system must be "fair, equitable and transparent and allow preference to Historically Disadvantaged Individuals (HDIs). Between the years 2000 and 2003 the South African government developed plans and strategies that focused on promoting and improving sound financial management, creating "uniformity in implementation of procurement reform initiatives in all spheres of government, enhancing common interpretation and understanding of preferential procurement and related legislation and policies and introducing an integrated supply-chain management function" (South African Management Development Institute: Supply Chain Management One: Course Manual, 2004: 4).

Prior to 2003, there existed various legislation governing procurement practices in South Africa. However, on 10 September 2003, a policy document emanating from the National Treasury was approved by Cabinet that repealed procurement and provisioning practices that were regarded as "outdated". Titled "Policy to Guide Uniformity in Procurement Reform Processes in Government", this document guided government in the direction of implementing a supply chain management system. The document served to provide government not only with a supply chain management function that is an essential part of financial management, but will also conform to international best practice (South African Management Development Institute: Supply Chain Management One: Course Manual, 2004: 7). In addition, the policy document provided uniformity in terms of supply chain management, the interpretation of government's preferential procurement legislation and policies, as well as incorporating other related legislation and policies.

1.9 The Use of Public Sector Procurement as a Policy Instrument

In April 1997 a Green Paper on Public Sector Procurement Reform in South Africa was published. The Green Paper recognized that public sector procurement, in addition to being used as a tool for achieving "primary" objectives such as the "acquisition of goods and services on the best possible terms", could be used as a means of achieving certain "secondary" or social policy objectives, such as "the creation of jobs, the promotion of fair labour conditions, the use of local labour, the prevention of discrimination against certain groups, the improvement of environmental quality, the encouragement of equal opportunity between men and women and the increased use of the disabled" (Reddy *et al.*, 2003: 153).

Bolton (2003) states that it is not usual for a country to use procurement as an instrument of policy. So much so has public sector procurement been adopted by the South African government as a policy tool to remedy past injustices that the Constitution of the Republic of South Africa No. 108 of 1996 makes express provision for this function. According to the Constitution, when procuring work, goods and services, preference should be given for the advancement of certain persons or categories of persons. Section 217 of the Constitution thus makes provision for the implementation of a policy of "targeted procurement" or "affirmative procurement", or what is now referred to as preferential procurement.

The use of procurement as a policy tool is not without controversy and a number of issues have been raised with regards to this. Although government's intent for preferential procurement policies was to eradicate injustices that were prevalent in the past, these policies have led to a major discrepancy in the procurement system, namely "fronting". According to Bolton, fronting occurs "where 'black' people are signed up as fictitious shareholders in essentially 'white' companies" (Bolton 2003: 629).

1.10 Supply Chain Management: Towards the New Policy

Prior to the Municipal Finance Management Act, No. 56 of 2003 (MFMA), legislation and regulations on procurement that existed made provision for conventional procurement processes. With conventional procurement, municipalities procured goods and services so that the municipality could deliver the services itself. However, unlike conventional procurement, in the case of an MSP arrangement, a municipal entity would enter into an agreement for a council service to be delivered by an entity other than itself. Thus it was the White Paper on Municipal Service Partnerships Notice No. 1689 of 2000, before the MFMA, that set out the process a council should adhere to when procuring municipal services to be performed by entities other than the municipality itself. Today, however, the acquiring and disposing of all goods and services is governed by Supply Chain Management (SCM) practices. Chapter 11 of the MFMA makes provision for the procurement of goods and services in municipalities. In addition, section 111 of the MFMA states that "each municipality and each municipal entity must have and implement a supply chain management policy" (Municipal Finance Management Act, No. 56 of 2003).

SCM is a management philosophy which forms an integral part of financial management. Essentially, SCM "involves the management of working capital that is invested in goods, stores and services", with the intent of optimising the economic return on such investment (Department: SA Management Development Institute, Supply Chain Management for Municipalities and Municipal Entities-Course Manual 2006: 11). SCM manages the entire flow of goods and services, from the raw material stage through to the end customer. The Supply Chain Management Manual for Municipalities stipulates that SCM oversees the processes and activities that are aimed at satisfying customer demands, by optimising value for the customer in the products and services that they receive (Department: SA Management Development Institute, Supply Chain Management for Municipalities and Municipal Entities-Course Manual 2006: 11-12).

Furthermore, SCM ensures that deficiencies in procurement practices are dealt with by addressing and creating a common understanding and interpretation of government's preferential procurement policy objectives and introducing internationally accepted best practice principles.

SCM has six "elements" which form part of a council's supply chain management policy, namely:

- ❖ Demand management,
- ❖ Acquisition Management,
- ❖ Logistics Management,
- ❖ Disposal Management
- ❖ Risk Management and
- ❖ Performance Management.

An exposition of each element will be provided, using the Msunduzi Municipality's supply chain management policy as an example. It is important to note that, although the SCM philosophy encompasses a range of process and activities, the awarding of MSPs at local government level is regulated by the demand management and acquisition management of SCM.

The six elements of government's SCM processes are illustrated in the diagram below.
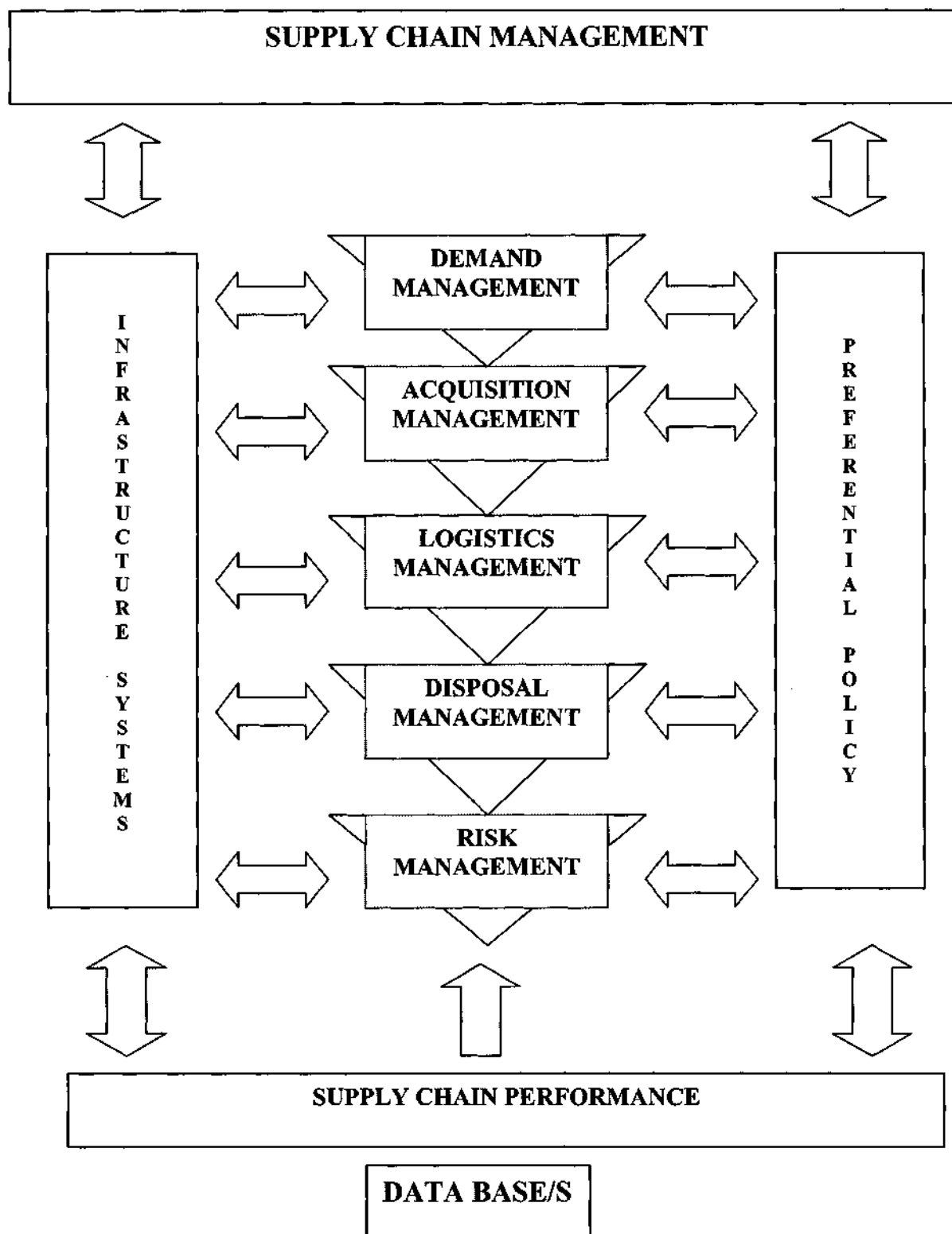
Diagram 1. Supply Chain Management Elements (Source: The National Treasury, Republic of South Africa, October 2005: 20).

1.11 Procurement and the Tender Process in the Msunduzi Municipality

Pursuant to the law, on 30 September 2005 the Msunduzi Municipality approved its draft Supply Chain Management Policy. In its policy statement, the Msunduzi Municipality resolved to undertake and implement a supply chain management policy that:

* ❖ Achieves the objectives of the Integrated Development Plan (IDP)
* ❖ Sets out to achieve economic transformation
* ❖ Sets the goal of implementing a fair, transparent and equitable system of Supply Chain Management (Msunduzi Municipality Supply Chain Management Policy, 2005: Policy Statement).

In essence, the objectives of the policy guided the municipality on all matters regarding the acquisition and disposal of goods and services. The municipality's supply chain management policy also ensured that procurement practices would be carried out simply and uniformly and would not lead to deficiencies in the procurement system.

1.12 Demand Management

The process of SCM begins when needs are identified during the strategic planning phase. Therefore, in the case of municipalities and municipal entities, SCM will begin when a council draws up its Integrated Development Plan (IDP)[1] and service delivery targets are identified. Demand management ensures that all goods and services which are required to meet current and future service delivery needs of communities, which were identified in the IDP, are delivered at the correct time, price and place and that the

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[1] Since one of the objects of local government today is to facilitate development within local communities, Chapter 5 of the Municipal Systems Act, No. 32 of 2000 makes explicit provision for municipalities to adopt a strategic plan for the development of a municipality. The municipality's strategic plan or IDP sets out an overall strategy for achieving that municipality's developmental objectives and identifying communities which do not have access to municipal services, taking cognisance of these needs and making provision for them. Not only does the IDP include a strategy for mobilising resources and capacity, but a municipality's IDP considers which services can be provided by the municipality directly and which services must be outsourced.

quantity and quality will satisfy those needs identified (The National Treasury, Republic of South Africa, October 2005: 22). In other words, demand management should include a detailed analysis of how goods and services required to fulfil the needs identified in the IDP will be accomplished, how quickly and with what materials this will be done. In order for the above objective to be achieved, a total needs assessment should be undertaken.

There are certain considerations that must be taken into account in this phase of SCM. For example, demand management, when considering procuring goods and services in order to address current and future needs, must take into account whether or not these needs existed in the past, as well as the previous suppliers and costs involved. Demand management should take cognisance of the fact that needs could also be a mandate or a responsibility arising from another organ of state, for example the South African Police Services. Another requisite for demand management is that requirements must be linked to the budget. Therefore a council must ensure that funds are available and budgeted for, before a municipality can embark on the procurement of goods and services. The optimum method for satisfying current and future needs must be considered. In other words, procuring goods and services does not imply that the private sector should only be utilised for goods and services, but that all possible methods should be taken into consideration, including the possibility of procuring goods and services from other organs of state. Finally, a detailed description of the goods or services to be procured (specification/terms must be determined (Department: SA Management Development Institute, Supply Chain Management for Municipalities and Municipal Entities-Course Manual 2006:4).

A bid specification committee is responsible for compiling the specifications/terms of reference of goods and services that are being procured. The accounting officer of a municipality (or municipal manager) appoints members to be part of this committee. A bid specifications committee is composed of officials of a municipality and, where necessary, may include external specialists (Msunduzi Municipality Supply Chain

Management Policy Procedure Manual, 2005:8). No municipal councillor may sit on this committee.

It is this phase of SCM that reflects government's broader policy objectives, namely socio-economic objectives. In terms of the PPPFA and its associated regulations, when procuring goods and services, an 80/20 preference point system (applicable for contracts up to R500 000) (see Appendix E) and a 90/10 preference point system (for contracts in excess of R500 000) should be adhered to and applied. The bid specifications committee is also tasked with identifying specific goals and points allocations that may be awarded in terms of the PPPFA.

Essentially, both the 80/20 and 90/10 systems operate similarly when awarding points to the "preferred" tender, based on certain criteria. The idea is that while a maximum of 80 points should be awarded for the price of a tender, a maximum of 20 points should be awarded for HDIs for empowerment purposes. The 90/10 preference point system works on the same premise: 90 points are awarded to a tender for price and 10 points are awarded to HDIs for empowerment. Both point systems ensure that the quality of the goods and services provided is not curtailed in any way, by awarding the majority of points for price tendered. Thus it is not the tenderer with the lowest price that is awarded the tender but the "preferred" tenderer or, in other words, the tenderer who has satisfied the most criteria.

While adhering to the prescribed law, the 80/20 or 90/10 preferential point system applies the following categories for empowerment, as made provision for in Regulation 17 of the Preferential Procurement Policy Regulations 2001, when awarding a tender:

- ❖ Promotion of Historically Disadvantaged Individuals (HDIs),
- ❖ Promotion of sub-contracting work to BEE and BE Enterprises,
- ❖ Promotion of Women Equity (WEO) and/or Disabled Equity Ownership (DEO),

❖ Promotion of Local Business and Local Contractors within the jurisdiction of the Msunduzi Municipality (Msunduzi Municipality Supply Chain Management Policy, 2005: 10).

Forming part of demand management, the Msunduzi Municipality's Supply Chain Management Procedure Manual makes provision for authority to be delegated to the procurement manager to accept annual supply and services contracts (Msunduzi Municipality Supply Chain Management Procedure Manual, 2005:1). These contracts are a result of the needs assessment that is conducted during the demand management phase. Supply and services contracts are contracts which are needed every year or so and range from the supply and delivery of ready-mixed concrete to the supply and erection of "no dumping" signboards, to name but a few.

After conducting a needs assessment, it emerged that the Msunduzi Municipality lacked the capacity to collect refuse, particularly in the Ashburton area. It also became evident that due to this lack of capacity on the part of the municipality, refuse in the area would have to be collected every year. Thus the "service" would have to be awarded annually. In April 2006, the above-mentioned contract was advertised in two local newspapers in an "open tender", whereby tenders were invited to bid for the contract which spanned from 1 July 2006 to 30 June 2007. The Mkondeni Panel Shop and Handyman was the "preferred" tender in terms of the 80/20 preferential points system and was awarded the tender in preference to thirteen other tenderers (see Appendix F).

Government could not provide the service itself, so the service went out to tender (moving from "rowing" to "steering"). The result of the service contract awarded to the Mkondeni Panel Shop and Handyman for the collection and removal of refuse in the Ashburton area is the creation of an MSP arrangement between the public and private sectors.

Below is a diagram depicting the flow of demand management which ensures that all demand considerations are taken in account.

```
┌──────────────┐
│ Is there a   │          ┌──────────┐
│ real need for│──────────│   No     │
│ the goods,   │          └──────────┘
│ works and    │
│ services?    │
└──────────────┘
      ⬡ Yes

┌──────────────┐
│ Is fulfilment│          ┌──────────┐
│ of need part │──────────│   No     │
│ of strategic │          └──────────┘
│ objective/   │
│ IDP?         │
└──────────────┘
      ⬡ Yes

┌──────────────┐                                    ┌──────────────────────┐
│ Did this need│        ┌──────────┐                │ Determine optimum    │
│ exist in the │────────│   No     │────────────────│ method to fulfil the │
│ past?        │        └──────────┘                │ need.                │
└──────────────┘                                    └──────────────────────┘

      ⬡ Yes

                    ┌──────────────┐  ┌──────────────┐  ┌──────────────┐
┌──────────────┐    │ Can goods/   │  │ Can goods/   │  │ Can goods/   │
│ Analyse past │    │ services be  │  │ services be  │  │ services be  │
│ experience,  │    │ procured     │  │ procured, i.e│  │ procured,    │
│ i.e. cost,   │    │ from other   │  │ existing     │  │ i.e. written │
│ suppliers,   │    │ organs of    │  │ contracts?   │  │ price, etc.  │
│ etc.         │    │ state?       │  │              │  │              │
└──────────────┘    └──────────────┘  └──────────────┘  └──────────────┘
                        ⬡ Yes             ⬡ Yes             ⬡ Yes

                    ┌────────────────────────────────────────────────────┐
                    │ Follow up: Frequency, delivery time, storage, etc. │
                    └────────────────────────────────────────────────────┘
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Diagram 2. Demand Management Flow Chart (Source: SA Management Development Institute, Supply Chain Management for Municipalities and Municipal Entities-Course Manual 2006:14)

1.13 Acquisition Management

Government procurement practices of the past have almost exclusively been placed in this phase of SCM, which meant that other aspects of SCM were often excluded. The function of acquisition management, in short, is to provide for procurement guidelines and procedures. Acquisition management checks that procedure is followed by ensuring that bid documentation is complete, which includes evaluation criteria, assessing whether or not bids received are in accordance with published criteria and making certain that contractual documents are legally signed.

Once the IDP and past expenditure has been reviewed, in order to ascertain future needs, a municipal entity makes provision for these needs, taking into account the budget and plan for procuring goods and services to assist in addressing these needs. Depending on the value of the goods or services to be procured, certain requirements must be followed. For example, if the procurement of goods and services are under R2000, then three verbal quotes are obtained. This aforementioned example is referred to as a verbal quotation (see Appendix G). All service-providers are and must be on a procurement database and potential tenderers are chosen from this database. In order for a service provider to be put onto a municipality's database one would simply have to apply to do so. Alternatively, once a business unit within the municipality decides to procure goods and services that are needed but not planned for in the demand management phase, the procurement unit is notified.

1.14 Logistics Management

SCM is responsible for the care and the custody of movable assets, stocks and stores within the municipality. Logistics management makes provision for, and monitors, the following:

❖ Stock levels (Inventory Management)

❖ Official orders for works, goods and services

❖ Supplier Performance and

❖ Warehouse Management.

1.15 Disposal Management

Sections 14 and 90 of the MFMA make provision for the disposal of municipal assets. It is in this phase, the final phase of SCM, which municipalities dispose of "unserviceable, redundant or obsolete assets that no longer serve a useful purpose" (Department: SA Management Development Institute, Supply Chain Management for Municipalities and Municipal Entities-Course Manual 2006:3).

Once the disposal of an asset is approved, a municipality or municipal entity may use one or a combination of the following methods to conduct the disposal:

❖ Transfer to another institution in terms of the provision of the MFMA,

❖ Transfer to another organ of state at a market-related value or, if appropriate, free of charge,

❖ Sell the asset per price quotation, competitive bid or auction,

❖ By negotiation, for example through a trade-in and

❖ Destroy the asset (Msunduzi Municipality Supply Chain Management Policy, 2005: 29).

The prescripts set out in the PPPFA should be applied in the case of the sale or letting of council assets. The 80/20 or the 90/10 preference point system applies.

1.16 <u>Risk Management</u>

A supply chain management policy should be prudent and provide for a system of risk management, which will effectively identify, consider and avoid potential risks in the SCM practices.

1.17 <u>Performance Management</u>

Performance Management monitors the supply chain performance, to determine whether or not protocol has been followed and the desired objective has been achieved. The Msunduzi Municipality sets out the following issues that may be reviewed:

- ❖ SCM objectives in line with government's strategic policy objectives
- ❖ Achievement of goals,
- ❖ Compliance to norms and standards,
- ❖ Savings generated,
- ❖ Cost efficiency of the procurement processes and
- ❖ Means of improving the system (The National Treasury, Republic of South Africa, October 2005:12).

Chapter Two: Theoretical Framework

"The word government is from a Greek word, which means 'to steer.' The job of government is to steer, not to row the boat. Delivering services is rowing, and government is not good at rowing"- E.S. Savas (Osborne and Gaebler 1992:25).

2.1 Conceptions of public administration

Succinctly put, it is the State, through public administration, that renders services to the public. In order to deliver these services, it is the function of a State's public administration to make policies and implement them. In recent years a reformation of the public sector, in terms of service delivery has occurred. The "old" public administration has been replaced by New Public Management (NPM). Today, governments around the world are adopting a more entrepreneurial "spirit". Government's role is thus evolving. Whereas in the past government's role was to deliver services to its citizens, today its role is that of providing policy guidance, with services being outsourced to the private sector. Therefore theory on public administration, entrepreneurial governments and NPM are pertinent to the present study.

According to du Toit, there is substantial evidence that the notion of "public administration" was in existence and practised for thousands of years, even before the time of Christ (Du Toit *et al.*, 2002: 28). Sections on public administration can also be found in the works of philosophers such as Aristotle, Plato, Cicero, Polybius and Socrates. Thus the idea of public administration is not a modern idea and is as old as mankind itself.

A task any social scientist faces is to define key terms in his study. Indeed, academics around the world do not always reach consensus on the definition of key words. "Pockmarked with pitfalls and loopholes", the term "administration" is one such term (Hanekom, Rowland and Bain 1987: 11). Before a definition of administration can be provided, it must be noted that the term "administration" has been linked to both the

public and private sectors. Both sectors are distinct from each other, in that the former relates to the "service-rendering nature of the activities of government and the latter to the primary motive of profit-making of business institutions" (Hanekom *et al.*, 1987: 9). However, it is only the public sector and public administration that are being examined in the present study.

Written for political science (regarded as the "mother" of public administration) by political scientists, the following descriptions highlight the divergence of interpretations as to what the term "administration" refers to. Hanekom (1987) states that, according to political science dictionaries, "the term 'administration' has been used to describe a phenomenon which is:

> ➢ similar to the civil service or the executive authority,
> ➢ the management of public affairs, the enforcement of law and the fulfilment of public policy, sometimes differentiated from the executive and legislative function in its lack of power to determine and declare public policy and from the judicial function in its ability to arrive at decisions with relative freedom from the formality of procedural rules,
> ➢ the tenure of a president or a governor,
> ➢ the actions of the bureaucracy, which means
> ➢ to govern, rule, control, give, dose, treat with or dispense" (Hanekom *el at.*, 1987: 11).

Even early definitions provided by academics writing on the subject of public administration did not reach consensus on what the term "administration" referred to. They provided the following:

> ➢ "...administration consists of the work of government...
> ➢ The real core of administration is the basic service which is performed for the public, such as police and the protection of property...

➢ Administration has to do with getting things done, with the accomplishment of defined objectives.

➢ Administration is the capacity of co-ordinating many, and often conflicting, social energies in a single organism.

➢ The art of administration is the direction, co-ordination and control of many persons to achieve some purpose or objective" (Hanekom *et al.*, 1987: 11).

More recent descriptions of the term "administration" include:

➢ "...administration can be defined as 'deliberate processes of implementation and control' and loosely distinguished from policy-making and decision. The traditional legal definition of administration as *imperare, vetare, permittere, punire* (command, prohibition, permission and punishment) covers most of the processes which are involved, though it does not quite catch the modern meaning of administration as 'implementation', a broad strategic activity of making things happen.

➢ Administration thus consists of a wide-ranging set of activities (processes) which can be grouped according to their respective functions...namely policy-making, organizing, financing, staffing, determining work procedures and the exercise of control" (Hanekom *et al.*, 1987: 11-12).

Nowadays, however, a definition that is commonly accepted, and that is adopted in this study, is offered by Professor J.J.N. Cloete. Cloete (1994) contends that in every state, including South Africa, there exists an intricate network of public institutions, namely the legislature, the political executive, the judiciary and the administrative executive. These public institutions exist in order to provide public goods and services for the maintenance of the state. For the "creation, maintenance and operation of the public institutions a variety of activities, also known as functions or processes, have to be carried out" (Cloete 1994: 57). Collectively these activities/processes/functions are what are known as public administration.

of administration' that merely had to be discovered" (Hanekom and Thornhill 1983: 33).
Although it was Willoughby's "*Principles of Administration*" that set things in motion in
1927, it was the book of Luther H. Gulick's and Lyndall Urwick's (two confidants and
advisors to President Franklin D. Roosevelt), "*Papers on the Science of Administration*",
published in 1937, that proved to be the highlight of this phase. According to Hanekom
and Thornhill, "Gulick and Urwick formulated the well-known anagram POSDCORB,
for Planning, Organising, Staffing, Directing, Coordinating, Reporting and Budgeting,
which were supposed to be principles of administration and hence the functions of those
engaged in administration" (Hanekom and Thornhill 1983: 33).

Although public administration enjoyed high standing in the second phase, which can be
attributed to the book published by Gurlick and Urwick in 1937, it was in the third phase
that public administration experienced an identity crisis and the "field of study began a
downward spiral" (Hanekom and Thornhill 1983: 34). It was during their decades,
however, that emphasis was placed on the politics-administrative dichotomy. Many
academics writing on the subject of public administration questioned whether politics and
administration "could be separated at all" (Hanekom and Thornhill 1983: 34). Due to the
negativity public administration had received during the third phase, many writers on the
subject had abandoned the field and public administration was left bereft of its identity.
Overcome by the fear of isolation, students studying public administration thought it
safer to stay under the protective wing of political science.

Hanekom and Thornhill stated that there was, however, also an incentive to strengthen
the ties between public administration and political science, "namely the public policy-
making process: public administration was to study the policy-making process in the
confines of governmental institutions in order to render services to the organized
community, while political science was to study the pressure by the organized
community that generated specific political and social change" (Hanekom and Thornhill
1983: 34). It was during this phase and its ties with political science that public
administration received second-class citizenship.

It was in the 1970s that public administration entered its fourth phase, the synthesis phase. Issues that were once characteristic of the previous phases are now something of the past. The once controversial separation between politics and administration no longer exists and the principles of administration are referred to less and less. Hanekom and Thornhill mention that "at present, it is correct to identify public administration as a process that cannot be divorced from politics: policy-making is an activity that falls within the sphere of the practice of public-administration, as well as within the context of the practice of government" (Hanekom and Thornhill 1983: 35). At present, law formalism is less emphasized as the subject-matter of public administration, while "specific administration processes or functions and auxiliary activities" are highlighted as the focus of public administration (Hanekom and Thornhill 1983: 35). A significant contribution was made to the academic study of public administration in South Africa in the late 1960s by Professor J.J.N. Cloete by way of a rational and analytical framework. Cloete's framework identified a specific connection between these processes or functions.

Public administrative performed as an activity can be categorised into four groups, namely (see Appendix H):

- ❖ Generic administrative functions
    - Conceptual (initiatory and innovative) and directive functions
    - Managerial functions (Public Management).
- ❖ Auxiliary functions
- ❖ Instrumental functions and
- ❖ Line functions (Cloete 1994: 57).

Although these functions are integrated and conducted simultaneously to such an extent that there is often a fine line between them, "service delivery" cannot commence in the public sector until a policy on any matter has been established and adopted. Thus the generic administrative functions are regarded as the "enabling processes" (Cloete 1994: 60). It is the generic administration functions, more specifically the conceptual (initiatory

and innovative) and directive functions, where public-policy–making and analysis (policies and objectives are determined) occur. Division of functions, budgeting, provision and utilisation of personnel, determination of work procedures and controlling are also functions which happen here.

Once policies and objectives are set, the other functions such as the managerial functions (public management) follow. Cloete (1994) postulates that public administration and public management are sometimes used synonymously. However, these two concepts can be two separate but complementary terms. Du Toit and Van der Waldt expand on this by claiming that "public management is a continuing activity-made possible by public administration" (Du Toit *et al.*, 2002: 28). Public administration enables and supports as well as makes possible the activity of public management. It is Cloete's view that public management forms part of public administration.

It is here where policies are implemented. The implementing of a policy is the most crucial stage in the policy cycle and it is the stage where most policies are likely to fail. In short, "implementation is the execution and delivery of public policies" (Henry, 1995: 291). Henry posits that implementation "is perhaps the most 'hands on' facet of public administration" (Henry, 1995: 291). Colebatch puts it eloquently when he provides a description and definition of policy implementation, stating: "Policy is about choosing goals, but it is also about choosing the means of accomplishing these goals: if we do *a*, then *b* will result. The policy embodies a theory of cause and effect. When the policy-makers' intentions have been carried out, then the desired objective should have been achieved: this is 'implementation'. But if what we find on the ground is significantly different from these goals, then the policy has not been implemented" (Colebatch, 2002:52).

Organising, staffing, financing, determining work methods and procedures and controlling are performed here as well, with the difference being, according to du Toit, "that the conceptual and directive functions facilitate the managerial functions" (Du Toit *et al.*, 2002: 15). Public managers then carry out auxiliary functions, instrumental

functions and line functions. While auxiliary functions include conducting research and good public relations, constructing and maintaining a management information system, line functions involve the provisioning of stationery, offices, furniture etc.

Environment input

```
┌─────────────────────────┐
│ Public administration   │
│                         │
│ Inputs are transformed  │
│ into outputs. This is   │
│ done by:                │
│   ➢ Making              │
│     policies            │
│   ➢ Staffing            │          ┌─────────────────────────┐
│   ➢ Financing           │          │ Outputs in the form of  │
│   ➢ Organising          │          │ Acts /Legislation       │
│   ➢ Determining         │          │                         │
│     work                │          └─────────────────────────┘
│   ➢ Procedures          │
│   ➢ Controlling         │          ┌─────────────────────────┐
└─────────────────────────┘          │ Public managers:        │
                                      │   ➢ Plan                │
                                      │   ➢ Lead                │
                                      │   ➢ Organise            │
                                      │   ➢ Co-ordinate         │
                                      │   ➢ Control             │
                                      └─────────────────────────┘

                                      ┌─────────────────────────┐
                                      │ Outputs in the          │
                                      │ form of service         │
                                      │ delivery to the         │
                                      │ people                  │
                                      └─────────────────────────┘

                  ┌──────────────┐
                  │ FEEDBACK     │
                  └──────────────┘
```
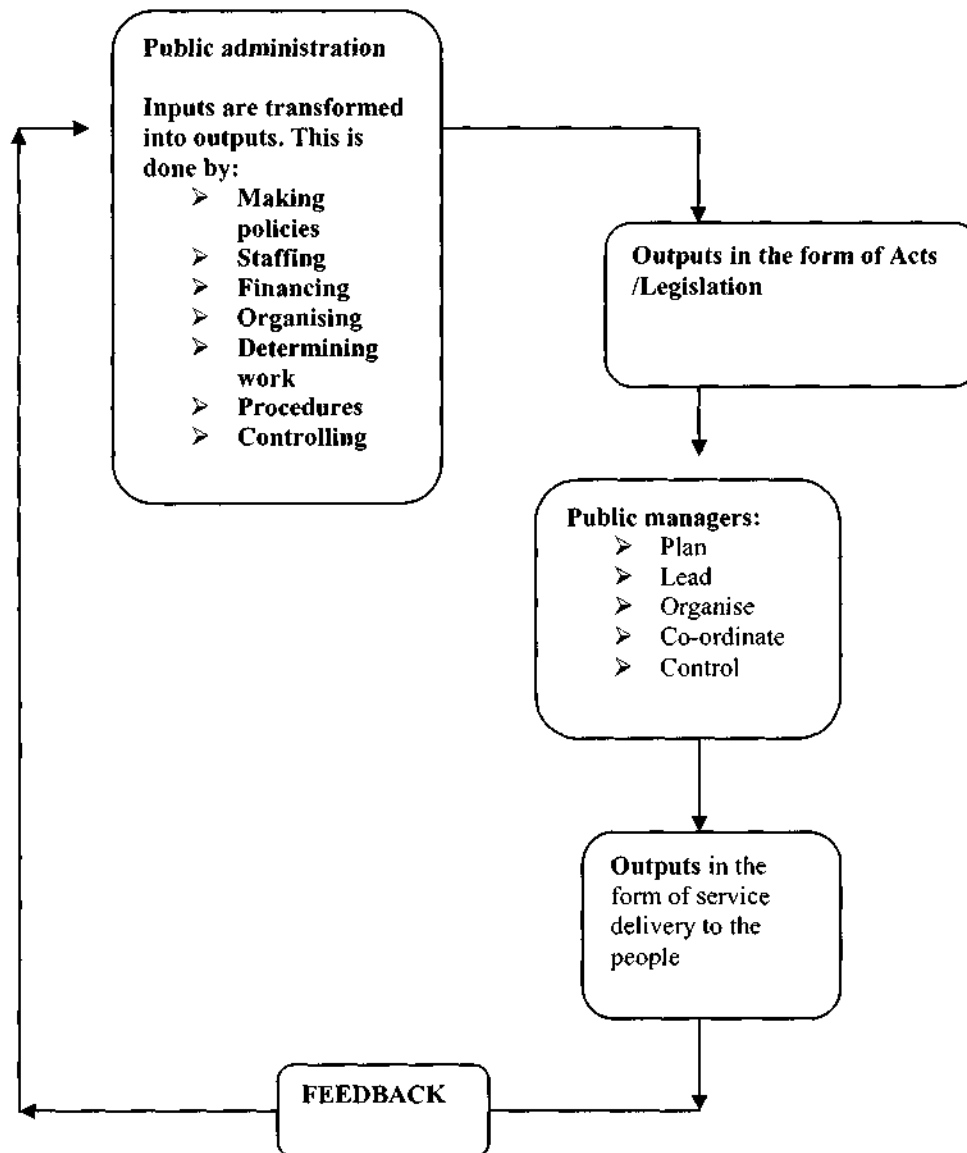
Diagram 3.The public administration/public management phenomenon (Source: Du Toit *et al.*, 2002:6).

We can deduce from Diagram 3 that public administration is the carrying out of various processes such as making policies, staffing, financing, organising, determining work, procedures and controlling. The outcome of these processes is legislation (policies and Acts) that enable public management to occur. Public management means that managers perform certain activities such as the implementation of legislation (policies and Acts). Public managers must also plan, lead, organise, co-ordinate and control. The objective of public administration and public management is to achieve service delivery and improve the well-being of people (Du Toit *et al.*, 2002:6).

2.2 New Public Management (NPM)

The whole rationale behind a move towards New Public Management (NPM) and the idea of the State reinventing itself began with the notion of the welfare state and the problems that were associated with it (Kickert, Klijn and Koppenjan 1997: 1). The establishment of the welfare state took place primarily during the post war years, in the late nineteenth and the early twentieth century and emanated in the western half of the world. In order to assist its people the State claimed the position of "central governing authority in society" and made provision for welfare services to be provided (Kickert *et al.*, 1997: 1). In short, it was during this period that the poor and middle class received certain services free of charge and, although there was agreement that the State would provide society with a minimum standard of living for all, there was no agreement on what a minimum standard of living entailed, nor the circumstances in which government could intervene.

The concept of providing "welfare" to society began at local government level, where social institutions such as churches provided support to society in "kind (food, clothing, housing, firewood and so forth)" (Raadschelders 2003: 158). These services were eventually replaced by financial aid from the State. The provision of welfare services progressed first through the hands of the private sector then to local government "and later became a shared responsibility between national and sub-national governments" (Raadschelders 2003: 162). The social and economic needs of society during these

periods and the years that followed were grave and on such a large scale that the private sector's charity could not have sufficed and thus the State was compelled to intervene. Furthermore, whereas the church "served only their own constituency, local government served the entire population" (Raadschelders 2003: 162). Many countries, especially in Europe, moved away from providing just partial or selective services to a comprehensive coverage of the population.

Raadschelders claims that the motive for supporting and legitimizing State intervention varies and possible motives may have been "humanitarian (charity), political (mass emancipation), elitist (avoiding an uprising of the discontented masses) or legal-constitutional (equal rights)" (Raadschelders 2003: 162). The State's accelerated intervention, however, in both society and the economy can be attributed mainly to bouts of war (1914-1918 and 1939-1945) and the economic depression (especially during the 1930s).

However, it was in the late 1970s and in the two decades that followed, that the once "high expectations of government policy making and planning" resulted in disillusionment with government performance and, in turn, in a lowering of ambition (Kickert *et al.*, 1997: 1). The once "mighty leviathan" or State, today has been replicated over the twentieth century and is now often reduced to "a shoal of smaller creatures, swimming in a sea of business values and subject to alls sorts of market disciplines" (Deakin 2001: 16). It was during this period that a wave of administrative reform occurred in the public sector. Many believe that something tantamount to a paradigm shift or revolution has occurred during the last two decades, with the traditional system of administration, or "old public administration" being replaced by an "entrepreneurial model" of government and "New Public Management" (Minogue *et al.*, 1998: 18).

Three fundamental "pressures" have attributed to this "public management revolution". It was during the 1980s and 1990s that governments in both developed and developing countries were suffering the wrath of an increasing expenditure, "coupled with poorer than anticipated economic performance" (Minogue *et al.*, 1998: 19). A rather bleak view

that "government had become too big and too expensive, yet at the same time it would have to bear rising social burdens associated with unemployment and ageing populations" started to surface (Minogue *et al.*, 1998: 19). The public sector would thus have to be made more efficient and reduced in size or both. If, however, government remained in its existing form it would not be afforded "nor would its rising costs be tolerated by taxpayers" (Minogue *et al.*, 1998: 19). Thus the first pressure that pushed the public sector towards a "public management revolution" was financial in nature.

The second pressure that directed the state towards a "public management revolution" was that of quality. In almost all countries around the world "citizens increasingly define themselves as active customers of government services rather than active recipients" (Minogue *et al.*, 1998: 20). The public sector was castigated for its low level of performance, particularly with regards to service delivery. Government, it was thought, was in the business of providing services to the public and therefore tax-paying citizens (customers) required high-quality services for their money.

The third pressure places emphasis on ideology. Minogue purports that "the reform wave of new ideas itself constitutes a pressure for change, not only because it represents a fundamental shift in public service values, but also because it offers an opportunity to policy makers searching for a solution to the conflicting pressures both to improve and reduce the state" (Minogue *et al.*, 1998: 20). Contradictory views were that these "new" reforms would benefit "policy elites" in their endeavour to reinforce and entrench their power at the centre, while at the same time "distancing themselves from the uneasy problems of implementation at decentralized levels" (Minogue *et al.*, 1998: 20). In addition, they may also view the "public management revolution" as a means of acquiring political and personal gains.

An area in which the welfare state failed in its attempt to provide services to its citizens was in the implementation of its policies. A reason why policies could fail during its implementation phase is lack of capacity. One of government's fundamental objectives is to deliver public services. These public services are carried out by a State's public

administration, through government's policy. Implementation of a policy is executing these policies in order to deliver services. In terms of NPM, in order to achieve successful implementation, government had to redefine its "basic parameters of responsibility, operating procedures and resource allocation" (Mandell 2001: 167). NPM advocates that government need not provide all public services. The role of the state should "not be that of a producer of services, but rather that of a promoter, facilitator, regulator, observer or even only a participant, depending on the capacity of the state and the peculiar circumstances surrounding the specific case" (Cloete and Wissink 2000: 182-183). In terms of service delivery, the state should move from 'rowing' (the direct provision of services) towards 'steering', which combines policy guidance, regulation and contracting for services" (Mandell 2001: 167). In other words, policy implementation should be carried out by other public organisations or the private sector. This, according to Cloete, can be achieved by Alternative Service Delivery (ASD).

NPM has led to a "new" model of government, with Osborne and Gaebler first using the term "entrepreneurial government" to describe this model of government.

2.3 **Entrepreneurial Government**

Fox and Maas (1997) state that "traditional" public administration did not acknowledge that society is complex, with varying social and economic conditions. They noted that to assume that "citizen A is the same as citizen B and that they both receive public goods and services in equal measure" is a huge misconception on the part of governments and, indeed, a fallacy. Governments often discriminate, in that they opt for "pleasing" their clientele and disregard the needs of minority groups (Fox and Maas 1997: 88).

In order to make government more efficient and effective in providing services and ensuring that social equity is achieved, what is needed is a transformed public administration and a "spirit related to entrepreneurship" (Fox and Maas 1997: 88-89). Farrell (1997) (quoted in Fox and Maas 1997) stipulates that "transforming today's bureaucracy into tomorrow's enterprise does not start with adding something new. No

new strategies, departments or committees are needed. These cannot be the solution because they are already a big part of the problem. They are just more excess baggage being carrying around for years that has to be unloaded. So the first drill is to start tossing stuff overboard: dismantling the mass of weight you're carefully added over the years..." (Fox and Maas 1997: 88-89).

In the past, entrepreneurship has belonged solely to the private sector. This traditional view of entrepreneurship has changed over the years. The motive behind venturing into any economy by producers or consumers, simply put, is to make a profit. Basson (quoted in Fox and Maas 1997) argues that governments' objective is not profit-making; their "outcomes to be maximized are inclined towards that which is socially desirable. For a government, profitability becomes meaningful only when it enters into activities maximizing the social welfare of the society it serves. Such a state of affairs would help to get politicians re-elected" (Fox and Maas 1997: 96). Succinctly put, the key to entrepreneurial government is to make government more efficient, effective and responsive in delivery services. One way of achieving this is by treating government as a business and running government like a business.

Osborne and Gaebler (1992) found common trends or principles when they studied local governments in America that faced financial constraints, which ultimately led to poor service delivery. Therefore most governments who had adopted an entrepreneurial sprit tended to practice the following principles:

1) <u>Catalytic Government: steer rather than rowing</u>

Peter Drucker (1968) (quoted in Osborne and Gaebler 1992) wrote in his 1968 book, *The Age of Discontinuity*, "any attempt to combine governing with 'doing' on a large scale, paralyzes the decision-making capacity. Any attempt to have decision-making organs actually 'do', also means very poor "doing". They are not focused on "doing". They are not equipped for it. They are not fundamentally concerned with it" (Osborne and Gaebler 1992: 32). It has always been customary for government's role to be that of collecting

tax and delivering services. As Drucker's quote suggests, when government "does" (delivers services) it renders government's decision-making capacity poor.

Summed up, governments should "steer" rather than "row". Whereas "rowing" is the direct provision of services, "steering" combines policy guidance, regulation and contracting for services (Mandell 2001: 167). Osborne and Gaebler believe that entrepreneurial leaders of today "know that communities are healthy when their families, neighborhoods, schools, voluntary organizations and businesses are healthy and that government's most profound role is to steer these institutions to health" (Osborne and Gaebler 1992: 30). Steering becomes a difficult task if government's energy is spent "rowing". However, if government allows others to row, "steering" becomes more effective. Governments which are more focused on steering make more policy decisions; they regulate more and, rather than hiring more public employees, they contract the private sector to deliver services and meet the needs of the community. A government which concentrates on "doing" often has little time left for steering. Osborne and Gaebler summed it up well when they quoted that "after all, those who steer the boat have far more power over its direction than those who row it" (Osborne and Gaebler 1992: 32).

Osborne and Gaebler (1992) offer thirty-six alternatives to traditional service delivery. They have grouped them into three categories. The two highlighted alternative forms of service delivery form the basis of the present study.

Traditional

1. Creating Legal Rules and Sanctions
2. Regulation or Deregulation
3. Monitoring and Investigation
4. Licensing

5. Tax Policy
6. Grants
7. Loans
8. Loan
9. Loan Guarantees
10. Contracting

Innovative

11. Franchising
12. Public-Private Partnerships
13. Public-Public Partnerships
14. Quasi-Public Corporations
15. Public Enterprise
16. Procurement
17. Insurance
18. Rewards
19. Changing Public Investment Policy
20. Technical Assistance

21. Information
22. Referral
23. Volunteers
24. Vouchers
25. Impact Fees
26. Catalyzing Nongovernmental Efforts
27. Convening Nongovernmental Leaders

28. Jawboning

Avant-Garde

29. Seed Money
30. Equity Investments
31. Voluntary Association
32. Co-production Self-Help

33. *Quid Pro Quos*
34. Demand Management
35. Sale, Exchange or Use of Property
36. Destructing the Market

Table 2. **Alternatives to Standard Service Delivery** (Source: Osborne and Gaebler 1992:31).

2) Community-owned government: empowering rather than serving the community

Osborne and Gaebler (1992) state that public ownership should resort back to the community and away from the bureaucracy. They feel that communities are better equipped in dealing with and providing services. This they attribute to the fact that communities understand their problems better than any bureaucracy would, there is a sense of loyalty and commitment amongst members of the same community and communities are far more flexible than bureaucracies.

3) Competitive government: injecting the principle of competition into service delivery

Competitive government revolves around the notion of introducing competition between service providers. Competition between various levels of government will result in a "turf war" and stifle government's steering role (Fox and Maas 1997: 96).

4) Mission-driven government: as opposed to rule-driven bureaucracy

Government officials often have to perform their jobs under strained conditions. Such conditions include a lack of resources, undefined goals and heavy case loads. To cope with these conditions, rules and regulations are created. Government is frequently associated with red tape, inefficiency and wastefulness. Jonker argues that these rules and regulations, however, slow down government's endeavour to "respond rapidly to the changing demands of society and global trends" (Van Niekerk *et al.*, 2001: 247).

Osborne and Gaebler (1992) opine that, instead of being rule driven, the public sector should be mission-driven. Governments which are mission-driven empower their employees to seek the most efficient, effective and innovative way of pursuing their organisation's mission under situations of limited financial resources. Mission-driven government creates accountability and answerability structures which are paramount in

service delivery excellence. A public sector which is mission-driven also strengthens the budgeting process in numerous ways in order in produce the best delivery of services. Many advantages are sought when government adopts a mission-driven approach: mission-driven organisations are more efficient, innovative, flexible and effective in producing better results and have a higher morale than rule-driven organisations (Van Niekerk *et al.* 2001: 247).

5) Results-oriented government: funding outputs instead of inputs

Entrepreneurial governments should focus on outcomes and not inputs. A good example is given by Fox and Maas, "if a public college is funded according to the number of students registered, there is little incentive to produce well-educated graduates, but a huge incentive to register more students" (Fox and Maas 1997: 104). Therefore governments should focus on outcomes and not on inputs.

6) Customer-driven government: meeting the needs of the "customer" and not the bureaucracy

Because of the nature of goods and services delivered by government, the idea of customer-driven government is problematic. However, with the introduction of the principle of competition and engaging the private sector in service delivery, citizens or "customers" of a state should be given value for money and be delivered services in a manner which is efficient, innovative, responsive, profitable and equitable (Fox and Maas 1997: 104).

7) Enterprising government: earning rather than spending

In keeping with the concept of customer-driven government, governments should be able to earn more revenue and not spend as much when delivering goods and services to the public (Fox and Maas 1997: 104).What this means is that certain services, such as education and health, should be funded partially by the state.

8) Anticipatory government: foreseeing and preventing problems before they occur

Government that is anticipatory strives to anticipate and avoid problem, rather than to solve them. Government that is proactive in this way operates on a system of strategic change management, the prime objective being to deliver sufficient goods and services efficiently. Strategic management is also closely related to budgeting to have sufficient resources available to accommodate future development (Fox and Maas 1997: 105).

9) Decentralised government: from hierarchy to collaboration

Government that is centralized is regarded as inefficient and wasteful. Therefore what is needed in government is decentralisation (Fox and Maas 1997: 105). Government that is decentralised is more efficient and responsive, as it has the ability to act quickly, has a direct interest in solving the problem, has intimate knowledge of the problem and it operates close to the problem.

10) Market-oriented government: creating change through the market

Apart from providing a steering and facilitating function, government should wield its power to structure the market so that essential goods and services are provided by the market and not by the government itself. Fox and Maas state that "rather than providing goods and services in a market that could differ from area to area, government should steer the markets by furnishing information, extending supply and demand, setting general rules of conduct and using its authority to make the right things happen" (Fox and Maas 1997: 105).

Chapter Three: Research Methodology

3.1 What is Research?

Research is a process of gaining scientific knowledge by using various methods and procedures (Welman, Kruger and Mitchell, 2005: 2).

3.2 Research Methodology

In social research there are two kinds of methodological paradigms (methods and techniques used to conduct a study) that exist. On the one hand a positivist paradigm, which is steeped in the philosophical reasoning of logical positivism, exits. This positivist approach assumes that "research must be limited to what we can observe and measure objectively, that is, that which exists independently of the feelings and opinions of individuals" (Welman *et al.* 2005: 6). The positivist paradigm is also known as quantitative research. Opposition of the positivist approach is found in the form of anti-positivists, or the better known qualitative paradigm. Unlike quantitative research, qualitative research does not seek to evaluate or measure processes or meanings in terms of quantity, amount, intensity or frequency (Welman *et al.*, 2005: 6). The distinction between these models "lies in the quest for understanding and for in-depth inquiry" (Henning, 2004: 3).

Qualitative research

The purpose of qualitative data is to investigate "subjective data" that is produced by human beings in interviews, for example. Instead of being presented in numbers, qualitative research is presented in language. Qualitative research tries to seek a deeper understanding of what is being investigated. This approach to research uses open and flexible methodology such as documents and interviews. The objective of the present study is to inquire how ASD and procurement have transformed public service delivery.

This requires a deeper understanding and inquiry of the topic and thus a qualitative approach will be adopted.

3.3 Research Design

Qualitative research design includes ethnographic studies, life histories and case studies. The case study that is used in the present work is that of an organization, more specifically the Msunduzi Municipality. Punch (2005) (quoted in Silverman 2005) offers the following definition of a case study "the basic idea is that one case (or perhaps a small number of cases) will be studied in detail, using whatever methods seem appropriate. While there may be a variety of specific purposes and research questions, the general objective is to develop as full an understanding of that case as possible" (Silverman, 2005: 125). Babbie and Mouton list six types of case studies:

- ❖ Individual case study,
- ❖ Community studies,
- ❖ Social group studies,
- ❖ Studies of organisations and institutions,
- ❖ Studies of events, roles and relationships and
- ❖ Studies of countries and nations (Babbie and Mouton, 2001: 280).

The present author used the Msunduzi Municipality for her case study.

3.4 Data-collection

When undertaking a qualitative study one can collect both primary and secondary data. Primary data is data that has to be collected and secondary data is data that already exists. The methods of collecting primary and secondary data vary. In qualitative research, when collecting primary data, there are various data collection methods one can adopt, for example:

❖ Basic Individual Interviewing

❖ In-depth Individual Interviews

❖ Focus Groups Interviews (Group Interview)

❖ Observation and Participant Observation

❖ Life Histories (Using Personal Documents)

Only basic individual interviewing was utilized in this study. Babbie and Mouton point out that "the basic individual interview is one of the most frequently used methods of data gathering within the qualitative approach" (Babbie and Mouton, 2001:289). It differs from other interviews in that it is an "open" interview, which allows respondents to speak for themselves, rather than providing the respondent with a list of predetermined hypothesis-based questions (Babbie and Mouton, 2001:289). Thus the interviewer "has a general plan of inquiry, but not a specific set of questions that must be asked in particular words and used in a particular order" (Babbie and Mouton, 2001: 289). In essence, the basic individual interview is a "conversation" in which the interviewer establishes the direction of the interview and then pursues specific topics raised by the respondent.

Secondary data can be both textual and numeric data that existed prior to the research study. The present researcher used textual data which was gathered from books, government publications, legislation (policies and Acts), journal articles and newspapers.

3.5 Target Population and Sample

Having undertaken a literature review (identifying a research question), decided on an appropriate research design and data-collection method, the next step is to define who or what to study. A target population is the study object and consists of individuals, groups, organisations, human products and events about whom researchers want to draw conclusions. In the present study the target population is officials in the Msunduzi Municipality. Although it is not feasible to study all officials in the municipality, a sample unit can be chosen.

The sampling method chosen was purposive sampling. Purposive sampling occurs when a researcher relies on "experience, ingenuity or previous research" to chose a sample (Welman *et al.*, 2005: 69). In addition, Babbie and Mouton note that sometimes it is "appropriate" for a researcher to select their sample based on one's own knowledge of the population, its elements and the nature of one's own research and this is referred to as purposive sampling (Babbie and Mouton, 2001: 166). Below is a list of the various people that have been selected, based on their knowledge and the nature of research question:

- ❖ The Manager for Procurement,
- ❖ The Municipal Manager,
- ❖ The Strategic Executive Manager (SEM) for Local Economic Development,
- ❖ The Strategic Executive Manager (SEM) for Finance,
- ❖ The Strategic Executive Manager (SEM) for Corporate Strategic Planning,
- ❖ The Strategic Executive Manager (SEM) for Infrastructure Services and Facilities,
- ❖ The Strategic Executive Manager (SEM) for Community Service and Social Equity,
- ❖ The Strategic Executive Manager (SEM) for Human Resources and Sound Governance,
- ❖ A Legal Advisor and
- ❖ Officials and Managers

Obstacles were encountered with regards to interviewing. The investigation undertaken by the National Prosecuting Authority affected the study, as many of the interviewees that were initially going to be interviewed were reluctant to do so. In addition, procurement practices are extremely sensitive. Only select officials are allowed to attended procurement or bid-adjudication committees. All of the abovementioned officials were given a letter by the researcher, which give a summary of the study and asked for their assistance in being interviewed (see Appendix I). While the Procurement

Manager and SEM for Infrastructure and Services agreed to be interviewed, two SEM referred the researcher to Process Managers, whom they believed could be of assistance. Although a few SEMs agreed to be interviewed and made appointments, these were cancelled on numerous occasions. The Legal Advisor stated that he could not assist with the study as he had "no knowledge of procurement practices". Interviews were sought in vain. Thus the following officials were interviewed (all the officials interviewed agreed to be named):

- ❖ The Manager of Procurement
- ❖ The Strategic Executive Manager (SEM) for Infrastructure Services and Facilities.
- ❖ The Process Manager for Corporate Asset Management, which falls under the Business Unit of Corporate Strategic Planning
- ❖ The Manager for Investment and the acting Process Manager for Entrepreneurial Development and Black Economic Empowerment, which falls under the Business Unit of Local Economic Development.

Altogether four interviews were conducted for this study.

3.6 Access

Access to interviewing the above individuals and access to key documents were made possible through an internship programme organised by the KwaZulu-Natal Local Government Association (KWANALOGA), being served at the Msunduzi Municipality. The researcher's internship at the Msunduzi Municipality, more specifically the Legal Division, assisted in gaining access to the abovementioned individuals. Access to documents such as policies and reports was made easy through the internship.

3.7 **Data-analysis**

Once data has been collected and checked, the researcher must proceed to analyze the data. According to Ngulube, "there is no consensus about what data analysis entails" (Ngulube, 2003: 226). While it could mean data handling to some, it can refer to "categorizing and interpreting the data" (Ngulube, 2003: 227) to others. The data analysis process "takes many different forms, depending upon the nature of the research question and design, and the nature of the data itself" (Bless, Higson-Smith and Kagee 2006: 24).

In a qualitative study there are two ways of analyzing data:

- ❖ Grounded Theory and
- ❖ Content Analysis.

The approach adopted in this study was content analysis. According to Palmquist (1993) (quoted in Babbie and Mouton 2001), content analysis can be defined as "a research method which: examines words or phrases within a wide range of text, including books, book chapters, essays, interviews and speeches as well as informal conversation and headlines. By examining the presence or repetition of certain words and phrases in the text, a researcher is able to make inferences about the philosophical assumptions of a writer, a written piece, the audience for which a piece is written and even the culture and time in which the text is embedded" (Babbie and Mouton, 2001: 491). An analysis of primary and secondary data collected will be examined for common or repetition of certain ideas and inferences will be deduced, in this study.

Chapter Four: Findings and Analysis

4.1 Findings: Public Sector Procurement and the Tender Process in a South African Context and the Use of Public Sector Procurement as a Policy Instrument

According to officials from the Msunduzi Municipality that were interviewed, tendering as a form of procurement is very beneficial to local government, and in terms of service provision, for various reasons. For one, procurement and the tendering system introduces competition into the market and amongst service providers. Competition requires that the private sector cut their profit margins in order to compete and, according to the SEM for Infrastructure Services and Facilities:

> "That brings better pricing on services and goods to local government. In short, competition brings 'value for money' to local government. Secondly, in terms of service delivery, procurement gives local government an opportunity to consider a range of proposals and options to choose from the market. Thus, services delivered are more affordable" (SEM for Infrastructure Services and Facilities. 2006).

According to the Process Manager for Asset Management:

> "The procurement process is important for good governance, transparency and in terms of the Constitution administrative justice. The procurement process is a fair process; rather then the municipality approaching suppliers, companies approach the municipality instead" (SEM for Infrastructure Services and Facilities. 2006).

The Process Manager for Corporate Asset Management added:

> *"That local governments do not have the capacity for many things and it is tendering that allows the municipality many options" (Process Manager for Asset Management. 2006).*

The Process Manager for Corporate Asset Management at the Msunduzi Municipality elaborated on this comment by providing an example:

> *"In terms of corporate asset management and in terms of the Municipal Systems Act, local government is obliged to have a Development Business Plan. The Business Plans foresees for future needs of the city. For example in twenty years time the population grows increasingly, there would have to be more schools and hospitals built, but how and where will these be built? This Plan needs to be development. But the municipality does not firstly have the resources and experience nor does it have the capacity to develop this Development Business Plan, so the municipality gets an outside source to develop this plan for them" (Process Manager for Asset Management. 2006).*

Procurement reform in South Africa has resulted in preferential procurement practice, whereby government seeks to achieve a socio-economic objective by using procurement as a policy instrument. All of the interviewees emphasized the importance of the use of procurement as a policy instrument. The SEM for Infrastructure Service and Facilities at the Msunduzi Municipality expounded that procurement:

> *"Is a special purpose vehicle which is now used by local government to dissolve or deal away with the imbalances which are in its area or locality" (SEM for Infrastructure Services and Facilities. 2006).*

The Msunduzi Municipality's Manager for Investment and the acting Process Manager for Entrepreneurial Development and Black Economic Empowerment (BEE) stated that:

"Procurement is a means of empowering those who were disadvantaged in the past and giving local business a chance. Preferential procurement practices work on the idea tha, tenders are awarded not to the lowest bidders but the 'preferred' tender. Points are awarded to tenderers for certain criteria, for example the Msunduzi Municipality awards points to companies for the promotion of Historically Disadvantaged Individuals (HDIs), the promotion of Sub-Contracting work to black economic empowerment and black economic enterprises, the promotion of Women Equity (WEO) and/or Disabled Equity Ownership (DEO) and for the promotion of local business and local contractors within the jurisdiction of the Msunduzi Municipality". (Process Manager for Investment and acting Process Manager for Entrepreneurial Development and Black Economic Empowerment (BEE). 2006).

The SEM of Infrastructure Services and Facilities at the Msunduzi Municipality explained the concept of preferential procurement practices and stressed that these practices do not hamper the quality of goods and services being procured. According the SEM of Infrastructure Services and Facilities:

"The 80/20 point system is used when you are preferring services that are below R500 000, beyond that it is 90/10. So you give 80% of it for pricing of the commodity, then the other 20% goes to issues of preferential criteria. But within that there is also a provision within the procurement where you look at whether the tenderer meets the specifications, so, in other words then, what is critical in the tender process is to define your quality requirements and this is inbuilt within the specifications. So when you define your specifications you are defining the quality that you expect and before you even go to the pricing of 80% you specify that this tenderer meets all the criteria. So what you are saying that it meets the standard in terms of the quality then you go on to the pricing, so it is built in, so even in the proposals this is exactly what you define, you define quality. If

someone meets the quality aspects of it then you proceed on to take the 80% price,
then the 20" (SEM for Infrastructure Services and Facilities. 2006).

The use of public sector procurement as a policy instrument is rather controversial, as the issue of "fronting" is pervasive. Attesting to this issue, the procurement manager at the Msunduzi Municipality stated that:

"The issue of 'fronting' is very evident and real at the municipality.

He claimed that:

"The issue of fronting is not restricted to race but to gender as well. In the same vein as 'race fronting', 'gender fronting' uses women as fictitious shareholders in order to secure a tender. The municipality tries its utmost to curb such practices (Procurement Manager. 2006).

4.2 Analysis: Public Sector Procurement and the Tender Process in a South African Context and the Use of Public Sector Procurement as a Policy Instrument

In order to achieve their objectives, be they economic, political or social, governments devise policies. Policies are "strategies" or "plans" which governments use in order to achieve these objectives. Thus, importantly, it appears from this study that public sector procurement in South Africa plays an important function as an instrument of policy. In South Africa, not only is procurement aimed at achieving economic objectives but it serves as an important tool in achieving social objectives.

In terms of the South African government's macro-economic strategy called Growth, Employment and Redistribution (GEAR), procurement stimulates economic activity by investing in local enterprises, creating competition amongst local service providers and

protecting local companies from foreign investment, thereby reducing public expenditure and creating a more cost-effective public service. Procurement has also been employed to serve a social function in South Africa. Public sector procurement is used to assist the South African government's fight against discrimination, a result of the past, by securing the empowerment of rights of historically disadvantaged groups, including women and disabled persons. The abovementioned economic and social objectives are achieved through the government's preferential point system.

The use of government procurement as an instrument of policy is a widely debated issue. Although the use of procurement does empower historically disadvantaged individuals, including women, the issue of "fronting" is rife. Many companies use previously disadvantaged individuals and women as fictitious shareholders in order to secure the awarding of a tender. The issue of "fronting" curtails the whole purpose of the use of government procurement as an instrument of policy. Rather than tenders being awarded to historically disadvantaged individuals including women and disabled persons and empowering these groups, tenders are awarded to fictitious companies under false pretences. Thus the illegal practice of "fronting" has a significant and negative impact on the use of procurement as an instrument of policy. The justifications for the use of public sector procurement, it seems, outweigh the disadvantages of its use.

4.3 Findings: Alternative Service Delivery (ASD) and Municipal Service Partnerships (MSPs)

Evolving out of the reformation of the public sector, in terms of service delivery, are the concepts of ASD and partnerships between the public and private sectors. These "partnership" arrangements have culminated in PPPs being formed and MSPs at a local government level. Essentially, the tender process is a means of entering into MSPs. The ASD debate, however, is very much alive. While it is criticised by some, it is favoured by others.

When asked to comment on the drawbacks of an MSPs arrangement the Strategic Executive Manager (SEM) for Infrastructure Services and Facilities at the Msunduzi Municipality, stated that:

"While the municipality advocates for the public and seeks the 'best' price for service delivery, the private sector is motivated solely by profit-making. These lead to what can be characterised as a 'conflict of interests' and a drawback of entering into a partnership arrangement. Secondly, entering into a partnership with the private sector is a very cumbersome and lengthy process, which often requires 'dedicated' individuals that run with the process and, in a municipal environment, this is often difficult to come by. Thirdly, associated to the ASD situation is that of the legal implications attached to the PPPs or MSPs process. Another drawback of a municipality partnering with private companies is an element of accountability or apparent lack thereof" (SEM for Infrastructure Services and Facilities. 2006).

The SEM for Infrastructure Services and Facilities was of the opinion that:

"A private partner might not be aware of the fact that it was accountable to the community and not just its shareholders. This could lead to dire consequences for a municipality, whereby the private company decides that the partnership is not beneficial and might 'abandon ship' or terminate the partnership arrangement. Thus, this could lead to serious repercussions for communities" (SEM for Infrastructure Services and Facilities. 2006).

It is also the belief of the SEM for Infrastructure Services and Facilities that:

"Partnering in South Africa is a fairly recent idea and, although it occurred in the past, the concept is now governed by legislation and that municipalities lack the expertise to interpret this legislation and to adequately carry out these

partnership arrangements" (SEM for Infrastructure Services and Facilities. 2006).

The Manager for Investment and the acting Process Manager for Entrepreneurial Development and Black Economic Empowerment (BEE) (which falls under Local Economic Development Business Unit at the Msunduzi Municipality) shares the same sentiments as the SEM for Infrastructure Service and Facilities. The Manager for Investment and the acting Process Manager for Entrepreneurial Development and Black Economic Empowerment (BEE) opined that:

"Municipalities are in dire need of guidance in respect of this. There is also the risk of entering into a partnership that politicians or councillors of a municipal entity may feel is the mandate from national government that local governments must provide service delivery to communities and that third parties should not be responsible for rendering of services to communities. The acceptance of outsourcing service delivery to the private sector is indeed another criticism of partnerships" (SEM for Infrastructure Services and Facilities. 2006).

According to the Procurement Manager at the Msunduzi Municipality, when commenting on the benefits of entering into an MSP:

"One of the challenges that almost all municipalities battle with is a shortage financial resources to deliver goods and services to the public PPPs or MSPs are a means of aiding the municipality in this regard (Procurement Manager. 2006).

In addition, according to the SEM of Infrastructure Service and Facilities:

"Municipalities often lack business management or technical skills that the private sector possesses, however the gap or wound that was once experienced by the municipality is healed when it partners with the private sector" (SEM for Infrastructure Services and Facilities. 2006).

From a local economic development perspective, the Manager for Investment and the acting Process Manager for Entrepreneurial Development and Black Economic Empowerment (BEE) believes that:

> *"Partnerships are favoured by the public sector because, apart from the traditional way of acquiring revenue whereby municipalities collect property tax from its communities, entering into a PPPs or MSPs is another way of generating revenue by sharing in the profit of the partnership. Partnerships with the private sector are an alternative source of income. For example, if the municipality were to enter into a lease form of partnership the municipality would enjoy a profit from this form of partnership"(Manager for Investment and acting Process Manager for Entrepreneurial Development and Black Economic Empowerment (BEE). 2006).*

The Procurement Manager stated that:

> *"Services provided by the private sector are more efficient. While it may take municipal workers two weeks to build a structure, from experience it would take a private company a week in which to complete the structure. This could be attributed to certain conditions stipulated in their contracts such as time periods" (Procurement Manager. 2006).*

4.4 Analysis: Alternative Service Delivery (ASD) and Municipal Service Partnerships (MSPs)

The South African government no longer "rows", whereby it renders the direct provision of services, but rather "steers", which combines policy guidance, regulation and contracting for services. This has resulted in Alternative Service Delivery (ASD) and Public Private Partnerships (PPPs) being formed.

Procurement is used as a means of entering into these partnerships with the public sector. Therefore, South African government today no longer procures for goods in order to render services itself but procures for actual services to be rendered by the private sector. This is largely due to incapacity in terms of limited resources, expertise and experience from the public sector. According to the <u>Constitution of the Republic of South Africa Act, No. 108 of 1996</u>, local government is tasked with the removal of refuse, for example. The Msunduzi Municipality, however, lacks the capacity to collect refuse from an area found within its ambit and service is then outsourced to the private sector.

It is evident that a reformation of the public sector, in terms of service delivery, has taken place in South Africa. Prior to 1995, South Africa's public administration was characterised as being:

- ❖ Over-centralised and rule-driven.
- ❖ Focused on inputs as opposed to outputs
- ❖ Did not encourage value for money and
- ❖ Innovation and creativity were not rewarded (Van Niekerk *et al.* 2001:242).

Thus South Africa sought a fresh approach to the provision of service delivery. At the dawn of South Africa's emancipation, the <u>White Paper on Transforming Public Service Delivery, 18 September 1997</u>, published on 24 November 1995, set out eight transformation priorities or *Batho Pele* Principles, amongst which transforming service delivery in South Africa was key. *Batho Pele,* meaning "people first", are principles which clearly encompassed NPM principles and an entrepreneurial "spirit". The central idea behind the <u>White Paper on Transforming Public Service Delivery, 18 September 1997</u> and *Batho Pele* principles is that "the people come first" and the "customer" concept. If government was to adopt an entrepreneurial "spirit", thereby becoming more business orientated, citizens would have to be treated like customers.

MSPs have been widely mooted in South Africa and do have certain legitimate drawbacks, such as the issue of accountability to the community and the cumbersome and

contractual process of entering into a MSP arrangement, which municipalities often lack the knowledge or ability to do so. However, according to an analysis of the findings of a study conducted by the Development Bank of South Africa and the Development Information Business Unit on the impact of PPPs on the poor in South Africa, partnerships or MSPs, at a local government level, firstly, extends the coverage of services, particularly to the poor. Secondly, instead of resulting in job losses, partnering between the public and private sector has often led to the creation of more job opportunities. The case studies on the impact of PPPs on the poor in South Africa highlighted that, "because of the poor state of infrastructure in most of the areas, more employees were required to address service deficiencies. As a result, instead of shedding jobs, the private sector actually created more jobs" (Development Bank of South Africa, March 2000:38).Thirdly, the public sector often lacks managerial skills and PPPs or MSPs brought these much-needed skills that were required for the efficient and effective delivery of services.

An analysis of the findings of this study attests to the above. In the case of the Msunduzi Municipality, and the awarding of the tender to the Mkondeni Panel Shop and Handyman, the coverage of service, particularly of refuse in the Ashburton area, in this instance was vastly improved. Additional jobs were created when this tender was awarded. Fundamental skills that the private sector often possesses are also acquired by the public sector, in certain circumstances. Thus it can be deduced that partnership arrangements between the public and private sectors improves that provision of services delivered. Through the procurement process, partnerships also achieve one of government's social objectives, by fostering job creation and serving as an important policy instrument.

The fundamental function of any State's public administration is to ensure that all citizens in the communities whom they serve have access to basic services. It is the local sphere of government that is often tasked with this function and MSPs assisted municipalities in this regard. Thus, partnership arrangements between the public and private sectors enhance public administration functions such as policy-making and policy

implementation. This improves service delivery and eradicates some of the services delivery backlogs that are prevalent in South Africa today. Alternative Service Delivery could contribute positively, not only in alleviating poor service delivery practices, but also in enhancing future service delivery in South Africa, as well as other African countries and even further abroad. The issue of MSPs can also be explored at an international level, whereby tenders can be awarded to international companies by local governments. However, this issue can become rather sensitive and spark even more debate. For example, this option could be criticised for promoting international rather than local empowerment. On the other hand, if local government enters into a MSP with an international company, service delivery could be improved by employing tried and tested methods of improving service delivery.

Fundamentally, the present study indicates that reformation or transformation of public service delivery has taken place and the South African government has become more entrepreneurial. It is another major finding of this study that ASD and MSPs, through procurement, improve service delivery, in that the cost of services delivered is reduced. Public sector procurement and the tender process is a means of creating competition between tenderers and obtaining "value for money" for government and therefore the costs of services delivered are reduced. ASD and MSPs also increase service delivery coverage, introduce much-needed skills that are required by the private sector and create job opportunities.

This study also suggests that MSPs arrangements are often misunderstood, particularly by politicians, even though it is suggested that ASD and MSPs, through procurement, have transformed the public sector in terms of service delivery and, indeed, improved it. Thus one could conclude that the South African government tends to no longer "row", but chooses to "steer" instead.

4.5 <u>Recommendations</u>

In terms of its procurement practices and <u>Supply Chain Management Policy, 2005</u>, the Msunduzi Municipality should note the following criticisms and consider the following recommendations.

The Msunduzi Municipality does not successfully achieve all its objectives that are set out in its <u>Supply Chain Management Policy, 2005</u>. These include:

❖ To guide the municipality in the proper administration processes relating to the acquisition of goods and services, appointments of professional services providers and the disposal of municipal assets

❖ To create a Supply Chain Management System that is simple and uniformly implemented throughout the municipality

❖ To reduce the financial risk to the Municipality thorough proper Supply Chain Management Systems and policy implementation, thereby reducing wasteful, fruitless and unauthorized expenditure

❖ To eliminate fraud, corruption and any other unethical practices and irregularities relating to supply chain activities

❖ To create conditions which are conducive to the empowerment of Small, Medium and Micro-Enterprises and the development of the "Third Economy", creating a link with the "First Economy"

❖ To promote economic transformation and the achievement of economic equity through measures designed by legislation to assist and/or promote historically disadvantaged individuals

❖ To achieve specific economic transformation goals or targets, as set by the Council of the Msunduzi Municipality and the Government of the Republic of South Africa.

One of the above objectives of the Msunduzi Municipality's <u>Supply Chain Management Policy, 2005</u> is to eradicate fraud, corruption, unethical practices and irregularities

relating to supply chain activities. Section 217(1) of the <u>Constitution of the Republic of South Africa, Act No. 108 of 1996</u> stipulates that "when an organ of state in the national, provincial or local sphere of government or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective". In an informal "interview" with an official in the procurement unit, the official emphasised that guidelines regulating the awarding of tenders are not adhered to. This renders the procurement process at the Msunduzi Municipality essentially corrupt, irregular and unfair. The official noted that "if one were to take a fine tooth comb to the Msunduzi Municipality's procurement practices one would find that in certain instances guidelines were not followed". For example, in terms of advertising, the Msunduzi's Supply Chain Management Policy states that contracts are advertised for fourteen consecutive calendar days, but in reality they are only advertised once, instead of the fourteen consecutive days, as stipulated in the policy. This could be easily rectified if the wording in the policy was amended.

Another objective of the Msunduzi's Supply Chain Management Policy is to promote HDIs. To reiterate, the procurement process is cumbersome and lengthy and requires that stringent guidelines are followed. Often these HDIs lack basic education and may find it difficult to interpret and fill out tender documents. Indeed, the Ethekwini Municipality, a metropolitan municipality for Durban, encompasses support to Adult Basic Education through its Affirmative Procurement Policy (Government Digest, May 2004). One way in which this is done is by having a tender advice centre, which the Msunduzi Municipality does not have. By not including adult basic education components in its procurement practices, the Msunduzi Municipality will not successfully achieve its objective of promoting HDIs.

In 2004, the ethekwini Municipality set targets for 2008:

Target Groups	Demographics	Current (2004)	Target by 2008
Black	88%	27%	50%
Women	51%	2-5%	10%
Priority Population Groups	63%	2%	25%
SMME	N/A	27%	50%
Local business	N/A	-	50%

Table 3. ethekwini Municipality Procurement Targets for 2008 (Source: *Government Digest.* 23(10):3-4, 6.

Unlike the ethekwini Municipality and its socio-economic targets, the Msunduzi Municipality has not set any targets to reach in terms of socio-economic objectives. This provides a further impediment to the Msunduzi Municipality achieving one of its fundamental objectives, of promoting historically disadvantaged individuals.

An analysis of the findings of the present study suggests that ASD and MSPs improve service delivery. However, legislation governing partnerships were enacted recently by the South African government and municipal entities often lack the expertise to interpret and apply the legislation governing partnership arrangements and MSPs. This leads to MSPs being misunderstood - particularly by councillors, who regard service delivery as a mandate from national government and one which should not be outsourced, especially to third parties. A way forward in this regard could perhaps be that municipalities or other government departments, for example the Department of Provincial and Local Government, provide workshops on issues pertaining to partnership arrangements.

The Msunduzi Municipality does not successfully achieve all the objectives set out in its Supply Chain Management Policy, 2005. One way forward could be for the Msunduzi Municipality to take heed of the ethekwini Municipality's procurement strategies and not only appoint a procurement ombudsman but also include adult basic education training aspects in their Preferential Procurement Policy, 2005. Thus, while the procurement ombudsman would investigate complaints pertaining to procurement practices, a tender

advice centre could be set up to assist tenderers in filling out tender documents. The Msunduzi Municipality should also have strategically set targets in terms of achieving socio-economic objectives.

Conclusion

In the foreword to the <u>White Paper on Transforming Public Service Delivery, 18 November 1997</u>, the then Minister for Public Service and Administration, Zola Skweyiya, stated that "one of Government's most important tasks is to build a public service capable of meeting the challenges of improving the delivery of public services to the citizens of South Africa. Access to decent public services is no longer a privilege to be enjoyed by a few, it is now the rightful expectation of all citizens, especially those previously disadvantaged" (<u>White Paper on Transforming Public Service Delivery, 18 November 1997</u>: 2). It is the sentiments of the then Minister of Public Service and Administration that form the backdrop to this study.

In 1991 the Governor of California, at the time Pete Wilson, in his inaugural address, conceptualised what can be regarded as the "central" challenge of our age: "We will not suffer the future. We will shape it. We will not simply grow. We will manage our growth. We will not passively experience change. We will make change. But to shape our future, we need a new vision of government" (Osborne and Gaebler 1992: 331). New Public Management (NPM) was thus the "new vision of government", Governor Pete Wilson was referring to.

Governments in the past, particularly the welfare state, tended to "row" and not "steer" the state ship. As experience has shown, government's endeavour at "rowing", or the direct provision of services, proved unsuccessful. Government, it seems, is better equipped to "steer". Steering combines "policy guidance, regulation and contracting for services" (Mandell 2001: 167). As coined by Osborne and Gaebler, "catalytic government" has resulted in Alternative Service Delivery (ASD) and Public-Private Partnerships (PPPs). Local government is at the heart of service delivery and it is at a local government level that Municipal Service Partnerships (MSPs) have been formed.

Public sector procurement has been used as a means of entering into these partnerships and introducing competition, thereby getting the best "value for money". Analyses of the findings of this study suggest that government procurement improves service delivery by reducing the cost of services delivered, increases service delivery coverage, introduces much-needed skills that are required by the private sector and creates job opportunities. Therefore it can be concluded that ASD and MSPs, through procurement have transformed the public sector in terms of service delivery and have greatly improved it.

Evidence suggests that the South African government has become more entrepreneurial in the manner in which it governs. The South African government's *Batho Pele* principles truly embody the NPM approach to governing.

In conclusion, Drucker (1968) (quoted in Osborne and Gaebler 1992) put it eloquently in his 1968 book, *The Age of Discontinuity*: "we do not face a 'withering away of the state', on the contrary, we need a vigorous, a strong and a very active government. But we do face a choice between big but impotent government and a government that is strong because it confines itself to decision and direction and leaves the 'doing' to others. (We need) a government that can and does govern. This is not a government that 'does', it is not a government that 'administers', it is a government that governs" (Osborne and Gaebler, 1992: 47-48).

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Appendix A. Investigation into the awarding of tenders at the Msunduzi Municipality

Cronyism, tenders at PMB council to be probed

NALINI NAIDOO

THE municipal affairs of KwaZulu-Natal's capital city – Pietermaritzburg – are to be subject to a forensic investigation initiated by Local Government MEC Mike Mabuyakhulu, *The Witness* learnt yesterday.

Mayor Zanele Hlatshwayo confirmed that she received a letter from the MEC office this week notifying the municipality of the pending investigation, and briefed the Executive Committee (Exco) yesterday. Hlatshwayo did not know the terms of reference of the investigation, saying they have not been given many details at this stage.

News of the forensic investigation comes less than a week after the Msunduzi Municipality received the highest credit rating the city has ever enjoyed. Hlatshwayo said the investigation does not affect the city's credit rating.

This was confirmed by other sources, who said the investigation has been in the pipeline for some time and will look into the city's affairs going back a couple of years.

According to sources, the investigation will focus on such areas as the awarding of tenders and allegations of cronyism in employment practices. They believe that several complaints were sent to the provincial government when the council was carrying out its placement policy.

There was a great deal of unhappiness over how people are being promoted. "I believe this may have been one of the catalysts for the present investigation," a source told *The Witness*.

Another source said the investigation will be good for the new council. If the municipality is exonerated of bad practices in the past, the councillors can continue with confidence in their administration. If any problem areas are

discovered these can be ironed out at the start of their term in office.

Spokesman for the department of Local Government and Traditional Affairs Lennox Mabaso said yesterday it is not their practice to comment on forensic investigations until they are completed. When pressed about the investigation at Msunduzi Municipality, he said he could neither deny nor confirm that such an investigation will take place.

Hlatshwayo said the investigation should not be viewed as a punitive measure, but rather as a means of ensuring that everything is working well within the municipality.

"When the province or even the municipality receives complaints, especially if there are more than one, then we are obliged to investigate. This is not the first forensic investigation carried out at the Msunduzi Municipality, we've initiated similar investigations, like the one on the market," Hlatshwayo said.

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(Source: The Witness, 1 June 2006)

Appendix B. Investigation into the awarding of tenders at the Msunduzi Municipality

Officials on the hop as municipality probe starts

DUMA PEWA

ONLY a day after Local Government MEC Mike Mabuyakhulu instituted a forensic investigation into alleged cronyism and tender irregularities in the Msunduzi Municipality, forensic investigators have already arrived and council officials are on the hop at city hall.

The forensic investigators were welcomed by the city manager Thabane Zulu, who whisked them away into his boardroom yesterday morning.

Strategic executive manager for human resources Kevin Perumal — who was only scheduled to return from leave on Monday — was also seen.

Some of the issues believed to be under investigation include questions over how some officials were promoted and the awarding of tenders.

Although some told *The Witness* that this is an attempt by the new councillors to start on a clean slate and not be haunted by past irregularities, others have said that it could be a bid to get rid of officials

seen to be loyal to former mayor and current district municipality speaker Hloni Zondi.

Sources said the new council wants to work with people who share the same vision and allegiances, and not inherit baggage they know nothing about.

Some have also said the "political games" that are being played now are the same "games" that saw the late city manager Bheki Nene suspended for months before being paid a golden handshake of more than R2 million.

Nene was said to be in new Mayor Zanele Hlatshwayo's camp while she was deputy mayor.

Zulu told *The Witness* he has not been told "what the scope and the terms of reference are".

He said his administration is not opposed to the investigation, as long as "correct procedures" are followed.

He said he has made several attemps to contact Mabuyakhulu's office, to no avail, but his office has received a letter from the MEC, which they are still studying.
duma@witness.co.za

(Source: The Witness, 2 June 2006)

Appendix C. Structure of the Six Business Units within the Msunduzi Municipality


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                        ┌─────────────────────────┐
                        │      City Manager       │
                        │                         │
                        └────────────┬────────────┘
                                     │
   ┌─────────┬─────────┬─────────────┼─────────────┬─────────┐
┌──────────┐┌──────────┐┌──────────┐┌──────────┐┌──────────┐┌──────────┐
│SEM:      ││SEM:      ││SEM:      ││SEM: Sound││SEM:      ││SEM:      │
│Finance   ││Community ││Infrastr. ││Governance││Corporate ││Economic  │
│          ││Services &││Services &││&         ││Strategic ││Growth &  │
│          ││Social    ││Facilities││Human     ││Planning  ││Develop.  │
│          ││Equity    ││          ││Resources ││          ││          │
└──────────┘└──────────┘└──────────┘└──────────┘└──────────┘└──────────┘
```

SEM: Finance

SEM: Community Services & Social Equity

SEM: Infrastructure Services & Facilities

SEM: Sound Governance & Human Resources

SEM: Corporate Strategic Planning

SEM: Economic Growth & Development

Appendix D. The Procurement Unit within the Msunduzi Municipality

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                        ┌──────────────────┐
                        │   City Manager   │
                        └──────────────────┘
                                 │
   ┌───────┬───────────┬─────────┼──────────┬──────────┬──────────┐
┌──────┐┌─────────┐┌─────────┐┌────────┐┌─────────┐┌─────────┐
│SEM:  ││SEM:     ││SEM:     ││SEM:    ││SEM:     ││SEM:     │
│Finance││Community││Infra-   ││Sound   ││Corporate││Economic │
│      ││Services ││structure││Govern- ││Strategic││Growth & │
│      ││& Social ││Services ││ance &  ││Planning ││Develop- │
│      ││Equity   ││& Facil- ││Human   ││         ││ment     │
│      ││         ││ities    ││Resources││        ││         │
└──────┘└─────────┘└─────────┘└────────┘└─────────┘└─────────┘
                                 │
                        ┌──────────────────┐
                        │   Procurement    │
                        └──────────────────┘
                        ┌──────────────────┐
                        │ Contracts/Policy │
                        │Enforcement& Monitoring│
                        └──────────────────┘
                        ┌──────────────────┐
                        │Supply Chain Management│
                        └──────────────────┘
                        ┌──────────────────┐
                        │Tender Documents & Payments│
                        └──────────────────┘
```
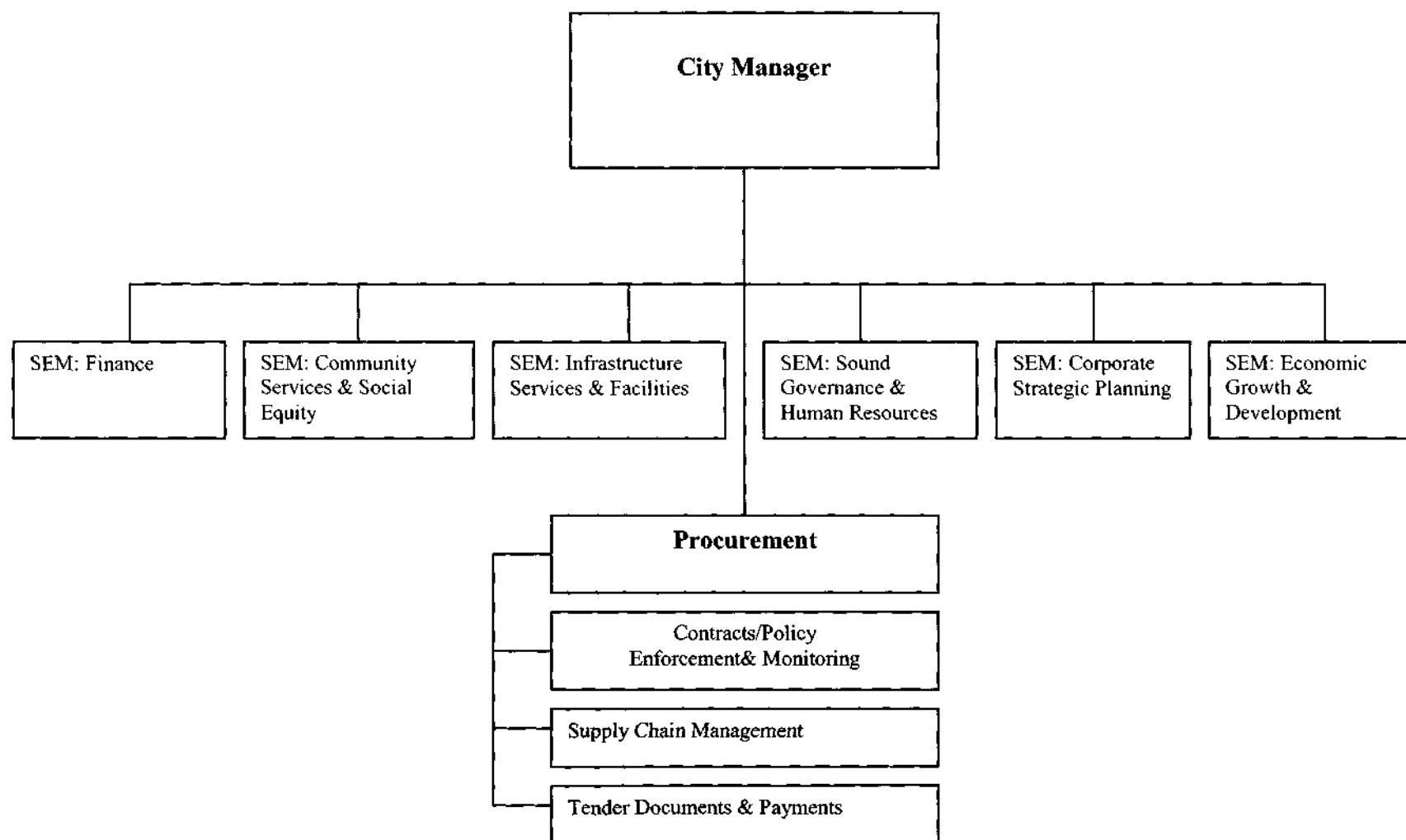
Appendix E. The Msunduzi Municipality's Preferential Point System

Price Points: 80 Points.

$$Ps = 80 \left(1 - \frac{(Pt - Pmin)}{Pmin}\right)$$

Where:

Ps = **Points scored for price of tender under consideration**

Pt = **Rand value of tender under Consideration**

Pmin = **Rand value of lowest acceptable tender.**

HDI Status: *Points (NOP) will be allocated for HDI Equity, calculated in accordance with the formula and the targeting strategy:*

$$NEP = NOP \times \frac{EP}{100}$$

Where:

NEP = **Points awarded for equity ownership by an HDI.**

NOP = **The maximum number of points awarded for equity ownership by an HDI**

EP = **The percentage of equity ownership
by an HDI within the enterprise or business.**

Women Equity: *Points will be allocated for Women Equity*

*Disabled Equity: (WEO) and/or Disabled Equity Ownership (DEO) calculated in
accordance with the formula:*

Where:

WEO = **Points awarded for women equity
ownership.**

DEO = **Points awarded for disabled equity
ownership.**

NOW = **Maximum points awarded for women equity
ownership.**

NOD = **Maximum points awarded for disabled equity
ownership.**

WEP = **The percentage of equity ownership by women.**

DEP = **The percentage of equity ownership by disabled
persons.**

*Local Firms: Points will be allocated for entities with a registered office based within the
jurisdiction of the Msunduzi Municipality. Nil points for firms based
elsewhere.*

Appendix F. An example of an Adjudication Schedule

Below is an example of an adjudication schedule. This example was taken from the Msunduzi Municipality's Supply Chain Management Policy.

Contract: Supply and Delivery of Safety Shoes

STAGE 1	STAGE 2	STAGE 3	STAGE 4	STAGE 5	STAGE 6	STAGE 7	STAGE 8	STAGE 9
Name of Tenderer	Price as tendered per hour or cost of item	Is tender responsive (Comply?)	Is price realistic?	Points for price	Points for HDI equity or Subcontract to ABE	Points for WEO and/or DEO	Local Contractor	Total Points
A	50	NO	NO	0	0	0	0	0
B	200	YES	YES	80	7	2	0	89
C	225	YES	YES	70	10	5	5	90
D	235	YES	YES	66	7	5	5	86
E	235	YES	YES	66	7	1	5	80
F	600	NO	NO	0	0	0	0	0

Tenderer "C" has accumulated 90 points and is therefore the preferred tenderer for the supply and delivery of safety shoes.

Calculation of Price Points –Tendered	Calculation of Development Points-Tendered
$Np = 80(1-\frac{(Pt-Pmin)}{Pmin})$ $Np = 80(1-\frac{(225-200)}{200})$ $= 0.125$ $Np = 80(1-0.125)$ $= 0.875$ $Np = 80 \times 0.875$ $Np = 70$	**Equity owned by HDI + Women Equity Ownership+ Local Contractor** $= 10 + 5 + 5 = $ **20 points.**
TOTAL ADJUDICATION POINTS = 70 + 20 + 90 POINTS	

The 90/10 preference points systems works along the same principle, however is used for goods and services over R500 000.

Appendix G. Table of Quotations

Classification	Value	Requirements
Verbal Quotation	➢ Procurement of goods and services below R2000.	➢ These "tenders" are referred to as "petty cash purchases". ➢ Three verbal quotes must be obtained from three service providers of the database. ➢ A clear concise written statement from the business unit of what is required.
Written Price Quotation	➢ Procurement of goods and services above R2000 and not exceeding R30 000.	➢ Prescripts of the PPPFA and its regulations are applied. ➢ The procurement unit must obtain at least five written quotations stating the date, the price quoted, contact person etc. from suppliers that are on the procurement database.
	➢ Procurement of goods and services up to R30 000.	➢ Prescripts of the PPPFA and its regulations are applied. ➢ The procurement unit must obtain at least five written quotations stating the date, the price quoted, contact person etc. from suppliers that are on the procurement database.

	➤ Procurement of goods and services above R30 000 but not exceeding R200 000.	➤ Prescripts of the PPPFA and its regulations are applied. ➤ The procurement unit will invite tenders from prospective suppliers on the database. ➤ The tender will be advertised on public notice boards for a period of seven calendar days. ➤ Quotations will then be recorded and the adjudication will be conducted and a report of the results complied.
Competitive bids	➤ Procurement of goods and services above R200 000.	➤ Prescripts of the PPPFA and its regulations are applied. ➤ These tenders are regarded as open tender/proposal calls. ➤ Goods and services over R200 000, are advertised as contracts with a contract number that is issued by the procurement unit.

Appendix H. Public Administration Functions

Generic administrative functions		Auxiliary functions	Instrumental functions	Line functions (also known as functional activities.
Conceptual (initiatory and innovative) and directive functions	Managerial Functions			

Policy-making and Analysis:
 	
➢ Identifying needs
➢ Preparing legislation, regulations, instructions and other directives
➢ Analysis of existing policies and systems
➢ Marketing policies
 	
Organising:
 	
➢ Devising and improving structures
 	
Staffing:
 	
➢ Devising systems
➢ Preparing legislation and other directives
	Policy Implementation
	
	➢ Setting missions/ objectives/goals
	➢ Planning
	➢ Programming
	➢ Marketing missions/objectives/goals
	➢ Identifying and reporting short comings
	
	Organising:
	
	➢ Setting duty inventions for units and individuals
	➢ Constructing communication systems
	
	Staffing:
	
	➢ Leading
	➢ Motivating
	➢ Training
	➢ Merit rating
	➢ Maintaining discipline
	➢ Counselling
	➢ Reporting on personnel system and individuals
		Research
		
		Conducting public relations
		
		Providing legal services
		
		Notification functions:
		
		➢ Publishing the official gazettes and other publications
		
		Constructing and maintaining information systems:
		
		➢ Data collection, processing and retrieval
			Personal:
			
			➢ Decision-making
			➢ Communicating:
			  -writing
			  -reading
			  -speaking
			➢ Conducting meetings
			➢ Negotiating
			
			Impersonal:
			
			➢ Provisioning of:
			  -offices
			  -workshops
			  -laboratories
			  -furniture
			  -equipment
			  -motor and other transport
			  -uniforms
			  -stationery
				For example occupational/professional work for:
				
				➢ Building roads
				➢ Nursing patients
				➢ Providing health services
				➢ Transporting goods
				➢ Education
				➢ Foreign affairs
				➢ Environmental conservation
				➢ Library services.

Financing: ➤ Devising financing systems ➤ Preparing estimates of income and expenditure ➤ Preparing directives on financial affairs ➤ Audit arrangements ➤ Reporting to governmental and legislative institutions and office-bearers **Determining work Method and procedures:** ➤ Preparing procedures codes/manuals ➤ Overall work study systems ➤ Productively improvement systems **Controlling:** ➤ Devising control systems and directives ➤ Reporting to political office-bearers/institutions and legislatures ➤ Setting standards for services and products ➤ Inspection ➤ Devising auditing system	**Financing:** ➤ Costing/cost-benefit analysis ➤ Preparing draft estimates of income and expenditure ➤ Accounting ➤ Auditing ➤ Reporting **Determining work Method and procedures:** ➤ Checking and improving methods and procedures ➤ Devising methods and procedures **Controlling:** ➤ Applying standards prescribed ➤ Checking on quantity and quality products ➤ Internal auditing ➤ Reporting (feedback)			

(Source: Cloete 1994: 58-59)

Appendix I. Interview Letter

Dear Sir/Madam

I am currently a student at the University of KwaZulu-Natal (Pietermaritzburg) in pursuit of my Masters Degree in Policy and Development Studies. I am also currently serving my internship at the Msunduzi Municipality (Legal Division) under the supervision of Mrs. Barbara Morton. In order to satisfy the requirements for a Masters Degree, one needs to undertake a Dissertation. The topic that I have chosen as the focus of my study is that of procurement, while using the Msunduzi Municipality as my case study.

I acknowledge the fact that the issue of procurement is sensitive in nature and steeped in legalities, however in no way does my dissertation touch on any matter which would be to the detriment of any person or to the organization itself. My dissertation will merely enhance already existing theory on governance, public management and policy studies in general. As these are fundamental concepts especially in the local government realm, it would be beneficial to the Msunduzi Municipality to conduct this study. I enlist your help and expertise in answering certain interview questions pertaining to my research topic, which I have drawn up in my endeavour.

For any queries on the legitimacy of my study please do not hesitate to contact my supervisor Ms Kirsten Trotter on the following number (033) 2605309 .Thank you for your assistance.

Sincerely

Sansha Singh