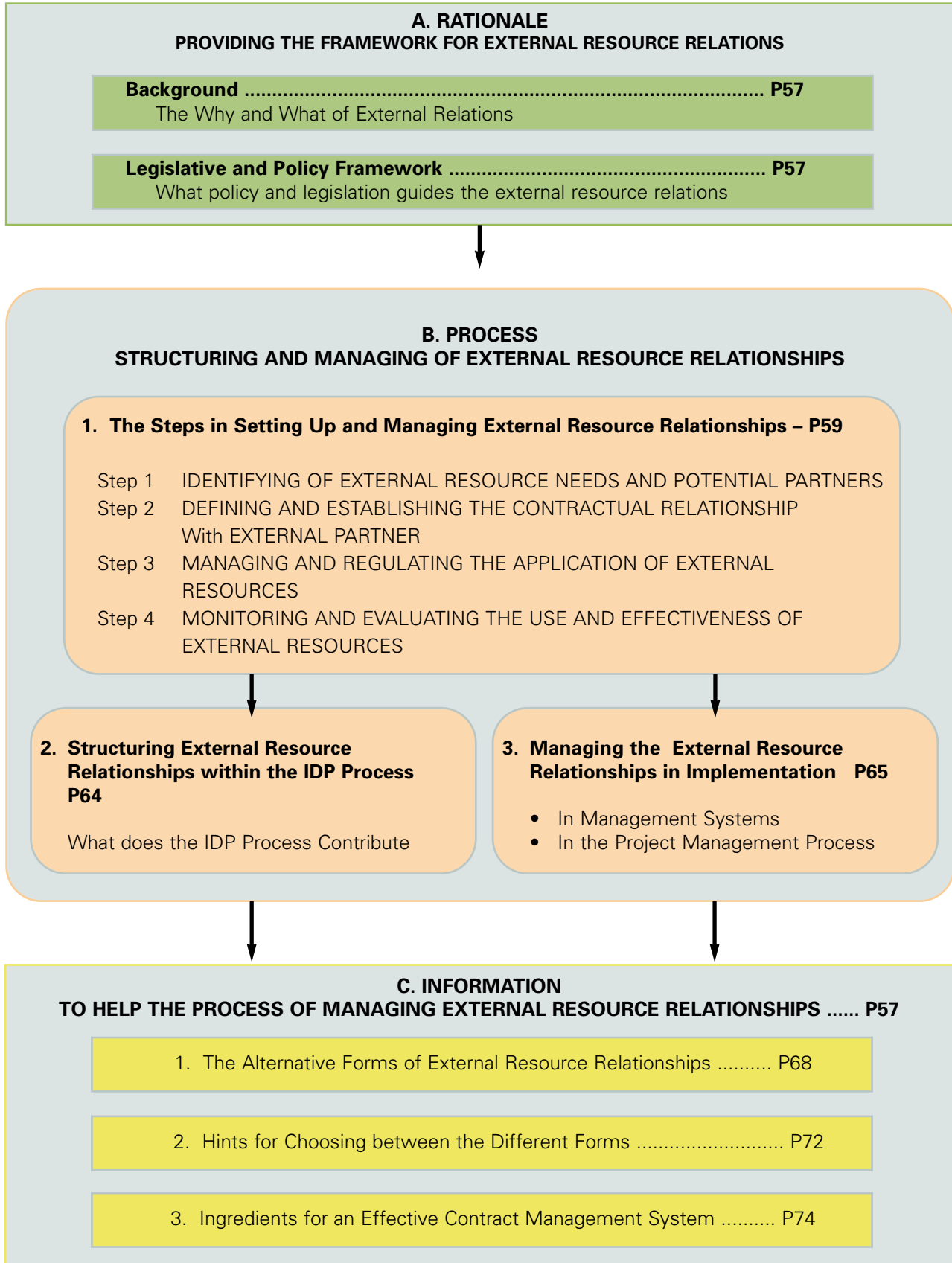


# SECTION 3 – MAXIMISING EXTERNAL RESOURCES: STRUCTURING IN THE BEST WAY TO FACILITATE DEVELOPMENT

## ROUTE MAP FOR THIS SECTION



## A. RATIONALE

### 1. BACKGROUND

It is accepted that a Local Municipality should maximise the resources available to it for development in its area. In the previous two sections we have seen that it is important to organise and effectively utilise the internal resources that it has available. However this is not enough.

Municipalities are also reliant on a range of external agencies, governmental and non-governmental, to permit them to deliver their prioritised developmental programme.

All Municipalities have resource constraints to varying degrees. There is no Municipality able to function without a structured programme of relations to the external world.

Municipalities might enter into contracts for private companies to take over complete areas of service and with other spheres of government for financing of some of their services or support functions. In many instances Municipalities will contract specialist developers to carry out capital projects, e.g. installation of bulk water infrastructure.

It is impossible for a Municipality to function effectively without pro-actively structured use of external resources. What is important is that a Municipality has:

- knowledge of the resources available
- the alternative ways of structuring the relationship for accessing resources
- ability to properly assess the best option
- internal capacity to manage the contractual arrangement reached
- all the above, to provide the best arrangements for the Municipality to achieve its developmental objectives.

#### EMPHASIS BOX

It is crucial to mobilise and properly structure the Municipality's relationships with these external resources or the implementation of development will be greatly inhibited.

It must proactively and strategically identify and access these resources.

The effective management of its external relationship is an essential ingredient of its readiness to implement.

This section gives guidelines to you in your efforts to structure and strengthen your Municipality's external relationships in order to assist implementation.

### 2. LEGISLATIVE AND POLICY FRAMEWORK

The Constitution and a range of legislation and policy stress the significance of partnerships in the delivery of development in South Africa. The partnerships are:

- Between spheres of government
- Between government and the private sector

**DEFINITION BOX****What is the “Private Sector”?**

There is often much confusion about what is meant by the “private sector”.

In this Guide the following definitions are used:

Private Sector – Organisations that are not directly controlled through the different spheres of government but excluding local community based organisations. It includes all of the following groupings:

- Private for profit companies and organisations
- Co-operatives and associations
- Section 21 companies

These could also include special delivery vehicles set up by government where government does not have the legal controlling interest. Parastatals would be considered as government organisations.

Community Based Organisations (CBOs) are seen as a separate grouping of entities. Although usually not controlled by government they are directly controlled by a specific community of interest and are usually characterised by their non-profit and locally based nature.

For Municipalities the chief relevant legislation is the **Municipal Systems Act, 2000** with its emphasis on two important areas:

- Co-operative Government
- Co-operation with the Private Sector

Chapter 2 – Section 3 defines the responsibility of Local Municipalities to co-operate within the Constitutional framework of co-operative government with national and provincial government with similar responsibilities.

Chapter 5:24 1 – 3 emphasises how the IDP should contribute to co-operative government through the involvement and linkage of Local Municipalities to national and provincial development programmes.

Chapter 8 – Section 76 assists Municipalities in deciding whether to provide a Municipal service in its area or a part of its area through an external mechanism by entering into a service delivery agreement with:

- (i) a Municipal entity
- (ii) another Municipality
- (iii) an organ of state
- (iv) a community based organisation or other non-governmental organisation legally competent to enter into such an agreement
- (v) any other institution, entity or person legally competent to operate a business activity.

Section 77 highlights when a Municipality must review and decide on the best mechanisms for providing the service, including through the IDP.

Section 78 of the Act highlights what a Municipality must take into account in assessing how the service should be provided including:

- Direct and indirect cost of internal provision
- The Municipality’s existing and future capacity for provision of service
- The extent to which re-organising and restructuring can be utilised to provide service
- The likely impact on development, job creation and employment patterns in the Municipality
- Views of organised labour
- Any developing trends in the provision of sustainable Municipal services
- The legislation further defines the nature of consultation when a Municipality decides to outsource any of its core services.

In addition a number of national government departments have specific policy frameworks for public private partnerships:

- Dept. of Water Affairs
- Dept. of Finance
- Dept. of Provincial and Local Government
- Dept. of Public Works

- Dept. of Public Enterprises
- Dept. of Public Transport

There is also strong legislative stress on the importance of affirmative procurement in contracting out of government-resourced activities. This legislation is reflected in the procurement policies of Municipalities that form an essential part of any Municipality's approach to outsourcing of its activities.

## B. PROCESS

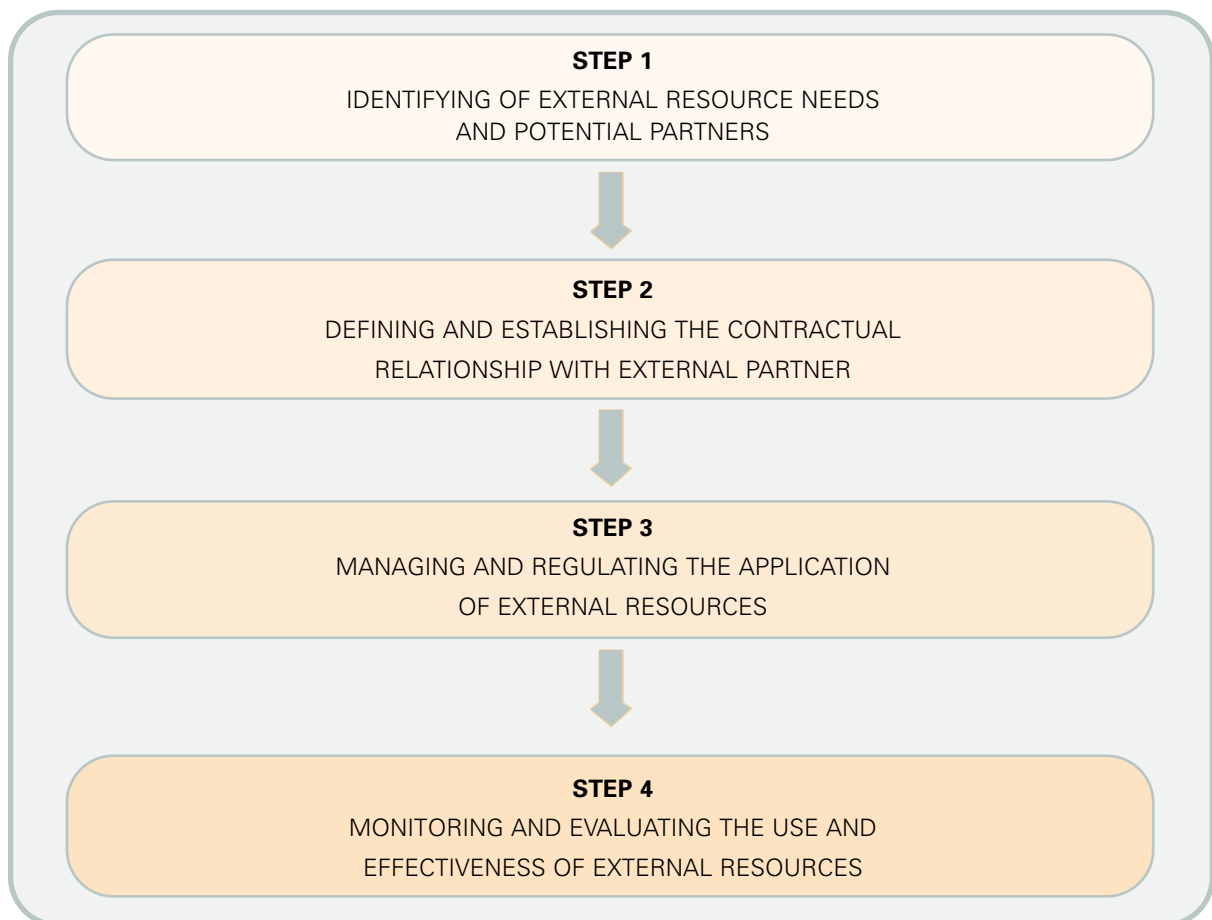
### 1. THE STEPS IN "STRUCTURING EXTERNAL RESOURCE RELATIONSHIPS"

This is the process that a Municipality engages in to ensure that the external resources are directed at its development priorities and in the form that is most appropriate to these objectives and priorities.

The external relationship should bring to the Local Municipality's implementation programme any one or combination of the following resources:

- capital financial investment
- operational financing
- technical expertise
- training
- infrastructure

In order to achieve proper structuring the Municipality should take the following steps:



## 2. THE DETAIL OF EACH STEP

<b>STEP 1</b>	<b>Identifying of external resource needs and potential partners</b>
<b>Purpose</b> <b>WHY?</b>	<ul style="list-style-type: none"> <li>• Identify where external resources are required to achieve the Municipality's development objectives.</li> <li>• Identify the potential external resource providers.</li> <li>• Identify the best form for contracting/involving the external resource provider.</li> </ul>
<b>Outputs</b> <b>WHAT?</b>	<ul style="list-style-type: none"> <li>• Decision on best form of relationship, e.g. service agreement, public ownership, private delivery.</li> <li>• Best way of choosing the partner, e.g. application, tendering, expressions of interest.</li> </ul>
<b>Process</b> <b>HOW?</b>	<ul style="list-style-type: none"> <li>• Examination of all feasible alternatives with special emphasis on ability to best meet Council's development objectives within IDP and Budget Processes.</li> <li>• In the case of substantial outsourcing of Council's service delivery responsibility, the specific constitution procedure must be followed, before any procurement process is undertaken.</li> </ul>
<b>In IDP Process</b> <b>WHERE?</b>	<ul style="list-style-type: none"> <li>• Activities 1/8, 1/9, 2/3, 2/9, 3/5, 3/9 see Section 3 on P67 for more detail.</li> </ul>
<b>Outside of IDP Process</b>	<ul style="list-style-type: none"> <li>• Project Management Activities (See Section 5).</li> </ul>
<b>Institutional arrangements/ responsibilities</b> <b>WHO?</b>	<ul style="list-style-type: none"> <li>• Identified external resources required – Through IDP process, specifically IDP Steering Committee and Project Managers.</li> <li>• Identifying best form – Project Manager in conjunction with Strategic Management Team and sometimes Exco or Council.</li> <li>• Procurement – Project Manager with procurement Specialists (where in Municipality). Approval from Municipal Manager or Council.</li> <li>• External procurement management expertise where the form of external contracting complexity and skills do not exist within Council.</li> </ul>
<b>Example box</b>	
<b>1</b>	To access <b>housing subsidy for housing development</b> : make the <b>relevant application</b> to the <b>Provincial Housing Department</b> and follow up with detailed negotiations.
<b>2</b>	To have <b>private companies</b> involved in <b>running water provision service</b> ; take <b>expressions of interest</b> , assess them and then enter into formal negotiation with the preferred provider.
<b>3</b>	For the <b>contracting of a company</b> to build local roads: involve <b>formal tendering</b> through the Council's tendering procedures.

<b>STEP 2</b>	<b>Choosing the preferred external provider and establishing the contractual relationship</b>
<b>Purpose</b> <b>WHY?</b>	<ul style="list-style-type: none"> <li>• Choosing the best of alternative external resource providers.</li> <li>• Negotiating and agreeing the detailed contractual basis with preferred supplier or partner to ensure that the use of resources will achieve priority objectives.</li> </ul>
<b>Outputs</b> <b>WHAT?</b>	<ul style="list-style-type: none"> <li>• Chosen partner/external resource able to deliver in accordance with Council's development objectives.</li> <li>• Signed contractual agreement to provide the framework for the Council to effectively manage the use of the external resources to meet its priority objectives.</li> <li>• Contract management capacity properly in place and contract management responsibilities assigned to designated person on staff of Council.</li> </ul>
<b>Process</b> <b>HOW?</b>	<ul style="list-style-type: none"> <li>• Following any procurement policies and procedures of the Council.</li> <li>• Preparation and negotiating of detailed contract reflecting the conditions under which the Council can maximise the external resource inputs to meet its development objectives.</li> </ul> <p><b>NB.</b> The document <b>"Guidelines for Private Sector Participation in Municipal Service Delivery"</b> outlines a detailed framework for Municipalities to choose a delivery option and maximise benefits for Municipalities.</p>
<b>Outside of IDP Process</b> <b>WHERE?</b>	Project management Step 2/3e: Procuring Project Resources.
<b>Responsibilities</b> <b>HOW?</b>	<ul style="list-style-type: none"> <li>• Procurement – Project Manager with procurement specialists (where in Municipality). Approval from Municipal Manager or the Council.</li> <li>• Contract Negotiation – Project Manager or Contract Management Unit where it exists.</li> </ul>
<b>Example box</b>	<p><b>Accessing Housing Subsidy</b> – A standard contract with the relevant government department that will affect amounts of subsidy, conditions and timing of its disbursement, the type of product that it should finance etc. The Municipality should have an officer responsible for the day-to-day management of the details of the contract and to be the point of liaison with the Housing Department.</p> <p><b>1</b></p> <p><b>Private Company Running Provision of Water Services</b> – Private Public sector partnership: Manage and Maintain Contractual agreement within well defined regulatory agreement. Linkage of contract with regulatory body. Management with a strong internal team with one person as Contract Manager.</p> <p><b>2</b></p> <p><b>Contracting of a Company to Build Local Roads</b> – Formal tendering through the Council's tendering procedures. Standard contractual arrangement incorporating any relevant LED objectives. Management by designated officer in Engineering Department.</p> <p><b>3</b></p>

STEP 3		Managing and regulating the application of external resources
<p><b>Purpose</b></p> <p>WHY?</p>		<ul style="list-style-type: none"> <li>• To manage the contract to ensure that the inputs and outputs of the contracted agreement meet:                             <ul style="list-style-type: none"> <li>– Terms and conditions of contract</li> <li>– Developmental objectives of Council</li> <li>– Established regulatory standards.</li> </ul> </li> <li>• Ensure that the Council meets its responsibility within terms of the contract/agreement it has with external resource providers.</li> <li>• Ensure that immediate and effective remedial action is taken by the Council if external resource provider is not meeting conditions in order to protect Council's interests.</li> </ul>
<p><b>Outputs</b></p> <p>WHAT?</p>		<ul style="list-style-type: none"> <li>• Properly structured Contract Management System including:                             <ul style="list-style-type: none"> <li>– Designated internal Contract Manager</li> <li>– Project/Programme action implementation plan with key contracted financial and delivery milestones</li> <li>– Effective M&amp;E system to provide for regular and up-to-date reporting on progress and spending</li> <li>– Structured system for progress assessment with contracted agent</li> <li>– Established and agreed dispute resolution procedures.</li> </ul> </li> <li>• Contract that is clear and comprehensive enough to ensure management of external inputs and resulting outputs.</li> <li>• Properly established relationship between Council and any Regulatory authority, and understanding of respective responsibilities.</li> </ul> <p><b>NB:</b> Choice of Designated Contract Manager must consider:</p> <ul style="list-style-type: none"> <li>– Technical competence</li> <li>– Understanding of Contract Management</li> <li>– Ability and confidence to manage external resource agencies.</li> </ul>
<p><b>Process</b></p> <p>HOW?</p>		<ul style="list-style-type: none"> <li>• Regular and properly informed contract progress meetings.</li> <li>• Internal information flows that ensure that Contract Manager is properly in touch with resource flows, outputs and any problems in terms of the contract.</li> </ul>
<p><b>In IDP process</b></p> <p>WHERE?</p> <p><b>Outside of IDP Process</b></p>		<p>Not as crucial in this step.</p> <p>Project Management Steps 3/3, 3/4 &amp; 3/6.</p>
<p><b>Responsibilities</b></p> <p>HOW?</p>		<ul style="list-style-type: none"> <li>• Final responsibility for ensuring management – Municipal Manager.</li> <li>• Day-to-day Management Responsibility – Designated Contract Manager.</li> <li>• Provision of information re contractual arrangements – Financial and other line managers responsible for aspects of the project or programme.</li> <li>• Management of overall programme of external resource usage.</li> </ul>

<b>Example box</b>	<b>Accessing Housing Subsidy</b> – That the providers of the housing whether through Peoples Housing Process or formal contracting are supplying the housing within the Public-Public sector agreement. Also that communities are positively involved in helping the delivery within the set conditions.
<b>1</b>	<b>Private Company Running Provision of Water Services</b> – Private Public sector partnership: Manage and Maintain Contractual agreement within well-defined regulatory framework. Linkage of contract with regulatory body. Management with a strong internal team with one person as Contract Manager.
<b>2</b>	<b>Contracting of a Company to Build Local Roads</b> – Managing the contract with the Company to ensure that: they carry out the work to the standard and within the time span agreed; they receive payments as agreed; and the necessary Council consultation and liaison with its constituents permits the work to be carried out as per contracted agreement.
<b>3</b>	

<b>STEP 4</b>	<b>Monitoring and evaluating, regulating and reporting on use and effectiveness of external resources</b>
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<b>Purpose</b>  <div style="background-color: white; border-radius: 50%; padding: 5px; display: inline-block; color: #4a5568; font-weight: bold;">WHY?</div>	<ul style="list-style-type: none"> <li>• To effectively monitor and evaluate the use of external resources within the Municipality’s objectives, policies and procedures should ensure that these resources are used: <ul style="list-style-type: none"> <li>– within its proposed priorities;</li> <li>– has the required impact on its developmental objectives; and</li> <li>– meets service standards prescribed at national, provincial and local level.</li> </ul> </li> <li>• To provide informed reporting to external agencies supplying resources, e.g. national government grants.</li> <li>• To assess the best ways of improving delivery in the future whether internally, externally or a combination of the two.</li> </ul>
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<b>Outputs</b>  <div style="background-color: white; border-radius: 50%; padding: 5px; display: inline-block; color: #4a5568; font-weight: bold;">WHAT?</div>	<ul style="list-style-type: none"> <li>• An integrated monitoring and evaluation and information system that can ensure that the Council effectively manages external relationships in the interest of its developmental objectives. Should include: <ul style="list-style-type: none"> <li>– Financial management</li> <li>– Time for delivery</li> <li>– Delivery and product standards (Regulatory)</li> <li>– Resource inputs</li> <li>– Outputs</li> </ul> </li> <li>• Well structured report system for the key people requiring it, structured with relevant information for: <ul style="list-style-type: none"> <li>– Contract Manager</li> <li>– Provider of external resources</li> <li>– Key Line Managers</li> <li>– Exco</li> <li>– Council</li> </ul> </li> </ul>
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<p><b>Process</b></p> <p><b>HOW?</b></p>	<ul style="list-style-type: none"> <li>Setting of KPI's and relevant monitoring information</li> <li>Receiving regular reports against key information</li> <li>Linkage of this with objectives, policy procedure and contract conditions</li> <li>Project assessment</li> <li>Feed in of information from project assessment to Organisation M&amp;E system.</li> </ul>
<p><b>In IDP process</b></p> <p><b>WHERE?</b></p> <p><b>Outside of IDP Process</b></p>	<p>Not as crucial in this step.</p> <p>Project Management Steps 3/8 and 4/1.</p>
<p><b>Example box</b></p> <p style="text-align: center;">1</p> <p style="text-align: center;">2</p> <p style="text-align: center;">3</p>	<p><b>Accessing Housing Subsidy</b> – Regulatory responsibility established within the Engineering and Housing departments of the Municipality.</p> <p>Monitoring and evaluation of the use of the subsidy through the contract management system and the integrated monitoring and evaluation system of the Municipality.</p> <p><b>Private Company Running Provision of Water Services</b> – Regulation on the quality of supply through a separately established regulatory body.</p> <p>Monitoring and evaluation through the Contract Management and the larger monitoring and evaluation system of Council.</p> <p><b>Contracting of a Company to Build Local Roads</b> – Regulatory responsibility with the Engineering Department based on national, provincial and local standard.</p>

The steps above show that the process of structuring and managing the external resource relationships is **started in the IDP process** but is given specific form and strengthened **in other activities within the Municipality's Management System and specifically the project management of implementation.**

Let us look in more how each of these contributes.

### 3. "STRUCTURING EXTERNAL RELATIONSHIPS" – LINKAGES INTO THE IDP

The Integrated Development Plan should identify the range of external resources that a Municipality can potentially access to contribute to delivering its development priorities.

This defining and identifying of external resources and their uses is an essential planning theme throughout the process. There is, however, certain parts of the IDP process where the identification and initial structuring of these resource relationships are significant (see diagram below).

Where done well, the IDP process should also take the first step in structuring these external resource relationships, e.g. by involving external stakeholders in discussions of resources for identified priorities.

But the IDP does not finally structure the relationship nor manage it. It is important beyond the IDP for the Municipality to set up the detailed forms of external relationships, the contractual basis and the system for monitoring and evaluating the flow of external resources.

The illustration below highlights:

- the important linkages into the IDP;
- how this base is used for the formal structuring of the relationship to external resources;
- the accessing and use of these, and
- the monitoring and evaluation of their use.

#### **4. STRUCTURING EXTERNAL RELATIONSHIPS – BEYOND THE IDP**

The IDP process forms an important base. Additional work is required through:

- Municipality's Management Systems.
- Project Management System (see Section 2).

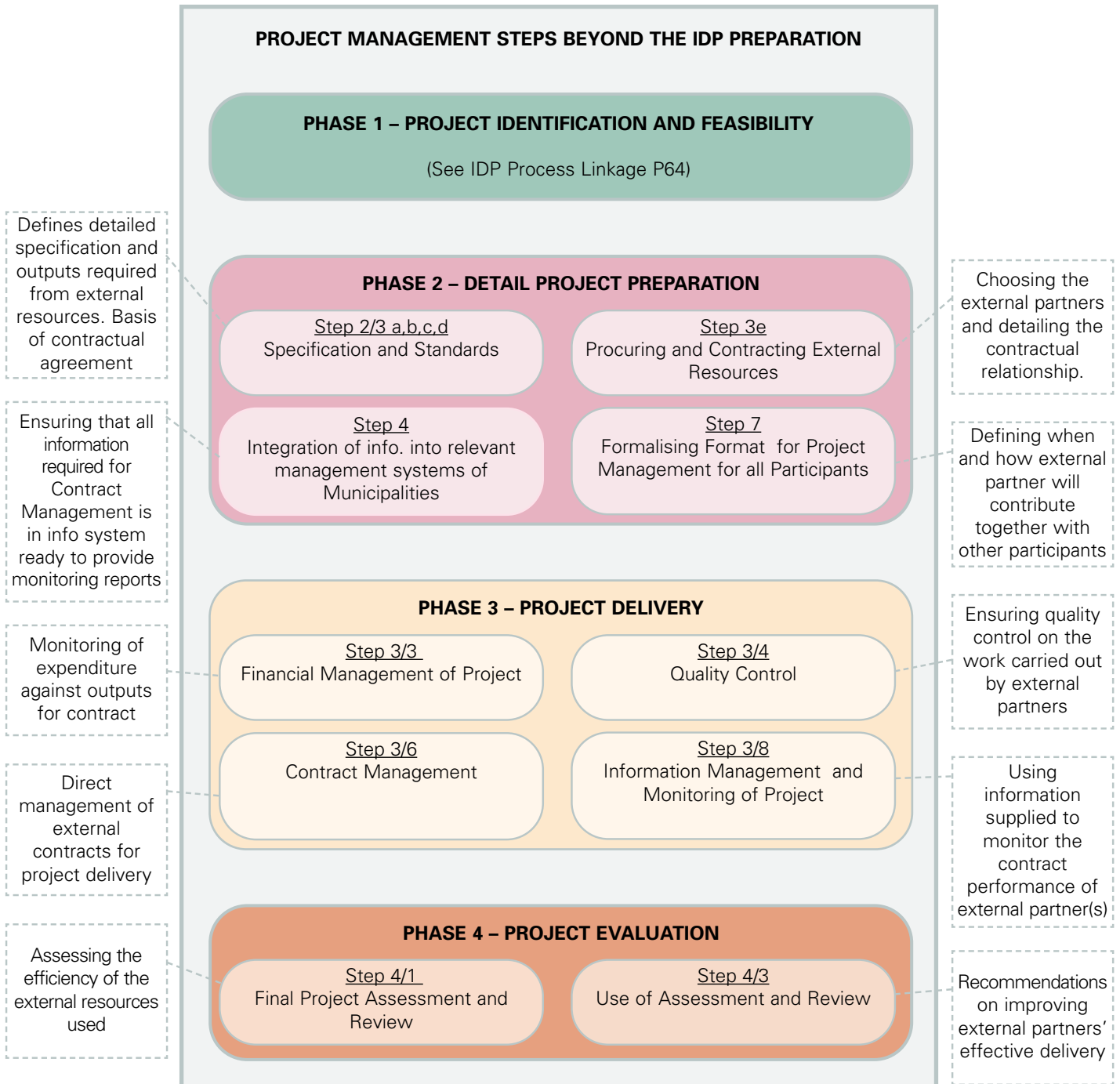
##### **4.1 Municipality's Management Systems**

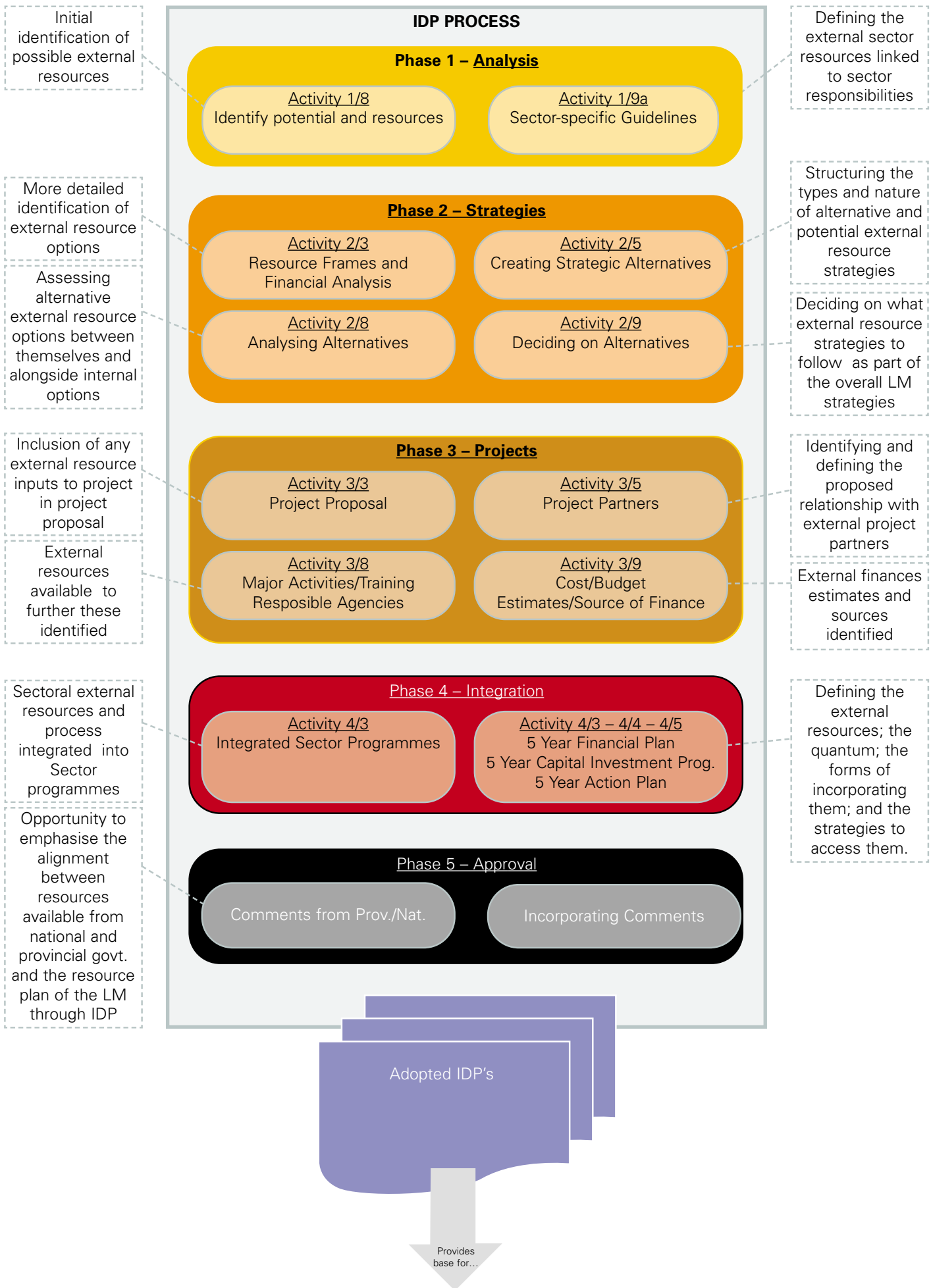
Particularly important is the way that the information (see Section 3), Contract Management (see Section 4 P77), financial management (see Section 3 P56) and communication systems (see Section 1 P14) provide the framework to support the work of the Contract Manager and the Officer(s) responsible for the overall Monitoring and Evaluation Programme.

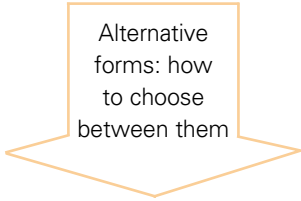
##### **4.2 Project Management (see Section 4)**

This is a crucial point at which the Municipality's external relationships are managed. The table on page 79 outlines the key activities in project management that have relevance to the management of external resource relationships. Greater detail of the relevant steps is found in Section 4 P83.

The box below highlights the important points of external resource structuring in the project management phases (see section 4)







Alternative forms: how to choose between them

## C. INFORMATION

### 1. PRACTICAL GUIDELINES AND ISSUES TO HELP YOU WITH THE PROCESS

Throughout the process of deciding on, setting up and managing external relationships the Municipality must gather and analyse information, assess alternatives, negotiate and make decisions.

This is never easy and Municipalities must ensure that they are able to do this. This section concentrates on some guidelines and issues that can help Municipalities in their following of the process.

It concentrates on three important areas:

- Understanding the potential forms of external resource relationships.
- Criteria to help choose between the different possibilities.
- How to structure a Contract Management and compliance system to help manage the external relationships.

### 2. THE FORMS OF EXTERNAL RESOURCE RELATIONSHIPS

There are a wide variety of different legal and contractual forms of relationship possible for a Municipality in structuring its relationship with external resource agents.

The criteria for choosing the best form of relationship are dealt with in the next section. It is important that the relevant officer or politicians making the decisions, know the range of options and their implications in order to make the best choice in the interest of the development objectives of the Municipality.

The Table below shows some of the key types of relationships with some indication of how each type is used.

#### EMPHASIS BOX

##### **Complexity of Some of These Forms – Use with Care and Advice**

The table below outlines a full range of alternatives. A number of alternatives, especially in the area of Public – Private partnerships, can be very complex. Municipalities should not structure these unless they have access to resources that will permit them to develop these within the developmental interests of their own Municipality.

So while you should know the range of choices, take care that you know what is involved and that you have the resources to control the process before embarking on a particular route.

## PUBLIC – PUBLIC CONTRACTS AND PARTNERSHIPS

### Public Ownership and Public Operation

TYPE	DESCRIPTION	CONDITIONS AND USE?	EXAMPLES
<b>Human Resource Exchange</b>	Involves one sphere of government making available human and other capacity resources where another sphere is lacking in such resources/capacity.	<ul style="list-style-type: none"> <li>Controlled by contractual agreement on the nature of support and the period for which it is available.</li> </ul>	Provincial government secondment of personnel to assist Municipality with IDP.
<b>Financing/ Grant Agreements</b>	Agreements with different spheres of government and other financing agencies about the allocation of financial grants or loans for use by Municipalities for implementation or support of implementation.	<ul style="list-style-type: none"> <li>Controlled by detailed conditions on the outputs required from the financial resources. Specific reporting procedures in agreements.</li> <li>Possible to start investigating such agreements with Provincial Government departments with regard to their financial commitments to IDP priorities.</li> </ul>	CMIP
<b>Agency Agreements</b>	These are agreements where one sphere of government undertakes service delivery with specific financial payments from another sphere of government.	<ul style="list-style-type: none"> <li>A Municipality undertakes work which is the legal responsibility of another sphere of government in accordance with specific standards established as part of the agreement. The Government Department pays the Municipality accordingly.</li> <li>It is also possible that one Municipality enters into agreement with another to provide a particular service with payment from the receiving Municipality. District Councils can use this in relationship to a B Municipality within their District.</li> </ul>	<p>Provincial Government – Municipality Public Health Care Service Delivery Agreement.</p> <p>PIMSS provision of contracted planning support to local Municipalities.</p>
<b>Special Delivery Vehicles</b>	The Municipality sets up a separate private sector organisation, e.g. Section 21 in which it has investment and governance involvement. The SDV is tasked with delivering an aspect of Council programme or service.	<ul style="list-style-type: none"> <li>The Municipality covers some of the risk through its own investment. Private sector or other parts of government can invest.</li> <li>Where properly structured useful in attracting additional investment and providing opportunity for Municipality to use finances more flexibly.</li> </ul>	<p>Housing Utility Company.</p> <p>Parks and Cemeteries Company.</p>

## PUBLIC – PRIVATE CONTRACTS AND PARTNERSHIPS

### Public Ownership and Private Operation

TYPE	DESCRIPTION	CONDITIONS AND USE?	EXAMPLES
<b>Capital Delivery Contracts</b>	Contracts with the private sector to deliver a capital product on a contractual basis for the Municipality. Applies only to the delivery of the capital product.	<ul style="list-style-type: none"> <li>• Ownership and management remains with the Municipality.</li> <li>• Private sector only invests bridging capital.</li> <li>• Contract covers the duration of the period of construction and any guarantee period immediately after <u>but</u> the completed investment handed to Municipality.</li> <li>• Full financing provided by Municipality financial resources.</li> </ul>	<p>Building of new water cleansing plant.</p> <p>Building of Primary Health Care Clinic.</p>
<b>Service Contracts</b>	Contract for the private sector to provide a specific operation, service or maintenance of existing infrastructure.	<ul style="list-style-type: none"> <li>• Municipality sets performance criteria, evaluates bidders, supervises contractors and pays a set fee for the service provided.</li> <li>• Private sector provides the service and is paid for by the Municipality.</li> <li>• Contracts usually for at least 2 years.</li> </ul>	<p>Operation and maintenance of standpipes.</p> <p>Meter reading.</p>
<b>Management Contracts</b>	Contract for private sector to manage a service or facility owned by the Council in accordance with Council standards and regulations with full responsibility for resourcing the service and maintaining the facility.	<ul style="list-style-type: none"> <li>• Private company manages the operation of the Municipality-owned operation but does not commit its own investment or accept full commercial risk.</li> <li>• Generally for period of 5 years or longer. Time for private sector to implement changes and be responsible for results.</li> </ul>	<p>Management of debt collection.</p> <p>Management of Municipal refuse service using Municipal equipment.</p>
<b>Leases</b>	Facility transferred to private sector for a set period for the private sector to operate and maintain at its own commercial risk with income derived directly from payment for service by customer.	<ul style="list-style-type: none"> <li>• Private sector must finance working capital and replace short-lived assets.</li> <li>• Usually period between 6 – 10 years.</li> <li>• Leasing means the Municipality must be committed to charges by private sector that cover at least operating and maintenance costs.</li> </ul>	<p>Urban water supply and sewerage schemes.</p>
<b>Concessions</b>	Private sector accepts to operate and maintain on the basis of full commercial risk and required to build new or expand and rehabilitate existing facility.	<ul style="list-style-type: none"> <li>• Private sector takes over the facility on basis of agreed payment to Municipality.</li> <li>• Private sector investment and risk in maintaining and developing the facility.</li> <li>• Usually for 25 – 30 years to allow the private operator to recoup investment.</li> </ul>	<p>Water treatment plants, airports, toll roads.</p>
<b>Demonopolisation and New Entry</b>	Private sector company encouraged to enter into competition with Municipality by obtaining investment and management access to part or whole of market.	<ul style="list-style-type: none"> <li>• Although technically feasible presently not viable within the Municipal sector in South Africa.</li> <li>• Used with national parastatals as part of unbundling.</li> </ul>	<p>Telecommunications, Airlines.</p>

## PUBLIC – PRIVATE CONTRACTS AND PARTNERSHIPS

### Private Ownership and Private Operation

TYPE	DESCRIPTION	CONDITIONS AND USE?	EXAMPLES
<b>Full Privatisation (Includes the sale of physical assets)</b>	Arrangement where the Council sells a facility to private sector for the private sector to own and manage.	<ul style="list-style-type: none"> <li>The private sector takes full financial risk and ownership.</li> <li>Private sector will have to run facility in accordance with any government regulations but otherwise has full ownership and control over structuring and cost of service.</li> </ul>	Sports facility/stadium

## PUBLIC – PRIVATE CONTRACTS AND PARTNERSHIPS

### Community and User Provision

TYPE	DESCRIPTION	CONDITIONS AND USE?	EXAMPLES
<b>Self-help programme</b>	Programme where the Council contracts the community to undertake a Municipality's development or service provision responsibility for themselves.	<ul style="list-style-type: none"> <li>Usually used to encourage Local Economic Development or keep direct service cost to local community as low as possible.</li> <li>Community undertakes service usually using Council equipment and facilities.</li> </ul>	Community Based Road Maintenance  People's housing process – housing
<b>Community Co-operative</b>	Community grouping legally structured to take over Council assets or run specific Council services.	<ul style="list-style-type: none"> <li>Usually would have legal status of Private organisation.</li> <li>Council likely to maintain higher risk than in partnership with private for profit company by greater use of Council facilities and equipment or in provision of some management and supervision functions.</li> </ul>	Community water supply

### INFORMATION BOX

#### Role of Municipal Investment Infrastructure Unit (MIIU) in Supporting Municipalities

The government provides Municipalities with agreements related to public – private partnerships in the field of infrastructure through the MIIU.

It was established in 1998 as a not for profit company designed to channel government grant funding and technical assistance to Municipalities pursuing Municipal Service Partnerships.

The unit is also providing preliminary "diagnostic" studies to assist Municipalities review budget issues as well as condition of service delivery assets. This is done with the intention of helping Municipalities to make well-informed decisions on outsourcing of any aspect of its infrastructural services.

If your Municipality is considering public – private partnerships on infrastructure you should contact them for advice and assistance.

You can do so through the following:

(Tel) (011) 313-3413 or (Fax) (011) 313-3358 . Their Website is <http://www.miiu.org.za>

With the range of different ways of structuring external resource relationships it is important that the Municipality give careful consideration not only to when it requires external resources, but what is the best way of structuring the relationship.



What criteria should you use in deciding on the best form?

#### EMPHASIS BOX

The Municipality must structure and effectively manage external resource relationships for the implementation of its development programme.

The most important criteria in choosing the right external resource providers and structuring the relationship is:

**“Is it the most effective way of ensuring that we can implement our development objectives in a long-term viable manner?”**

### 3. HINTS ON CRITERIA FOR CHOOSING THE FORM OF EXTERNAL RESOURCE RELATIONSHIPS

In Step 1 of the process for choosing alternatives, the setting and assessment against criteria is suggested. Setting such criteria is closely linked to the IDP process particularly with the following outputs:

- the development objective;
- the various institutional and developmental strategies;
- sectoral programmes;
- resource profiles; and
- project development.

All give structure to the specific criteria that will be used by the Municipality in defining its strategy for use of external resources. These should be defined in conjunction with broader criteria that has developed in the course of developing policy in South Africa.

This is particularly important, for when it comes to decisions on form and accessing external resources many different interests might come into play, not all of which are directed at finding the best way to achieve the developmental objectives of the Municipality.

In this part it is only possible to highlight some of the key criteria. In order to pursue the greater detail, especially with more complex forms, it is important that responsible people in the Municipality use the range of sector specific guidelines and agencies to assist in deeper understanding.

## CRITERIA FOR ASSESSING USE AND FORM OF EXTERNAL RESOURCE AGREEMENTS

<b>External Resources Required by Municipality</b>	Does the Council require the input of external resources for delivery to happen, or to improve quality of unit cost of implementation? What external resources are required?
<b>Contributing to Affirmative Action and Redistribution Objectives of Government</b>	Does the form of relationship and the way that the partner is chosen meet the different spheres of government policy and procedures for ensuring redistribution through affirmative action in awarding contractual work to people previously disadvantaged?
<b>Good Governance</b>	Which form ensures that the Municipality's governance principles are maintained in the approach to the management of the delivery and implementation?
<b>Affordability</b>	Which approach makes for most affordable provision of service to consumers at acceptable standards?
<b>Transparency</b>	Which form of delivery will ensure that the service is provided in transparent manner for consumers and Municipality as a whole?
<b>Broad Coverage</b>	Does the form ensure that the service/delivery is directed at all entitled – particularly targeted groups of previously disadvantaged and low-income households?
<b>Consumer Involvement</b>	Which form ensures consultation with consumers and accountability of the delivery agent to consumers?
<b>Consumer Protection</b>	Does the form of delivery properly protect the interests of the residents for whom the delivery/service is provided?
<b>Cost Effectiveness</b>	Which form produces the lowest cost for the required standard of service?
<b>Real Efficiency</b>	What level of efficiency will the form provide in delivery/implementation?
<b>Allocation of Risk</b>	To what extent can risk be transferred from the Council without jeopardising the quality of the service?
<b>Performance Monitoring and Management</b>	To what extent is the Municipality able to monitor and control the quality of the service delivery and implementation?
<b>Developmental impact of Municipality's developmental objectives maximised</b>	What impact does the form have on the ability of the Municipality to deliver on its integrated developmental objectives?
<b>Limiting of Job Losses</b>	Consider the implications of any job losses related to the form of external partnership, the implications of this to the Municipality's workforce, and the economic opportunities to the broader community.

Having decided how to structure the relationship you must choose the right partner and manage the contract with them

#### 4. CONTRACT MANAGEMENT AND CONTRACT COMPLIANCE

Whatever the form or the final nature of the contract, the Municipality has a very specific responsibility for the following:

- Choosing the external partner/contractor best able to deliver the required product within the budget constraints
- Ensuring that the contractual conditions are met
- Ensuring that the Municipality gets good value for its investment
- Ensuring that service and delivery standards of the Council are met
- Ensuring that the service and delivery is affordable to its target population

To achieve this the Council must effectively control the structuring of the contractual relationship and the managing of the contract once it is operational. For this it requires the establishment of a contract management and contract compliance system.

## CONTRACT MANAGEMENT AND CONTRACT COMPLIANCE SYSTEM

### Purposes

- To ensure that the Municipality is able to manage the contracts to meet required standards and its developmental objectives while receiving value for money.
- To ensure that it maintains an effective system of communication with external resource providers in line with good Contract Management.
- To permit it to take timeous and effective action to minimise any unauthorised deviations from the agreed contracts.

### Outputs

- A system that can vary in form and size depending upon the extent and form of external contracting by the Municipality.
- Should have at least specific policy, procedures, and resource allocation for the following:
  - Procurement Policy
  - Contract Preparation
  - Contractual Agreement
  - Contract Management
  - Standards and Compliance
- Internal and external resource people with skills to ensure that the Municipality controls this process in its developmental interests.

### Conditions

- The system must be identified as a specific system with designated responsibility to officers to structure and manage.
- The policy, procedures and resource allocation for the system must be in line with national, provincial and local government policy and regulations.
- The Contract System must be properly integrated with the other relevant information systems within the Municipality, e.g. financial management, monitoring and evaluation, project management.
- The right level of capacity to set up and manage the contract must be available for the Municipality. This is a crucial function for maximising the quality and cost of implementation. So if necessary arrange for specific skills development of staff.
- Contracts must be well-structured and used as opportunities to qualify the relationships and expectations between parties. Although contracts are enforceable by law, such enforcement is complex and costly.

### Content of Contract Management System

#### Contract

- Identifying details
- Roles and responsibilities of each party
- Outputs and standards required of contracted party
- Timescales and timing of key events
- Agreed remuneration. Financial investment and basis for this
- Dispute resolution procedures
- Conditions for terminating contracts

#### Contract Management – Compliance

- Identified Contract Manager with right skills or access to external resources with skills
- Defined system for monitoring and meeting with contracted party
- Proper information flow at right level and time for proper monitoring
- Flexibility for Contract Manager to take timeous and appropriate action in event of non-compliance with contract
- Where many or complex external contracts exist, consider establishing a “Contract Management – Compliance Unit”

Responsibilities	RESPONSIBLE	TASK
	<b>Municipal Manager</b>	<ul style="list-style-type: none"> <li>• To ensure the setting up and proper management of the contract management system.</li> <li>• Designated signatory of contracts.</li> </ul>
	<b>Contract Management Department (where enough contract work available)</b>	<ul style="list-style-type: none"> <li>• To oversee the effective contract management and compliance management of Council contracts.</li> <li>• To ensure that others in the Municipality responsible for contract management carry it out within the procedures of the Council.</li> </ul>
	<b>Designated Senior Manager</b>	<ul style="list-style-type: none"> <li>• To undertake task above if no contract unit exists.</li> </ul>
	<b>Line Managers and Project Managers</b>	<ul style="list-style-type: none"> <li>• To ensure that the day-to-day management of contracts is properly carried out.</li> </ul>
	<b>Financial Manager</b>	<ul style="list-style-type: none"> <li>• To ensure that financial management occurs in line with contractual agreements.</li> </ul>
	<b>IDP Manager and/or Admin Manager</b>	<ul style="list-style-type: none"> <li>• To ensure that the necessary information through the M&amp;E is available and information systems to support the people involved in contract management are available.</li> </ul>
	<b>Executive Mayor or Exco</b>	<ul style="list-style-type: none"> <li>• Formally approve contracting policy and procedure.</li> <li>• Signatory for some contracts.</li> </ul>
	<b>Council</b>	<ul style="list-style-type: none"> <li>• Formally approve the contracting system with its elements.</li> </ul>

<b>Important Conditions</b>	<ul style="list-style-type: none"> <li>• Must follow government policy and regulation on procurement and Municipal government and private sector relationships.</li> <li>• Control of the contracting and contract management process must rest with Council and not with contracted agency, as Municipality must ensure that it is fully protecting its interests.</li> <li>• All stakeholders involved in the contracting system must understand the Municipality's procedures and respective roles and responsibilities.</li> </ul>
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**Reflection box?**

Is your Municipality making external resources work for the Municipal development priorities?

Your Municipality must maximise its use of external resources that can help it deliver its development priorities. In doing so it must identify the best way of structuring the use of these resources.

But the Municipality must itself control the use of the resources. The external resources should not control the Municipality or its delivery programme.

To achieve this you must know clearly the range of resources available and the best way to use them. Then you must pro-actively manage their use.

This way your Municipality can ensure external resources are used to effectively support its development projects.