

**PUBLIC PRIVATE PARTNERSHIP IN SOUTH AFRICA WITH REFERENCE TO
THE REALISATION OF BLACK ECONOMIC EMPOWERMENT**

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ABSTRACT

PUBLIC-PRIVATE PARTNERSHIP IN SOUTH AFRICA WITH REFERENCE TO THE REALISATION OF BLACK ECONOMIC EMPOWERMENT

This study sought to highlight the concept of *Black Economic Empowerment* (BEE) as it applies to South Africa. BEE as a new concept in South Africa is likely to be faced with a number of challenges. Of note is how a number of pieces of legislation were generated to help create an environment for the implementation of BEE policy. What was illuminated in the study is the fact that in spite of the many policies having been generated, there seems to be a lack of understanding in terms of how these policies should be implemented.

Self-evident in this study is the perception embraced by a number of stakeholders with regard to the implementation of BEE through public-private partnership. The perceived differences of opinion are not only reflected among-policy makers from different political parties, but also within the wider spectrum of South African society and workers' movements. Differing views in terms of the actual implementation of the policy became evident in this study. The differing views seem to be premised around what can be portrayed as the niche that the concept of BEE occupies in the society at large. At the centre of this debate is the recycling of beneficiaries of BEE, which is seen to be consistent and invariable and may be perceived to be defeating the purpose of BEE through PPP. A number of questions were raised in this regard, which provided justification for the researcher to put the past and the present practices in juxtaposition.

The study found that procurement processes and procedures were central to the discussion of BEE through PPP. Against this backdrop, the supply chain management system played a dominant role. The introduction of policy frameworks such as *Preferential Procurement Policy Framework Act, 2000*; *Public Financial Management Act, 1999*; the *Constitution, 1996* and the *Broad Based Black Economic Empowerment Act, 2003* provide an enabling environment for BEE through PPP to be a reality.

The dominant discourse on BEE has been whether it indeed achieves what it set out to achieve, *i.e.* poverty alleviation. It is interesting that this discourse as addressed in this study seems to place in perspective the difference between economic growth and economic development, which seemed to have not yielded similar outcomes. Against this backdrop, the effect of BEE has been placed under scrutiny, with reference to the generally accepted determiners of economic growth such as gross domestic product (GDP).

The study further focused on the effect of BEE in the rural areas in the midst of the perceived levels of illiteracy. Though the effect of BEE on women and youth was looked at, this has not been done in isolation from the realities facing this sector, such as a lack of skills perceived to have stemmed from the past policies of institutionalised segregation.

The researcher has however argued that perhaps a new empowerment strategy had to be found based on poverty alleviation for the poor irrespective of the colour of their skin, political affiliation or gender; namely an empowerment strategy that looks into the future.

The good policies referred to earlier are likely to fall prey to rampant greed as referred to by former president, Mbeki (2006). It appears the new measures will have to be put in place to curb the scourge of greed currently experienced, often masqueraded under affirmative action, affirmative acquisition or even affirmative discrimination and discrimination against the poor. This indeed feeds into the re-emergence of a new class struggle and sows the destructive seeds of interracial conflict and disharmony.

Key words

Economic growth, public-private partnerships, preferential procurement, supply chain management, Black Economic Empowerment, Gauteng Shared Services Centre and financial management.

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LIST OF ABBREVIATIONS

ANC	African National Congress
AsgiSA	Accelerated and Shared Growth Initiative for South Africa
BAS	Basic Accounting System
BBBEE	Broad Based Black Economic Empowerment
BBBEEA	Broad Based Black Economic Empowerment Act, 2003 (Act 53 of 2003)
BEC	Bid Evaluation Committee
BEE	Black Economic Empowerment
BITF	Black Information Technology Forum
BMT	Broad Management Team
CES	Chief Education Specialist
CFO	Chief Financial Officer
COSATU	Congress of South African Trade Union
CCMA	Commission for Conciliation Mediation and Arbitration
DAC	Departmental Acquisition Council
DAPU	Departmental Accredited Procurement Unit
DPSA	Department of Public Service and Administration
DTI	Department of Trade and Industry
ELRC	Education Labour Relations Council
EPWP	Expanded Public Works Programme
EVA	Economic Value Added
FOSAD	Forum for South African Directors-General
GAAP	Generally Accepted Accounting Principles
GDE	Gauteng Department of Education
GDP	Gross Domestic Product
GNP	Gross National Product
GEM	Global Entrepreneurship Monitor
GET	Growth Employment Trends
GPG	Gauteng Provincial Government

GRAP	Generally Recognised Accounting Principles
GTB	Gauteng Tender Board
GSSC	Gauteng Shared Service Centre
HDI	Historically Disadvantaged Individual
HoP	Head of Procurement
ILO	International Labour Organisation
IPFA	Institute for Public Finance and Auditing
IRR	Internal Rate of Return
IT	Information Technology
JIPSA	Joint Initiative on Priority Skills Acquisition
LDC	Less developed Country
MFMA	Municipal Finance Management Act, 2003 (Act 56 of 2003)
MINMEC	Ministers and Members of Executive Council
MTEF	Medium Term Expenditure Framework
NEDLAC	National Economic Development and Labour Council
NEPAD	New Partnership for Africa's Development
NERF	New Economic Budget Reporting Format
NUM	National Union of Mine Workers
PAYE	Pay-As-You-Earn
PFMA	Public Finance Management Act, 1999 (Act 1 of 1999)
PPP	Public Private Partnership
PPPFA	Preferential Procurement Policy Act, 2000 (Act 5 of 2000)
PV	Present Value
RFQ	Request for Quotations
SACP	South African Communist Party
SADC	Southern African Development Community
SAICA	South African Institute of Chartered Accountants
SAP	System Application Process
SARS	South African Revenue Service
SASA	South African Schools Act, (84 of 1996)
SAWEN	South African Women Entrepreneurs' Network

SCC	Special Conditions of Contract
SCM	Supply Chain Management
SCOA	Standard Chart of Accounts
SCOPA	Standing Committee on Public Accounts
SGB	School Governing Body
SMEs	Small and Medium Enterprises
SMMEs	Small Medium and Micro Enterprises
SIDA	Swedish International Development Agency
SLA	Service Level Agreement
UN	United Nations
WCSCM	World-Class Supply Chain Management
WTO	World Trade Organisation

CHAPTER 1

PUBLIC PRIVATE PARTNERSHIP IN SOUTH AFRICA WITH REFERENCE TO THE REALISATION OF BLACK ECONOMIC EMPOWERMENT

1.1 INTRODUCTION AND BACKGROUND

Black Economic Empowerment (BEE) is an initiative that pays special attention to the socio-economic conditions of blacks in South Africa through public-private partnerships (PPPs). There are a variety of causal factors responsible for poverty among the designated groupings, such as blacks in general and black women in particular, specifically in the rural areas. In spite of BEE in South Africa being a relatively new initiative, a lack of sufficient policies, literature and research may inevitably pose a challenge in drawing a conclusive observation in respect of administrative processes supporting the realisation of BEE through PPPs.

In this study *PPPs* are defined in line with the *Public Finance Management Act, 1999* (Act 1 of 1999), which throughout the study is referred to as the *PFMA, (1999)*. Section 16(1) (a)-(b) of the *PFMA, (1999)* defines a *PPP* as a commercial transaction between an institution and a private party. The private party either performs an institutional function on behalf of the institution for a specific period or acquires the use of state property for its own commercial purpose for a specified or indefinite period.

The definition of *public* is presented in line with Geuras and Garafelo (1999:4) as the ethical value in the standard of public interest applied to every member of the community. An inference can be drawn that it will be difficult to define *public* without mentioning government or political community as in this study they are inextricably intertwined.

Though there might be a need to define the terms *public* and *private* separately, the emphasis for the purpose of the research should be on what the concepts mean in the context of the study. According to the available literature referred to in this study, there seems to be consensus among academics in terms of what the term *public* refers to as it relates to government or belonging to government.

According to the Department of Public Service and Administration (DPSA) (2003:11), *government* refers to the body or bodies governing the State. In the South African context, these bodies include the President and the Cabinet (with the national departments) at the national sphere and premiers and executive councils (with the provincial departments) at the provincial sphere, which is referred to as the executive authority. The responsibility to create a conducive environment for BEE to succeed lies with both the national and provincial departments. It is expected of all departments to be allocated budgets which among other things, would be used to promote BEE, especially in the area of procurement of goods and services.

The *Prevention and Combating of Corrupt Activities Act*, 2004 (Act 12 of 2004), Section 1 (xx), defines the *private sector* as all persons or entities, including any natural persons or group of two or more natural persons, who carry on a business, syndicate, agency, trust, partnership, fund, association, organisation or institution, company incorporated or registered as such, body of persons corporate or unincorporated or other legal person. Prahalad (2006:64) however posits there is no consensus on what the *private sector* means. Prahalad (2006:65) further states that the private sector includes social organisations of different kinds that interact to create markets, develop appropriate products and services and deliver value. It is hoped that as the research continues, some consensus may be reached when the *target* for empowerment through PPPs is further defined keeping the historical roots in mind.

The necessity to evaluate challenges and successes of empowerment in this study through literature remains inevitable. With the available information, mainly from legislative frameworks and policies it is necessary to look at the administrative challenges with the

intention of making an administrative contribution to the field of Public Finance, in particular, and Public Administration, in general.

Critical to BEE remains the middle letter *E* depicting the economic intention of its practice in the realisation of the empowerment goal for blacks in South Africa. It is against this background that reference to economic practice and challenges will be made. Though the study falls within the ambit of Public Administration, in general and Public Finance, in particular, features and aspects of economics as bearing relevance to this study will be referred to without reducing the study to the field of Economics.

The application of PPPs in the three spheres of government will be investigated and the focus will be on PPPs as applied in the Gauteng Shared Service Centre. As this investigation is carried forward, special attention will be paid to the management and administration of procurement and other related services rendered by private partners. The process of procurement and tendering will be scrutinised against the legislative prescription of the *PFMA*, (1999) and the *Preferential Procurement Policy Framework Act*, 2000 (Act 5 of 2000).

The study of PPPs through BEE has a number of dimensions and it will become evident as the study progresses, with concepts such as *Broad Based Black Economic Empowerment* (BBBEE) and *PPPs* featuring predominantly. The historical background of this study will refer to the practices that led to the introduction of BEE as a strategy to address the socio-economic imbalances. *Black Economic Empowerment* is defined in the *Broad Based Black Economic Empowerment Act*, 2004 (Act 53 of 2004) as the economic empowerment of all black people. The Act includes the empowerment of women, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies.

The Financial Sector Charter (2002:10) defines companies that can be classified as BEE companies as those that are more than 50% black owned and controlled by black people. The Financial Sector Charter further defines *black empowerment companies* as those

companies that are more than 25% owned by black people and where substantial participation in control is vested in black people.

The introduction of BEE as an instrument to redress socio-economic imbalances is latched on the quest to redress the injustices of the past that sought to discriminate against blacks in South Africa. The focus is on how the current Government will go about rectifying the prejudices of the past in the spirit of nation building, without perpetuating the old practices where colour was used as a discriminating factor between various cultural groups. The prejudices of the past will not be reversed through alternative mechanism of levelling the economic playing field without the use of colour as a yardstick to benefit some and disadvantage others.

The apartheid laws had their origin in the thinking that there should be separation on the basis of colour, hence the need for a balancing factor in this regard in the form of BEE. Separation on the basis of colour engendered unequal access to resources. This inequality ranged from education to land entitlement. Wilkings and Strydom (1978:191) postulate the origin of apartheid to be from the colonial era as follows:

Advocates of apartheid, or separate development as they prefer to call it today, claim that the roots of the policy can be traced back to the landing at the Cape of Good Hope by Jan Van Riebeeck in 1652. One of the first things Van Riebeeck did was plant a fence separating the colonists from the Hottentots. As the Boers pushed inland, borders between themselves and black tribes became their main concern.

The legacy created by the system of race classification resulted in financial difficulties to the majority of people in South Africa, with specific reference to black segment. This debate will be pursued further in this study in the following paragraphs.

1.2 THE RATIONALE FOR PUBLIC-PRIVATE PARTNERSHIP THROUGH BLACK ECONOMIC EMPOWERMENT

South African economic relations are characterised by a market-based system of ownership of capital and distribution of wealth and income. The permutations in the economic system have historically been defined by race. In the period since the attainment of democracy, the State has been successful in achieving macroeconomic stability and using the fiscus and other instruments at its disposal for the redistribution of wealth (*A Nation in the Making*, 2006:9). Redistribution of wealth should be seen as a means of redressing poverty. *Poverty* should be defined afresh as encapsulating lack of skills, environmental factors or financial factors, not just hunger. Poverty finds its attributes in the lack of accessibility to resources such as electricity, water and communication facilities. This debate is pursued further in Chapter 7 of this study, where recommendations in respect of bridging the gap between the rich and the poor through BEE are proposed.

The exclusion of the majority from the economic mainstream manifests itself in the existence of *two economies* in one country (*The Human Resource Development Strategy*, 2006:5). The *two economies* in the context of this study refer to the economy for the previously advantaged and the economy for the previously disadvantaged, which are explained along racial lines. It is argued that such exclusion finds expression in the high rate of unemployment. It is against this backdrop that measures have been introduced to curb the growing rate of poverty and unemployment, giving rise to cooperation between labour and business. This cooperation is in the main informed by Barlow and Wastl-Walter's (2004:75) assertion that some collaboration between civil society and government remains essential:

Historically all levels of government needed, in one way or another, some sort of collaboration from civil society organisations in order to implement projects. What seems to be new is the extent of such collaboration to almost all fields of public policy. Implicit in this new approach is the idea that cooperation between

the public and the private spheres, in all stages of a public policy from conception to implementation, will have an end-result more positive than a traditional work undertaken separately.

The above assertion points out that the idea of BEE through PPPs is investigated to ascertain if it would yield the required results, being poverty alleviation and the creation of wealth. The role that business should play in support of the BEE initiative is imperative, more so that BEE is achievable through PPP.

The Financial Sector Charter (2002:3) which was adopted at the National Economic Development and Labour Council (NEDLAC) Financial Sector Summit committed itself to the BEE charter. In adopting the *Financial Sector Charter*, the following factors were taken into consideration:

- i. despite significant progress since the establishment of a democratic government in 1994, the South African society remains characterised by racially based income and social services inequalities, which inhibits the country's ability to achieve its full economic potential;
- ii. BEE is a mechanism aimed at addressing inequalities and mobilising the energy of all South Africans and that it will contribute towards sustained economic growth;
- iii. inequalities also manifest themselves in the country's financial sector. A positive and proactive response from the sector through the implementation of BEE will further unlock the sector's potential, promote its global competitiveness and enhance its world-class status; and
- iv. the financial stability and soundness of the financial sector and its capacity to facilitate domestic and international commerce are central to the successful implementation of BEE.

The establishment of a sound foundation where the above principles should be latched on depends on the goodwill of the entire citizenry and should not be seen as the

responsibility of the government alone to realise these objectives, however, the people's needs are the signal to the government of what it should be doing (Sangweni, 2004:23). The role the private sector can play in this regard remains indispensable in the context of this study as PPP includes private sector.

Ernst and Young (2007) defines *BEE* as:

an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and bring about significant increases in the numbers of black people that manage, own and control the country's economy, as well as significant decreases in income inequalities.

The rationale for BEE is to ensure that all who were previously denied access should now be helped to regain their dignity and become full participants in the economy of South Africa. The study will argue that a lack of effective administration and management of BEE creates new challenges. The study will further argue that more people in the public sector gain unfair advantage over projects that are aimed at providing opportunity for the poorest section of the population.

The purpose of this study is to provide information about what might have led to the introduction of acts such as *Broad Based Black Economic Empowerment Act, 2004* (Act 53 of 2004) and *Preferential Procurement Policy Framework Act, 2000* (Act 5 of 2000) for the purposes of undoing the injustices of the past. This issue is discussed further in the following paragraph.

1.3 MOTIVATION FOR THE STUDY

The purpose of the research is to determine whether BEE is realisable through PPP. Poverty alleviation was the rationale for the introduction of the *PPP* concept, more especially among the previously disadvantaged groups. Checks and balances have to be put in place to ensure that while the ills of the past are addressed, caution should be

exercised not to create a situation where the white population of this country is neglected and marginalised to the point where there will be a need for White Economic Empowerment (WEE) policy in the future as a form of redress.

What remains a pivotal factor in the study of PPPs is that PPPs form a basis for the realisation of BEE. Poverty among the larger population of the South African citizenry has not been self-inflicted, but is the consequence of a well-orchestrated system that had as its goal, to impoverish and segregate. Chapter 2 of this study focuses on the theory and principles of Public Administration as a science and public administration as a practice, in relation to BEE through PPP.

The BEE initiative should thrive towards the realisation of poverty alleviation and pursue decent living standards for all. Poverty alleviation contributes towards economic growth, which forms part of the fundamental thrust of BEE through PPP. Whether the greater part of the black segment benefits from the poverty alleviation will be analysed as the study progresses. The examples of PPP are analysed in Chapter 6 with specific reference to the Gauteng Shared Service Centre (GSSC) and its customers, for example, the Gauteng Department of Education.

The application of PPPs should be in compliance with the legislative frameworks provided, such as the *Constitution*, *1996 Treasury Regulations* (1999), *PFMA*, (1999), *National Treasury Regulations* (2003), *Standardised PPP Provisions*, budget speeches and other related policy documents. These will address the procedures such as completion certificates, licences, permits, contracts, accountability and budget allocations. All these are essential for the regulation and management of procurement procedures for the realisation of BEE.

The study of PPPs through BEE should further be considered within the framework of other international conventions such as the International Labour Organisation (ILO) and Children's Rights; whose aim has been the promotion of and respect for human rights. Poverty is not only dehumanising, but it is an attribute of human rights violation. Parents

deserve an inviolable right to raise their children in an acceptable way and cater for their needs.

The National Treasury (2004:8) outlines key features of PPPs that are inherent to achieving BEE. These features are as follows:

- i. the long-term nature of PPPs provides an opportune instrument to grow black equity and black management over time;
- ii. risk is clearly identified in PPPs, clearly costed and appropriately allocated, so black participants know in advance what they are committing to;
- iii. the formation of private consortia in the form of special purpose vehicles (SPVs) for many PPPs facilitates long-term beneficial partnerships between new black enterprises and experienced, resourced companies – both as equity partners and in project management, and both at private party SPV and sub-contracting levels;
- iv. where the government is the buyer of service, and insofar as the service is provided to the agreed standard, there is a steady revenue stream to the private party, reducing risk to the new black enterprise;
- v. principal equity sponsors in a PPP are often also first-tier subcontractors, building incentives for optimal risk management;
- vi. PPPs provide significant subcontracting opportunities for black enterprises where early cash-flow benefits can be derived as delivery commences;
- vii. PPPs have far-reaching broad-based BEE potential through subcontracting and procurement mechanisms they can involve a full spectrum of large, medium and small enterprises, and bring tangible local economic development benefits to targeted groups of people;
- viii. return on equity to the private party is competitive where risk is properly assumed;
- ix. there is an increasingly strong demand for black professionals as transaction advisors to both institutions and private parties in PPPs;
- x. PPPs develop skills; and

xi. PPPs create jobs.

In assessing the successes or failures of PPPs, attention has to be paid towards the impact that PPPs have made over time on the previously advantaged group and the previously disadvantaged group. Later in the study the deduction will be made if indeed BEE through PPPs have achieved what they intended to achieve. The above factors provided a yardstick to measure the envisaged achievement.

The administrative function in the application of PPP and BEE is used to evaluate the successes and failures of BEE in the context of the study of Public Administration. This study will further analyse skills transfer or lack thereof, as this play important role in the implementation of PPPs, more especially in the public sector. The benefit of PPP should be mutual, with the state, for example, as beneficiary in respect of the skills provided by a service provider.

A variety of questions can be asked with regard to these definitions as to who/what determines criteria for *advantaged* and *disadvantaged*? Why these definitions are linked to race or colour? What are their historic origins? In the chapters that follow, these questions are answered, with specific reference to how the apartheid administration defined the South African populace on the basis of race.

The generally accepted definitions of *advantaged* and *disadvantaged* are problematic in that they seem to assume that all the white citizens of South Africa benefited economically from the previous economic regime and that all blacks were impoverished by the same system. Similarly, it holds true that it may not necessarily be that all blacks, who in this study are referred to as *previously disadvantaged*, might have become victims of impoverishment. It equally holds true that it may not be that all the white people benefited from the previous regime for them to be grouped together as belonging to the generally accepted category of the previously advantaged. A case can be made as to whether poverty should not cut across racial lines. Would it not be better to write about the empowerment without the mention of race?

A balance between the past and the present should be created. This balance will assist in placing these definitions in their proper context. This endeavour, may of necessity pose a challenge. The study attempts to place into perspective the effects of the repressive administration of the past. It is appreciated that with the democracy that dawned on the Republic of South Africa, remarkable progress has been made in respect of the development of policies that seek to protect the rights of all citizens.

The study covers the periods 2000 to 2010. As a point of departure, the historical practices of the 19th century also feature as basis for the study. This helps the eclectic drive that guides the research, as the study is about people, both as enforcers of the law and recipients of the intended objective of empowerment. Luton (1999:11) argues that the historical legacy of any era will contain both positive and negative aspects and also mentions that the ancestors were capable of and engaged in activities and behaviour that can serve to inspire, to warn and to embarrass.

The need to grow the economy by way of creating wealth remains the objective of the democratic government of South Africa. Of importance is whether the wealth that is being created through PPP is indeed to the benefit of all for whom the policy is intended. Former president's Thabo Mbeki's (2000) State of the Nation address emphasises a better life for all.

In this research, a *better life* and *poverty alleviation* are considered inextricably linked. Therefore, the research is of importance in that, it answers the question whether the ideals as enshrined in the African National Congress (ANC) manifesto have been realised. The question could further be asked: who belong to the *all*? One could imagine that this should broadly encompass the entire South African populace, irrespective of colour, race or gender. The *Constitution* (1996) states that there is a common South African citizenship and that all citizens are equally entitled to the rights, privileges and benefits of citizenship and equally subject to the duties and responsibilities of citizenship.

Perhaps it is an opportune time to find all inclusive concept to identify the beneficiaries of empowerment. In pursuit of compliance with the dictates of the *Constitution* (1996) the term *BEE* may in the future be found unconstitutional. Perhaps a new term should be found to identify those who are to be the beneficiaries of the empowerment initiative, given the constitutional rights of all citizens as referred to above. It is time to investigate and recommend the redefinition of *poverty* to include all racial groups. Currently, it appears as if BEE benefits only a few.

When the above changes have been done, it may be appropriate to propagate for further redefinition of *BEE* to *PEE*, which means people economic empowerment. The question is: when will this be? What should precede the advent of PEE? In pursuing this debate, the need to first have the socio-economic playing fields levelled will have to be a prerequisite. The socio-economic imbalances faced by South Africa in the 21st century are in the main the product of apartheid.

Empowering the poor in this country is important. The fact that communities in South Africa live in poverty cannot be denied. What remains critical though is how these challenges are to be addressed by way of BEE and the related legislative frameworks. It should be borne in mind that all pieces of legislation should be considered subordinate to the *Constitution* (1996), which remains supreme at all times.

In terms of the *National Treasury* (2006:7), the full realisation of human dignity and the freedom to pursue economic opportunity are incompatible with the poverty that continues to afflict a large number of South Africans. Sustained progress in reducing poverty requires continued economic expansion, job creation and quality public services, which enable people to improve their living standards. Financial assistance needs to be complemented by public assistance, *i.e.* health care, schools and roads. The foregoing lends credence to the previous assertion that the *all* should be encompassing of all racial groups in South Africa.

Former executive mayor Mkhathswa's (2006) State of the City address points out that the inculcation of a common identity among the people of Tshwane is an achievement often overlooked. Mkhathswa (2006) continued to mention that black and white children play together; their parents work together and play golf together and that the neighbourhoods continue to be non-racial as the city becomes demographically, socially, economically and culturally inclusive.

Though the address by the former executive mayor may be considered nothing less than a political rhetoric, it seeks to raise critical debates of inclusivity mentioned earlier on. It increasingly becomes logical that a review of policy on the classification of people on the basis of colour when dealing with issues of poverty is favourably considered. The pertinent administrative question in this regard is: when this review should happen and to what extent? Allan Boesak, former ANC executive member is reported as having said that South Africa has moved in the wrong direction by returning to the language of racial division under the ruling ANC, ANC has lost the Way (Sowetan, 2006:6).

The question of inclusivity presupposes equality. The equality in this case refers to the situation where the individuals belonging to the designated groups should all be accorded equal consideration in matters of economic empowerment. The word *designated* has been used with caution as it may mean different things to different people. One may not of necessity infer that a new look has to be had on the use of the term *designated* as this will be reserved till the end. It may be sufficient to say that in this study, the *designated group* refers to the social class rather than the colour of skin.

The confusion that may be evident on the use of the *designated group* is spelt out by a variety of sectors, including the National Union of Mine-workers of South Africa (NUMSA), where the union strongly condemned the emergence of what it termed a black *bourgeoisie* social group. The deduction has been made that BEE is narrowly rather than broadly based and its beneficiaries are a small number of wealthy individuals, most of whom are identifiable by their connectivity with the (ANC), the Black Bourgeoisie (Anon, 2006:3).

The narrow- based BEE is likely to engender yet another *designated group* by default. It should not be argued that people belonging to particular organisations should not be considered for business deals. When empowerment deals are organised, there has to be an element of consideration for the ordinary citizens, who should be the primary beneficiaries of BEE/BBBEE deals.

Alexander in the *Black Capitalists* (2006) asserts that the policy of BEE is benefiting mainly the rising black middle class and is deepening the class inequality in our society. It is not clear if this can be avoided in a capitalistic economy that is driven by democratic principles. Alexander further argues that a number of cabinet ministers and ordinary parliamentarians still believe in the socialist alternative they relentlessly fought for in the 70s and 80s. It will therefore not be uncommon for the disjuncture to occur between what they believe in and the capitalistic policies they now have to espouse and propagate, BEE in context (Anon, 2006:6).

The former minister of finance, Trevor Manuel (2004) mentions that poverty eradication should be a key priority although achieving the objectives of BEE through PPP has the potential to create future socio economic disparities. The question that will be asked in this study is whether PPP should only have as its point of departure, the empowering of blacks through BEE and whether those targeted for empowerment indeed become beneficiaries. This will require administrative intervention. The role that public administration should play is critical in ensuring the realisation of BEE through PPP.

The review of policy to realise the socio-economic objectives remains important. Without a policy review, it might be difficult to realise this ideal. The review of policy needs to take place in the area of redefining the two terms *disadvantaged* and *advantaged*. The policy review presupposes an administrative exercise. It will be discussed later on in this to debate time frames for the BEE in terms of broadening BEE to cover other race groups.

The foregoing may as well raise the question whether the problems faced by the world today are of administrative nature. These problems manifest themselves in diverse manners, among other things, the need for promotion of sustainable growth, promotion of good governance, eradication of poverty, which is seen to be a consequential factor to bad governance, leaving in its wake, unprecedented mayhem and human displacement.

1.4 PROBLEM STATEMENT

The definition of *disadvantaged* and *advantaged historical groupings* poses a challenge in respect of identifying who should be the actual beneficiaries of BEE, the empowered or the disempowered? The definition of the above terminologies seems to be inconclusive, more especially as it relates to the very definition of the term *black*, as at times it appears to be somewhat encompassing of coloureds, indians and now lately chinese as in terms of the latest court ruling (Modise, 2009). It remains to be seen if the BEE initiative would cover these groupings as well.

The term *black*, in the context of the beneficiaries of BEE appears to be shrouded in controversy as it appears as if it is not all blacks who seem to be benefiting from the BEE initiative. The discontentment expressed by unions such as the National Union of Mine-workers (NUM), which enjoys support from the working class in the mines, is self-evident in the press statement released by its leadership. The dissatisfaction of National Union of Mine-workers over BEE that is seen to be benefiting what the NUM refers to as black capitalists, has been expressed (The Black Capitalists, Anon, 2006:2). Black capitalists are condemned by the NUM as pursuing profit with the same motivation and vigour as their white counterparts for generally looking after their own interests with the same determination as other capitalists across the world. The NUM further argues that black *bourgeoisie* are failing to contribute toward the national agenda of fighting unemployment and poverty.

The foregoing postulate seems to find expression in what other world renowned politicians such as Kofi Anan, former secretary general of the United Nations maintain.

McIntosh and Smith (1999:3) captured the speech by Kofi Anan as having raised critical ethical issues when he stated:

Without the private sector's active commitment and support, there is a danger that universal values will remain little more than fine words, documents whose anniversaries we celebrate and make speeches about, but with limited impact on the lives of ordinary people. And unless these values are really seen to be taking hold, I fear we may find it increasingly difficult to make a persuasive case for the open global market.

Given the above postulate, it seems as if the problem is not in the policy of BEE itself but in the manner in which it is to be implemented. The formulation of policy does not seem to pose serious challenges compared with its implementation. The implementation of policy plays an important role in ensuring that the poor are empowered through active participation in the economy. The *National Empowerment Act, 1998* (Act 105 of 1998), for instance, provides for the establishment of a national Empowerment Fund to assist the historically disadvantaged persons. Failure to implement this Act would result with the fund not established.

Former president Mbeki, in his State of the Nation address (2000) stated that:

..we reported on the steps that would be taken further to enhance the partnership between the public and private sectors with the view to reinforcing the growth and development of our economy.

In the State of the Nation address (2000) the four working groups are outlined as follows:

- i. big business;
- ii. the trade union federation;
- iii. black business; and
- iv. the agricultural sector.

The fact that there is support for the quest for poverty alleviation even from the highest office in the country is encouraging. What seems to be a problem though is how to translate this well acclaimed address into reality. The question that needs to be raised is: have all the identified partners established a common foundation for the implementation of BEE?

On the basis of what has been discussed so far, the real beneficiaries of BEE will be determined. It will further be important to note whether economic breakthrough has indeed been realised, given the available data provided by the Human Rights Commission, which will be referred to later. From the foregoing, a question emerges as to whether the introduction of BEE through PPP addresses the current socio economic imbalances in the manner that will benefit the poor.

From this overview, emerges the research question: **Has the BEE through PPPs in the Gauteng Shared Services Centre achieved what it set out to achieve, i.e. poverty reduction among its citizens through available poverty alleviation programmes?**

1.5 RESEARCH METHODOLOGY

The qualitative research approach has been selected because the research intends to probe the realisation of BEE as a social phenomenon. Of importance to this research is the manner in which policies and guiding principles in the application of a PPP is understood by managers across all government departments. Babbie (2001:74) states that the difference between qualitative and quantitative data is that qualitative data contains a greater depth of detailed information. Qualitative research observes trends in respect of policy implementation across the designated areas of research.

Babbie (2001:91) maintains that research can serve many purposes. Three of the most common and useful purposes of research are exploration, description and explanation. *Exploration* is when a researcher examines a new interest or when the subject of study itself is relatively new, as is the case with BEE in South Africa. *Description* is another

purpose of research, where a description in terms of what the researcher observes is made, whether it be situations or events. The explanation outlines why certain trends are observable in a particular situation. Qualitative research, according to Babbie (2001:8) means, going where the action is and observing it without doing statistical manipulation. Mouton (2003:161) describes *qualitative approaches* as involving the description and evaluation of the performance of programmes in their natural setting focusing on the process of implementation rather than quantifiable outcomes. This research seeks to ascertain whether the BEE policy as currently applied in various departments meets the socio-economic requirements of the targeted groups. Qualitative research will assist in providing qualitative data that is based on trends and practices, rather than a manipulation of numbers. Against this backdrop, an inference will be drawn whether BEE initiative has indeed been applied appropriately and whether there will be a need to modify its current application.

Mouton (2003:46) posits that the research proposal is a project planning document. The empirical component of this research is South African PPPs through the realisation of BEE. Departments that are placed under scrutiny are the Gauteng Shared Service Centre (GSSC), which is the procurement sector for all departments in the Gauteng Provincial Government, including the Gauteng Department of Education. The GSSC (2009) outlines its vision as that of being a world class internal support service unit driven by efficiency and focus on quality service delivery. The GSSC was established in 2001 and has as its core business; the provision of provincial government-wide internal support services in terms of, audit service, human resource services, procurement services, finance services and technology support. The advantage of the establishment of the GSSC is to harness the Gauteng Provincial Government's collective buying power so as to reduce the overall cost of purchasing goods and services. The GSSC provides support in terms of procurement processes to the Gauteng Department of Education, both at provincial and district level and to the provincial treasury office (GSSC, 2009).

The Gauteng Department of Education, with specific focus on Tshwane South, Tshwane North and Gauteng North districts for example, as far as procurement and risk

management are concerned are the clients of GSSC. It is against this background that focus will be devoted to how the Gauteng Department of Education and other departments are catered for by GSSC, as analysed in Chapter 6.

The research is socio economic by nature and can therefore not be described by numerical data only. It can also be described through observation, description and recording. Methodology used in this study, will be based on a literary study which includes books, academic journals, official documents such as regulations, Acts, strategic plans and policies.

Official documents are consulted to ascertain the processes followed in procurement. These documents are important as far as ascertaining whether legislative processes of procurement are being followed and who the responsible personnel for various tasks are and which position in management they hold. The information provided would be vital for the research in as far as establishing whether the budgets allocated for BEE are managed effectively, economically and efficiently.

The procurement relationship between the GSSC and the GDE is analysed in case study format. The method of qualitative study that is followed takes the form of a case study. The availability of data in the form of literature in respect of how the GSSC operates and interacts with its clients is of such a nature that it may not be necessary to conduct interviews. The Gauteng Department of Education and its district offices are used as examples of population groups benefiting from the GSSC in terms of procurement.

1.6 LIMITATIONS OF THE STUDY

Though there is sufficient literature on Public Administration, there might be some challenges in respect of a lack of sufficient research in the area of BEE. A number of acts to regulate the implementation of procurement such as *Preferential Procurement Policy Act*, 2000 (Act 5 of 2000), *Broad- Based Black Economic Empowerment Act*, 2003 (Act 53 of 2003) have recently been promulgated, which may pose a challenge in terms of the

success made in their implementation. A lack of research in this area of study may pose a challenge. The research may rely extensively on policy documents and legislative frameworks.

The official documents consulted in this study may not be representative of all the activities that take place in the procurement process in respect of controls and management. It should however be acceptable to make analytical generalisation about how BEE is managed in the public service.

1.7 LIST OF KEY TERMS

In order to gain understanding of the meaning of the terms used in this study, it is necessary to define these terms in line with how the terms were defined in a number of legislative frameworks and other sources. The terms defined here below are not necessarily the mirror image of all the terms used. Some of the terms will also be introduced in this study, which may not have been defined below. The terms used in this study include the following:

Affiliate: any person associated directly or indirectly through any one or more intermediaries (National Treasury Standardised PPP Provisions, 2004:18).

AsgiSA: Accelerated and Shared Growth Initiative for South Africa.

Auditor General: an independent auditor acting on behalf of taxpayers.

BAS: Basic Accounting System.

BEE: black economic empowerment.

BBBEE: broad based black economic empowerment.

BEC: Bid Evaluation Committee.

Black people: african, coloured, chinese and indian South African citizens.

Capital: the holistic and multi-dimensional nature of capital as it relates to far reaching effects of interventions aimed at a systemic, holistic approach to capacity improvement.

Capital expenditure: any expenditure treated as capital expenditure under GAAP (National Treasury Standardised PPP Provisions, 11 March 2004).

Contracting out: an outsourcing arrangement in which a public agency contracts with an external supplier for the provision of goods and services.

Core activities: those operational elements involving making key decision that may remain the Government's responsibility.

DAC: Departmental Acquisition Council used in Gauteng governmental departments to adjudicate over tenders.

Debt: all amounts due and payable by the private party that are outstanding under the financing agreement at that date (National Treasury Standardised PPP Provision, 11 March 2004:20).

Executing authority: Minister or Member of the Executive Council (MEC) in the provincial government.

GAAP: generally accepted accounting practice in the Republic of South Africa as approved from time to time by the South African Accounting Practice Board (National Treasury Standardisation PPP Provision, 11 March 2004:21).

GEM: Global Entrepreneurship Monitor.

Government: the body or bodies responsible for governing the state, in South Africa these bodies refer to the political executive, namely the president and his/her Cabinet at national level and premiers and members of executive councils at the provincial level (The Machinery of Government: Structure and Functions of Government, May 2003:11).

GRAP: Generally Recognised Accounting Practice (National Treasury Strategic Plan 2005 -2008:51).

Head official of the Treasury: administrative head of the department responsible for financial and fiscal matters which forms part of the relevant treasury.

Historically Disadvantaged Individual (HDI): South African citizen, who due to the apartheid policy that had been in place, had no franchise in national elections, prior to the introduction of the *Constitution of the Republic of South Africa Act, 1983* (Act 110 of 1983) or the *Constitution of the Republic of South Africa Act, (Act 200 of 1993)* (the Interim Constitution) and or who is a female; and or who has a disability.

Joint venture: distinct legal form of PPP arrangement involving public and private bodies assuming some form of equity stake in PPP.

Management of PPP agreements: measuring the outputs of the PPP agreements.

MTEF: medium term expenditure framework.

Municipality: the local sphere of government consisting of municipality, which must be established for the whole of the territory of the Republic, the *Constitution* (1996).

NERF: New Budget Reporting Format aimed at making government budget data more user-friendly.

Official: A person in the employ of a department *PFMA*, (1999).

Public-private partnership (PPP): risk-sharing relationship based on a shared aspiration between the public sector and one or more partners from the private and/or voluntary sectors to deliver a publicly agreed outcome and/or public service.

Preferential procurement policy: procurement policy providing for the protection and advancement of persons or categories of persons disadvantaged by unfair discrimination, *Constitution* (1996).

PFMA: *Public Finance Management Act*, 1999 (Act 1 of 1999).

PPPFA: *Preferential Procurement Policy Framework Act*, 2000 (Act 5 of 2000).

The PPP BEE balanced scorecard: Scorecard that provides a quick reference benchmark to measure the extent to which a PPP project in any of its phases is successfully achieving BEE in terms of the code for BEE in PPP (South African Regulations for PPPs, 2004).

Privileged or confidential information: any information determined by the institution to be privileged or confidential.

Rand value: the total estimated value of a contract in rand denomination which is calculated at the time of tender invitations and includes all applicable taxes and excise duties.

SIDA: Swedish International Development Agency.

SAP: system application process.

Small medium micro enterprises (SMMEs): any business, trade, undertaking or other enterprise which is directly owned and managed by one or more natural persons (PPP Manual, 2004).

1.8 STRUCTURE OF THE RESEARCH

The study consists of the following chapters:

Chapter 1 covers the frame of reference, problem statement, research methodology, literature review and ethical consideration. Also forming part of this chapter are the structure and the glossary of terms.

Chapter 2 provides the role and purpose of public administration in the overall management of PPP and BEE. This chapter provides insight into the management of relative policies will be provided. In explaining the role of public administration in this study, focus will be on governance and policy formulation. The state as made up of different functionaries, each playing a complementary role, is expected to have a particular structure that makes it possible for those in authority to be held accountable.

The insight gained is vital as far as explaining the role and function of accounting officers and the executing authority. The *Constitution* (1996) and the *Bill of Rights* comprise a number of sections that outline the responsibility of the state in providing for its citizens. This is the responsibility that cannot be shirked. This is analysed in the context of the study in question.

Chapter 3 discusses the contextualisation of procurement strategy for PPP in respect of Supply Chain Management as a means toward poverty alleviation through BEE. Other sources responsible for publication of information about socio-economic information will also be consulted. It will be against this background that an in-depth study on the effect of BEE and BBBEE vehicles will be made. With this information a determination whether BEE is a viable means toward poverty alleviation will be analysed.

In analysing the administration and management of BEE, a closer look will be on the procurement strategies as it applies in Gauteng in particular and other government sectors

in general. Critical in this chapter will be the departmental readiness in implementing the procurement policies.

Chapter 4 will focus on the construction as well as the utilisation of PPPs in creating wealth. A variety of factors such as the construct of PPP and implications, definition and examples of PPPs will be mentioned. Among others, this chapter will analyse factors that impact on the management and administration of PPP, in line with the discussions that have taken place in the previous chapters. The Accelerated and Shared Growth Initiative of South Africa (AsgiSA) and Joint Initiative on Priority Skills Acquisition (JIPSA) will form part of support programmes for sustainable growth and skill development as they are considered important components for black economic empowerment.

Chapter 5 will analyse the aspects of risk management, fraud prevention and ethical practices in the Public Sector. Chapter 5 discusses the aspects of performance management for senior management in the public service as critical for the good practice and performance in respect of the management of budgets. Good management helps make BEE initiative sustainable and successful.

Study of reports issued by CCMA will assist in providing information on statistical records of employees reported to have been in contravention of the policies of ethics with regard to tenders and procurement procedures. Vital to this chapter will be the study of ethics and ethical practices as understood by employees in various departments in general and Gauteng Departments in particular. An analysis of policies on ethics will be central to this chapter.

Chapter 6 analyses the Gauteng Shared Service Centre as procurement office for all governmental departments in Gauteng. The chapter will analyse the composition of bid adjudication committees, their formation and mandate. The mission and vision statements of Gauteng Shared Service Centre will be analysed with special reference to its strategic objectives in relation to the realisation of BEE through PPP. The service level agreement

(SLA) between Gauteng Shared Service Centre and the Gauteng Department of Education is referred to in this chapter.

Chapter 7 of this study provides recommendations and the evaluation of all the preceding chapters. This forms a basis for the provision of a sound foundation for the proper management and administration of PPPs. What has been learnt in the process will assist in determining whether the research question as indicated in paragraph 1.4 has been realised. The question here will further be whether wealth creation has been to the benefit of all.

Having made some contribution to the existing body of knowledge on Black Economic Empowerment and Broad Based Black Economic Empowerment, the research will at this stage highlight what works and what may not work. This body of knowledge will provide some contribution to the study of Public Administration in general and the study of Public Finance in particular. Flowing from this contribution, it is hoped further study in this field would ensue.

1.9 CONCLUSION

Chapter 1 of this study provided a synoptic presentation of the purpose of public-private partnership and BEE. The chapter explained the role of Public Administration in the implementation of BEE and BBBEE. A number of legislative frameworks were referred to in this chapter. Possible challenges pertaining to the implementation of pieces of legislations mentioned in this chapter will be discussed in detail in the chapters that follow.

This chapter covered the purpose of this research. The challenges that have been exposed so far are of such a nature that while attempts are made to resolve the socio-economic problems of blacks in South Africa, greater caution has to be exercised not to create a situation where the white population feels marginalised and neglected as this would create a vicious circle of empowerment of the disadvantaged groups.

The following chapter focuses on the role of Public Administration in the study of PPPs in South Africa. The chapter discusses the conceptual analysis of Public Administration and among others, the Government's responsibility in developing the intervention programmes.

CHAPTER 2

THE ROLE OF PUBLIC ADMINISTRATION IN THE STUDY OF PUBLIC-PRIVATE PARTNERHIP IN SOUTH AFRICA

2.1 INTRODUCTION

Public-private partnership in South Africa with reference to the realisation of BEE was discussed in chapter 1. For PPPs to be realised, it is essential that a variety of factors ranging from the policy implementation to the environment are taken into consideration. Chapter 2 is discussed with specific reference to the conceptual analysis of Public Administration. The work the officials do is closely looked at in the context of the Public Administration framework. The availability of legislations and policies responsible for the realisation of PPPs and how these policies are implemented by the officials in the public service are discussed. The generic functions of Public Administration are referred to in the paragraphs that follow, with specific reference to their functions in relation to PPPs. The discussion of the environment of Public Administration forms part of this study in that for PPPs to succeed or fail, a number of environmental factors will have to be taken into consideration. It will be difficult to determine the role that Public Administration plays in the study of PPPs in South Africa without considering the importance of the environment within which this initiative is implemented.

The perspective of Public Administration under review in this chapter applies to Public Finance in general and PPPs in particular. Mention will also be made that the state comprises policy makers and the executive authority, whose role is to implement the policies of the state. At the level where policies are implemented, one can as well speak of the functional part of Public Administration (discipline), which can be referred to as public administration (practice). Public Administration as a discipline and public administration as a practice will be analysed.

Having referred to policy and environment in the foregoing paragraph, it is equally imperative to highlight other aspects of Public Administration, which are discussed in this chapter, such as conceptual analysis of Public Administration as well as Public Administration and its generic principles such as policy, finance and organisation among others. The use of technology in the implementation of administrative mandates is referred to in the paragraphs that follow.

The state has over the years used policy as an administrative measure to enforce a particular political position. The political position may entail allowing bias to operate in a particular area of decision making. The decision in question may entail the introduction of a particular exclusionary practice and using organs of state to enforce it. The foregoing factors presuppose the importance of policy development as a way towards creating an enabling environment for the implementation of BEE and other relative pieces of legislation.

2.2 CONCEPTUAL ANALYSIS OF PUBLIC ADMINISTRATION

Coetzee (1991:42) distinguishes between Public Administration as an academic pursuit and public administration as a profession. *Public Administration* refers to the discipline or branch of instruction in regard to the process or function normally assigned to the public administration, civil servants or public official. Kent-Brown (2002:44) maintains one teaches Public Administration but one performs or carries out public administration.

Botes *et al.* (1997:257) assert that *Public Administration* is concerned with the study of all the scientific disciplines that have a bearing on the contemporary administrative and managerial practices that are presently found in public institutions. The subject in which the intrinsic and interdependent aspects of state institutions are studied exclusively is referred to as Public Administration. Public Administration is a science that continues to produce knowledge that can be analysed and applied universally to the content of enhancing theories and knowledge.

Botes *et al.* (1997:259) state that Public Administration as a science can be considered to be an embodied *corpus* of knowledge or a body of knowledge which fulfills the demands of retesting, systematisation and universal applicability. They continue stating that as a science, it is an academic discipline which can be dissected in systematic steps of study and research. Public Administration finds a field of application in the public administration.

Coetzee (1991:96-98) elicits aspects which include Public Administration as an academic discipline, an activity, a subject for teaching at University level, an applied science to be taught at academic level and an opportunity to educate and train civil servants. On the contrary, public administration as an activity refers to those activities public officials perform on behalf of the public. De Vries in Gildenhuis (1988:5) states that public administration is not in conflict but in harmony with the community and that public administration ensures effective administration, an approach that respects the values of all people.

Public Administration, as a discipline needs to be viewed from multidimensional perspectives. Du Toit and Van der Waldt (1999:9) maintain that *public administration*, as an activity, refers to the work the officials do within the total spectrum of government institution to enable different government institutions to achieve their objectives. Kuye *et al.* (2002:5) agree with Du Toit and Van der Waldt above by stating that Public Administration could mean the organisation and management of individuals and other stakeholders to achieve the agenda of government. Kuye *et al.* (2002:5) further state that Public Administration could be classified as the art and science of the management of the affairs of government as applied within the confines of the bureaucracy.

Public Administration played a role in managing and implementing the policies of the previous government. In the main, the foregoing led to the introduction of redress mechanisms intended to level disparities in the acquisition of wealth and attainment of a better life for all in the Republic of South Africa. Through PPP as policy of the current government and the introduction of BEE as a vehicle for the implementation of PPP

policy, it is hoped this rationale would be realised. Wilson in (Gildenhuis, 1987:13) posits that administrative questions are not political questions, although politics sets the tasks for administration.

The government is dependent on its administrative arm; this may as well be referred to as the Public Sector. The responsibility of the Public Sector is to implement policies of the government. Roux *et al.* (1999:21) make reference to Fayol's formalistic approach to management, which is not unique from the way management operates in South African bureaucracy. A few of the fourteen principles of management in the formalistic setup are mentioned as follows:

- i. distribution of work;
- ii. authority and responsibility;
- iii. discipline;
- iv. scalar hierarchical authority; and
- v. orderly hierarchical structure.

The above principles resonate the structure within which the executive authority operates. Supply Chain Management (SCM) is an example of this structure. The *Supply Chain Management Manual* (2004:23) outlines the hierarchy in respect of accounting and reporting, where individuals and organisations are answerable for their plans, actions and outcomes. Within the procurement framework, heads of departments (HODs) are accountable to their members of the executive council (MECs) for the overall management of procurement activities, whereas senior procurement managers would be accountable to HODs for various high level management and co-ordination of activities.

Drawing a parallel between politics and administration within the context of this study remains a daunting task as over the years, administrative functionaries have remained responsible for the implementation of political mandates. Wilson in (Gildenhuis, 1987:14) postulates that public administration is the detailed and systematic execution of public law. The role the administration has always played and continues to play in the

implementation of the policies of government does not need to be overemphasised. The implementation of policies such as PPP through BEE remains the responsibility of the administrative arm of government. Wilson in (Gildenhuis, 1987:11) maintains that administration is the most obvious part of government and that it is government in action. Without administration, policy remains dormant. Wilson in (Gildenhuis, 1987:13) states that policy does nothing without the aid of administration. Notwithstanding this interconnectness, administration remains what it is, not politics.

Du Toit and Van der Waldt (1999:22) postulate that wherever people formed communities, there were certain common needs, which by implication makes administration as old as humankind itself. Later on in this chapter, a closer look will be had on the role government plays in meeting the needs of its populace. The following main factors contributed to the origins and further development of the discipline of Public Administration:

- i. human needs;
- ii. common needs;
- iii. increasing need for services; and
- iv. need for better distribution of services.

This study is about the need for the betterment of the socio-economic conditions of the previously disadvantaged. BEE could be seen as a vehicle to realise this objective. Muller in (Gildenhuis, 1987:223) highlights the most important challenges and opportunities for the manager in the private and Public Sector, considered vital in the context of this study; as follows:

- i. the conflict between haves and have nots; and between whites, the more educated, vs blacks, the more uneducated;
- ii. third World leaders supporting a new international morality based on a redistribution of wealth to the developing countries vs the supporters of a free enterprise system and the maximisation of profits; and

- iii. limited local resources, shifting intragovernmental relations and a deterioration of the government's public image.

The introduction of PPP through BEE is aimed at the creation of wealth for the poor. Du Toit and Van der Waldt (1999:22-23) resonates a variety of challenges in the implementation of BEE, from a lack of resources to the level of education of blacks in general.

The state cannot become functional without its executive branch. Cloete (1991:3) mentioned that the state is made up of departments, which would also be considered to constitute the bureaucracy. These departments work interdependently for the betterment of the living standards of the citizenry. Dobson (2002:24-23) maintains that it is the function of the state to ensure the successful implementation of policies such as a micro-economic reform strategy in order to attain its vision and to among other things, attain the following priority actions:

- i. promoting coherent policy across government *i.e.* policies that promote growth and employment;
- ii. ensuring that all legislations and regulations promote growth and employment;
- iii. narrowing the gap between financial and operational planning with spending and identification of priorities;
- iv. restructuring government budgets to better reflect and measure the new coordinated approach;
- v. managing the mandates of parastatals and public entities in promoting growth and employment;
- vi. improve knowledge management and information sharing;
- vii. more effective management of intergovernmental relations;
- viii. improved communications, branding and marketing to build policy certainty and confidence; and
- ix. increasing the capacity of the government to spend effectively.

Though different organisations and state functionaries play important roles in ensuring that the goals of BEE are achieved, these bodies at times do have differing views in terms of how these goals should be achieved. It is common for business to consider issues of risk before releasing resources to the poverty-stricken communities. Labour organisations would be interested in ensuring that the conditions of service of their members are safe-guarded.

Above all, the rights of citizens should be respected at all costs. These include the right to access to information, the right to security, the right to education, the right to dignity, the right to good health and the right to services. It is for this reason that the *Constitution* has pointed out the importance of a variety of bodies that are responsible to play a protective role in the event an individual's rights are violated.

2.3 PUBLIC ADMINISTRATION AND ITS GENERIC FUNCTIONS

For the purpose of this study, attention is on the Public Administration and its generic function as indicated below (Cloete, 1991:78):

- i. policy;
- ii. organising;
- iii. financing;
- iv. staffing;
- v. control;
- vi. procedures; and
- vii. management.

The above concepts find relevance in the study of PPP as it relates to its structure, control and management. In other words, these concepts play a role in creating an environment for the implementation of BEE through PPP.

2.3.1 POLICY

Public Administration has evolved over the years, from being an accomplishing side of government to being an active partner in the carrying out of the policies of elected officials and some activities associated with the development of those policies. Younis (1990:3) maintains that the inability of a government to successfully implement its policies will be poorly received at a subsequent election. Stevenson has been quoted by Shafritz and Hyde (1991:1) appropriately when he pointed out that public administration is all that comes after the last campaign promise and the election night cheer. The latter suggests that public administration is indeed encompassing all that happens within the bureaucracy.

Cloete (1991:79) asserts that in public administration the policy will always predominate and continues to state that the constitution is the first policy statement of the state and usually the most difficult one on which to reach agreement. The conversion of policy into an act is an act of public administration. Du Toit and Van der Waldt (1999:17) identify four administrative regulators, namely:

- i. administrative processes;
- ii. management processes;
- iii. administrators; and
- iv. output.

The implementation of policies on BEE is an administrative process that requires involvement of all the above. It remains the responsibility of administrators to manage and account for the success or failure of the implementation process.

Policy-making forms part of the administrative function. Policy formulation as pointed out below presents a succinct example of an administrative process. Kuye *et al.* (2002:5) posit that *Public Administration* is a term used to mean the study of selective practice of the tasks associated with the behaviour, conduct and protocol of the affairs of the

administrative state. Kuye *et al.* (2002:71) maintain that administrative action cannot take place if specific goals and objectives have not been set.

The determination of goals and objectives are determined on the basis of particular policy options that must be realised. What could be brought to bear here may be areas in which the government is not rendering service as it is expected of it to by its populace, e.g. providing for the socio-economic needs of its citizens. It is vital for checks and balances to be put in place to ensure that the populace is treated fairly without undue bias. The *Draft Interim Procurement Framework Manual* (2002:8), points out that in the Gauteng Provincial Government, the GSSC will ensure that a framework of procurement laws, policies, practices and procedures will be transparent and accessible to all parties; that GSSC will ensure openness in the procurement process and that effective competition will be encouraged. The departments are urged to eliminate bias and favouritism and to ensure that potential vendors have reasonable access to procurement opportunities.

De Greene (1993:176) submits that the adoption of a policy should presuppose that viable plans have been made to enable bias to operate in relevant areas of decision-making. De Greene (1993:176) states that for policy not to be wishful thinking, ways should be found for agents to make choices to conform to organisational policy through inspection and follow-ups. Anderson (2000:5) takes this debate further by stating that policies must be purposive or goal-oriented and that they should consist of the following: patterns of action taken over time by governmental officials rather than their separate discrete decisions, they emerge in response to policy demands, involve what governments actually do and that public policies can either be negative or positive. It is against this background that a discussion on policy related practices, whether negative or positive, becomes vital.

Of importance in this chapter is the role of politics in policy development on economic development and the responsibility of the bureaucracy in implementing them. The latter is the cog in the wheel of the service delivery machinery. King *et al.* (2004: 851) posit that both administrative teams and individual ministers matter to policy output. This

statement rules out the notion that administrators should be seen as observers in matters of policy, more so that their performance would be evaluated on the basis of policy outputs.

2.3.2 ORGANISING

Cloete (1991:112 -114) refers to *organising* as the function involved in creating and maintaining organisational units called institutions. The state is manifested by a multitude of public institutions known as organisations. Organising consists of classifying and grouping functions for workers to achieve a particular objective. Attendant to organising is the fact that a specific organisational arrangement will always have to be made to meet the peculiar needs of particular fields of work. Simply put, this postulate finds expression in the role that a variety of governmental departments at national, provincial and local spheres play in meeting the particular needs of the populace. According to *GSSC: Procurement Migration* (2002:7), the reporting structure, role design and team design for the procurement process are divided according to the following:

- i. Chief finance officer as head of finances;
- ii. Asset controller, whose role is to focus on overall asset management, reporting and control;
- iii. Procurement co-ordinator, whose duty is to process data into the System Application Process (SAP), controls budgets and authenticity; and
- iv. Liaison role and co-ordination; and
- v. End user, whose role is needs identification.

The PPPs thrive in an environment where *roles* and *responsibilities* are defined. Van Niekerk *et al.* (2002:66-67) make mention of the principle of the separation of powers, which is referred to as *trias politica*. What appears to be problematic is the presentation of these spheres of government in hierarchical order. The separation of power as referred in Section 40 (1) of the *Constitution* (1996) states that in the Republic of South Africa,

the Government is constituted as national, provincial and local spheres of Government which are distinctive, yet interdependent and interrelated. The implementation of the PPPs through BEE to create wealth for the Republic of South Africa will be effective if all spheres of Government take responsibility.

The accounting officers at all spheres will have to be held accountable by their immediate supervisors, in this case, the executing authority or the mayors in respect of the local government. In the absence of well organised reporting structures at all the spheres, it will be difficult to measure and evaluate the levels of success. A well organised structure is the one that makes it clear for the accounting officers to report directly to their supervisors. This is the structure where the head of the Department of Public Works for instance, would not be accounting to the minister of the Department Public Works at national level but to the MEC.

The executive branch of government is faced with the challenge of making the objectives of government realisable, *viz.* that of rendering service to the citizens. The Government of South Africa is faced with the responsibility of ensuring that the poverty scales are halved and unemployment rate is dropped in line with *Vision 2014* as referred to by Dobson (2002:24). This is in line with the international obligation of poverty alleviation as addressed in this study. The introduction of PPP through BEE is intended to achieve broad goals of poverty alleviation. For the Public Service to manage the introduction of BEE, it has to be structured in the manner that complies with the principles of management.

Van Niekerk *et al.* (2002: 65) state that the capacity of Government to act and deliver a good service is dependent on its structures. The structures of government, if well organised, as mentioned in the previous paragraph, would make it possible for Government to reach its target goals. Though it may have been the case in earlier years, the current *Constitution* (1996) stipulates that in the Republic the Government is constituted as national, provincial and local spheres, which presupposes that every sphere though independent from another, may coexist not in a hierarchical order. BEE may as a

result be implemented at all spheres of government, with the responsibility put on the shoulder of an accounting officer in each sphere who is accountable for the procurement processes.

The Republic of South Africa introduced BEE as a way of redressing the imbalances of the past discriminatory economic policies. The enforcement of the laws responsible for the implementation of the BEE strategy is done with the help of the courts of law and other related structures such as the Public Protector, more especially in case of disputes pertinent to allocation of tenders. In Gauteng Provincial Government (GPG), the governance of procurement, according to *Draft Interim Procurement Framework Manual* (2002:8), is done on the basis of a number of structures that take account of procurement processes, these are: Departmental Acquisition Council (DAC), Accredited Procurement Units (APU) and GSSC Acquisition Council. These structures ensure that procurement at all levels within GPG is streamlined.

The *Draft Interim Procurement Framework Manual* (2002:9) stipulates that all government staff associated with procurement, particularly those dealing directly with vendors or potential vendors are required to:

- i. recognise and deal with conflict of interests or the potential therefore;
- ii. deal with vendors even-handedly;
- iii. ensure they do not compromise the standing of the state through acceptance of gifts or hospitality;
- iv. be scrupulous in their use of public property;
- v. provide all assistance in the elimination of fraud and corruption;
- vi. keep open, honest and co-operative business relations with colleagues and vendors;
- vii. ensure confidentiality of both government and commercial information;
- viii. avoid conflict of interest or a perception of bias;
- ix. disclose possible conflict of interests;

- x. ensure fair dealing and impartiality in the conduct of tender evaluation;
and
- xi. the highest possible standard of professional competence and encourage similar standards among all staff.

The above requirements are important in that all officials responsible for procurement would be expected to comply with the stipulated procedures. These requirements make it easier for the line managers to hold officials accountable in case they have violated procurement procedures. The GSSC as procurement service is analysed in Chapter 6.

2.3.3 FINANCING

Cloete (1991:133) posits that as much as it is difficult for a person to initiate business without money, similarly a public institution requires money to operate. The functionality of institutions depends on checks and balances. Section 188 (1) - (4) of the *Constitution* (1996) stipulates that the Auditor-General must audit and report on the accounts, financial statements and financial management of all national and provincial departments and administrations; all municipalities and any other institution or accounting entity required by national or provincial legislation be audited by the Auditor-General. The duties and powers of the Auditor-General, according to *PFMA*, (1999) are as follows:

- i. to investigate any public entity or audit the financial statements of any public entity;
- ii. to recover the cost of the investigation or audit from the public entity;
- iii. to claim the reasonable cost of performing the duties and exercising the powers from the public entity concerned; and
- iv. to annually report to parliament on specific and general findings regarding the accountability of public entities.

As stated in the previous paragraph, the public entities require money to operate. In carrying out their operations, it is essential for the public entities to handle public money accountably. It is for this reason that the Auditor-General plays an essential role in accordance with legislated financial policies such as the *PFMA*, (1999).

Section 216 (1)-(5) of the *Constitution* (1996) states that national legislation must establish a national treasury and prescribe measures to ensure both transparency and expenditure control in each sphere of Government. The foregoing could be done by introducing generally recognised accounting practice, uniform expenditure classification and uniform treasury norms and standards. Paragraph 2.3.2 above makes reference to structures that are responsible to ensure the observance of norms and standards in the entire Public Service. Van Niekerk *et al.* (2002:126-127) posit that an effective system of accountability is at the very heart of an open and transparent democracy. Through the standing committees of Government, Parliament may demand accountability of the executive in financial matters.

Fourie in (Kuye *et al.* 2002:101-102) states that in the past, financial processes were controlled centrally by prescribed rules. The financial processes were further centralised within departments, in terms of financial components managing the budgets for line managers. The system in use today in the Public Service is the zero-based budgeting system, which aids effective prioritisation of objectives, programmes and activities. Various other functions were in the past seen in isolation, which today are considered part of financial management. Examples of other financially related functions as stated by Fourie in (Kuye *et al.*, 2002:102) are:

- i. personnel management – Public Service Regulations;
- ii. provisioning – management and control of movable assets;
- iii. procurement – requiring goods and services;
- iv. computerised accounting and management system – financial accounting, stock control, personnel control systems and management information systems;

- v. strategic planning – setting missions, visions and objectives;
- vi. auditing and accountability – reports of the Auditor-General;
- vii. constitutional aspects – requirements influencing finance;
- viii. government structures – central, provincial and local government and
- ix. parliamentary processes – working of the Standing Committee on Public Accounts.

The above functions play a role in ensuring the proper management of public finances in that all procurement processes in pursuit of BEE through PPP require accountability and skill on the part of personnel and other relative formations such as the Standing Committee on Public Accounts (SCOPA). The challenge with the departments in the Gauteng Provincial Government is that, GSSC remains the buyer. According to *Gauteng Provincial Government Supply Chain Management Manual* (2004:16), one component of the GSSC was the creation of a procurement organisation for the Gauteng Provincial Government and that it will be the responsibility of the GSSC to procure goods and services for all Gauteng Provincial Government departments. The challenge here is that the accounting officers of various departments in the Gauteng Provincial Government may not be completely held accountable for whatever goes wrong at the level of procurement, though they remain in charge of the budgets allocated to them.

The sections following deal with a number of areas mentioned in the previous paragraph. BEE thrives in the environment of sound controls and measures. Where all these are lacking, corruption sets in as accountability on the part of personnel remains key to sound financial management.

2.3.4 STAFFING

Staffing depends on the availability of money and the strategic thrust of the organisation. Like any other organisation, the government uses its administrative functionary to achieve its political mandate. The challenge is whether the officials in the Public Service are well trained to carry out the task. The role of consultants in building capacity of the

officials remains crucial in the Public Service. In the previous paragraphs, a discussion on structure and organising was given. The organisational structure requires money to function optimally. Cloete (1991:151) posits that once legislation has been passed to give effect to a specific policy, the organisational arrangements have been completed and money has been made available, the officials can be appointed to make the institution operational. Cloete (1991:151) further states that staffing function is also a personnel function, personnel administration and personnel work. For the proper implementation of a PPP policy, staffing becomes crucial in that it is the responsibility of personnel to manage, monitor and control the PPP programmes.

When policy has been provided and objectives declared, the other generic administrative functions can commence with the managerial, auxiliary, instrumental functions and functional activities. Of note is the fact that administrative functions work in co-operation with one another. The GSSC is a case in point where managers manage the budgets and the GSSC carries out the procurement task. In addition to the foregoing, the proverbial cogwheel, which fits in the analogy of interdependency of state functionaries, would appropriately feed the analogy of the state bureaucracy (Cloete, 1991:151).

The officials in the Public Sector require training to carry out tasks that have been designed for service delivery. The state often relies on service providers from outside the Public Service for skills transfer. The identification of service providers has never been an easy task, more especially if the rationale for procuring the service has not been outlined. The paragraph below outlines how the BEE goals are realisable through the use of consultants. The use of consultants in the Public Sector often poses a serious challenge when quality rather than quantity is to be pursued. The partnership between consultants and governmental departments should be that of capacity building and acquisition of skills. Dobson (2002:17) alludes to the cross-cutting issues that need to be taken into consideration for the future competitiveness of the country's economy. These are:

- i. appropriate and efficient economic and social infrastructure;

- ii. access to finance for productive activities;
- iii. investment in research and development;
- iv. innovation and the take-up of new technologies; and
- v. investment in human capital and an adaptive, flexible workforce.

Public servants are expected to be well capacitated to be held accountable for the management of financial and personnel resources. It is for this reason that reputable and renowned service providers should be considered for the task of building capacity in the Public Service. The equitable implementation of PPP through BEE is dependent on knowledge and skill on the part of public servants. For example, if the Department of Public Works begins the process of building a bridge for instance, as part of the Expanded Public Works Programme, it will be necessary for a procurement process to be followed, not only to hire consultants with the knowledge of project management, but also to hire engineers to ascertain the appropriateness of the soil and the materials to be used for instance. The same applies to the process of procurement in the Department of Education where training would be required for specific training needs. The National Department of Education has introduced a new curriculum referred to as National Curriculum Statement (NCS), 2002. It is incumbent upon all provinces, including Gauteng to implement the new Curriculum. The challenges experienced are associated with the level of competence among the educators. It is the responsibility of the GSSC to procure service providers who are able to train the educators in this regard.

2.3.5 CONTROL

Roux *et al.* (1999:75) posit that one of the characteristics of organising is the establishment of a hierarchical or pyramidal structure of positions. The pyramidal structure presupposes a span of control for each layer of the pyramid. The span of control refers to the limitations in the psychological and physical abilities of the individual to supervise a given number of subordinates. The previous section on staffing is inextricably linked to span of control in that it is the personnel at a particular level who are in control of processes and procedures of procurement, for instance.

Roux *et al.* (1999:272) maintain that the delegation of authority and functions still remain one of the complex problems requiring control in order to prevent the abuse of authority and functions and illegal execution of state functions. Though the authority may not be centralised in one person for fear of abuse, similarly the authority need not be centralised in one office to avoid corruption and abuse of power.

For PPP to be implemented in a manner that realises the objectives of BEE such as poverty alleviation, it is expected of all levels of the hierarchy to be capable of executing the administration duties required for that particular level. Personnel in managerial positions are expected to be well qualified to be able to control and guide their subordinates. At the level of subordinates there are supervisors who also are expected to possess a particular skill to be able to lead and control. It is equally unimaginable how a finance manager without knowledge of finances can be in control of budgets of a particular department and control income and expenditure in line with the acceptable accounting procedures.

The implementation of BEE through PPP may be made easier if the focus is not only given on supplementing the skill of officials in the Public Sector but also on holding the departmental officials accountable to their actions in the use of public budgets. It is for this reason that the independent and unbiased opinion of the Auditor-General would be welcomed. The bias referred to above may include giving tenders to members of a particular organisation, where membership would be considered a criterion for allocation of tenders. The duties of the Auditor-General as highlighted in paragraph 2.3.3 play an important control functions in that accounting officers and the personnel responsible to dispense tenders are being held accountable for their actions.

The *PFMA*, (1999) stipulates that the accounting authority of a public entity must ensure that the public entity has and maintains effective, efficient and transparent systems of financial and risk management and internal control. Attendant to the foregoing, the *PFMA*, (1999) states that the accounting authority should have to maintain a system of internal audit under the control and direction of an audit committee complying with and

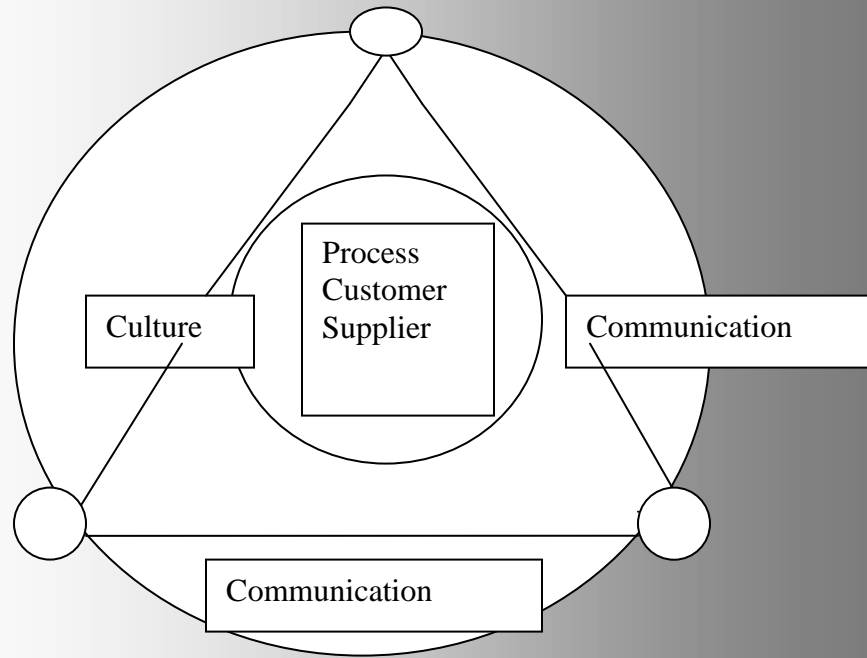
operating in accordance with the regulations and instructions prescribed in terms of the *PFMA*, (1999).

Quality processes should entail aspects of communication, culture and commitment. The need to observe the principles of *Batho Pele* (People first), which should permeate the entire work environment, cannot be undermined. The permeation of *Batho Pele* forms a culture of work that takes as its point of departure the notion of customer being important. It is the culture that calls for commitment on the part of the supplier and the customer, with effective communication underlying this interface.

Figure 2.1 provides a summary of Total Quality Management (TQM) model which is important in this study as far as it demonstrates quality processes relevant in the process of customer-supplier interaction. The implementation of PPP through BEE calls for customers-supplier interface. It is expected of the buyer of service to have mechanisms in place to process the payments of the service providers on time and in the right accounts. The customer-supplier interaction presupposes aspects of ethical behaviour. The aspect of communication is vital in as far as it is expected of customers (potential service providers) to be conversant with the language used in the tendering processes.

PPP is about customer- supplier interaction, whether it is internal as with subcontractors or external as it relates to vendor/client, namely service provider and a department that has commissioned a service. The model in figure 2.1 seeks to expand on this interaction, without which it will be difficult to understand what is at play in this interaction. The implementation of BEE through PPP requires the involvement of legal experts in drawing contracts. The role of banks is critical in this area more especially for small business enterprises that may not have sufficient funds.

Figure 2.1 -The foundations: a model for total quality management



Source: Oakland, JS 1996 Total Quality Management. Johannesburg: Butterworth Heinemann: p1.

The aspects of this model are discussed in paragraph 2.4. BEE through PPP thrives in an atmosphere that is supported by the mutual relationship between the customer being, the citizens and the supplier, in this case the supplier being the government. This relationship is not static as the government can as well assume the role of customer where members of the public supplies the service the government requires. The interface between the public and the government should be underpinned by a culture of mutual respect.

The question can be asked: what is bureaucracy? Osmani (2005:140) provides the definition of what bureaucracy is. He posits that the term *bureaucracy* emerged from the

18th century, where the French referred to the cloth covering desks of French government officials. The term in broader sense means large formal structure consisting of procedural arrangements. The term may of necessity not be confined to government as it may include the private sector or non-governmental organisation. The term *bureaucracy* is in the main, used in connection with government. Reference has been made in paragraph 2.2 on how the formal structures operate.

When a consultant is commissioned, emphasis does not need to center around poverty alleviation through empowerment, what has to be a driving force should be quality. Oakland and Porter (1996:4) define *quality* as meeting the customer requirements. They further posit that quality goes with reliability. The importance of this definition goes as far as the need to procure goods and services. The question could be asked whether this procurement should be concerned about reliability and quality at all or should it only meet one requirement, namely black empowerment. It is for this reason that quality assurance measures as control mechanism come in handy. This can take the form of assessment questionnaires, thorough quality checks and availability of delivery documents.

Procurement Migration (2002:31) stipulates the risk control process. The risk control process starts with the remaining line structure (RLS) clarifying needs and submitting a requisition to the GSSC using the system application process (SAP). The process of need clarification serves the purpose of limiting the risk where items that have not been identified are not sent through to the GSSC for procurement. The items that are procured should be the ones on the GSSC catalogues. The GSSC then compiles quotes from roster (QFR) and later sends the same through to the Departmental Acquisition Council (DAC) for approval and awarding the tender (*GSSC: Procurement Migration*, 2002:31-33). The control measures outlined above are essential for the realisation of transparency in the awarding of tenders. The BEE mandate should be carried out in line with the needs and specifications of the service required by the departments.

2.3.6 PROCEDURES

Roux *et al.* (1999:184) postulate that the completion of any activity in any governmental institution in all spheres of government demands orderly and systematic work procedures. Roux *et al.* (1999:124) define *procedure* as a series of consecutive steps created for the realisation of a particular task. The implementation of procedures depends on a variety of factors such as the intellectual abilities of individuals, complexity of the matter to be understood, the patience of individuals, stress levels to be borne by subordinates and the physical condition.

The introduction of a number of pieces of legislation to regulate the implementation of BEE through PPP as well as the new procurement procedures such as supply chain management may create problems if not well understood by officials. Some of the challenges that are likely to be experienced in implementing BEE may be attributed to a lack of capacity among officials. Compounding these challenges may be when the budgets allocated for the implementation of BEE to various departments do not get spent. The introduction of complex procedures may result in high levels of doubt and fear on the part of personnel who may choose rather not to spend the budget, lest they be guilty of flouting the procedures and regulations.

The procedures for the completion of work may differ from one institution to another within the same governmental unit. Often-times these procedures are laborious and frustrating to the point where small business enterprises that depend on government payout for the service rendered may end up losing other opening opportunities for lack of resources. The GSSC as the procurement organisation of the Gauteng Provincial Government often finds it difficult to process all requisitions on time. From the point of sending out tenders for a bridge to be built to adjudication of the same, may take no less than three months. The BEE processes often get frustrated by the lengthy waiting period, which go as far as affecting the payment for the work rendered. All these delays often happen under the guise of risk control. The *Draft Interim Procurement Framework Manual* (2002:84) stipulates other processes which if not properly managed may cause

delays that may be costly for small businesses. These include cases where the South African Bureau of Standards (SABS), for example, would be asked to draw specifications in order to test the product prior to either the continuation of the production or the approval of the quality of the product for payment to be finalised.

At times, procedures for service procurement are so complex that it may require capacity building on the part of personnel to be able to make sense of what is required. For lack of time and sufficient skill in the Public Sector, the use of consultants becomes an alternative. In a PPP arrangement, the private sector comes with the necessary equipment and skills, while the government provides other resources such as infrastructure and finances.

The change from tender boards to supply chain management as well as the use of the Basic Accounting System (BAS) and SAP to process payments for the service rendered require meticulous expertise, which may not necessarily be obtainable in the Public Sector. All the foregoing factors play an important role in the implementation of BEE through PPP as far as dispensing financial resources for empowerment.

Procedures regarding the procurement of goods and services would encapsulate a number of processes. The (*Procurement Migration, 2002:5*) stipulates the following:

- i. developing sourcing strategies;
- ii. vendor pre-qualification and vendor and contract management;
- iii. product cataloguing;
- iv. tender processing and management;
- v. market research;
- vi. BEE development and BEE accreditation; and
- vii. fixed asset administration.

All the above play an important role in managing PPP and BEE processes in that they presuppose a required level of planning, organising and control. These procedures are

linked to the generic functions as discussed in this paragraph and they give meaning to the role that Public Administration plays in the PPPs. Issues of reporting as important factors are discussed in paragraph 6.4. The next paragraph focuses on the environment within which Public Administration operates.

2.4 THE ENVIRONMENT OF PUBLIC ADMINISTRATION

Du Toit and Van der Waldt (1999:118-131) define *environment* as synonymous to surroundings, neighbourhood, vicinity or precinct and that it influences the availability of resources needed by an organisation. The *environment* is described as consisting of the entire phenomenon surrounding people and influencing people's actions. The environment can be social, economic, political or statutory. Of importance is the fact environmental factors are not always the same in the different areas in which, for instance, the national government, provincial and local perform their functions. Roux *et al.* (1999:177) maintain that when a community is established and requests an own municipal authority, the development potential of the community should be considered. A community with a low development potential will not be self-sustained and will find it difficult to cater for the social needs of the poor in terms of creating wealth. The creation of wealth should not be associated with giving alms, but enabling the community to stand on its own and contribute to the economy. The PPPs through BEE are made possible where the spheres of government contribute towards the envisaged projects.

The above postulate lends credence to the fact that even the implementation of BEE through PPP should take into consideration the level of readiness for various communities to benefit from it. It is for this reason that the environment of Public Administration is discussed on the basis of the political, economic, social/ cultural and technological factors.

2.4.1 POLITICAL FACTORS

Political factors play a significant role in determining the environment in which the citizens live. These factors have over the years played an important role, even as far as directing the economy of this country is concerned. Reference will be made to how these factors determined and ordered the context of the political landscape of the Republic of South Africa.

Van Niekerk *et al.* (2002:15) maintain that as an ideology, liberalism supports the view that the state should interfere minimally with the freedom of the individual. The use of political power invariably implies infringement on the rights of individuals. It will be difficult to rule out the use of political power in the allocation of resources in South Africa; now and in the past, notwithstanding that the Republic of South Africa is not a liberal state.

Apartheid systematically and purposefully restricted the majority of South Africans from meaningfully participating in the economy (*South Africa's Economic Transformation: A strategy for Broad-Based Black Economic Empowerment*, 2003). The assets of millions of people were directly and indirectly destroyed and access to skills and to self-employment was racially restricted. The strategy asserts that the period since 1994 has seen the South African economy undergo profound restructuring.

The historical perspective on the BEE formation has attempted to shed some light on the direction in which the new Government is heading in terms of the need to correct the ills of the past Government, which can be blamed for the seed of underdevelopment of blacks in South Africa. In view of the fact that the underdevelopment of blacks in South Africa was a result of the policies of the past, it will take new and democratic corrective measures to rectify this situation. The entrenchment of policies of separate development found their roots even in clandestine structures such as the Broederbond. An inference can therefore be made that had it not been for the historical inequalities, which were

informed politically by policies of separate development, there would not have been any need for BEE, which can, on the other hand, be seen as a redress mechanism.

It can be argued that the introduction of BEE is as a result of the historical ills of the past, which could be said to be responsible for the social inequalities as spelt out in the foregoing paragraphs. The impact of politics on society manifests itself in the policies of the government of the day. These policies may include poverty alleviation, subsidies and aid. The ills of the past may not be reversed by a mere introduction of laws and regulations. What is of administrative essence remains how those laws and statutes are interpreted and translated into reality. The following sections discuss the rationale for PPP through BEE. It is advisable to read this paragraph in juxtaposition with the historical background as discussed above.

2.4.2 ECONOMIC FACTORS

Van Niekerk *et al.* (2002:16) maintain that liberal thought includes the belief that a market economy exhibits a powerful tendency towards equilibrium and stability over the long term. Present-day liberal economists believe in *progress*, which is defined as an increase in wealth per capita. The rationale for BEE has been for poverty alleviation among blacks. This can be said to have a bearing on economic development in general. Mohr *et al.* (2001:641) posit that economic development is not simply an increase in real gross domestic product (GDP) or real GDP per capita. It is a process whereby countries or societies are transformed and this process involves the interaction of economic, social and political change.

Economic development policy consists of a wide range of policy measures. In South Africa, the Reconstruction and Development Programme (RDP) could be regarded as development policy. Development policy includes measures aimed at achieving industrial development, agricultural development and human development (Mohr *et al.*, 2001:642).

BEE is a government-initiated programme and has been defined in *Broad Based Black*

Economic Empowerment Act, 2003 (Act 53 of 2003) as meaning the economic empowerment of all black people, including women, workers, youth, people with disabilities and people living in rural areas. This empowerment is envisaged to be supported by a variety of strategies such as the procurement strategy. In order to understand the role that government plays or should play, a broader understanding of poverty and economics is essential.

Parkin (1998:8-11) posits that economics is a science of choice. It is the science that explains the choices made and how those choices change as consumers cope with scarcity. Parkin (1998:11) further postulates that the market does not always work efficiently and sometimes government action is necessary to overcome market failure and lead to a more efficient use of resources. Market failure can also arise when producers do not take into account the costs they impose on other people. To overcome market failure, government regulates markets with antitrust laws and environmental protection laws (Parkin, 1998:15).

Discussion paper entitled *A Nation in the Making*, released by the Presidency shows there was a marked improvement in access to basic services by 10% of the poorest household. Changes in access to basic services by poverty group have been represented diagrammatically as follows (*A Nation in the Making*, 2006:13):

Table 2.1 - Changes in access to basic services

Basic Service	% poor households		% of non-poor households	
	1995	2000	1995	2000
Public electricity	34,9	58,4	79,8	85,6
Piped water	59,3	77,2	88,7	94,0
Sanitation facility	74,6	71,7	93,7	91,3
Telecommunication	5,9	16,1	41,8	52,2

Source: Presidency, 2006. *A Nation in the Making*, Pretoria: Government Printers. p13.

The share of households with access to electricity for lighting and cooking has shown spectacular gains (*A Nation in the Making*, 2006:14). For the poorest in decile 1, access to electricity for lighting grew by 57, 8%. The study shows that access to housing grew by 42% and 34% for the first and second decile between 1993 and 2004, and 21% and 16% for deciles 3 and 4.

Poverty, housing and land reform programmes have played an important role. The Report points out indirectly that, mobility resulting from the advent of democracy, Broad Based Black Economic Empowerment (BBBEE) and assistance to small medium micro enterprises (SMMEs) as well as changes in the tax structure have improved the asset profile of black South Africans (*A Nation in the Making*, 2006:14).

The discussion of poverty levels covers a wide range of pertinent factors, ranging from employment to gender preferences of the employers. This should be seen as a challenge rooted in the history of biases and stereotypes. The issue of skills and gender biased empowerment will be discussed later in this study. The following statistics of major trends have emerged over the years:

- i. the proportion of skilled categories among the employed increased from about 40% in 1996 to 46% in 2001;
- ii. there is a reduction in craft and related trades – reflecting in part the restructuring of the economy, but also a weakness in the training of artisans – and this trend is more pronounced among africans;
- iii. there has been a slight increase in the proportion of africans in the category of legislators, senior officials and managers, from 1,7% in 1996 to 2,3% in 2001; and given the massive increase in the legislators’ category, the trend in other categories should be dismal; and
- iv. by far the most significant proportion of african employees remain in elementary occupations, with a disproportionate large percentage made up of women (*A Nation in the Making*, 2006:19).

The statistical representation above might have changed from the time the research was first conducted. It will be necessary to refer to the socio-economic report from the Human Rights Commission (2006:5) to determine the extent of poverty in South Africa presently. Economists at times link poverty to economic growth, rather than economic development; these concepts are defined in this study.

After 12 years of democracy in South Africa, the struggle still continues for the poor. The report reveals that the depth of poverty for those households living in poverty has increased and that the gap between the rich and the poor has widened (6th *Economic and Social Rights Report*, 2003 -2006:65). In 2002, approximately 19,5 million people lived below the poverty line, which shows an increase of 2, 2 million from the reported 17,2 lived below the poverty line in 1997. Of those living below the poverty line, between 7 and 15 million people lived in utter destitution. The United Nations Development Programme (2004:6) states that the poverty rate in South Africa stood at 48%.

The foregoing statistics contradicts the assertion by Erwin (1999), former minister of the Department of Trade and Industry when he stated that:

There has been consistent improvement in the South African manufacturing sector since 1999. At the same time, also experiencing a steady increase in the share of exports in manufacturing outputs.

In the same vein, Erwin provides the following summary (*South African provinces, cities and towns*, 2003/4: 4):

Table 2.2 - South African manufacturing sector

	2001	2002	2003
Production volume	3,5%	4, 4%	5, 5%
Export volume	3, 6%	6, 6%	10, 5%
Fixed investment	3, 1%	7, 2%	10, 2%
Employment	-2, 5%	-0, 4%	0, 9%

Source: Republic of South Africa 2003/4:4 *South African provinces, cities and towns*, RSA.

The high poverty rate in South Africa is a direct consequence of the high unemployment rate, with analysis describing the labour market situation in South Africa as chronic and structural. Unemployment was recorded at 31% in 2003. The figure may even be higher with the expanded unemployment figure for males being 46, 6% and that for females being 53, 4% (The Republic of South Africa: *South African provinces, cities and towns*, 2003/4:4).

The above debate lends credence to the view of Osmani (2005:9) in as far as the one-to-one relationship between growth and employment is concerned. The evidence shows that the extent to which poverty responds to growth varies enormously across time and place. The latter explicitly puts the challenge at the doorstep of administration in that time and space need to be taken seriously in this study. A classic example is the economic demise in Zimbabwe where land seizure was probably not mindful of the repercussions that would have to be visited on the populace, bearing in mind that land could have been used to create wealth for the entire populace. The relevance of the foregoing to the topic under discussion is that policies are created for among other things, to redress and to create equity. BEE in South Africa is meant to correct policies that could have been

discriminatory. It could be argued that this might have been the result of poor governance and ill-perceived administrative intervention. These are the lessons that have to be learnt when crafting the policies that seek to empower the populace. The implementation of BEE needs to be done with a broader perspective of alleviating poverty for now and in future.

Osmani (2005:9) introduces an analytical framework for the study of poverty. Two sets of factors determine the responsiveness to growth. These are the elasticity factor and the integrability factor. The elasticity factor determines the extent to which the employment nexus between growth and poverty is strengthened. The integrability factor determines the extent to which the poor are actually able to seize the employment opportunities opened up by the growth process, for example, by acquiring the skills or assets required to undertake a productive job.

Osmani (2005:9) postulates that for growth to reduce poverty fast, it is important not only that the rate of growth should be high but also that the elasticity and integrability factors should be favourable. On poverty reduction versus growth, Osmani (2005:9) argues as follows:

The evidence also confirms, however, that there is no one-to-one relationship between the rate of growth and rate of poverty reduction. The responsiveness of poverty to growth varies enormously between countries and within the same country at different periods of time.

The above argument has resonance to Mohr *et al.* (2001:642) in their discussion of economic development versus economic growth. They argued that after World War II much happened which stimulated interest in the less-developed countries (LDCs) and in economic development as a sub-discipline of economics, these included the following:

- i. the rapid growth of the developed countries (DCs) after the war and a concomitant improvement in the living conditions of the majority of

- inhabitants of these countries, which increased the gap in average living standards between LDCs and DCs;
- ii. the communication revolution, which made people in the DCs more aware of the poverty in the LDCs and which also made people in the LDCs more aware of the affluence of the inhabitants of the DCs and the gap in living standards;
 - iii. the Cold War, which led to competition between the United States and the Soviet Union to find favour among the LDCs;
 - iv. the growing international awareness of the consequences of the population explosion in LDCs; and
 - v. decolonisation and the consequent political independence of the former colonies, which resulted in an upsurge in nationalism and the establishment of a new power bloc in international policies (Mohr *et al.*, 2001:635).

This study is about BEE as an instrument aimed at poverty reduction and economic growth through the use of PPP. In order to realise this objective, the Government has put in place a number of laws and regulations such as the *Preferential Procurement Policy Framework Act 2000* (Act 5 of 2000). This debate on growth versus poverty reduction is pertinent to the study in particular and the study of Public Administration in general.

The question of economic development is portrayed as touching the core of poverty elimination and provision of jobs to the jobless. The question that has not been raised though is gross domestic product (GDP) as a measurement of growth. Marsh and Stoker (2002:259) argue that the reliability of some data may be misleading. Pivotal to this skepticism is the use of per capita GDP as a measurement of economic success. This postulate touches on the problem statement that seeks to determine whether BEE through PPP achieves the objective of poverty alleviation.

Per capita GDP measures the market value of the total goods and services produced in a given economy over a given period, which is normally used by economists and political

scientists as well as politicians as an indicator of wealth. Marsh and Stoker (2002:259) argue that the use of GDP as a measure is deceptive in terms of its precision as it fails to capture economic production which is not monetarised, such as housework, the black economy and agricultural work in some countries. It is often calculated in dollars and it is therefore distorted by the fluctuation of foreign exchange markets. GDP is often accorded a reliability it does not deserve. Thus it becomes difficult to determine with certainty by the use of GDP whether indeed progress has been made in empowering the populace economically.

2.4.3 SOCIAL FACTORS

The role of the government may be considered to be multifaceted. *Environment* should therefore be discussed in relation to people and their condition of life. BEE is for people and therefore the government is responsible for ensuring that the environment exists for its implementation. BEE should be implemented to promote people's living standards by alleviating poverty. The last chapters of this study will evaluate whether this rationale has been achieved. Dobson (2002:23-24) states that a four pronged BEE approach has been adopted, these entail the following:

- i. the provision of an enhanced environment for BEE;
- ii. the introduction of new products by the government to promote BEE including the proposed integrated financing mechanism, further procurement reforms, opportunities created through the restructuring of state-owned enterprises, land reforms, support to co-operatives, the development and implementation of sectoral BEE strategies and business development support;
- iii. the introduction of a partnership programme with private sector; and
- iv. the establishment of a non-statutory BEE advisory council.

Discussing the social factors without reference to a particular ideology remains a daunting task. Discussing the social factors in the context of South African society

compounds this challenge even further. South Africa is largely characterised by liberalistic ideology. Van Niekerk *et al.* (2002:14) maintain that the liberal tradition in politics has centred on religious toleration, government by consent, personal and economic freedom. The *Constitution* (1996) promotes human rights. In order to promote humanness and alleviate poverty, the present Government has introduced BEE. Whether BEE has achieved the objectives for which it has been introduced, will only be determined later on in this study.

Du Toit and Van der Waldt (1999:122) define *social factor* as human coexistence and how people benefit from a particular association with one another. Human beings are in association with one another because they are social beings. Examples of other associations are cultural groups, church groups, employee and employer interest groups.

Former deputy president Mlambo-Ngcuka (2006) stated that the core objective of the government is to halve poverty and unemployment by 2014. A gloomy picture of literacy in South Africa has been painted. Some 32% of the adult population of about 30,5 million may be regarded as functionally illiterate and the functional literacy rate, with grade 7 as criterion of functional literacy has accordingly remained at 32% since 1996. There has been a very slight decrease in the proportion of no-schooling illiterates, though their raw number has increased (*The Ministerial Committee on Literacy Report*, 2006:8). All provinces, except the Northern Cape have increasing number of adults with no schooling. In the event where levels of illiteracy are high, the implementation of BEE through PPP will always remain a challenge as this will require a basic skill. When the social conditions have improved, the service providers who stand to benefit from PPP programmes will be able to complete forms and enter into contracts with government institutions. They will be able to have the minimum knowledge of project management, as far as the life cycle of a project is concerned and they will be able to open an account at the bank.

The statistics provided above show that there is still a long way to traverse to reach the target of 2014. BEE as an instrument for wealth creation is likely to continue posing

serious challenges. BEE programmes are supported by subsidiary programmes such as the *Joint Initiative on Priority Skills Acquisition* (JIPSA) and the *Accelerated Shared Growth Initiative of South Africa* (AsgiSA). It is essential that education should form the cornerstone of empowerment. Active participation in the economy requires some level of literacy. While these empowerment programmes are laudable for sustainability, the education sector needs to be reinforced, given the high levels of university dropouts, compounded by the fact that only a few of the Grade 12 candidates coming from a previously disadvantaged background obtain a pass with endorsement. BEE through PPPs thrives where the populace has acquired a minimum skill for self-sustenance. As BEE target the youth, semi-skilled or under qualified youth among others, may not benefit where a particular skill would be required, e.g. building a bridge, constructing a road or providing sanitation.

Poverty manifests itself in a variety of ways. The poor are often vulnerable as they do not have the means for survival. Poverty among the South African society could be considered self-inflicted. The policies of the past contributed to a greater extent towards poverty and degradation, which are now a challenge to the entire society. The introduction of BEE through PPP is a governmental strategy to redress the disparities of the past. Former president Mbeki condemned the ideals of rampant self-enrichment. The former president expressed his fear about what the country had become and was sliding towards when he said (4th Annual Mandela Lecture, 29 July 2006):

Thus, everyday, and during every hour of our time beyond sleep, the demons embedded in our society, that stalk us at every minute, seem always to beckon each one of us towards a realisable dream and nightmare. With rhythmic and hypnotic regularity – get rich! Get rich! Get rich! And thus has it come about that many of us accept that our common natural instinct to escape from poverty is but the other side of the same coin on whose reverse side is written the words, at all costs, get rich.

The speech seemed to have struck a cord in various quarters of society. In the interview (Anon, 2006:4) Nzimande of the South African Communist Party remarked that: *It is not easy to build a society where social solidarity trumps private profit.*

Macozoma remarked that:

We must change our value system and put humanity, ubuntu, at the centre of our society (Anon, 2006:4).

The president's speech echoed the fears of greed that was referred earlier in this study by the National Union of Mine-workers, that the quest for riches has now created a class of black capitalists. Within the context of this study, it has been stated that it is still to be determined whether the BEE in its present form benefit the intended beneficiaries or only serves to make the rich more rich.

The good policies are likely to fall prey of rampant greed as referred to by the former president (Mbeki 2006). It appears new measures will have to be put in place to curb the scourge of greed currently experienced, often masqueraded under affirmative action, affirmative acquisition or even affirmative discrimination or discrimination against the poor. This indeed feeds into the re-emergence of a new class struggle and sows the destructive seeds of interracial conflict and disharmony.

BEE as being experienced seems to be epitomising the dissipation of human solidarity against poverty and job creation, and invariably beckoning new privileges for *the connected* few, all under the guise of *blackness*. This needs to be highlighted so that the society does not get overwhelmed by materialistic aspirations, masqueraded in the previously disadvantaged mentality and entitlement to wealth.

2.4.4 TECHNOLOGICAL FACTORS

Cloete (1991:179) posits that a feature of the 20th century is the rapid progress being made in the technological field. The Public Sector use technology for the appointments of personnel and payment of salaries, in the form of the personnel and salary (PERSAL) system. The use of technology forms an integral part of public administration. Though PERSAL is not an accounting system, it nevertheless provides information on human resource expenditure (Fourie in Kuye *et al.*, 2002:119). Human resource expenditure forms part of budget allocations. It is vital to know how much of the budget goes towards personnel and how much goes toward capital works. Capital works budget plays an important role in the implementation of PPP.

Fourie (in Kuye *et al.*, 2002:118) refers to the use of BAS (Basic Accounting System) as a system that captures payment transactions. Payments to creditors are made on a regular basis by means of electronic banking. The use of technology plays a role in the processing of payments for service providers. The service providers in order to participate in the PPP deals, need to be registered as taxpayers and be placed on the data system of the accredited vendors. The role of technology in this regard is important. The system plays an important role in ensuring that service providers get paid on time and electronically, which makes it possible for wrong payments to be reversed.

In addition to the above systems, the Logistical Information System (LOGIS) enables departments to control and regulate stock levels and movable assets. The effective management of stock forms an integral part of the financial management of the government and of any line function manager's responsibility (Fourie in Kuye *et al.*, 2002:119). The management of the asset register is important in that the ordering of stock from service providers should depend on the need for such stock to avoid oversupply. Managing assets on a regular basis provides required information on the durability of stock provided. It is for this reason that reputable and accredited suppliers should be used.

2.5 GOVERNMENTAL FUNCTIONS

It has been mentioned that the government is responsible for formulating laws and developing policies. It will be the responsibility of the Public Service to implement the policies of the government of the day. It has been the Government's responsibility to reduce poverty, specifically prevalent among blacks, due to the legacy of segregation. It is against this background that *Broad Based Black Economic Empowerment Act, 2003* (Act 53 of 2003) was promulgated.

The reason government should not be detached from the responsibility of providing for its citizens is that it has been voted for and it is supposed to respect the aspirations of taxpayers who pay its salaries. Government should have the capacity to provide for the needs of its citizens.

In its preamble, the *Broad Based Black Economic Empowerment Act, 2003* (Act 53 of 2003); states that it hopes to achieve the constitutional right to equality, increase broad based and effective participation of black people in the economy, promote a higher growth rate, increase employment and more equitable distribution of wealth. The *Broad Based Black Economic Empowerment Act, 2003* (Act 53 of 2003) hopes to establish a national policy on broad based black economic empowerment to promote the economic unity of the nation, protect the common market and promote equal opportunity and equal access to government services.

Schneider and Ingram (1997:13) posit that the appropriate role of government in society is to produce public policies that represent the interests of the electorate, resolve conflicts, reflect reasonable compromises among competing perspectives, and cultural characteristics. Whenever policy gaps become identifiable, for fear of losing the votes the next time round, the political party in government would try to pass laws that would make it possible for those gaps to be filled. Where the *Broad Based Black Economic Empowerment Act, 2003* (Act 53 of 2003) alone would not be able to address the poverty

alleviation strategy of the government, the *Preferential Procurement Policy Framework Act, 2000* (Act 5 of 2000) for instance would be introduced or *vice versa*.

Whenever a particular policy is to be introduced, it has to be open for debate by the general public. It is through this process that compromises are negotiated to achieve consensus. As mentioned earlier on, these debates should be considered enrichment to the study of Public Administration in respect of how mutual decisions are arrived at and the processes that ensue to promulgate policies intended to help the populace. The study, among other things, focuses on the timing of the unfolding of events and processes leading towards wealth distribution through BEE and how the citizens of South Africa have conceptualised BEE either as equitable strategy or discrimination in reverse.

Parkin (1998:1) makes an observation that may be found relevant to the current situation of striving toward the attainment of equality in South Africa, as a matter of policy by stating that:

In contrast to structural reformers, the so-called social reformers, whose public philosophy encompassed strong communitarian elements, mechanisms of direct democracy and a deep suspicion of business interests, are relatively ignored as a source of public administration theory and practice. Yet the original rationale for many of modern public administration's intrinsic features, including nonpartisanship in appointments, public ownership of utilities, administrative oversight by a strong executive, specialised educational programs in administration, and the belief that government can and should ameliorate the hardships suffered by the citizenry, can be traced to the ideas and actions of both social and structural reformers. This neglect of social reform may have originated because post-progressive scholars considered social reform ideas discordant with their representation of a professional and technocratic public administration. Thus they tended to diminish or ignore social reform contributions to the discipline.

The intention of this research is to study poverty alleviation through the BEE practice. It is against this background that the Government has promulgated laws such as *Preferential Procurement Policy Framework Act 2000*, (Act 5 of 2000) and other related Acts referred to in this chapter in order to alleviate poverty. The Government has to grow its economy to meet the demands of the citizenry. These demands may include demand for employment.

The question as to how people become unemployed differs from nation to nation and from country to country. It should however be mentioned that there still exist some elements of communalities among nations and countries as to the cause of unemployment, which is common among developing countries. Parkin (1998:551-553) classifies unemployment into the following three categories:

- i. frictional;
- ii. structural; and
- iii. cyclical.

Frictional unemployment is the unemployment that arises from normal labour turnover. This is when people enter and leave the labour force and from the ongoing creation and destruction of jobs. This type of unemployment is considered normal and healthy in a dynamic, growing economy. Structural unemployment is the unemployment that arises when changes in technology or international competition change the skills needed to perform jobs or change the location of jobs.

Structural unemployment normally lasts longer than frictional unemployment. Cyclical unemployment is the fluctuating unemployment over the business cycle, according to Parkin (1998:551-553). Cyclical unemployment increases during recession and decreases during an expansion. An industry worker gets laid off because the economy is in recession and gets rehired when the expansion begins. What has to be borne in mind is the fact that unemployment remains unemployment and continues to have debilitating effect on the economy. BEE through PPP has the potential to reduce poverty through

retraining of officials who have been laid off. The retraining of retrenched employees should be geared towards making them self-employed and providing an environment for them to be considered for contracts such as painting, renovation of workshops, fixing or servicing of machines and cleaning.

The introduction of BEE across public and private sectors will help alleviate unemployment in South Africa. BEE is intended to create jobs even for the unemployed through the establishment of small business initiatives. The role the private sector plays need not be underestimated, more especially during recession. The recession period should in fact be used to expand the economy through encouraging workers facing retrenchments to consider partnering with big or small business enterprises.

Economic development and economic growth will be difficult in an environment that does not allow growth to happen. South Africa as member of the global village has to do business in a manner that is globally acceptable. The International Monetary Fund (IMF, 2006) has declared South Africa a country with a potential for sustainable economic growth. The introduction of BEE through PPP has its purpose as wealth creation and poverty alleviation. Sustainable growth can be achieved in an environment where the majority of the populace does not live below the breadline.

Each government is responsible for its citizens and in this regard, Roth (1987: 5) argues that the role of government is not limited to direct production. The supply of goods and services in economic markets is motivated by the prospect of private gain, whereas under government administration, the supply is guided by what the government regards as the social good. Governments are also engaged in financing and regulating production by the private sector. Even where private markets are predominant, it remains the responsibility of the government to restrain monopoly, protect competition, establish and enforce property rights.

The relevance to the topic of research comes where decisions pertaining to the awarding of contracts for BEE to small businesses get delayed as a result of either the

unavailability of officials in the hierarchy or junior officials not having the delegated powers to authorise certain expenditures.

While the government through its structured organisations, which can also be called institutions or departments, focuses on a better life for all its citizens, it has to do so in line with the prescripts of the international norms of good practice. It is against this background that the section following deals with the government and its commitment to international laws and conventions.

2.6 GLOBAL ENVIRONMENT

The research on BEE through PPP is aimed at achieving some of the governmental goals analysed in this chapter. The governmental goals regarding poverty alleviation are informed by the eight millennium goals initiated by the United Nations (UN), (United Nations Millennium Goal, 2007) these are:

- i. eradicate extreme poverty and hunger;
- ii. achieve universal primary education;
- iii. promote gender equality and empower women;
- iv. reduce child mortality;
- v. improve maternal health;
- vi. combat HIV/AIDS, malaria and other diseases;
- vii. ensure environmental sustainability; and
- viii. develop a global partnership for development.

South Africa is part of the global village. As part of the global village it is obligatory for the country to abide by international protocols, such as the Millennium Development Goals. Having been signatory to a number of international conventions such as Child Rights Convention (CRC), South Africa is expected to respect these agreements. Most of the conventions South Africa is signatory to, promote human rights and eradication of poverty. The introduction of BEE through PPP is an attempt of the Government to

resolve socio-economic difficulties faced by the majority of the populace. The PPP initiative has also been used since 1997 in the East Asian financial crisis, where the government of the Republic of Korea introduced the Private Participation in Infrastructure (PPI) Act to provide investment in infrastructure (World Bank, 2009). Paragraph 7.3 refers to suggested models of investment in infrastructure. The introduction of the Act was said to have been followed by a steady increase in the number of PPI projects (World Bank, 2009).

Annan as former United Nations secretary general states the following (United Nations Millennium Goals, 2007):

We will have time to reach the Millennium Development Goals – worldwide and in most, or even all, individual countries – but only if we break with business as usual. We cannot win overnight. Success will require sustainable action across the entire decade between now and the deadline. It takes time to train the teachers, nurses and engineers; to build the roads, schools and hospitals; to grow the small and large businesses able to create the jobs and income needed. So we must start now. And we must more than double global development assistance over the next few years. Nothing less will help to achieve the goals.

The above quotation resonates the Government's quest for poverty alleviation through BEE. In spite of the challenges the South African Government is facing *en route* towards poverty eradication through BEE, there seems to be some semblance of goodwill in that policies have been developed to resolve poverty in this country.

The South African Government is committed to realising the Millennium Development Goals. In pursuing these goals, priority has to be given to the most vulnerable, namely women, youth and the disabled. Barlow and Wastl-Walker (2004:74) state that the urban population is increasing rapidly, with more than half of the world's inhabitants now living in urban areas, creating new challenges for the management of cities. The urban problems have become so complex that probably they will not be solved solely by

government policies in the coming years. The challenge now is the creation of new concepts and instruments in order to articulate economic objectives along with social inclusion, environmental sustainability and public participation in local political decisions. The increase in urban population should be seen as opportunity as this may translate into a better gross domestic product when job opportunities open up. The need for provision of infrastructure such as roads and bridges, as well as the provision of basic facilities such as water and electricity may require PPP, which may contribute towards poverty alleviation. The same goes for the upkeep of the infrastructure, which would be difficult to maintain without the use of PPP programmes.

2.7 CONCLUSION

Chapter 2 focused on the role that Public Administration plays in public-private partnership. In discussing this role, the conceptual analysis of Public Administration and its generic functions were highlighted. The environment of Public Administration in respect of its factors was discussed, with a view to determine how PPPs through BEE would be implemented. A number of pieces of legislation and literature were referred to in order to make a case for the role which Public Administration plays currently and the role it played in the past. The reason for the introduction of BEE, the goal it has to achieve and the role that the Public Service should play in achieving this goal were referred to in this chapter.

The need for BEE in South Africa for the purposes of poverty reduction and economic development is incontrovertible. The role played by Public Administration in the realisation of poverty reduction ideals cannot be overemphasised. The Government in line with the universal conventions has embarked on a number of initiatives to ensure that the goals set out for the reduction of poverty by 2014 are achieved. The realisation of poverty alleviation programmes depends on the environment, which is characterised by a variety of factors referred to in this chapter, namely the political, the economic, the social and the technological factors.

The responsibility of the Government is to create conducive environment for PPP to thrive. This the Government should do through developing policies and regulations such as *Broad Based Black Economic Empowerment Act, 2003* (Act 53 of 2003), *Preferential Procurement Policy Framework Act, 2000* (Act 5 of 2000) *PFMA, (1999)* and the *Constitution (1996)*. Critical is the implementation of policies of government in an environment where the organisational structure does not allow for speedy delivery of service by virtue of the level of literacy of the target group. It is not only the level of literacy that is at times a hindrance, but also the need for capacity in the Public Service.

The chapter following focuses on the contextualisation of procurement strategy for PPPs and the supply chain management practice, which will take into consideration, the management of finances by the Government. It remains the responsibility of the Government to ensure that a conducive environment is created for the implementation of BEE through PPP. The role of administration in evaluating the success or failure of BEE is critical as this role will be measured against the available Acts and regulations.

CHAPTER 3

THE CONTEXTUALISATION OF PROCUREMENT STRATEGY FOR PPP

3.1 INTRODUCTION

This chapter deals with the procurement of goods and services using supply chain management (SCM). SCM is analysed in conjunction with the system of tender boards that it has replaced. This chapter is devoted to the economic growth and how the poor as target group for BEE stand to benefit from the envisaged growth. Achieving economic growth in an environment of a lack of requisite skills is looked at in the context of the broader goal of poverty alleviation through BEE.

Procurement of goods and services as an important aspect of wealth creation and for the realisation of BEE imperatives are looked at in the context of SCM. The *Framework for supply chain management* (2003:3-5) states that SCM is the approved system of procurement or ordering of goods and services by public entity or institutions from a private entity or individual(s). What is of importance is how procurement of goods and services is managed and implemented.

The management and implementation of SCM demonstrate the level at which the departments are ready to implement this system and how they can deal with the challenges attendant to its implementation. A number of relative aspects of BEE, ranging from partner selection to procurement procedures that have to be followed are analysed in this chapter. Implementing BEE through PPPs involves a particular responsibility from the officials in the public sector. Officials will be expected to have gained some requisite understanding of procurement through SCM and be expected to comply with the Treasury Regulations (2005) in the management of resources that are earmarked for BEE.

3.2 OUTWARD ORIENTED ECONOMY

Sustained growth requires a transformation towards a competitive outward-oriented economy and that as South Africa moves towards the next century, it needs a fast growing and competitive economy with the redistribution of income and opportunities in favour of the poor (*Growth and Redistribution: A Macroeconomic Strategy*, 1996:5). It is, however, not clear how this rationale would be achieved if there are no mechanisms set in place to achieve this. The challenge is further compounded by how *poverty* is defined in the South African context. It seems as if poverty is determined by money, in most cases the dollar. Osmani (2005:37) states that growth depends on the structural changes that entail their impact on employment and wages. Some of the people living in the rural areas who survive on produce from their small backyard gardens and from breeding the chickens, ducks, sheep and goats may not necessarily be poor by their own standard, though they may not have bank accounts or wages. Considering such people poor and in need of poverty alleviation programmes may be a misnomer. The danger in considering such people as poor may result in a situation where resources may be channelled to where they are least required. The definition of *poverty* by dollar standards is obviously problematic in this regard.

The following factors have to happen for the economic growth of 6% per annum to be realized (*Growth and Redistribution: Macroeconomic Strategy*, 1996:3):

- i. accelerated growth of non-gold exports;
- ii. a brisk expansion in private sector capital;
- iii. an acceleration in public sector investment;
- iv. an improvement in the employment intensity; and
- v. an increase in infrastructural development and service delivery making intensive use of labour-based techniques.

All the above will remain difficult to achieve without consideration given to the role that the public sector and the private sector should assume in partnership towards building

sustainable economic development. In spite of the challenges ahead, the Government appears to be willing to tackle them by introducing for example, BEE.

The South African strategy assumes that the economic development, with the realisation of 6% economic growth would automatically translate into job creation (*Growth and Redistribution: A Macroeconomic Strategy*, 1996:6-10). This argument may not necessarily hold true in the current economic discourse. The one difficulty raised here is the propagation of labour-intense and labour-based techniques by unions. This creates a problem, with regard to upward pressure on labour costs per unit of output produced, thus undermining the international competitiveness of the South African industry. The unit price is determined on the basis of inputs that have gone into the production process, such as labour, price of energy source – petrol or diesel, transportation cost and taxes involved, for instance.

In South Africa, for example, filling stations are not automated as it is the case in countries such as Sweden and the United States of America. The salaries of petrol attendants would also have to be considered in the pricing process of petrol and other lubricants, which would in the end, affect the price of products that depend on petrol price for instance. All the above constitute challenge to the price of doing business in South Africa, not only for the well-established enterprises but even for SMMEs. BEE is meant to empower blacks through PPPs. The challenge posed by an unfriendly business environment such as the cost of running business in South Africa may discourage business enterprises from entering the market. In an environment where the private sector is reluctant to enter the market, it will be difficult to achieve PPPs. In order for the private sector to be willing to do business with the state, the conditions for doing business must be reasonable and the potential for making profit must be evident.

The introduction of policies geared towards the realisation of the broad goal of poverty reduction and creation of job opportunity remains laudable. The administrative challenges that have become inextricably linked to the implementation of poverty

alleviation processes need to be identified and dealt with a level of determination by the administration across the three spheres of government.

3.3 THE FRAMEWORK FOR THE IMPLEMENTATION OF BEE

The theoretical framework for the selection of a BEE partner should be clearly spelt out as an administrative tool for ensuring the implementation of good governance. Ernst and Young (2006) spell out the rationale for BEE as being the economic transformation. This being the imperative, the challenge would, as mentioned earlier on be, the developing of framework for its attainment. Jack and Harris (2007:23) maintain that government's earlier intention was not to intervene in BEE with the hope that the market would implement it. Failure of the private sector to engage black participation forced the government to get involved. Jack and Harris (2007:25) state that the key principle in ensuring black participation in the economy is good governance, which among other things includes the highest standard of good corporate governance. Van Niekerk, Van der Waldt and Jonker (2002:115) posit that politics and governance cannot be completely value-free as there is no government that can function effectively and efficiently without a set of directives that will steer it in the direction that the society expects it to move.

Partnering agreement between the GSSC and the Gauteng Provincial Government (GPG) is based on the underlying principle that sufficient freedom is required by both partners to manage their respective functions in an enterprising manner within the agreed mandate and a framework of effective accountability (*Partnering Agreement*, 2004:4). The partnering agreement is envisaged to be in keeping with the provisions of the *PFMA*, (1999) and the *Constitution* (1996).

What has to be taken into consideration when crafting the strategy for BEE, which is an administrative exercise, is to ensure that there is a clear and concise objective of mass participation in the economic transformation rather than empowering the already empowered. Policies and frameworks should be clearly spelt out to support this argument.

The *Promotion of Equality and Prevention of Unfair Discrimination Act, 2000* (Act 4 of 2000) states in its preamble that although progress has been made in restructuring and transformation of the society and its institutions, systemic inequalities and unfair discrimination remain deeply embedded in the social practices and attitudes, undermining the aspirations of the constitutional democracy.

The preamble states the following basis for progressively redressing the conditions above, which lie in the *Constitution* (1996):

- i. upholding the values of human dignity;
- ii. equality; and
- iii. freedom and social justice in a united, non-racial and non-sexist society.

The *Constitution* (1996) states that Public Administration must be governed by democratic values and principles, which are stated as follows:

- i. a high standard of professional ethics must be promoted and maintained;
- ii. efficient, economic and effective use of resources must be promoted;
- iii. public administration must be development oriented;
- iv. services must be provided impartially, fairly, equitably and without bias;
- v. people's needs must be responded to, and the public must be encouraged to participate in policy making;
- vi. public administration must be accountable;
- vii. transparency must be fostered by providing the public with timely information;
- viii. good human resource management and career development practices; and
- ix. public administration must be broadly representative of the South Africans.

The above principles serve as a yardstick for ensuring administrative justice. It is on this basis that the government is judged by its populace if it delivers on the principles it set out to deliver. The *Promotion of Equality and Prevention of Unfair Discrimination Act, 2000* (Act 4 of 2000) stipulates as its objectives the following, which is based on section

9 of the *Constitution* (1996). This section stipulates that everyone is equal before the law and that he or she has the rights to equal protection and benefit of the law. The objects of the *Promotion of Equality and Prevention of Unfair Discrimination Act*, 2000 (Act 4 of 2000) are as follows:

- i. the equal enjoyment of all rights and freedoms by every person;
- ii. the promotion of equality;
- iii. the values of non-racialism and non-sexism contained in section 1 of the *Constitution* (1996). This section states that the Republic of South Africa is one sovereign state, democratic state founded on the values of human dignity, non-racialism, supremacy of the Constitution, and universal adult suffrage;
- iv. the prevention of unfair discrimination and protection of human dignity as contemplated in sections 9 and 10 of the *Constitution* (1996). Section 10 of the *Constitution* (1996) states that everyone has inherent dignity and the right to have their dignity respected and protected; and
- v. the prohibition of advocacy of hatred, based on race, ethnicity, gender or religion.

The *Promotion of Equity and Prevention of Unfair Discrimination Act*, 2000 (Act 4 of 2000) serves as an administrative measure to resolve problems of discrimination that have polarised the South African society for many years, hence the need to use legislation to bridge the gap. It was common practice that black people and women were found to be discriminated against to the level where their participation in any form of economic development were attenuated. The same goes for the disabled, whose rights were not protected and their dignity disrespected. It would therefore make sense to see these groups accommodated in BEE programmes. The accommodation of the poor should be central to the elimination of discrimination. Perhaps the new laws should state that there will be no discrimination against anyone on the basis of poverty, which would accommodate all the poor across the racial groups.

Any form of empowerment that assumes the role of business as usual is not empowerment. This measure needs to be approached in a more robust manner. It should be borne in mind that this is the measure that needs to be read in the context of PPP, through BEE as its vehicle. It therefore makes sense to consider procurement processes and note their effect on those that are intended to benefit from them. The previous paragraphs outlined the effect of new social classification, which should be seen to hamper poverty alleviation and equitable distribution of wealth among members of the society. Wealth creation and poverty alleviation should be built on the principle of *ubuntu*, which can further be defined as *being humane*.

In analysing the theoretical framework for the implementation of the *Preferential Procurement Policy Framework Act, 2000* (Act 5 of 2000) through BEE practice, it will be important to look at the question of uniformity of practice across the departments in all spheres of government. South Africa needs an economy that can meet the needs of all citizens in a sustainable manner. In order to achieve this rationale, there has to be a framework to sustain it (*South Africa's Economic Transformation: A strategy for Broad Based Black Economic Empowerment, 2003:3*). The Swedish Government's guidelines for economic reform, a prerequisite for budget support is the implementation of an economic reform programme based on a poverty reduction strategy, an open and transparent budget and budget process, good governance and measures to combat corruption (*Programme Support and Public Financial Management Report SIDA, 2005*).

As mentioned earlier on, there is a growing need for the government to improve the life of the previously disadvantaged individuals by ensuring full participation in the economic activities. In realising this objective; the *Preferential Procurement Policy Framework Act, 2000* (Act 5 of 2000) states that an organ of state must have a preferential procurement policy and implement it within the following framework:

- i. a preference point system must be followed;
- ii. contracts with a rand value above a prescribed amount a maximum of 10 points may be allocated for specific goals as contemplated;

- iii. for contracts with a rand value equal to or below a prescribed amount a maximum of 20 points may be allocated for specific goals as contemplated;
- iv. any other acceptable tenders which are higher in price must score fewer points on a prorata basis, calculated on their tender prices in relation to the lowest acceptable tender in accordance with a prescribed formula;
- v. the specific goals may include: contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability;
- vi. implementing the programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085, dated 23 November 1994;
- vii. any specific goal for which a point may be awarded, must be clearly specified in the invitation to submit a tender;
- viii. the contract must be awarded to the tender who scores the highest points, unless objective criteria in addition to those contemplated justify the award to another tenderer;
- ix. any contract awarded on account of false information furnished by the tenderer in order to secure preference in terms of this Act, may be cancelled; and
- x. goals must be measurable, quantifiable and monitored for compliance.

Managing the implementation of BEE through PPP requires administrative instruments such as score sheets with clear criteria for equitable appointment of bidders. The available criteria for equitable appointment of bidders help in reducing the risk of appointing unqualified bidders to render services. The prescripts to be followed to render a fair and transparent procurement process are: terms of reference (TOR), general conditions of contract (GCC) and quality based selection (QBS). *Practice Note No.3 of National Treasury, 2003* introduces quality and cost based selection (QCBS) as a prescript that could assist in the process of selection of a preferred bidder for a particular service. This will help avoid possible risks that the state may incur in the event of the bridge of contract by the service provider. The managers need to be familiar with

procedures and processes that have to be followed awarding a tender. In the event where the bids are related to building, engineering and construction works, it is recommended that the accounting officers should use the general conditions of contract and standard bidding documents for construction projects issued by the construction industry development board (CIDB) (*Practice Note No. 4 of National Treasury, 2005* and *Practice Note NO.1 of the National Treasury, 2003*).

The *Preferential Procurement Policy Framework Act, 2000* (Act 5 of 2000) stipulates the discretion of the minister in awarding a tender. The criteria spelt out are:

- i. if it is in the interest of national security;
- ii. if the likely tenderers are international suppliers; and
- iii. if it is in the public interest.

The formula that is used to calculate the points for price in respect of tenders/procurement with a Rand value equal to or above R30, 000 and up to a Rand value of R50, 000 is indicated below. Organs of state may however apply this formula for procurement with a value less than R30, 000 if and when appropriate (*The Supply Chain Management Note No. 3 of 2003*).

$$P_s = 80 (1 - P_t - P_{min} / P_{min})$$

Where:

P_s = points scored for price of tender under consideration

P_t = rand value of offer tender consideration

P_{min} = rand value of lowest acceptable tender.

The use of the above formula assists in determining the appropriate bidder for a particular service to be rendered. The absence of any selection criteria often results in bias and

irregularities. Though BEE should be the overriding principle in awarding tenders, it is important to use this method of selection to ensure fairness and transparency.

The *Preferential Procurement Policy Framework Act, 2000* (Act 5 of 2000) stipulates that the minister may make regulations regarding any matter that maybe necessary or expedient to prescribe in order to achieve the objectives of this Act. The draft regulations must be published for public comment in the Government Gazette and Provincial Gazette before publication.

In line with the above stipulation, the regulations of the *Procurement Policy Framework Act, 2000* (Act 5 of 2000), were promulgated in the Government Gazette. These regulations will give substance to the contents of the *Preferential Procurement Policy Framework Act, 2000* (Act 5 of 2000). The purpose of this Act is to enhance the participation of historically disadvantaged individuals (HDIs) and small, medium and micro-enterprises (SMMEs) in the public sector procurement system.

The new evaluation system contemplated will be applicable to all tenders, irrespective of the amount. An 80/20 – point system will be applied for tenders up to R500, 000, while 90/10 point system will be applicable for tenders above R500,000 (The *National Treasury Regulations, 2002*). The implication of the formula according to Naidoo (2006) is that while 80% would go towards the price 20% would go towards Reconstruction and Development Project (RDP) goals in respect of realising the imperatives of the historically disadvantaged individuals (HDIs) as required by the law. The evaluation of bids should be carried out in two phases – first the functionality and then the price. The combined percentages allocated should total 100% (The *Practice Note No.3 of the National Treasury, 2003*).

The same applies to the 90/10 point system, depending on the rand value. The Regulation confirms this explanation by stating that the maximum of 80 points will be allocated to the lowest acceptable tender, while tenderers who tendered higher in price will score a lower number of points. A maximum of 20 points will be awarded to

tenderers who tendered for contracting or sub-contracting with HDIs and for achieving specified RDP goals (*The National Treasury Regulations, 2002*).

The goals that need to be achieved for contracting and sub-contracting with HDIs are as follows:

- i. the promotion of South African owned enterprises;
- ii. the promotion of export orientated production to create jobs;
- iii. the promotion of SMMEs;
- iv. the promotion of enterprises located in a specific province, region, municipality or rural areas;
- v. the empowerment of the workforce by standardising the level of skills; and
- vi. the development of human resources and the upliftment of communities (*The National Treasury Regulations, 2002*).

It is envisaged that the implementation of these regulations will enhance the involvement of black businesses in the public tendering system and contribute towards the upliftment of disadvantaged communities. The realisation of BEE through PPP is possible in an environment where the citizenry is assisted in acquiring knowledge and skills required for growing the economy, whether by way of targeting the rural communities or promoting the establishment of small businesses as outlined in the regulations above.

The challenges that have been identified in the implementation of the *Preferential Procurement Policy Framework Act, 2000* (Act 5 of 2000) are as follows:

- i. the Act and its supporting regulations are complex and therefore difficult to implement;
- ii. policies of the Act are not clearly formulated and targets are not set for the introduction of sunset and graduations once targets have been achieved;
- iii. procurement practitioners are not adequately trained in the application of the Act and its associated regulations;

- iv. the costs and outcomes of the Preferential Act are not assessed adequately to evaluate the merits of the system;
- v. there is inadequate provision for capacity building for disadvantaged enterprises to successfully compete for government contracts;
- vi. certain organs of state apply their own practices, instead of the prescribed preference points system; and
- vii. certain departmental policy directives are in conflict with the provision of the Act.

These challenges are regarded as a hindrance towards the achievement of PPP ideals. In light of these challenges being administrative by nature, they may require administrative intervention to be adequately met. The paragraph that follows will focus on the administrative intervention that is applied to address these challenges.

In order to address the administrative challenges, it will be necessary to put in place the necessary checks and balances, which this intervention is about in the first instance. The modern trend in public financial management is that of collective responsibility rather than handing over the responsibility to the chief financial officer (CFO) alone, who is expected to carry roles other than just managing cash flows. Gitman (2003:41) confirms this assertion by stating the following:

Financial reporting is no longer the primary responsibility of the chief financial officer (CFO). The role of today's CFO, a key member of the executive team, has broadened to include strategic planning and, at many companies, information management. Financial planning, operations, and analysis; treasury operations (raising funds and managing cash); business acquisition and valuation; tax planning; and investor relations are also under his or her control.

The quest for the contextualisation of the procurement strategy requires the CFO to execute the bulk of the above- mentioned tasks. It is unimaginable how the private sector would be interested in entering into partnership with the public sector in an environment

where there is no planning, no valuation of the project, no analysis or any form of due diligence carried out.

3.4 PUBLIC FINANCIAL MANAGEMENT

The national, provincial and municipal budgets and budgetary processes must promote transparency, accountability and the effective financial management of the economy (*Constitution* 1996). This research takes its cue from the field of Financial Management as a sub-discipline of Public Administration. It is against this background that emphasis is put on the management of finances. The management of finances is critical in the process of realising the government goal of poverty alleviation. This paragraph addresses the management of finances and how this can be done in a transparent and accountable manner. Gitman (2003:11-12) separates accounting from financial management in that the former puts emphasis on cash flows and the latter on decision making. An inference can therefore be made that controls and measures as mentioned earlier on in this paragraph resonates Gitman's postulate of accounting. Financial management concerns itself with the *art and sign of managing money* (Gitman, 2003:4).

Fourie (2006: 101) posits that there is a departure from antiquated centralised control of public finances. In the previous system finances were controlled externally by National Treasury. The advent of a new financial management is being introduced. The new system of financial management is characterised by the following, which distinguishes it from the previous system:

- i. devolving responsibilities from the treasury to accounting officers;
- ii. allowing accounting officers to make their own departmental specific instructions; and
- iii. empowering the accounting officers to delegate responsibilities to line managers.

The organisational structure that consists of many strata has the propensity to retard the process of service delivery if not well managed. The case in point is the GSSC which is responsible for the procurement for all departments in the Gauteng Provincial Government, with a number of structures. The GSSC as procurement office will be analysed in Chapter 6 of this study. It will be difficult to achieve poverty alleviation through BEE without well-structured and well defined roles and responsibilities of the employees responsible for the implementation of policies geared towards poverty alleviation.

Fourie (2006:101) states that a modernised system can and will operate effectively if accounting officers:

- i. accept this responsibility and implement the system;
- ii. empower line managers with the necessary delegations and provide training;
- iii. expect line managers to accept all responsibilities, including financial management;
- iv. ensure that the financial component of the department does not become a decentralised treasury by performing the financial management functions on behalf of line managers;
- v. ensure that a detailed financial management system in the department is developed and documented including, among other things:
 - budget processes;
 - reporting systems on expenditure and revenue;
 - cash flow requirements;
 - reconciliation of figures and documentation; and
 - control measures;
- vi. make the line managers responsible for the preparation and control of their budgets as integral parts of the execution of their line management and responsibilities.

The departments cannot procure service if the entire budgets were to be used to pay salaries, for instance. There has to be a percentile split between the budget for the payment of salaries and payment for capital works such as maintenance and repairs. The expenditure in respect of these splits would have to be managed appropriately. The role managers play in ensuring proper management of budgets and cash flows needs to resonate good accounting practice. Departments such as Public Works and Public Enterprise for instance, will be in a better position to ensure that they spent their budgets in a manner that makes it possible for the infrastructural projects that involve BEE companies to happen.

Fourie (2006:102) makes reference to various other functions that were seen as not quite part of financial management, these are:

- i. personnel management;
- ii. provisioning;
- iii. procurement;
- iv. computerised accounting and management system;
- v. strategic planning;
- vi. auditing and accounting;
- vii. constitutional aspects;
- viii. government structures; and
- ix. parliamentary processes.

The introduction of audit committees as well as the oversight role played by the Standing Committee on Public Accounts (SCOPA) serves to expand the broader responsibility of oversight role played by other bodies to minimise the risk of financial mismanagement as well as promoting transparency. The *PFMA*, (1999) regulates the formation of audit committees, which should include people from outside the Public Service. Attendant to the above is the need to spend the budget responsibly and in accordance with the strategic direction of the departments, which among other things, should include how BEE policy imperatives are to be carried out by the national and provincial departments.

The modernised financial management system covers the following concepts (Fourie, 2006:102):

- i. legal framework;
- ii. policy formulation;
- iii. the design of delivery plans;
- iv. the development of administrative structures;
- v. the identification of all necessary resources;
- vi. implementation processes;
- vii. reporting on progress;
- viii. information systems;
- ix. accountability; and
- x. transparency.

The recognition of all the above aspects will create a conducive environment for the implementation of SCM, where the responsibility of the accounting officer is not only to ensure that the SCM teams have received sufficient training in financial management, but also to ensure that there is value for money in every service contracted. The companies that are given tenders should not get these tenders purely on the basis of meeting the BEE requirement. Reference should also be made to the available tools developed in the interest of realising good financial management and procurement, which is in line with the *Preferential Procurement Policy Framework Act, 2000* (Act 5 of 2000), which seek to put into practice the directives herewith explained.

In a programme budget the expenditure information is presented according to programme and sub-programme (The *Gauteng Management Development Programme, 2002:68*). The logic underlying the programme budget is that it reflects exactly what resources are allocated to the implementation of a particular programme and how these resources are to be spent. Simply put, departments use programmes to allocate their vote. It appears various departments will adopt the use of these programmes in accordance with their core business. The customisation of these programmes to the unique functions and roles of

the departments will assist in the allocation of the vote and how the budget is disbursed. Departments such as the National Treasury, for example, would not be expected to have Programme 5 as Further Education and Training as this programme would be specific to the Department of Education. The programmes for the Gauteng Department of Education for example, are arranged as follows:

- i. Programme 1: Administration
- ii. Programme 2: Public Ordinary School Educations.
- iii. Programme 3: Independent Schools
- iv. Programme 4 : Professional service
- v. Programme 5 :Further Education and Training
- vi. Programme 6: Adult Basic Education
- vii. Programme 7 :Early Childhood Development
- viii. Programme 8: Auxiliary and Associated Service.

Programme budgeting assists in the equitable distribution of the voted budget so as to avoid spending the entire budget just on one programme. Managing the budget programmatically will assist not only in ensuring that every area of importance receives allocation but also making sure that every budget allocated meets the priorities for which it has been allocated.

An inference can be drawn that the departmental budget allocations will inevitably affect the number of PPP projects that the individual departments have to carry out. The appropriated budgets would achieve the BEE goals if managed economically, transparently, effectively and efficiently.

3.5 PROCUREMENT OF GOODS AND SERVICES

A PPP becomes evident through procurement of goods and services. The legislative frameworks available serve to create a conducive environment under which a fair process should happen. Sections 33 (1) and (2) of the *Constitution* (1996) provide that everyone

has the right to administrative action that is lawful, reasonable and procedurally fair and that everyone whose rights are violated by administrative action has the right to be given written reasons by those who have effected the wrong.

The *administrative action* means any decision taken or any failure to take a decision by an organ of state when exercising power in terms of the *Constitution* (1996) or a provincial constitution or exercising a public power or performing a public function in terms of any legislation (the *Promotion of Administrative Justice Act*, 2000 Act 3 of 2000). It could perhaps be appreciated that administrative processes have not been left to chance as ordinary citizens do have recourse to the law if they feel administratively violated.

The four objectives have been outlined. These were formulated in line with the procurement reforms introduced by government in 1995. The purpose for the reform was to promote the principles of good governance and to introduce preference system to address socio-economic objectives (*Policy Strategy to Guide Uniformity in Procurement Reform Processes in Government*, 2003). The procurement reform was supported by the introduction of a number of legislative measures, including the *PFMA*, (1999) and (the *Preferential Procurement Policy Framework Act*, 2000 (Act 5 of 2000)).

The four objectives of the *Preferential Procurement Policy Framework Act*, 2000 (Act 5 of 2000) strategy are as follows:

- i. promoting uniformity in the processes relevant to the repealing of tender board legislation in the various spheres of government and developing the responsibility and accountability for procurement-related functions to accounting officers/authorities;
- ii. promoting uniformity in the various spheres of government in the interpretation of government preferential procurement legislation and policies, also in the context of other broad-based but related legislative and policy requirements of government;

- iii. replacing the outdated procurement and provisioning practices in government with the supply chain management function and a systematic competitive procedure for the appointment of consultants as an integral part of financial management in government that conforms to internationally accepted best practice principles; and
- iv. introducing parameters for the promulgation of a regulatory framework in terms of the PFMA, (1999) and *Municipal Finance Management Act, 2003* (Act 56 of 2003) to ensure compliance to minimum norms and standards; but in such a manner that the principles of co-operative government are observed.

Though these measures have been introduced to ensure uniformity of practice across departments, it should not be taken for granted that officials in these departments are capable of implementing them. The following section will address the challenges that have been identified in the *Policy strategy to guide uniformity in procurement reform process in Government (2003)*.

The Treasury Regulations (2005) spell out the responsibilities of the accounting officer pertaining to the procurement process. The accounting officer or the accounting authority must ensure that bids are advertised in at least the Government Tender Bulletin for a minimum period of 21 days before closure, except in urgent cases. Care should be taken that there are checks and balances even with urgent cases as this could be misused to favour certain individuals and exclude others who would in line with the pillars below also qualify as beneficiaries of BEE. The proper and successful government procurement process rests upon the five pillars outlined, which are stated as follows:

- i. value for money;
- ii. open and effective competition;
- iii. accountability and responsibility;
- iv. equity; and
- v. ethics and fair dealing (*The National Treasury General Procurement Guidelines, 2009:3*).

Procurement provides value for money if it avoids unnecessary costs and delays for both the state and suppliers. The open and effective competition pillar refers to a framework of procurement laws, policies, practices and procedures that are transparent. The procurement is ethical and fair if all parties involved in the procurement process deal with each other on a basis of mutual trust and respect. It is in this respect where bribery, cronyism and nepotism are to be discouraged (*The National Treasury General Procurement Guidelines, 2009:1-8*).

The accountability and reporting aspect of procurement refers to a situation where the heads of procurement and senior procurement directors are accountable to heads of departments for high level management and co-ordination. *Equity* is explained in the context of the General Procurement Guidelines as the application and observance of government policies which are designed to advance persons or categories of persons disadvantaged by unfair discrimination. In the context of this study, these will be blacks, women, the youth and the indigent in the rural areas (*The National Treasury's General Procurement Guidelines, 2009:8*).

The realisation of BEE through PPP will be difficult in an environment characterised by gross mismanagement of procurement processes as well as corrupt practices. The procurement process plays a pivotal part in wealth creation and equitable wealth distribution, as long as that happens in an environment of mutual trust and in compliance with all the pillars outlined above. SCM as a mode of procurement is aimed at serving as statement of the Government's commitment to a sustainable small, medium and micro businesses which will add to the wealth creation and the enhancement of economic and social well-being of all South Africans who fall within the disadvantaged category.

The challenge here may be that for those who may not have internet or electricity it may be difficult to access information that would assist them to benefit from the advertised tenders for them to bid. Therefore, it may become difficult for the designated groups to be considered favourably for services advertised. Similarly, the language that is used to

publish these tenders pose serious problems in that some of the potential bidders may not be competent in either of the languages used, which often is English or Afrikaans.

3.6 PRINCIPLES AND PHILOSOPHIES OF SUPPLY CHAIN MANAGEMENT

SCM plays a major role in the realisation of BEE through PPP. Lombard, (2005) during the seminar on senior management network, pointed out that PPP is about the following:

- i. output-based;
- ii. procurement of services;
- iii. private party is service provider; and
- iv. institution is contract manager of service.

Lombard (2005) goes further defining *PPPs* as consisting of a contract between the public sector (institution) and private sector (private party), which makes the agreement legal. The question would be how this agreement is initiated and concluded. There will have to be a service level agreement (SLA), as it is the case with the GSSC and its departments in the GPG. It is envisaged that the SLA will include areas of risk, delivery date, value for money, determination of roles, procedures and responsibilities (*Partnering Agreement*, 2004:4). The private party performs an institutional function and /or uses state property in accordance with output specifications. Substantial transfers of financial, technical and operational risk are directed to the private party, in terms of the SLA. The private party benefits through unitary payments by an institution and/or user fees. An institution retains the major role as the main purchaser of the services or as the main enabler of the project.

The criticism of BEE has been voiced from within sections of Government. Contained in these criticisms is the narrow focus on empowerment reality, where emphasis is on equity transaction and not other equally important dimensions of empowerment such as skills development (The Business Map Foundation, 2007:11). It should however be mentioned

that there has been a remarkable progress in the area of BEE in South Africa, though the challenge would be to ensure sustainability.

The black controlled companies need to make concerted effort to employ black staff, procure from black suppliers, develop black staff's skills, develop other black enterprises and so forth (Business Map Foundation, 2007:19). It seems as if the foregoing remains a distant possibility given the current alleged practice as disparaged by labour organisations and other sectors of the society.

The procurement processes succeed where there are administrative checks and balances. It is therefore vital to look at philosophical principles guiding these processes. It can further be argued that the implementation of SCM in the absence of a particular philosophy will be problematic. The employees in general and SCM functionaries in particular should adopt the principles of *batho pele* (people first) and the philosophy of *ubuntu* (humanity).

It is a requirement in terms of SCM that all parties comply with the highest ethical standards in order to promote mutual trust, respect and an environment where business can be conducted in a fair and reasonable manner and with integrity (*SCM Government Notice No. R 1379*, section 5.1). All employees associated with SCM, particularly those dealing directly with suppliers or potential suppliers are according to *SCM Government Notice No. R1379*, required to:

- i. recognise and deal with conflict of interest or the potential thereof;
- ii. deal with suppliers even-handedly;
- iii. ensure that they do not compromise the good standing of the state through acceptance of gifts or hospitality;
- iv. be scrupulous in their use of public property;
- v. provide all assistance in the elimination of fraud and corruption; and

- vi. adhere to instructions issued by the accounting officer/authority as well as the code of conduct for supply chain management officials/employees issued by the National Treasury.

It will be critical to ascertain if during the process of procurement the following requirements are taken into consideration; advertising, bid evaluation committee, tax clearance certificates. To address the challenges outlined above there has to be policy intervention that provides guidelines for the authorities in the different spheres of government. The introduction of an integrated SCM will provide the opportunity to address the outdated procurement and provisioning processes in the government. The system of SCM assists in resolving the inefficiencies in procurement processes, contracting and inventory/asset management. It further seeks to do away with the old tender board system.

SCM is an integral part of financial management, which seeks to introduce internationally accepted best practice principles, whilst at the same time addressing government's preferential procurement policy objectives. The process of SCM links to the government's budgetary planning processes and at the same time focuses strongly on the outcomes of actual consultants. The development of a systems master plan for an integrated financial management system that conforms to the requirements of the PFMA is necessary (*The Policy strategy to guide uniformity in procurement reform process*, 2003:20).

The purpose of Financial Management and systems is to manage and regulate Government supply-chain processes, implementing and maintaining standardised financial systems and coordinating the implementation of the *PFMA*, (1999) and related capacity-building initiatives (*The National Treasury: Strategic Plan, 2005 -2008* :51). The question is whether there is sufficient capacity within the Public Service to manage finances and co-ordinate the implementation of PPP through BEE in line with what has been stipulated above. The introduction of new terms such as *throwing the javeline*, which means starting a business while still employed in the Public Service without

declaring one's interest poses a serious challenge and in this case the former minister of Public and Administration, Moleketi (2008) called for a cooling-off period. This call indicated that in spite of the available policies and laws, there still remain gaps in the administration and implementation of SCM in a transparent and ethical manner.

The SCM seeks to breach the gap between traditional methods of procuring goods and services and at the same time addressing procurement related matters that are of strategic importance. The introduction of the principles of SCM will requires the accounting officer and accounting authorities to extract accurate commercial and other relevant information for the purposes of measuring the achievement of the Government's procurement objectives (*The Policy Strategy to Guide Uniformity in Procurement Reform Process in Government*, 2003:19).

3.7 SUPPLY CHAIN MANAGEMENT IN PRACTICE

The introduction of an integrated SCM function intends to address the division between the current and outdated procurement function and provisioning processes in the government, which causes the present system to be inefficient in its method of procurement, contract management, inventory/assets control and obsolescence planning. In order to understand the outdated procurement processes, it will be necessary to briefly look at what these actually were and how it functioned in relation to the present system (*The Policy Strategy to Guide Uniformity in Procurement Reform Processes in Government*, 2003:4). BEE through PPP is realised through equitable procurement procedures such as SCM. The SCM is an administrative procedure that makes it possible for procurement to be fair, economical and transparent. The SCM as an integral part of financial management seeks to introduce internationally accepted best practice principles and at the same time address the preferential procurement policy objectives (*Supply Chain Management Manual*, 2004:28).

The Framework for Supply Chain Management (2003) section 4 (1) states that: "The accounting officer or accounting authority of an institution to which these regulations

apply must establish a separate supply chain management unit within the office of the institution's chief financial officer, to implement the institution's supply chain management system." The setting up of supply chain management functions requires competence from both the accounting officer in terms of selecting members of the team as well as the members themselves.

The roles of the accounting officer are spelt out as that of training officials and procurement of goods and services. The accounting officer must develop and implement an effective and efficient supply chain management system (*The Treasury Regulations, 2005, section 16(A)(3) to 16(A)(6)*). This will be used to acquire goods and services and the disposal and letting of assets. The SCM function must be fair, equitable, transparent and cost effective. Compliance with the *Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000)* is highly preferable. SCM should further be consistent with the *Broad Based Black Economic Empowerment Act, 2003 (Act 53 of 2003)* in terms of providing the following:

- i. demand management;
- ii. acquisition management;
- iii. logistic management;
- iv. disposal management;
- v. risk management; and
- vi. regular assessment of supply chain performance.

The above elements of SCM are discussed in detail in the following paragraph to show how they are related to the implementation of PPP.

3.7.1 THE ELEMENTS OF GOVERNMENT'S SUPPLY CHAIN MANAGEMENT PROCESSES

In order for SCM to be implemented, there needs to be a variety of elements that have to be adhered to. These are: demand management, acquisition management, logistic

management, disposal management and supply chain performance. These elements are analysed in the following sections.

3.7.2 DEMAND MANAGEMENT

The demand management is the beginning of the SCM where the particular needs are determined and affordability assessment conducted in accordance with the aspects of value for money and the availability of budget for the goods or service procured (The *Policy Strategy to Guide Uniformity in Procurement Reform Process* (2003:21)). The demand management is defined as a cross-functional exercise that brings the procurement official closer to the end-user (*Supply Chain Management Manual*, 2004:33). The following functions re expected to occur:

- i. understanding future needs;
- ii. identifying critical delivery dates;
- iii. determining the frequency of needs;
- iv. linking the requirements to the budget;
- v. doing an expenditure analysis (based on past expenditures);
- vi. determining the specifications;
- vii. doing a commodity analysis (checking for alternatives); and
- viii. doing an industry analysis (The *Policy Strategy to Guide Uniformity in Procurement Reform Process*, 2003:21).

This is a cross-function exercise that seeks to bring the supply chain practitioner closer to the end-user so as to ensure that the value for money is not compromised. Demand management helps in ensuring the equitable and cost-effective procurement process (Partnering Agreement, 2004:4). Critical to the agreement between the GSSC and the Gauteng Department of Education has been the delivery dates as it has not always been the case that GSSC complied with this commitment. A number of complaints were sent through to Radio 702 (2009), schools and hospitals complained about the delay in delivery of goods ordered and the vendors complaining about the delay in payments and

threatening to stop deliveries. It is for this reason that the contextualisation of procurement strategy aimed at partnering with private companies will be of assistance in ensuring that the challenges at all service delivery points are identified and sorted out.

3.7.3 ACQUISITION MANAGEMENT

Acquisition management is the stage where goods and services are acquired through procurement process. The acquisition management is a process that entails strategic sourcing, which is a systematic approach to managing the acquisition of goods and services which achieves the lowest total cost of ownership and matches the internal customer's needs with market place capabilities (*Supply Chain Management Manual, 2004:38*). The approach is used in establishing and managing a negotiated agreement for a particular commodity. The following processes take place under this phase:

- i. the preferential procurement policy objectives are identified that could be met through the specific contract;
- ii. the strategy of how the market is to be approached is determined;
- iii. applicable depreciation rates are determined;
- iv. the total cost of ownership (TCO) principle is being applied, e.g. life cycle cost, inventory carrying cost;
- v. the bid document is compiled, attaching all necessary required documents and giving conditions *etc.*;
- vi. the bid evaluation criteria are determined;
- vii. bids would be evaluated and recommendations tabled;
- viii. contract documents are compiled and signed;
- ix. contract administration is done; and
- x. contract information is used to kick-start the logistics management process (*Policy Strategy to Guide Uniformity in Procurement Reform Process, 2003:22*).

The GSSC in the Gauteng Department of Education has through the process of bidding, contracted Edu- Solution to supply learning support materials (LTSM) to all schools in Gauteng. It seems as if customer need requirements have been met in because the company has just been appointed to continue supplying LTSM for the second term.

Procurement seems to form an important aspect of PPP throughout the different spheres of government. It will be difficult for procurement to be done without following a particular process and procedures that require the management to be held accountable.

3.7.4 LOGISTICS MANAGEMENT

Logistics management is a phase in the procurement of goods and services where, for instance, the GSSC with the powers vested in it, sets out procedures to be followed by users and procurement line structure in acknowledging that the needs have been met, by submitting the Goods/Services Receipt Note referred to as *RLS 02 (Supply Chain Management Manual, 2004:44)*. The following functions, among others; will have to be performed for stock and inventory (*Supply Chain Management Manual, 2004:44*):

- i. coding of items;
- ii. setting of inventory levels;
- iii. placing of orders;
- iv. receiving and distribution of material;
- v. managing stores/warehouse management;
- vi. expediting orders;
- vii. managing transport; and
- viii. managing vendor performance.

The departments have to exercise caution in respect of control and management of inventory. Lack of proper control may result in payment made for services not rendered. Logistics management is an important component of managing risk and accounting for service rendered. PPP is about service provision and therefore requires control and

supervision to avoid unethical practices and non-compliance with the provision of the *PFMA*, (1999).

3.7.5 DISPOSAL MANAGEMENT

Disposal management is the process where goods considered obsolete are checked to determine whether they can be reused. The management of obsolete goods is important so as to avoid procuring goods at a high cost when there is still stock available (*Supply Chain Management Manual*, 2004:45). In managing obsolete goods, the following requirements are important:

- i. obsolescence planning or depreciation rates per item required should be calculated;
- ii. a data-base of all redundant material should be kept;
- iii. material should be inspected for potential re-use;
- iv. a strategy should be determined of how the items are going to be disposed of; and
- v. executing the physical disposal process.

Considering the above requirements and ensuring that they are implemented will assist in the control of LTSM where books issued to children are returned in good usable condition to avoid unnecessary expenses. PPP through BEE should not be implemented in a manner that compromises standard and quality of services rendered. Quality will be compromised when BEE company supplies equipment of which the life span is by far below the normal life span of an item delivered.

The disposal of moveable assets is the final process when an institution needs to do away with unserviceable, redundant or obsolete assets (*The Government Notice No.R.1379* section 3.1). The accounting officer should appoint a disposal committee at each regional/sub-office to make recommendations with regard to the disposal of such assets.

The moment the disposal of assets by the accounting officer has been approved, any of the following methods may be considered:

- i. transfer to another institution;
- ii. transfer to another institution at market value;
- iii. transfer to another institution free of charge;
- iv. selling per tender or auction; or
- v. destroying such assets.

3.7.6 SUPPLY CHAIN PERFORMANCE

Supply chain performance is where the monitoring process takes place (*The Government Notice No.R1379*). Undertaking a retrospective analysis, a determination is made whether the proper process is being followed and whether the desired objectives are achieved. The issues that need to be reviewed are:

- i. achievement of goals;
- ii. compliance to norms and standards;
- iii. savings generated;
- iv. stores efficiency;
- v. cost variance per item;
- vi. contract breach *etc.*;
- vii. cost-efficiency of the procurement process (*i.e.* the cost of the process itself);
- viii. whether supply chain objectives are consistent with the Government's broader policy focus;
- ix. the material construction standards become increasingly aligned with those standards that support international best practice;
- x. that the principles of co-operative governance as expounded in the *Constitution* (1996) are observed, according to Section 41 (1) being:
 - a) preserving the peace, the national unity and the indivisibility of the Republic of South Africa;

- b) securing the well-being of the people of the Republic of South Africa;
 - c) providing effective, transparent, accountable and coherent government for the Republic of South Africa as a whole;
 - d) being loyal to the Constitution, the Republic of South Africa and its people;
 - e) respecting the constitutional status, institutions, powers and functions of government in the other spheres;
 - f) not assuming power or function except those conferred on them in terms of the *Constitution* (1996);
 - g) exercising their powers and performing their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere; and
 - h) co-operating with one another in mutual trust and good faith.
- xi. reducing of regional economic disparities.

The above principles emphasise transparency, effectiveness, co-operation and accountability. These principles when taken cognisance of, would make it easier for the Government to realise the broad goals of poverty alleviation through BEE. The cooperation spoken about refers to co-operation that takes into consideration the geographical and institutional integrity of other spheres of government. Some of the elements mentioned above are discussed in Chapter 6 of this study.

3.8 DEPARTMENTAL READINESS AND IMPLEMENTATION CHALLENGES.

Preparing the departments for the new concept of SCM is essential because the new procurement processes involve a number of systems to ensure accountability (*The Policy Strategy to Guide Uniformity in Procurement Reform Process in Government*, 2003:45). These responsibilities entail the setting up of tender boards in accordance with the relevant treasury guidelines. Departments require capacity to be able to procure goods and services. These would require putting up necessary systems and structures.

Accounting officers, who are the heads of departments in respect of provinces, directors general for national departments and municipal managers in respect of municipalities, must be supported by the relevant treasury, which should issue best practice notes to counter any perceived deficiencies in departments. Where tender boards still exist, they should be expected to work closely with their respective treasuries.

Other than giving effect to the *PFMA*, (1999), the key objective of SCM would be to establish the following:

- i. chief financial officer structures;
- ii. clear lines of authority and accountability;
- iii. performance criteria to minimise risk much quicker and efficiently; and
- iv. better asset and inventory management.

To make sure that all treasuries act in unison, the National Treasury will draw up a checklist to ensure that all relevant aspects are addressed. The process will be phased in gradually with the implementation monitored regularly to ensure success.

It appeared, according to communication with Naidoo (2005), the Director in the National Treasury, that not all spheres of Government had fully implemented the system of SCM, as municipalities were late starters in this respect and that local Government structures only started implementing SCM in October 2005. According to Naidoo (2005) it would have been difficult to determine compliance at that stage. He pointed out that it appears that capacity remained a major challenge to some of the spheres of government.

In order to prepare departments sufficiently for SCM, there has to be a treasury directive that requires all departments to have accounting officers/authorities that assume full responsibility for SCM. This will require appropriate planning and management to ensure success. Depreciation rates linked to various categories of goods/assets including buildings and roads have to be accounted for. It will be difficult for the departments to operate this new concept without proper training of staff. The purpose of training should

be that of providing skills for sustainable growth. It is against this background that the government has initiated skills-oriented programmes such as JIPSA.

Jack and Harris (2007:53) maintain that most companies looking to fill empowerment positions frequently show preference to Indian people because they have higher levels of education. Preference for people of Indian descent may not necessarily be the only hurdle. The funding of black empowerment initiatives may pose challenges in respect of high-risk profiles these initiatives may have. Jack and Harris (2007:8) point out that sustainability of the funding mechanism used in BEE deals poses a challenge as most black people did not have sufficient capital or collateral.

Any form of irregularity and unlawful practices stifles the realisation of poverty alleviation through BEE. This may include *fronting* a practice where white-owned companies use black employees as board members for the sake of acquiring tenders. This practice has been referred to as *rent-a-black* practice, which is commonly associated with fronting. *Rent a black* is a concept used to refer to a particular practice where white-owned companies hire blacks in a higher position simply to meet the affirmative quota. Often blacks hired to these positions do not need to meet any job specification or possess relevant qualifications; as a result they get paid meager salaries. For entities to be BEE compliant, they need to conduct some feasibility study.

3.9 CONCLUSION

The study of the management of public finance plays a pivotal role in ensuring that the administrative management of Government policies pertaining to finances is well taken care of. Compounding the challenges of PPP through BEE and BBBEE is a lack of common understanding across policy-makers, in respect of who should actually benefit from these measures. Perhaps a lack of understanding crops up around the area of implementation, though there seems to be uniformity in respect of what has to be done to alleviate poverty among the poor rather than enriching the enriched.

The question that has to be raised is whether there is indeed a common understanding of the manner in which resources through PPP should reach those who really need them, rather than those whose pursuit is power or fame. Critical to these processes is uniformity of application of the principles of the *Preferential Procurement Policy Framework Act, 2000* (Act 5 of 2000). The Act in itself is explicit in terms of what has to be done as outlined in the previous paragraphs. The challenge here remains how to conceptualise the administrative tool without which its implementation would be difficult. Tools such as supply chain management are critical in the implementation processes of the new procurement system, which came to replace the outmoded state tender boards. Supply chain management by itself requires a lot of training if it were to be implemented correctly.

The implementation of PPP-related policies requires commitment and selflessness from both policy-makers and policy-implementers. In Chapter 5 of this study, the aspects of code of conduct and ethics are addressed. Therefore, it will be essential to look at how defaulters are dealt with. Statistical representation of actual cases of fraud and the process of prosecution are presented in this chapter, which serves to provide information whether the administrative processes of dealing with defaulters are effective.

Against this background a determination can be made if indeed the government policies on poverty alleviation are effective and have been sufficiently internalised by those who are responsible to implement them. The chapter that follows analyses the construct of *PPPs* and how through the system of SCM these can be used for BEE.

CHAPTER 4

THE CONSTRUCT OF A PUBLIC- PRIVATE PARTNERSHIP

4.1 INTRODUCTION

Chapter 3 highlighted procurement strategy for PPP and the chapter made reference to supply chain management (SCM) and how SCM is put into practice. Equitable procurement procedures that seek to fulfil the requirements of BEE were analysed. Chapter 4 provides an analysis of the utilisation of public-private partnership (PPP) to create wealth. The establishment of PPP is meant to mitigate risk, which would usually be carried by the Government alone. The utilisation of PPP in wealth creation is discussed on the basis of legislation. In this case, reference will be made to the *Broad Based Black Economic Empowerment Act, 2003* (Act 53 of 2003) as well as the *Preferential Procurement Policy Framework Act, 2000* (Act 5 of 2000). This chapter will among other things, address the construct of *PPP* and its implication, the economic positives of BEE through PPP, PPP procurement, Equity and accounting mechanisms.

In paragraph 4.2, PPP's intention is among other things, to minimise risk for the Government so that whatever loss is incurred on the project the government is exonerated as these costs would be borne by the private sector. It is essential to understand what *PPP* has been defined as, in the literature and other pieces of legislations. The requirements for PPP are explained as substantial risk transfer, value for money and affordability (*National Treasury: Standardised PPP Provisions section (A1), 2004:1*).

The use of PPP in the creation of wealth will not only be latched on the positive contributions that PPP made, but also on the negative perceptions. It could be that the private sector is not always as efficient as it is portrayed to be, to act as arbiter of good practice. The potential for PPP initiatives to translate into full privatisation are discussed in this chapter.

4.2 CONTEXUALISATION OF PPPs

Public-private partnership is a commercial transaction between an institution and a private party in terms of the private party either performing an institutional function on behalf of the institution for a specified or indefinite period (*Treasury Regulations*, 2005 section 16.1). This transaction may involve the use of the state property by the private party for its own commercial purposes for a specified or indefinite period. In this transaction, the private party receives a benefit for performing the function or by utilising state property either by way of compensation from a revenue fund, charges or fees collected by the private party from users or customers of a service provided to them or a combination of such compensation and such charges or fees. In relation to this regulation, an institution is a department, constitutional institution, and public entity.

Farlam (2005:1) defines *PPP* as a contract between a Public Sector institution and private party where the private party assumes substantial financial, technical and operational risk of the project. The definition of *PPP* leads to the identification of a number of PPP initiatives in South Africa and how these initiatives are being financed. In scrutinising the PPP initiatives, consideration is given to their functionality and effectiveness in meeting their objectives, being, among other things wealth creation, cost reduction on the part of the Government, shifting risk to the private sector and indeed whether there is a particular business case for their establishment.

Fourie and Burger (2000:1) posit that some confusion may arise in the definition of *PPPs* as far as it is at times confused with privatisation or subsidisation and that a *PPP* is defined as an institutional and contractual partnership arrangement between government and a private operator to deliver a good or service to the public, with as distinctive elements of true partnership relationship and a sufficient amount of risk transfer to the private operator. Fourie and Burger (2000:1) further state that the lack of understanding can lead to the concept of *PPP* being put in a negative light. Other negatives such as fiscas dumping may pose serious challenges as the quest for the maintenance of fiscal discipline and generally acceptable accounting principles is compromised. Fourie

(2006:925) maintains that there is a potential for budgetary problems to emerge if PPP spending is not sufficiently controlled as the government departments encourage managers to conceive PPP as an add-on to their capital programmes. The arrangement of PPPs should not imply that managers should abdicate their responsibility of ensuring quality service delivery.

The overarching rationale for a successful PPP is when both public and private sector pursue common goals, which are determined jointly by the two sectors. The common goal referred to above is to deliver high quality basic service to the historically underserved areas (United States Agency for International Development, 2005:10). The underserved areas in this study refer to the areas where empowerment is in dire need such as women, the youth and rural communities.

Gqoli (2004:12) defines *PPP* as a contract between a government institution and a private party, where a private party performs an institutional function using state property in terms of output specifications. In this contract, substantial project risk is transferred to the private party, and the private party benefits from government budget or user fees. Developed PPP structures should seek to achieve a BEE effect (National Treasury: PPP Unit, 2004:9). The broader goal for the introduction of PPP in the context of this study should be that of seeking to achieve BEE effect.

There are a number of PPP examples in South Africa, such as the construction of the Department of Trade and Industry, the Inkosi Albert Luthuli Central Hospital, Chapman Peak Drive Road Construction, training offered for government officials and private sector partners and the current social grants payment system for the poor (United States Agency for International Development, 2005:20). In the Gauteng Provincial Government, the Gauteng Shared Service Centre (GSSC) plays a role in facilitating purchases for institutions or departments. For example, a number of schools in the Gauteng provincial area have been built through PPP initiatives. This discussion is taken further in Chapter 5 of this study. The more direct form of private sector participation is the provision of text books, computers, science and vocational training equipment as well as other educational

and teaching aids (World Economic Forum, 2004:4). The current learning and teaching support materials (LTSM) supply has been given to private entity referred to as Edu-Solution. Through this entity the risk of failure to provide LTSM to schools in Gauteng has now been transferred to Edu-Solution. Though schools in the province have been given budgets, it is the responsibility of Edu-Solution to procure and approach manufacturers on behalf of these schools using the budgets allocated to schools. Every school in Gauteng has been given the budget, 60% of which ring-fenced for LTSM. Edu-Solution is using its IT systems and personnel to procure LTSM for schools in Gauteng Department of Education (Governing our Schools Series, 16:2005).

4.3 THE CONSTRUCT OF A PPP AND ITS IMPLICATIONS

In order to address the problem of insufficient infrastructure and poor service delivery in South Africa, perhaps PPPs should play a strategic role to address both infrastructural and other needs for the Government. The existing PPP body of language asserts that though PPP has been identified as a vehicle for service delivery, it however has both the positives and the negatives. The negatives of PPP are that it is viewed as a form privatisation by unions opposed to privatisation as a means of enhancing capacity and efficient service delivery. The unions have been mainly concerned about the erosion of job security and the acquired rights for their members (World Economic Forum, 2005:1). The other challenge is Public Service personnel who use their own companies or that of relatives to provide service. If PPP is not well managed, the consequences hereof are the mismanagement of finances through unauthorised, fruitless or wasteful expenditure practice. The aforementioned could be regarded as a reason for the accounting officer not to be divested of the responsibility to manage the procurement of goods and services.

Tarhan (2009:9) presents a gateway process in South Africa for PPP, which encapsulates the following phases:

- i. inception;
- ii. feasibility study;

- iii. procurement;
- iv. development;
- v. delivery; and
- vi. exit.

The importance of each phase rests in the evaluator being able to ensure that BEE through PPP is applied in each phase. The inception phase is the first phase of the PPP project cycle. During this phase, the institution registers the project with the relevant treasury, appoints a project officer and signs a contract with the transaction advisor (*National Treasury: Private Partnership Manual, 2004:6*).

The second phase is feasibility study, which is a preparation phase for a PPP project cycle discussed in paragraph 4.3.3. The phase that follows feasibility study is procurement which includes prequalification, request for proposals and the final offer. Phase 4 of the PPP cycle encapsulates managing the PPP agreement, which is discussed in 4.3.2 of this study (*National Treasury: Private Partnership Manual, 2004:7*).

Tarhan (2009:11-12) maintains that development as phase 4 is measuring outputs, monitoring and regulating performance and settling disputes; while delivery as phase five reports progress. Exit is the final phase which requires the Auditor-General to scrutinise the project.

4.3.1 ESTABLISHMENT OF A PPP

There are two basic kinds of PPPs. The one kind of PPP involves performance by the private party of an institution and the other involves some form of the utilisation of state property by a private party for its own commercial purpose. The institutional function performed by the private party may include any service, task, assignment or other function that an institution generally performs on behalf of the Public Service (*National Treasury: Standardised PPP Provisions (Section D), 2004:8*). The foregoing statement does not necessarily give the institutions unfettered powers to go as far as outsourcing

exclusive functions to the private entity. The difficulty in as far as this limitation is concerned is that there is no legislative or legal guidance provided within which the institution should operate.

Section D1.3 states that the responsibility for determining whether an institutional function resides with an institution and whether that institutional function may be outsourced to the private sector pursuant to PPP lies with the institution. Section D2.1 points out that the utilisation of state property may broadly be pursuant to the utilisation of all movable or immovable property belonging to the state (*National Treasury: Standardised PPP Provisions*, 2004:9). This may include intellectual property rights. A postulate can be made, flowing from the above statement, that outsourcing of goods and services forms an integral part of PPP. This argument remains a subject for debate in the PPP discourse.

4.3.2 AGREEMENTS

Of vital importance is the agreement that should be obtained by the parties concerned with PPP before signing the contract. This applies to all corporate approvals and resolutions of the board of directors and shareholders of the private party. It is not appropriate for the PPP agreement's enforceability to be suspended pending the incorporation of the private party and the taking of all corporate action necessary to authorise the execution and performance of the PPP agreement (*The National Treasury: Standardised PPP Provisions* (Section 3.4), 2004:31). The foregoing presupposes the need to conduct the feasibility study, which forms part of the vital processes that lead towards the finalisation of the PPP agreement. The PPP agreement should clearly mention the events that would constitute an institution default and which would entitle the private party to terminate the PPP agreement (*National Treasury: Standardised PPP Provisions*, 2004:248). The more serious breaches that render continuation of the project impossible constitute events of default.

Having referred to the finalisation of PPP agreement, the question can be raised who is responsible to finalise this agreement? The accounting officer or the accounting authority of an institution may enter into a PPP agreement on behalf of that institution. As soon as the institution identifies a project that may be concluded as a PPP, the accounting officer or accounting authority in writing, registers the PPP with the relevant treasury, informs the relevant treasury of the expertise within that institution to proceed with a PPP, appoints a project officer from within or outside the institution and appoints a transaction advisor if the relevant treasury so requests (*The National Treasury Regulations* Section 16.2 of 2005).

4.3.3 FEASIBILITY STUDY

Fourie (2006:925) asserts that in the utilisation of a PPP, it is assumed that the private sector will carry the risks and that the government should take the responsibility in monitoring, evaluating and managing such risks. For the risk of the project to be evaluated, it is essential that the feasibility study is conducted. The feasibility study is vital as far as ensuring that the preferred bidder has the necessary capabilities to execute the task at hand, on time and in accordance with the agreed quality requirements. The feasibility study enables the government not to choose wrong projects which do not resonate what is contained in the operational plan, for instance.

The feasibility study can form part of risk management. During the project term, it is essential to involve the expertise of the qualified professionals in the determination of the viability to use land and the putting up of infrastructure (*National Treasury: Standardised PPP Provisions*, Section (11.1.3), 2004:65). There are legal implications that have to be taken into consideration before construction resumes. The project should not be jeopardised by the late discovery of a third party land claim, for instance. The *Public Private Partnership Manual* (National Treasury, 2004:7) outlines the legal basis for PPP/BEE policy. The development of PPP /BEE policy is done with consideration to the following pieces of legislations:

- i. the *Constitution* (1996);
- ii. Treasury Regulation 16, issued in terms of the *PFMA*, (1999);
- iii. the *Preferential Procurement Policy Framework Act*, 2000;
- iv. the *Broad Based Black Economic Empowerment Act*, 2003; and
- v. the *Employment Equity Act*, 1998.

Having made reference to the importance of a feasibility study and the importance thereof to the benefit of a private party and the Government, it is vital to note that the risks that may otherwise be obviated will increase with the features that are likely to hamper the success of the project. The question can be asked: what does a feasibility study entail? Feyzioglu (2009:7) recognises the following features that must be taken into consideration when conducting a feasibility study:

- i. needs analysis;
- ii. option analysis;
- iii. project due diligence;
- iv. value assessment;
- v. economic valuation; and
- vi. procurement plan.

Fourie (2006:929) adds another aspect of importance such as, a sector needs analysis. The needs for Gauteng Department of Education, for example; are varied and numerous. Prioritising these needs according to what is possible and in line with the medium term expenditure framework (MTEF) is paramount. It may not be expected of the department for instance, to consider building more schools than the budget allocated in that particular financial year, rather than renovating the existing schools with more or less half the amount. The same principle applies for output specification. For example, the area which poses a challenge in Gauteng Department of Education is that schools built in Olievenhoutbosch and Lotus Gardens through a PPP initiative, happened to have not met the minimum requirement standards. According to Sebeho (2007), it seems that there was not sufficient output analysis conducted.

The success story in Gauteng according to Rantsedi (2005) is the school in Mamelodi which was built through the Zenex foundation in partnership with Gauteng Provincial Government. The two schools, which seem to have been a failure were built by IDT, a conglomerate that seems to have enjoyed higher rating by BEE standard. A number of other schools, according to communication by Sebeho (2008), were built on dolomite ground, an indication that a sufficient survey was never conducted. A number of these schools were built in the Ekurhuleni municipal area. The failure of delivery of quality school buildings could be attributed to a lack of sufficient feasibility study or just poor workmanship. The PPP unit is poised to respond by encouraging education accommodation through PPPs to finance the building and maintenance of schools (United States Agency for International Development, 2005:39).

Paragraph 4.2 highlighted that PPPs form an important component of BEE as they serve as a vehicle for wealth creation. (*The National Treasury: Standardised PPP Provision* Section (55.2), 2004:234). It is the government's intention that PPPs provide a showcase for its strategy for Broad Based Black Economic Empowerment (BBBEE). The *Broad Based Black Economic Empowerment Act, 2003* (Act 53 of 2003) provides the following policy objectives:

- i. direct beneficial ownership by black people of equity in the private party;
- ii. direct participation by black people (especially black women) in the management control of the private party and the subcontractors and in the day-to-day management and operation of the project;
- iii. direct participation by black people and black enterprises in the subcontracting arrangements and the procurement requirements of the private party and the subcontractors;
- iv. skills development opportunities for black people employed in connection with the project whether at private party or subcontractor level and the realisation of employment equity targets; and
- v. beneficial socio-economic impacts at local community level (for the benefit of SMMEs, the youth, the disabled and non-profit organisations).

Pursuant to the above objectives, there seems to be the potential for the PPP to make contribution towards wealth building. Features that make PPPs inherently suitable for achieving BEE objectives are as follows:

- i. the long-term nature of PPPs provides an opportune instrument to grow black equity and black management over time;
- ii. risk is clearly identified in PPPs;
- iii. the formation of private consortia in the form of special purpose vehicles (SPVs);
- iv. PPPs provide significant subcontracting opportunities for black enterprises;
- v. PPPs create jobs;
- vi. where the Government is the buyer of a service, and insofar as the service is provided to the agreed standards, there is a steady revenue stream to the private party, reducing the risk to new black enterprises;
- vii. principal equity sponsors in a PPP are often also first-tier subcontractors, building incentives for optimal risk management;
- viii. PPPs have far-reaching broad-based BEE potential: through subcontracting and procurement mechanisms they can involve a full spectrum of large, medium and small enterprises, and bring tangible, local, economic development benefits to targeted groups of people; and
- ix. return on equity to the private party is competitive where risk is properly assumed (Public Private Partnership Manual, 2004:7).

In spite of the above features of PPP making the achievement of BEE possible, there remain challenges to achieve sustainable BEE in PPPs. These are listed as follows:

- i. there is a small pool of black equity in South Africa as blacks historically have not accumulated capital and it is a challenge for black enterprises to raise required levels of equity at reasonable prices;
- ii. the sources of BEE funding are generally expensive, reflecting lenders' assessment of risk associated with new enterprises whose balance sheets may be relatively small, or whose experience may be relatively limited;

- iii. the costs of independent financial and legal advice to black enterprises are an inhibiting factor in the preparation of bids, during contract negotiation and during start-up, often leaving black partners in a consortium vulnerable to concluding disadvantageous arrangements;
- iv. there are limited black experience and skill in PPPs, resulting in an uneven playing field in relation to partners that are established companies;
- v. established companies in the consortia often become obliged to provide sponsor security for the committed BEE capital and to guarantee the performance of the black partners, contributing further to the uneven playing field for consortium members;
- vi. dividend distributions typically do not occur in the earlier years of a PPP, which is hard for new black enterprises participating as shareholders in the private party; and
- vii. there are few experienced black South African PPP transaction advisors (The *National Treasury PPP Unit*, 2004:8).

Though the above challenges are not exhaustive of all relative PPP challenges, they nevertheless remain worthwhile to reckon with. Other challenges range from the complexities of registering a company and the time it takes to have a company registered to having to understand the tax implications. These may pose further challenges to aspiring entrepreneurs from the previously disadvantaged communities.

4.4 CRITICAL FACTORS TO ENSURE PPP SUCCESS

Several factors that are critical to ensuring the success of PPPs in South Africa are referred to (United States Agency for International Development, 2005:34). The critical factor worth mentioning is the commitment at the highest level to create an environment where the provinces have strong support from the national government through the National Treasury's PPP Unit. The other critical factors are:

- i. creating a sound financial management structure;
- ii. establishing a solid regulatory framework;
- iii. creating a dedicated PPP unit, which drafts and updates guidelines, screens projects and carries out regular training of Public Sector officials;
- iv. placing strong, visionary personnel in key government departments, who understand the critical role of the private sector in promoting economic development;
- v. promoting access to international expertise, particularly in the early stages of the project; and
- vi. putting into place an effective communication strategy and providing on-going outreach to the private and Public Sector beneficiaries.

In spite of these successes, the challenge that remains is the legislative constraints to implementing municipal PPPs, for instance. The United States Agency for International Development (2005:35) states that municipalities in South Africa must comply with more requirements than national and provincial bodies. Banks, for instance, will not lend money to a municipality where the national government can intervene through a veto or impose a tariff or rate increase cap, thus putting at risk the revenues required to service debt.

Though women form a greater part of the designated groupings that stand to benefit out of PPP/BEE initiatives, other youth-based initiatives such as *Umsombomvu* will assist in ensuring that the youth in South Africa do not only become job seekers but also job creators. The following section discusses the PPP initiatives for women development, the youth and people living in rural areas.

4.5 THE ECONOMIC POSITIVES OF PPP THROUGH BEE AND BBBEE

In order for the economic positives to be realised, it is critical that pieces legislations are in place, implemented and monitored. The economic positives of BEE/BBBEE are realisable through PPPs. Of importance is the availability of human capital and

commensurate skills to implement the policies of the Government, which seek to advance the reduction of poverty among the previously disadvantaged communities. It is important to take into consideration a number of factors ranging from the provincial readiness to implement PPPs to the availability of resources. To measure the success or failures without taking into consideration the material challenges faced by provinces may not be advisable. Central to this study is not only the availability of finances but also human resource. The state of readiness in terms of human resource depends on the availability of skills to implement government policies.

The BBBEE is enshrined in the *Broad Based Black Economic Empowerment Act, 2003* (Act 53 of 2003), which as a feature of BEE seeks to expand the empowerment to cover the broader sector of the previously disadvantaged groups which are women, workers, youth, people with disabilities and people living in rural areas. These groups are expounded on in the paragraphs that follow. The *Broad Based Black Economic Empowerment Act, 2003* (Act 53 of 2003), outlines integrated socio-economic strategies through which these groups can be empowered, being:

- i. increasing the number of black people that manage, own and control enterprises and productive assets;
- ii. facilitating ownership and management of enterprises and productive assets by communities, workers, co-operatives and other collective enterprises;
- iii. human resource and skills development;
- iv. achieving equitable representation in all occupational categories and levels in the workforce;
- v. preferential procurement; and
- vi. investment in enterprises that are owned or managed by black people.

With reference to the above, socio-economic strategies lend credence to the Government's quest for socio-economic transformation in South Africa, where the previously disadvantaged groups benefit from the BEE initiatives. The *Broad Based*

Black Economic Empowerment Act, 2003 (Act 53 of 2003), refers to the establishment of a BEE advisory council, which must report directly to the President of the Republic of South Africa. The role of the council will be to report and advise on the direction that BEE takes. Reference is further made to a regulation document referred to as the *Codes of Good Practice*, which seeks to put BEE into effect.

The *Broad Based Black Economic Empowerment Act, 2003* (Act 53 of 2003) empowers the *Codes of Good Practice* to deal with the following:

- i. interpretation and definition of BEE and BEE entities;
- ii. qualification requirements for preferential procurement;
- iii. measurement indicators and weighting compliance for broad-based BEE;
and
- iv. guidelines for the various economic sectors to comply with the requirements of the Act or Codes of Good Practice.

The *Codes of Good Practice* may also determine the targets necessary to achieve BEE and stipulate the time frames within which these targets should be reached. The preparedness across the country to adopt the principles of BEE through public-private partnership is encouraging. The *Broad Based Black Economic Empowerment Act, 2003* (Act 53 of 2003) binds the organs of state and public entities to determine qualification criteria for the issuing of licenses, procurement policy, the sale of state owned assets and entering into partnership with private sector entities.

The availability of a legal framework has come in handy and has created the much-needed political will to put mechanisms in place for the much needed economic growth. This alone may not be enough given the high level of challenges ahead. These challenges include bringing rural communities on board through local government; community-based organisations (CBOs), non-governmental organisations (NGOs), business sector and provincial governments.

Having referred to the enabling environment that has been created by the available legislation, it is necessary to highlight the objectives of *Broad Based Black Economic Empowerment Act, 2003* (Act 53 of 2003). The entire exercise should be seen to be based on these objectives. The study focuses on the application of these pieces of legislation. It is in the interest of this study to assess the success and the failures of this endeavour.

The objectives of the *Broad Based Black Economic Empowerment Act, 2003* (Act 53 of 2003), are listed below. Section 2 (a) – (g) points out that the objectives of this Act are to facilitate broad-based black economic empowerment by:

- i. promoting economic transformation in order to enable meaningful participation of black people in the economy;
- ii. achieving a substantial change in the racial composition of ownership and management structures and in the skilled occupation of existing and new enterprises;
- iii. increasing the extent to which communities, workers, co-operatives and other collective enterprises own and manage existing and new enterprises and increasing their access to economic activities, infrastructure and skills training;
- iv. increasing the extent to which black women own existing and new enterprises, and increasing their access to economic activities, infrastructure and skills training;
- v. promoting investment programmes that lead to broad-based and meaningful participation in the economy by black people in order to achieve sustainable development and general prosperity;
- vi. empowering rural and local communities by enabling access to economic activities, land, infrastructure, ownership and skills; and
- vii. promoting access to finance for black economic empowerment.

The above objectives bear relevance to what the study seeks to realise, namely, highlighting the concept of *BEE*. For the above objectives to be realisable, there has to be a reasonable state of readiness on the part of all government structures and spheres of government. This may take the form of the establishment of a council or setting up of codes, as referred to earlier, to the benefit of the previously disadvantaged sectors of the community namely: women, the youth and rural communities. The following section focuses on the readiness in respect of provinces to meet the challenges attendant to lending a helping hand to these sectors.

4.5.1 WOMEN EMPOWERMENT

The women form part of the study in respect of them falling within the category of the previously disadvantaged. Jack and Harris (2007:159) assert that the inclusion of broad based schemes makes women relevant to accelerating BBBEE. The *Employment Equity Act*, 1998 (Act 55 of 1998) includes in its category women, including White women. It is against this backdrop that the discussion of BBBEE will include this category as well. The linkage between women as beneficiaries of BEE and BBBEE remains relevant in this study. The reason for this is that the current category of some successful BEE beneficiaries who are known to have political links remain male dominated. It is vital to isolate the empowerment of women to identify those areas in which women stand to benefit such, as the building sector and engineering, which appear to be dominated by males. The same applies to rural development and the need for it, given the unique environment in which rural areas are located.

The Department of Trade and Industry (DTI), (2006) has released a document titled South African Women Entrepreneurs' Network (SAWEN), which seeks to bring women on board the business sector. The organisation has the following objectives:

- i. to provide a national vehicle that brings women together and addresses the challenges faced by them;
- ii. to lobby the Government, public and private institutions on such issues;

- iii. to align SAWEN with other bodies or organisations with similar business at national and international level, and to leverage the relationships arising out of these alignments for the benefit of its members;
- iv. to facilitate access to business resources, information and opportunities for african women entrepreneurs in a way that promotes their effective participation in the global economy; and
- v. to profile and affirm women in business leadership positions in both the private and Public Sector.

The importance that the above initiative has in empowering women within the context of BEE cannot be reputed. The achievements of SAWEN are listed as follows:

- i. registered as a Section 21 company;
- ii. established and staffed the national SAWEN head office, based in Bryanston;
- iii. secured R2, 000 000 per annum operating budget;
- iv. established provincial chapters in eight provinces, with Mpumalanga yet to be launched;
- v. recruited 2 000 potential members who own small to medium enterprises countrywide;
- vi. organised international educational and empowerment trade missions with Beijing, Morocco, India, New York, etc.;
- vii. ensured gender-sensitive BEE strategy;
- viii. facilitated business linkages between SA women entrepreneurs;
- ix. facilitated business linkages between SA women and those from United Kingdom; and
- x. exposed more women to various local and international business forums (DTI, 2006).

The fact that women have been singled out for empowerment in the area of business for the purposes of poverty alleviation is appreciated, though it remains to be seen as indicated in Chapter 6 of this study whether this goal has been sufficiently achieved.

The challenge remains how to reach out to women in rural areas, though this will be discussed in the following section. Critical to this establishment will be for example, the language barrier. The identification of target groups may pose a challenge if focus would only be on women who are already in business to the exclusion of those who need to be in business. The vision of SAWEN as indicated below, poses a challenge as it appears that women entrepreneurs are the only beneficiaries. The organisation's vision states that:

SAWEN will represent and articulate the aspiration of all women entrepreneurs that operate within the South African SMME sector.

The mission statement of the organisation states that:

SAWEN is a South African national network that facilitates and monitors the socio-economic advancement of women entrepreneurs and their positive impact on the country's economy (DTI, 2006).

Both the vision and mission statements above point to women who are already entrepreneurs. The vision/mission statement poses a challenge as it cannot be assumed that all women are entrepreneurs. This being the case, the majority of women are likely to be excluded from participation in these economic initiatives. Gauteng News (2008), states that women are given preference in employment opportunities and in this case women should benefit directly from the Gauteng Provincial Government (GPG) preferential procurement policy, which is being implemented by all GPG departments and agencies when buying goods and services.

The challenge ahead is of greater magnitude given the fact that the world is not static. Magau (2006) states that young women need to redefine the work culture since the social culture is changing while the board room management style will take a while. The challenge of representivity needs to be met with rigour in order to redress inequalities. Women form 52,1% of South Africa population. The total percentage of employed

women is 42,3%, women executive managers form 19,8%, women directors 10,7% and only a poultry 6,2% women are CEOs and board chairs.

Skill acquisition poses a challenge as the level of illiteracy is much higher among women. According to Statistics South Africa (1996) 36% of the population aged 20 years and older was illiterate. *Illiteracy* here is defined as fewer than seven years of formal schooling. Comparatively more women (55%) than men (45%) were illiterate, Forgey *et al.* (1999/2000:112). The picture above is likely to thwart every effort to make the government-identified goals on poverty possible. Perhaps a comparative study with China has to be conducted, as it said to have consistently made significant inroads in matters of poverty alleviation, for example.

The main challenge in the BEE initiatives remains women that may be seen around the corner selling vegetables and snacks. How do these women get assisted to be able to compete productively in the open market? The issue that these women may not be sufficiently trained in the basic business practice remains a worrying factor. The role of the municipalities in this sector is critical in as far as building stores and other form of shelter for these women to effectively participate in the free market economy. The foregoing initiative should include other women development programmes initiated by the municipalities. PPPs would come in handy where the women are trained for example, on how to grow vegetable gardens, understanding the seasons and climate required for the particular kinds of vegetables as well as how to market their produce. The Government should identify the underutilised pieces of arable land and lease it out for a period of time to the business sector where women with an interest in farming could be afforded opportunity to be trained in a variety of business ventures including marketing and leadership.

4.5.2 RURAL DEVELOPMENT

Cash injection for rural development increased, by opening new funds and committing to make available as much money in the next five years as it had previously. The previously

disadvantaged entrepreneurs benefit from change in banks' approach. Financial institutions such as Amalgamated Banks of South Africa (ABSA) are steadily moving into the small to medium and micro enterprise (SMME) space focusing exclusively on the historically disadvantaged, to enable them to meet their enterprise development targets within the financial sector charter (Anon, 2006:5).

The shift in attitude by the financial institutions should be applauded as a progressive move forward to assist those who are in dire need of this assistance. It may however, be problematic for banks to simply give the money away without first training the recipients on the basis of conducting banking transactions and budgeting processes. The drive towards banking the *unbankable* has been broadly supported. Financial assistance provided to aspirant business entrepreneurs should be purposeful and be guided by the need to achieve a particular goal. It however, needs to be borne in mind that the financing of activities of one sector by another does not constitute a PPP according to Fourie and Burger (2000:3). What constitutes a PPP is when the risk is transferred to the private operator, in this case, the financial institution. A possibility may arise where a subsidiary takes over the responsibility to empower the poor in the rural areas. In this case, the risk assessment would be vital in as far as ensuring that the subsidiary has a favourable capital structure in terms of equity/debt ratio to be able to continue with the task at hand, as the government cannot afford to see the empowerment project fall through. The following quotation propagates the transfer of resources into the second economy:

Overcoming the two - economy divide requires us to transfer vast resources into the second economy. Wherever possible these resources must take the form of productive assets that enable our people to empower themselves in order to reverse the legacy of apartheid expropriation. This in turn requires that we transform the economic institutions that were constructed on the basis of apartheid fragmentation, and also create new institutions that are capable of meeting the urgent challenges of development (Micro-Finance for Poverty Alleviation February, 2005).

The urgent needs in the developing economies remain job creation and reduction of poverty. PPPs should be harnessed to advance development objectives (World Economic Forum, 2004:1). Enhancing policy dialogue and advocacy through business coalition is one of the most effective models. This model entails domestic corporations, industry associations and foreign investors and operators engaging in basic education through coalitions working in partnership with the government with the overall goal of enhancing policy and endorsement to shape basic education that will in turn create a better workforce. It will be most critical to align PPP programmes with national and international development goals and targets for basic education, which guide the allocation of medium-term funding for education and ongoing national and local plans (World Economic Forum, 2004:1-8). Targets in this regard include enrolment, completion rates, gender parity and equality, assistance to vulnerable groups, attendance rates, repetition rates and various institutional, teacher and student performance requirements. Education plays a major role in achieving the Millennium Development Goals. The development of rural communities through education forms an integral part of poverty alleviation.

Former president Mbeki (2006) in his address at the second joint sitting of the third democratic Parliament states the need for improvement of the management, organisational, technical and other capacities to meet government objectives. These objectives are hampered by weaknesses in the implementation of, among other things, urban and rural development programmes. Mbeki (2006) posits that success in the growth of the economy should be measured not merely in terms of the return that accrues to investors or the job opportunities to those with skills. It should also manifest itself to cater for the marginalised of the Second Economy.

The South African Government in consultation with a wide range of key stakeholders has from 2000, been trying to intensify efforts to improve opportunities for and the well-being of the rural poor (From Action to Impact, 2002:15). The South African Communist Party raised critical concerns about the rural poor in South Africa. The national democratic revolution had to remain biased towards the rural masses (*Umsebenzi* Online,

15 March 2006). The challenges that go with this have been cited in the following paragraph. Suggestions in terms of how to address them are stated in chapter 5 of this research.

Former president Mbeki in his address to Parliament on 3 February 2006 (Mbeki, 2006) states that in order to implement AsgiSA, the state working through PPP will make large investments in various sectors to achieve the following:

- i. meet the demand for electricity;
- ii. provide an efficient and competitive logistic infrastructure;
- iii. expand and modernise the telecommunications infrastructure; and
- iv. satisfy the demand for water.

In line with the above, it is stated that the Public Sector will also have to accelerate infrastructure investment in the underdeveloped urban and rural areas of the country through the Municipal Infrastructure Grant, Expanded Public Works Programme and other infrastructure funds to improve service delivery in the area of the Second Economy. These are:

- i. road and rail;
- ii. water;
- iii. energy;
- iv. housing, schools and business support centres;
- v. sports facilities; and
- vi. multi-purpose government service centres, including police stations and courts.

Noting the challenge that goes with the implementation of these deliverables, former president Mbeki declared the following administrative measures that were put in place:

- i. better supervision of infrastructure projects undertaken by government;

- ii. ensuring that capital budgets are spent without roll-overs;
- iii. labour intensive methods were to be prioritised; and
- iv. the necessary training of workers to provide them with skills.

These initiatives are supported by the fact that AsgiSA has also identified sectors in the economy for accelerated growth, building on the work already done within the context of the existing Micro-Economic Reform Programme. These initiatives are:

- i. business process outsourcing;
- ii. tourism;
- iii. chemicals;
- iv. bio-fuels;
- v. metals and metallurgy;
- vi. wood, pulp and paper;
- vii. agriculture;
- viii. the creative industry; and
- ix. clothing and textiles.

Having identified these areas may not of necessity be an answer on its own. The challenge will be how these sectors would benefit the poorest of the poor out in the wilderness, to whom South Africa also belong. The following paragraph discusses these challenges in a nutshell.

Addressing the difficulty faced by the rural poor is not an easy task given the multiplicity of challenges the rural poor face. It has been stated in this study that corporate approach in addressing these challenges remains a desirable option. Education should provide curriculum that caters for the rural or farm needs. This should be done with the understanding that these children can as well enjoy to study in any other field of interest after completing grade 12. A more direct form of private sector participation in basic education is the provision of text books, computers, science and vocational training equipment and other educational and teaching aids (The World Economic Forum,

2004:5). Given the need for most schools to generate their income, even schools in the rural areas, it is imperative to remove some of the obstacles such as assuring priority for education over income generation, potential for mismanagement revenues due to the inexperience of teachers and governors in financial management and the temptation to reinvest school income to expand the income-earning venture rather than for educational purposes (World Economic Forum, 2004:6).

4.5.3 YOUTH DEVELOPMENT

Gura (Gautalk, June 2006) states the following:

Young people needed to play a bigger role in society, the economy and the province and understand their role in society.

In supporting the statement above Creecy (Gautalk, 2006) points out that the Gauteng Department of Education will also work with the provincial government departments to ensure the effective implementation of the provincial youth development strategy. In order to realise the above, Gauteng has set up the Gauteng Youth Commission, which advise the Gauteng Provincial Government on youth development matters.

Among others, it is through sport and recreation programmes that the historically disadvantaged young people get developed to participate in competitive sport (Pahad, 2006). The development of the youth can happen in the area of venture initiatives, for financial independence.

The World Economic Forum (2004:3-6) states that it is difficult to generalise about the impact of PPPs on jobs. The trend in mature economies is that PPPs are less likely to create jobs. In developing economies however, where populations are still experiencing rapid growth rates and severe backlogs, PPPs result in further recruitment in the long-term to keep up with the demand for services and the expansion of infrastructure.

Farlam (2005:46) maintains that PPPs offer opportunities for the transfer of economic power to the local population through greater participation in and ownership of businesses. The youth as part of the population need to be given preference in this regard. PPPs can be good for the local people in the following ways:

- i. the long-term nature of contracts allows the growth of local equity and management over time;
- ii. risks are clearly identified in PPPs, clearly costed and appropriately allocated, so that black participants know in advance what they are committing to; and
- iii. the utilisation of a range of large, medium and small enterprises, through subcontracting and procurement, can bring tangible local economic development benefits to targeted groups.

The involvement of local communities in capital works has always been a challenge in as far as shortage of skills is concerned. There have been sporadic reports of discomfort from local communities whenever building contractors bring along their own workforce when contracted to build schools, for instance. The youth should form part of the targeted group in the establishment of medium and small enterprises, more especially the youth that has just left school or completed tertiary education. The next paragraph addresses PPP procurement.

4.6 PPP PROCUREMENT

In the Gauteng Provincial Government, the GSSC procures both capital work-related services and any other service for all line departments such as Health, Education, Social Welfare and Roads and Public Works. The (National Treasury, 2002:7) stipulates that the purchase of goods and services includes the following:

- i. general procurement of goods;
- ii. specialised goods and equipment;
- iii. consultancies and professional services;

- iv. capital projects; and
- v. hiring, letting or disposal of goods and assets.

The process of procurement is based on five pillars of procurement. The (National Treasury, 2002:8) enumerates the pillars as value for money, open and effective competition, ethics and fair dealing, accountability and reporting and equity.

4.6.1 VALUE FOR MONEY

Value for money remains an essential test against which procurement outcome must be justified. The procurement function must provide value for money by ensuring that all the unnecessary costs and delays for the government and the vendors are eliminated (*National Treasury, 2002:8*). The supply arrangements must be monitored with the view to reconsider them if they cease to provide the expected benefits. The value for money is an essential test against which a department must justify a procurement outcome and that price alone cannot be a reliable indicator as it may not necessarily be the lowest price that meets the mandatory requirements (*General Procurement Guidelines, 2006:3*). The PPP project that has been allocated on the basis of lower price may fail to deliver the expected outcomes within the stipulated period. It is for this purpose that a feasibility study becomes a vital process. Though the risk has been transferred to the private company to build a prison for instance, if the completion period is extended or the funds depleted, the need for a prison may not dissipate given the number of convictions the courts make. A lack of sufficient accommodation for prisoners will as a result have a debilitating effect on the justice system.

4.6.2 OPEN AND EFFECTIVE COMPETITION

Open and effective competition requires a transparent framework of procurement laws, policies, practices and procedures. This pillar encourages openness in the procurement process and effective competition through procurement methods suited to market circumstances. Departments need to research to get the best possible outcome from the

market. In order to get the best possible outcome, potential vendors should be allowed access to procurement opportunities, which are notified in the Government Tender Bulletin (*Draft Interim Procurement Framework Manual*, 2002:9). Adequate and timely information must be provided to vendors to enable them to bid in an environment where there will be no bias or favouritism. Fourie and Burger (2000:29) posit that PPPs do have the potential to improve the efficiency and effectiveness of delivery of certain government services. The selection of private operator should be guided by the ability to deliver service efficiently and effectively. Fourie and Burger (2000:22-23) maintain that when a PPP partner is regulated in the absence of competition, the likelihood is that there will be ineffective risk transfer, since the single supplier retains the contract irrespective of his or her performance level, which at the end may defeat the very purpose of PPP.

The departments should ensure that the bidding costs do not deter the open process as the outcome is commensurate with the benefits received. The barriers of language competence of potential bidders need to be taken into consideration when drafting the Government Tender Bulletin. With costs implication in mind when compiling the bulletin, the most-spoken languages in the province should be used as a means to communicate this vital information. In so doing a wider pool of participants will be drawn. Departments need to apply effort and research to get the best possible outcome from the market by ensuring that potential suppliers have reasonable access to procurement opportunities and that available opportunities are notified at least in the Government Tender Bulletin and that the costs of bidding for opportunities do not deter competent suppliers (*General Procurement Guidelines*, 2006:5).

4.6.3 ETHICS AND FAIR DEALING

All partners participating in procurement need to comply with the ethical standards. The identified qualities of ethical compliance require of participants to deal with each other on a basis of mutual trust and conduct the business in a fair and reasonable manner (*Draft Interim Procurement Framework Manual*, 2002:9). All government personnel associated with procurement are required to recognise and deal with matters of interest of conflict.

The personnel in the public sector are further required to conduct business with integrity. In conducting business with integrity, officials are required not to compromise the good standing of government through accepting gifts or hospitality. Disclosure of possible conflict of interest to the executive authority is of great of importance. Fourie and Burger (2000:24) state that the government bureaucrat as an agent of government may face an incentive to manage the PPP contract in a way which serves his or her own interests rather than the stated objective of the project.

The question of acceptance of gifts and hospitality poses historical challenges, though it seems as one of the ways of protecting the integrity of both the government and staff. This is the challenge that expresses the value systems that influence the belief systems of people and nationalities. The issue of ethics predicts, by its definition, that all people share common values and therefore common beliefs across the board. Internationally, there are countries where it is not acceptable, for instance, to give tips; these are countries such as Japan, while in India, South Africa and the United Kingdom, this is a common and acceptable practice. The cultural practices often affect how the populace gives meaning to their relationship with others. If for instance, a vendor is awarded a tender worth several thousands of rand and of the opinion it would be humane and appropriate to express the gratitude by giving officials gifts, it would be difficult for the giver to think he or she is breaking the law. The same applies to the recipients of those gifts.

4.6.4 ACCOUNTABILITY AND REPORTING

Accountability and reporting involve ensuring that individuals and organisations are answerable for their plans, actions and outcomes (*The Draft Interim Procurement Framework Manual*, 2002:9). Transparency and openness, which allow external scrutiny through public reporting, are essential for a sound and accountable administration. Line managers must adhere to the line of reporting, *i.e.* HODs are accountable to MEC and directors general to ministers.

The role of Auditor-General is critical as far as providing an objective audit report is concerned. It is expected of various departments to compile reports on their financial expenditures on regular basis. Through regular reporting, challenges get highlighted and addressed expeditiously. In the Gauteng Department of Education, for instance, all units and districts do submit quarterly reports to their various heads of office. The question is whether those challenges relating to procurement and budgeting for example, as identified in those reports, have been resolved and the necessary feedback provided for the districts to improve on their management thereof.

In the Gauteng Department of Education, for instance, it is vital for the districts to include in their reports, the state of procurement management for the schools under their jurisdiction. The reports will provide an indication of compliance with regard to procurement policies for the achievement of BEE.

Kroukamp (2005) maintains that a large number of features are needed for accountability to be rendered. In most of the BEE entities this appears to be a problem. The features needed for accountability are:

- i. clear rules and responsibilities: sorting out the roles and responsibilities of each of the parties involved in relation to government and legislatures is critical for good accountability;
- ii. performance expectations that are balanced with capabilities;
- iii. well-defined management structures: this goes with managing public monies, assets, etc. It must have well-defined management structure such as corporate boards, professional management and financial controls in order to fulfil its public obligations;
- iv. appropriate management regime: the Government needs to have an adequate monitoring regime in place to know whether the arrangement is accomplishing what is expected;
- v. partner dispute resolution mechanisms: if the arrangement involves partners, there needs to be agreement on how disputes among partners are to be settled;

- vi. procedures to deal with non-performance: some thought should be given to how to deal with non-performance;
- vii. specific evaluation provision: accountability mechanisms that need to be in place are appropriate evaluation and audit provisions; and
- viii. appropriate audit regime: the nature and extent of an audit regime is also an important matter. In collaborative arrangements, there is no easy way for legislatures to have a single audit undertaken of the whole arrangement.

Kroukamp (2005) assertion of accounting mechanisms finds resonance in a number of legislative measures encapsulated in *PFMA*, (1999). These are outlined in the paragraphs that follow. The clarity that was referred to by Kroukamp (2005) in the previous paragraph plays a significant role in the attempt to make those responsible for the achievement of the core business of poverty alleviation through BEE be held accountable.

Section 51(1) of *PFMA*, (1999) provides succinct responsibilities of accounting authorities for a public entity. These are that the accounting authorities must ensure that the public entity has and maintains:

- i. effective, efficient and transparent systems of financial and risk management and internal control;
- ii. a system of internal audit under the control and direction of an audit committee complying with and operating in accordance with regulations and instructions prescribed in terms of Sections 76 and 77;
- iii. an appropriate procurement and provisioning system, which is fair, equitable, transparent, competitive and cost-effective; and
- iv. a system of property evaluating all major capital projects prior to a final decision on the project.

In addition to the functions above, the *PFMA*, (1999) stipulates that it is the responsibility of the accounting authority to execute the following functions:

- i. collect all revenue due to the public entity concerned;
- ii. prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct and expenditure not complying with the operational policies of the public entity; and
- iii. manage available working capital efficiently and economically.

The success of BEE programmes should not only be measured on the basis of the number of available policies without considering if these policies are implemented to the benefit of all whom they are intended for.

4.6.5 EQUITY

Equity has been defined as the application and observance of government policies, which are designed to advance persons or categories of persons disadvantaged by unfair discrimination (*Draft Interim Procurement Framework Manual*, 2002:9-10). This pillar ensures that the Government is committed to economic growth by implementing measures to support industry generally and specifically to advance the development of small, medium and micro enterprises (SMMEs) and historically disadvantaged individuals. The development of the historically disadvantaged individuals is driven by the quest to ensure greater participation of black people and women in the economy. This rationale is made achievable through the implementation of *Preferential Procurement Policy Framework Act*, 2000 (Act 5 of 2000).

The PPP procurement as outlined above seeks to bring to light the effect of the procurement system in poverty reduction and the creation of wealth. This system, notwithstanding its challenges, seeks to create an environment where the previously disadvantaged members of the society are accommodated in the economic mainstream. The potential outcome of this practice has been acknowledged in various ways by various politicians. The management of PPPs without leadership and management acumen would make it difficult for those charged with the responsibility to execute this function

to do so effectively and efficiently. The paragraph that follows discusses leadership for economic growth.

4.7 LEADERSHIP FOR ECONOMIC DEVELOPMENT

Cronje (2004) posits that most attempts at local economic development have failed and argues that there has to be a need to develop a different understanding of the reality and nature of poverty and development. The foregoing goes with an understanding of micro-development as it refers to community economies and the Second Economy. In the community economies, general trends seem to take on an exaggerated format. The community economies are more needs than demands driven. The asset base of communities is defined in four broad categories. These are:

- i. human capital such as labour, education, health;
- ii. social and institutional assets (household relations, trust, access to decision-making) *i.e.* in local governance;
- iii. natural resources (land, water, common property) and
- iv. human-made assets (housing, productive infrastructure, social infrastructure).

Cronje (2004) argues that poverty and vulnerability to poverty are closely linked to asset ownership. The ability to make good use of these assets and making them sustainable remains a challenge. Critical to the foregoing is the understanding by the community that these assets exist, hence the following quotation from Conje:

When, however, there is little realisation amongst the community that these assets exist, or how they can be utilised, or when there exists little energy in the community to turn the negative aspects of the current situation into a better future, then there will not be a change in the community's vulnerability to poverty. In other words, poverty is characterised not only by lack of assets and the inability of the poor and underprivileged to build up an appropriate asset

portfolio, but often also by an inability to devise an appropriate coping and development strategy.

The question could then be what the role of leadership should be in this regard. Cronje (2004) maintains that, *leadership* is a relationship between people. Leadership takes place within a cultural context. Cultural practices change with time. In changing times cultural practices and values must be subject to open examination, rather than being adopted blindly. Harris *et al.* (2004:116) posit that cultural conditioning affects attitudes towards the phenomenon of change and the concepts of leadership. They further posit that just as there are some cultural differences between American and European concepts of leadership, greater is the difference between European and Eastern cultures.

Harris *et al.* (2004:116) portrays the Asian culture as influenced by Confucianism, which seek stable society through the hierarchy of five unequal relationships extending from ruler and father to older brother, husband and senior friend. This factor will be addressed in full later in this chapter as it takes into cognisance issues of language and ethnicity. It seems as if ethnicity and language may form part of stereotypical attitudes toward those who may be at a lesser advantage if not kept under check. A stereotypical approach to doing business in South Africa will be influenced by language and ethnicity if no proper checks and balances are in place given the heterogeneity of the society in South Africa.

The implementation of BEE should happen in the context of a sound leadership that understands cultural dynamics. It is of interest to note that Cronje (2004) describes *leadership* as consisting of the time competence, inclusive, value based and transformational characteristics. He further states:

Effective contemporary African leaders understand with their minds and hearts that they are part of a 'community of leaders. They allow others space to contribute and celebrate collective rather than individual successes. The being, thinking and doing of truly authentic leaders express simultaneously a part and the whole of our African existence.

The question that needs to be raised further is whether those in authority in the public sector have really internalised the features of success as alluded to by Cronje. The challenge of creating space for others to contribute and celebrate collective success under the current system of evaluation for pay progression also raises serious questions that need to be answered with vigour. Though feedback remains an important feature in service delivery for employees to know how they are performing, it remains a challenge not to tie those achievements to an individual for the purposes of incentives and corrosion of social cohesion and human solidarity.

Certain qualities remain sacrosanct as far as leadership is concerned. Among these qualities is leading by example. Leaders at all levels should walk the talk, which makes it easier for followers to emulate and follow in their footsteps. The legitimacy of leadership revolves around good behaviour. This is normally noticeable by showing personal commitment to the values and goals established in the organisation. These should not be seen as conclusive of all key attributes of sound management and leadership. According to Gilgeous (1988:37) the following factors should be considered critical:

- i. bias for action: getting things done rather than too much planning;
- ii. close to the customer: listening to the customer and learning and striving to achieve quality, service and reliability;
- iii. autonomy and entrepreneurship: pursuing innovation, creativity and risk-taking through the efforts of people with leadership and championing qualities;
- iv. productivity through people: appreciating the value of workers as a main source of productivity and quality and providing them with training and giving them autonomy to enable them to continue in their productivity;
- v. hands-on, value-driven: top management providing clear understanding of what the business is about and developing an interest in its values throughout the organisation, particularly at shop floor level;

- vi. stick to the knitting: carrying on with what is known best in the business and being cautious about acquiring business whose core activities are not so well known;
- vii. simple form, lean staff: keeping structures simple and having a few top-level staff in the pursuit of improved flexibility and communication; and
- viii. simultaneous lose-sight properties: centralising control in terms of the organisation's culture, values and beliefs while decentralising control in terms of encouraging individual innovation, autonomy and entrepreneurship.

The above attributes are not acquired over-night. Earlier on a mention of mentorship was made as a formidable remedy to pervasive mismanagement in most of the BEE entities. The same goes for entrepreneurship. It is critical that these attributes are factored throughout the mentorship programmes and training, which are so direly needed for the successful leadership and management in the BEE entity.

The leadership or management debates above are complemented by Yukl (2006) by listing managerial and responsibility roles as consisting of the following:

- i. supervising;
- ii. planning and organising;
- iii. decision-making;
- iv. monitoring indicators;
- v. controlling;
- vi. representing;
- vii. co-ordinating;
- viii. consulting; and
- ix. administering.

Yukl (2006:33) further posits the theory of demands, constraint and choices as consisting of the core components which will be discussed shortly. Self-evident in Yukl's assertion of leadership is innovative thinking. In the light of the demand for a new way of doing

things, the innovative thinking plays a critical role. Innovative thinking is what entrepreneurship is about. It stands to reason that the foregoing aspects are critical for the implementation of BEE in South Africa. It may not be necessary to spell out the implication of each aspect at the present moment. The components referred to earlier on are as follows:

- i. Demands: these include demands for standards, objectives and deadlines for work that must be met and bureaucratic procedures that cannot be ignored or delegated, such as preparing budgets and reports, authorising expenditures, signing documents and conducting performance appraisal.
- ii. Constraints: constraints are characteristics of the organisation and the external environment limiting what a manager can do. They include bureaucratic rules, policies and regulations, which must be observed, and legal constraints such as labour laws, environmental regulations, and availability of resources such as facilities, equipment, budgetary funding, supplies, personnel and support services.
- iii. Choices: choices are the activities that a manager may do but is not required to do. Examples of major choices are the objectives, the strategies selected to pursue objectives, the aspects of the work in which the manager gets personally involved, how and with whom the manager spends time.

On account of the above, an inference could be made that leadership is complex. It remains unimaginable how BEE and PPP projects for poverty alleviation could be implemented without proper management and sound leadership. It has to be emphasised that the answer does not lie in policy development but in policy implementation and policy interpretation. These are critical to the government-initiated poverty alleviation programmes.

4.8 CONCLUSION

This chapter provided contextualisation of PPP and how PPP should operate to meet the requirements for service delivery and ensure broader participation of the previously disadvantaged groups in the economy of the country through preferential consideration for tenders, so as to achieve the wealth creation as envisaged in this study. The discussion in this regard was made with specific reference to women, youth and rural communities. The challenges, attendant to the implementation of PPPs, were mentioned in this chapter, which entail the need to build capacity of managers in the Public Service as a whole. The availability of legislative frameworks and policies pertaining to PPPs are supposed to be sufficient for the conducive environment for the effective and efficient implementation of PPP initiatives. The chapter focused on the role of the government and private sector in the PPP partnership. The chapter further focused on the criteria for a successful PPP procurement, with the understanding that for some services, neither the government nor the private sector alone can successfully deliver without the business sector playing an active role and that PPPs play an important role in shifting risk to the private sector and the transfer of skills to the Public Sector.

Management skills and creativity are important as far as managing the process of PPP implementation is concerned, as the process in itself may be convoluted where officials would be required to have some requisite skills. This could among other things, require of managers to have acquired the ability to specify the expected outcome that is commensurate to the input used. The exercise of feasibility study requires some level of understanding on the side of officials to be able to carry it out. The code of conduct of officials working directly with tenders and bidders is crucial to the success of PPPs. It is for this reason that the treasury retains the control over the PPP process, with all accounting authorities reporting all PPP initiatives prior the resumption.

Chapter 5 of this study covers a wide range of aspects playing a role in the implementation of effective and efficient BEE/BBBEE with specific reference to the ethical behaviour of employees. For the people's needs to be attended to, the element of

accountability on the part of the Public Sector as a whole is crucial. For accountability to be reinforced, it is necessary that the disciplinary code be adhered to. The reinforcement of the disciplinary code hinges on the relationships which are discussed in Chapter 5.

CHAPTER 5

PROMOTION OF THE CONDITIONS FOR BEE/BBBEE IMPLEMENTATION THROUGH ETHICS AND RISK MANAGEMENT

5.1 INTRODUCTION

The previous chapters highlighted a number of legislations and other sources that sought to make the BEE through PPPs a possibility. A number of challenges were highlighted. The multidisciplinary approach, which is evident in this chapter, will be manifested in the employee/employer relationship. Poverty alleviation and partnership formation might be problematic for these goals to be realised without checks and balances put in place. The checks and balances encapsulate building awareness through policy advocacy, corrective measures such as discipline as well as introducing risk management strategies. The foregoing measures play a role in the promotion of the conditions for BEE/BBBEE implementation.

In analysing the utilisation of public-private partnership in South Africa, it is important to define *public-private partnership* in the context of BEE/BBBEE. An attempt has been made to analyse the strengths and weaknesses of public-private partnership.

The study encapsulates the utilisation of PPPs in the management of finances towards the realisation of public-private partnership in South Africa with reference to the realisation of black economic empowerment. The management of finances as referred to here presupposes a particular relationship between employer and employee, employee and the regulations as well as the employee and the customer. This chapter focuses on these relationships as they have a bearing on the study of ethics and accountability. What has been manifested in this study is the interdisciplinary nature of public administration as it deals with aspects of codes of conduct and disciplinary procedures for deviant behaviour.

5.2 CORRUPTION AND THE LEGAL FRAMEWORK

Of vital importance is the postulate that this study, as stated above, takes the form of an interdisciplinary approach. Every workplace is characterised by the relationship between the employer and the employees, among employees themselves, and between the client and the supplier of service. This statement is pursued further in the later paragraphs that will address the relationships that the employee has.

These relationships may either take a form that would require to be defined either psychologically or sociologically. In this form of relationship, aspects of quality management come into play in as far as the customer, whether internal or external, would expect a particular standard of service to be rendered at a particular time. It is difficult to imagine how the private sector would be willing to partner with an uncaring Public Sector in the delivery of service. The private sector can make its resources available for the improvement of the living standard of the citizenry, if the conditions for this to happen are ideal.

For BEE to be implemented and to thrive, an environment for this to happen should be created, where officials are not only well trained but also that their behaviour is beyond reproach. This is the behaviour that calls for commitment and selflessness. South Africa, like any other country, should observe the rule of law. It is for this reason that South Africa has subscribed to a number of international conventions as mentioned in paragraph 2.6. The environment for poverty alleviation forms part of global imperative. Any form of law or practice that undermines human development should therefore be considered unacceptable and counter-productive.

The focus will be on whether service in the Public Sector is provided equitably and fairly in line with the political mandates encapsulated in manifestos and relative pieces of legislation. Anything to the contrary will have to be treated in line with the provided procedures. In order for the employees to know what is expected of them to do and how to do it, it will be necessary that a set of rules and regulations is clearly spelt out for

employees. In this regard, the Constitutional Principles of the Public Service Commission as stated by Sangweni (2004:3) will be used as reference.

As the aspects of relationship are analysed, specific administrative principles will have to be observed to ensure quality service delivery. The principles of *batho pele*, the Code of Ethics for public servants and other relative policies are analysed in this chapter. It is further of interest to investigate whether institutions or departments do have risk management plans and how these plans are being implemented to avoid rampant corruption in the Public Sector. These plans play a critical role at the level of procurement where aspects of BEE through PPP come to the fore.

The Swedish International Development Agency, referred to as SIDA (2004:5), defines *corruption* as manifested in the following:

- i. undermines the law;
- ii. demoralises political systems and democracy;
- iii. results in the inefficient allocation of scarce resources;
- iv. affects the poor disproportionately;
- v. undermines respect for human rights;
- vi. contributes to environmental degradation;
- vii. affects the will to invest; and
- viii. destroys predictability and hope for the future.

An environment where the rule of law does not apply hampers equitable service delivery. The focus of this study is poverty alleviation through BEE, where the designated group of people is a priority beneficiary. If resources are not allocated in a manner that benefits the poor, the poor would remain poor forever and the objective of poverty eradication would become difficult to achieve.

SIDA's Anti-Corruption Regulation (2004:9) stipulates strategies to counteract corruption in its partner countries. These countries include South Africa. According to

SIDA (2004:10), it may not be sufficient to simply define what *corruption* is without spelling out measures to counteract it. It is for this reason that the following strategies are considered relevant:

- i. support for civil society (including local chapters of Transparency International or local networks of the Global Compact);
- ii. general promotion of transparency;
- iii. support for the media;
- iv. support for good governance;
- v. support for an independent judicial system;
- vi. capacity building in financial management; and
- vii. institution building in general.

The role played by the media in exposing corruption where it happens cannot be underestimated. It was mentioned in the previous chapters that an environment for the implementation of BEE is supported by a variety of acts that seek to promote and foster good governance.

Sangweni (2004:3) posits that the government has made efforts in the promotion of social development and that social development can be sustained in an environment of good governance. He further states that poverty alleviation projects do not follow good development practice and that they are poorly integrated into local development plans and strategies. The foregoing borders on the organisational deficiencies, which will be analysed later. This is considered an administrative challenge that will be discussed both in this chapter and in Chapter 6 of this study. Poorly developed plans and strategies hamper development and economic growth, thereby hampering the realisation of black economic empowerment.

The use of these concepts and application might seem to pose challenges for both the administration and policy-makers in the South African administration domain. Managing PPP related processes requires a high level of discipline and responsibility. A lack of

common understanding of concepts such as *corruption* will always pose a major challenge as referred to in paragraph 4.6.3. The question can be posed whether the value systems that influence the thought processes of individuals should be taken into consideration when determining what is corruption and therefore unethical. The existing body of knowledge does not give a clear definition of *corruption* except to say it must be eradicated. In other words, the practice that is perceived to be corruption must be eradicated irrespective of whether it expresses a particular value system of a particular society. Transparency International (2010) in its Global Coalition against Corruption posted a corruption perception index, where South Africa has not scored favourably, compared with countries such as the United Kingdom, the United States of America, New Zealand, Australia and Denmark, with the latter ranked as the least corrupt country in the world. The index further states that corruption must be prosecuted and prevented and that anti-corruption bodies must be established. The majority of African countries, except Botswana seem to have scored badly in the index. The question of values and beliefs needs to be taken into cognisance when defining *corruption*.

5.3 ETHICS AND ACCOUNTABILITY

Geuras and Garofalo (1999:4) define *public* as meaning that the ethical value in the standard of the public interest applies to every member of the political community. The catchword in this definition appears to be *member of the political community*. The definition of *public* without reference to government or political environment is difficult. The question that can be posed is: what is that which is of public interest in South Africa? The answer to this question is found in the former president Mbeki's address at the second joint sitting of the third democratic Parliament in February 2005, when he stated that the victories that have been registered during the first 10 years of freedom laid the foundation for new advances. Former president Mbeki (2005) further mentions that the following should be done:

- i. further entrenchment of democracy in the country;
- ii. transforming the country into a genuinely non-racial society;

- iii. transforming the country into a genuinely non-sexist society;
- iv. eradicating poverty and underdevelopment, in the context of a thriving and growing First Economy and the successful transformation of the Second Economy;
- v. opening the vistas towards the spiritual and material fulfilment of each and every South African;
- vi. securing the safety and security of all our people;
- vii. building a strong and efficient democratic state that truly serves the interest of the people; and
- viii. contributing to the victory of the African Renaissance and the achievement of the goal of a better life for the people of Africa and the rest of the world.

The need for poverty alleviation for the material fulfilment should indeed be the pursuit of the Government. It is through BEE that these ideals can be achieved. Accountability is vital in pursuit of the above ideals.

The former minister of finance, Manuel (2004:1), argues that South Africa has achieved many things in ten years of democracy and states further that the need to eradicate poverty and to drive development remains utmost. He referred to the following as setting the agenda for the development he referred to in his address, being:

- i. health care for all;
- ii. quality education for all;
- iii. safe water and sanitation for all; road, rail, sport communications infrastructure that will stimulate growth;
- iv. black economic empowerment;
- v. a justice system that works;
- vi. sport and cultural facilities that build pride; and
- vii. the protection of South Africa's biodiversity heritage.

The areas referred to above resonate to a larger extent the ideals encapsulated in former president Mbeki's address. It is important for those who violate the law to be referred to the law enforcers for them not to act with impunity. The education system should be such that the poor are made to benefit from the economy of this country through BEE.

Manuel's address (2004:2) largely agrees with what the former president mentioned in his two speeches. The challenges they elicit are common as they centre on the strong economy and the need for development. Paragraph 5.2 defined *corruption* as any practice that stands in violation of the principles outlined by SIDA, which are accepted internationally. The point at issue here is that *corruption* is defined purely on the basis of practice *i.e.* the manifestation of it. The challenge facing all the citizens in South Africa is the embracement of ideals of good practice by everybody. The goals of poverty alleviation through BEE may not be maintained in an environment of ill-discipline and indolence.

Mafunisa (2002:192) defines *ethics* as that branch of philosophy dealing with values that relate to human conduct with respect to what is right and what is wrong. What is right refers to what ought to be or what is acceptable. What is wrong is that which is not to be or what is unacceptable. Ethics can, simply put, be that which is in agreement with the norms of propriety. By the very nature of human beings it is acceptable that unethical behaviour by political office bearers and public officials might occur. The challenge raised here is that in the event unethical behaviour occurs, what should be done? This has been addressed in paragraph 5.4 of this study. It should, however, be advisable to read the catalogue of unethical behaviour against the definition of *corruption* as highlighted in 5.2 of this study.

Mafunisa (2002:193) provides a catalogue of unethical conduct as follows:

- i. inefficiency and ineffectiveness;
- ii. corruption, meaning unethical use of public office for personal or private gain;
- iii. conflict of interest;

- iv. election rigging;
- v. subjective and arbitrary decisions;
- vi. tax evasion;
- vii. discrimination;
- viii. protection of incompetence;
- ix. unauthorised disclosure of confidential information;
- x. nepotism;
- xi. bribery;
- xii. theft;
- xiii. misuse of public property;
- xiv. victimisation;
- xv. sexual harassment;
- xvi. fraud;
- xvii. extortion;
- xviii. influence peddling; and
- xix. speed money.

The practices spelt out above hamper development and perpetuate suffering among the poor who stand to benefit from BEE initiatives in that, aspects such as theft, bribery, fraud and extortion for instance; promote self-enrichment among those who happen to have access to the resources. Under normal circumstances, the private sector would prefer to invest where there is a potential for positive return on investment rather than channeling resources into a situation of anarchy and lawlessness, which is underpinned by crass materialism. A case in point is those countries where human rights are violated with impunity, *e.g.* Zimbabwe and Swaziland.

Mafunisa (2002:194) outlines causes of unethical behaviour. He asserts that corruption as a form of unethical behaviour would differ from one society to another. He however sums up the corruption within public functionaries as caused by greed and dishonesty.

He outlines causes of corruption as follows:

- i. psychological factors, manifested in craving for power, avarice, covetousness etc.;
- ii. social factors such as large numbers of people competing for inadequate services;
- iii. economic factors, caused by low salaries where the standard of living is high;
- iv. organisational factors, where supervision is insufficient;
- v. complex legislation, caused by incorrect interpretation, which often leads to inconsistencies;
- vi. lack of an ethical awareness as a result of ineffective communication; and
- vii. deficient control and accountability, which often leads to employees exploiting a lack of control and accountability.

Chapter 3 of this study outlined the responsibilities of various officials who are at the forefront of policy implementation. Should these officials be found to be not keeping the code of conduct and be found to be enriching themselves by way of collusion with other dodgy service providers, it will be difficult to succeed in pursuit of a better life for all through BEE initiatives. The aspect of empowering the empowered continues unabated in an environment where corruption reigns supreme. Conflict of interest promotes corruption and fraud and provides no incentive for the private sector to want to do business with the Government in an environment of lawlessness. The Report on Financial Misconduct (2004:4) outlines the levels of officials charged with financial misconduct. Employees at Salary Level 6, which constitutes the lowest-paid clerical staff in the hierarchy, are found to have committed the highest number of financial misconduct cases (25%) while those in salary level 13 to 15 that have been charged with financial misconduct has increased from 1% in the 2001/2002 financial year, to 4% in the 2003/2004 financial year. These figures show that financial misconduct is pervasive across all levels in the Public Sector.

Mafunisa (2000:80) maintains that if superordinate public officials were able to elicit in subordinates a sense of identification with their work and their employer, there would be the possibility of unleashing a sense of commitment rather than compliance. Unlike compliance, commitment implies that the public official produces more than is expected. The most urgent duty facing the Public Sector is not only to get public officials to comply with a code of conduct, legislation or administrative law, but also to transform the compliant workforce into a committed workforce geared towards effective and efficient performance. McIntosh (1999:8) states:

As young people, we want to work in an environment that has the creative and productive potential of business. Yet, we fear that while the surface of a company may look beautiful, its core may be rotten. We want to be able to state our values openly, and not have to compromise those values in our day-to-day jobs. Increasingly, we will be looking beyond a company's petals and stem and even its soil. Instead we will be scrutinizing the seeds of its values, visible through the increasingly transparent soil. And, we see ourselves as partners and customers, rather than as employees. When entering into a contract of employment, we are forming a partnership. And we believe that all partnerships should be based on shared values.

The quotation above stands in marked harmony with Mafunisa's postulate above. Though it may sound rather ideal, it remains an objective that the 21st century employee should pursue. It is a marked epitome of commitment that is in stark contrast with compliance.

Flowing from Mafunisa's (2002:16) postulate, it is of importance to make reference to the Report on Managing Conflicts of Interest in Public Service (2006) as far as the report mentions three categories of conflict of interest, namely, perceived conflict of interest, potential conflict of interest and actual conflict of interest. A public official is in a position to appear to be influenced by his or her private interests when doing his job, which makes him or her perceived to have a conflict of interest. Potential conflict of

interest manifests itself when a public official is in a position where he or she may be influenced in the future by his or her private interest when doing his or her job. Actual conflict of interest manifests itself when a public official is in a position to be influenced by his or her private interests when doing his or her job.

Davies (2005:5) identified the following eight fundamental principles underlying an effective conflict of interest:

- i. the system/policy should promote both the reality and the perception of integrity in government;
- ii. the focus should be on prevention, not punishment;
- iii. the honesty of the majority of public officials must be recognised;
- iv. morality should not be regulated;
- v. the system/policy must be tailored to the particular nation, society and culture;
- vi. it undergirds the essential values of the nation;
- vii. government money should be saved; and
- viii. ensure that the public have an interest in the system.

Davies' (2005:5) argument though it may have areas of controversy, it creates a platform for further debates in as far as the system must be tailored to the particular nation, society and culture. It stands to reason that taking into consideration proverbial expressions rooted in certain African societies and cultures, Davies's assertion holds water; e.g. in Sotho, Tswana, Zulu and Swazi, these are *he who strives, strives for his own* (direct translation) and *One hand washes another* (direct translation).

Manuel (2004), states that the question that is often asked is 'how to?' The answer is attributable to the availability of resources. It is against this backdrop that Manuel argues in favour of public-private partnership by stating that public-private partnership would come in handy to address these challenges. The public gets better, more cost-effective services; while the private sector gets new business opportunities. It is advisable to take

into consideration the ethical practices or a lack thereof in implementing the ideals of PPP.

Former president Mbeki (2005), in his address has elaborately stated what he perceives to be of public interest. The same is echoed in the previous references made with reference to Geuras and Garofalo (1999:4). It can further be argued that Mbeki (2005) in his address has already implicitly outlined the purpose of public private partnership in as far as it aims at addressing the challenges facing the South African Economy. Mbeki (2005) continues to state that a programme of action of Government to achieve higher rates of economic growth and development has been set out. He states that this was meant to improve the quality of life of all people and consolidate social cohesion.

The challenge remains the equitable management of resources in the manner that all citizens benefit from them, not only a select few. Normally corrupt practices take place at the level of management where tenders often get directed to friends and relatives, as raised in the previous chapters. When corruption occurs, the poor and the public at large experience hardships. This may take the form of a lack of service delivery or general neglect by those wielding power.

In discussing this challenge, it is not uncommon to come across sporadic statements that underpin, what appears to be a lack of willingness on the part of senior management and politicians in high places to implement policies that deal with matters of discipline and to take appropriate steps where such deviations have become self-evident. By *senior management* here, the study refers to the management in the Public Sector, ranging from director upward. Resolution Number 9 of 2001 refers to the Senior Management System (SMS) as referring to those individuals at Salary Level 13 or higher. It remains the responsibility of management to implement policies around matters of discipline and to promote ethical behaviour in and outside the workplace.

The recommendation and conclusion in this study will suggest strategies and procedures of managing discipline in the Public Sector for the conducive condition for PPPs to

thrive. The need for offenders to be brought to book does not only encourage private companies to form partnerships with the Government, but also build confidence from the ordinary citizens of South Africa. Central to the implementation of ethical standards is leading by example. The senior management, including political heads need to exemplify ethical standards in their behaviour at all times. It will be of interest to note that in spite of the availability of many policies and legislations, the Public Sector still remains fraught with disciplinary problems. It will be explained later on why the public service continues to find it difficult to promote sound discipline in the departments. Paragraph 5.16 provides a statistical representation of cases referred to the CCMA, which serves as an indication that those committing misconduct are not left unscathed.

Jefkins (1998:56) defines *public* as a group of people, internally and externally, with whom an organisation communicates. What has been brought to bear in this definition is the multiplicity of disciplines at play in the study of Public Administration. The very definition above, presupposes the relevance of sociology in the study of Public Administration. The system of thesis, antithesis and synthesis will come into play where employees interact and interphase. This chapter is about the promotion of the conditions for BEE/BBBEE implementation in public administration perspective where ethics and risk management form important features towards the realisation of public private partnerships, through which BEE will be achieved. What may be seen in this definition is the interaction of human beings in a particular relationship, best defined as the departments and members of the public, who happen to be the recipients of the service rendered, hence the *internal* and external customers.

Pursuant to accountability and ethics, the following aspects are highlighted: efficient and effective use of resources, public administration as developmental process, impartiality, fairness, equitability and unbiased practices, responding to people's needs, accountable public administration and good human resource management. The poverty alleviation process should be based on sound democratic principles that seek to elevate the plight of the poor.

5.4 EFFICIENT, ECONOMIC AND EFFECTIVE USE OF RESOURCES FOR THE PROMOTION OF THE CONDITIONS FOR BEE/BBBEE IMPLEMENTATION

Resources as discussed in this paragraph may refer to human, physical or financial resources. The most neglected of the resources in the Public Sector is time. Time management plays a critical role in the delivery of service. Time determines the turnaround period in the supply chain management. The Gauteng Provincial Government has introduced the GSSC as a means to address the turnaround time in service delivery. This implies the speedy delivery of service to those requiring it. Compounding the problem of encouraging people to start business in South Africa, is turnaround time. This goes with the time it takes to make an application with the Department of Trade and Industry (DTI) for business as well as the issuance of tax certificate by South African Revenue service.

The need to ensure that effectiveness is continually sought cannot be reputed. Sangweni (2004:3) states that the Public Service Commission proposes the adoption of an integrated national performance management framework. At face value this may not be a bad idea. The challenge is whether this framework will really deliver the expected results given that it presupposes that all provinces in the country are equal in terms of resources and that they share common cultural practices. Some provinces such as the Eastern Cape require a unique framework that will have to be customised to the needs of that province. Provinces such as Gauteng and the Western Cape with their rich HR skills require a different approach altogether from the rest of the struggling provinces, for instance. It is for this reason the globalisation of standards becomes problematic.

Operational plans consist of the following: objectives, activities, outputs, measures, resources, responsibility and timeframes. For example, the Gauteng Education Department in this province follows the structured system of reporting called *Matlotlo* (Sotho name for revenue) (2008). This is the forum where directorates or units in education would present the financial situation of their various units. The exercise helps in the promotion of transparency and efficiency in the use of public funds. The forum is

used to ascertain if the department uses the budget in accordance with the political mandates identifies for that particular financial year.

There are a number of cases where public servants have been prosecuted for non-delivery and rendering services in a manner that was not transparent, for instance, paragraph 5.14 of this study refers to this. The forums such as *Matlotlo* would help to identify deviations at an earlier stage. It may not be an acceptable practice if the entire budget allocated goes towards personnel, for instance, with nothing spent to uplift the poor through BEE initiatives. To manage the budget effectively, efficiently, economically and with transparency requires efficient reporting and reporting tools, which is referred to in Chapter 6.

Accounting officers may be held accountable for not complying with the provisions of *PFMA*, (1999) in as far as *effectiveness*, *efficiency* and *economical* are concerned. One can ask, who qualifies a particular practice as efficient, effective or economical? Which standard is used? These terms are critical in as far as taking disciplinary action against employees is concerned. The challenge here is as far as a lack of compliance with the above is often regarded as nepotism, the term which does not exist in the African vocabulary and which may be interpreted differently by those who practise it. The environment of nepotism may be viewed by potential partners as lawlessness. An environment where the laws and policies of the Government are not observed may create a lack of confidence from the potential private partner. For example, if Edu-Solution as the sole supplier of stationery in Gauteng feels the Gauteng Provincial Government might not pay for the services it has rendered, it might be difficult for Edu-Solution to continue in this form of partnership.

What is considered to be corrupt practice in the black culture, where one should direct resources to his or her own is often supported by a number of proverbial expressions such *when you strive you need to strive for your own closest of kin* (direct translation), *children of the family share a locust's head*, (direct translation) and reference can also be made to the English idiomatic expression that says: "*blood is thicker than water*". These

expressions might have been taken too far, but the gist of the matter here is that nepotistic practices are not of necessity without cultural roots and practices. Paragraph 4.6.3 and 5.2 referred to this practice, though in different context. Perhaps what is considered *corruption* needs to be located within a particular cultural context. Considering countries such as Japan where tipping is outlawed and India and other countries where it is permissible or even enforced, one wonders if culture and ethical behaviour should not form part of the definition of *corruption*. The promotion of conditions for BEE/BBBEE implementation in the absence of a conscious effort to abide by the laws and policies of government will become a challenge. There has to be common understanding between partners in terms of partnership conditions and procedures for the achievement of a common goal of BEE through PPP.

5.5 PUBLIC ADMINISTRATION MUST BE DEVELOPMENT ORIENTED

The daily practice of public administration should seek to improve the quality of life of all citizens, especially those who are disadvantaged and most vulnerable. This should form part of the public administration's main objectives. Sangweni (2004:18) continues to argue that in order to address poverty, a comprehensive planning, participation and budgeting are required to facilitate the success of poverty alleviation projects. Perhaps this is what the Expanded Public Works Programme (EPWP) seeks to address. The Expanded Public Works Programme forms part of BEE through PPP, for example when a group of local residents are employed by a local contractor to help build bridges or repair roads. Equally, a BEE company may, for example, be contracted to provide food for prisoners or patients in hospital. In so doing, the quality of the life of citizens and their well-being improves.

Sangweni (2004:18) maintains that social security is a major instrument for redressing poverty. This is manifested in child support grants and old age pensions, for instance. Both national and provincial departments have implemented poverty alleviation programmes. Having implemented these programmes should not be seen as an end in itself. In the light of the many challenges of fraud and corruption in this area, it may be

advisable for instance, to consider a voucher system, where the participants are forced to spend the money for what is worth. The establishment of the voucher system should require a BEE/PPP initiative, for instance. The disbursement of the fund to the needy should take the form of strict supervision to avoid fraud and corruption.

5.6 SERVICE MUST BE PROVIDED IMPARTIALLY, FAIRLY, EQUITABLY AND WITHOUT BIAS

In order to promote the conditions for BEE/BBBEE implementation for the realisation of black economic empowerment, service must be provided impartially, fairly, equitably and without a bias. Tenders must, for example, not be given to people on the basis of their political affiliation or without considering if these tenders have been awarded to people with requisite skills.

According to Sangweni (2004:3) the Government has adopted legislation and policies intended to improve service delivery. He argues that this is rarely understood and implemented. He goes on to explain that impartiality demands that factors such as race, ethnicity and family connections play no part in the delivery of service. Equity according to Sangweni (2004:21) is more challenging in as far as it relates to even-handedness and fair play.

The historical perspective in making service delivery decisions is crucial. Equity often requires that certain groups be given affirmative treatment or preferential access to services, which creates a dynamic tension with the principle of impartiality. The difficulty with this principle is that its implementation is often regarded as discrimination in reverse. The need to apply some form of affirmative action was analysed in Chapter 2 of this study. It cannot be expected that the implementation of programmes that seek to empower blacks will not be without challenges. The challenge is to create a balance between fair play and blatant nepotism.

A number of questions can be raised as to why it seems as if the understanding of government legislation and policies in the area of BEE is problematic. It may be that employees are trapped in a rut of antiquated cultural mold of glorified nepotism, which seems to be gaining momentum in the Public Sector. The challenge here might be that people who come from a cultural background that does not see nepotism as an offence, may need to be made to understand and accept it as an offence.

There is a need for a debate around the cultural connotation of what *nepotism* actually implies in relation to the specific beliefs of cultural groupings in the Republic of South Africa. Some cultural groups may understand impartiality and fairness to be foreign practice. The same goes with the allocation of resources to those who are seen to be politically connected. What is of concern is that this practice may be construed to be contrary to the codes of business ethics by international standards. Reference to SIDA in paragraph 5.2 in this regard has been made for the purposes of understanding what the international community understands by ethics and ethical practices. Taking the international practices into consideration should also be done with great caution as countries differ in terms of a variety of cultural practices. The Gauteng Provincial Government in pursuit of equitable and efficient procurement system introduced the Gauteng Shared Services Centre (GSSC) to deal with matters of procurement. Paragraph 6.6 of this study focuses on the role of the GSSC in this regard.

5.7 PUBLIC ADMINISTRATION MUST BE ACCOUNTABLE

Sangweni (2004:26) explains *accountability* as taking responsibility for one's actions. It is a key corollary of being given a mandate by an electorate. By acting responsibly, the Public Sector holds itself up to public scrutiny. This the Public Service does in full recognition of the principles of *batho pele* (DPSA, 2009) mentioned as follows:

- i. regularly consult with customers;
- ii. set service standards;
- iii. increase access to services;

- iv. ensure higher levels of courtesy;
- v. provide more and better information about services;
- vi. increase openness and transparency about services;
- vii. remedy failures and mistakes; and
- viii. give the best possible value for money.

Accountability denotes being able to account for the resources allocated under one's supervision. It is here where the term *accounting officer* as used in the *PFMA*, (1999) derives its meaning. The absence of accountability suggests the existence of corrupt practices and fraud. The implementation of PPP through BEE may not thrive under an environment where corruption and fraud are rife.

The accountable utilisation of resources implies the ability to be able to account for each and every cent that is spent and to ensure that the allocated budget is spent in a transparent manner. Any form of deviation or departure from the generally accepted accounting practice may be punishable by law. It is for this reason for instance, that some of the provinces find it difficult to spend the allocated funds.

Capital expenditure plays an important role in bridging the gap between the rural poor and the rich in the cities. It is against this background that Mpumalanga Provincial Government spent only R1,6m out of capital expenditure budget of R112 million, the Eastern Cape only R330 000 of the year's capital budget of R8 million, the Free State R1,5 million out of R23 million, Gauteng R3 million out of R8 million and Kwazulu Natal R13,4 million out of R74 million (Unspent budgets in Provinces, Anon, 2006:3). It is not only unacceptable but also counter-productive, given the broader objective programmes of Government on poverty alleviation through BEE.

According to MECs of Agriculture and Social Development, these misdemeanors are linked to R15,6 million land deal which was authorised unlawfully. The charge sheet states that the MEC, on behalf of the provincial government entered into a sale agreement to buy 49% of the share of Kangela citrus farm for R15, 6 million. The MEC received

R360, 000 in kickbacks from Cape Town businessman in the form of cash and a bond payment of R2,7 million for his home (Face Six Counts of Fraud and Corruption Anon, 2006:7).

In as far as the promotion and management of discipline is concerned, the role played by the Auditor-General may not be undermined. The Auditor-General, according to Sangweni (2004:27), is the key institution that promotes accountability in South Africa's Public Sector. It is unfortunate that recommendations made by the Auditor-General are not always implemented, which may undermine the equitable, economical and transparent distribution of resources, which could be used to promote BEE through PPPs.

5.8 TRANSPARENCY MUST BE FOSTERED BY PROVIDING THE PUBLIC WITH TIMELY, ACCESSIBLE AND ACCURATE INFORMATION

The *Promotion of Access to Information Act 2000* (Act 2 of 2000) is meant to address the problem of a lack of information on matters of public interest. It will be difficult for the Government to be considered accountable if it does not practise the principle of transparency. In practising the principle of transparency, the National Assembly and legislature debates are often made open to the public. Annual or quarterly reports are the key public documents through which transparency is achieved.

Transparency involves disclosure of business interest for employees in the Public Sector. There still exist weaknesses in this area in that in some instances this may be regarded as an invasion of privacy. Transparency could as well imply regular reporting of the state of finances of a particular institution or department. All the departments should either by way of public hearings or annual reports disclose how much of the budget was allocated towards the promotion of PPP and a number of people who benefited from BEE programmes in a particular financial year. Transparency underpins public disclosure.

It is not easy to determine how many of the senior management in the Public Sector have or have not completed the declaration of interest forms in compliance with the *SMS*

Handbook (2006). Compounding this problem is the fact these forms are confidential. It further stands to reason that the completion of these declaration forms may turn out to be of no use if those directed to complete them may include false information about themselves and their business interests. The completion of these forms may just be dependent on people's good-will. The difficulty here may be as a result of a lack of proper communication and feedback. Employees have been made to complete declaration forms without a full understanding of the reason behind the completion of these forms. It is for this reason they prefer to keep their interest to themselves. It further must be borne in mind that the feeling of these forms at the present moment is not enforceable by law.

A lack of the legal framework to enforce the completion of declaration forms may be problematic for many years to come, unless properly managed. The legal implication of this exercise needs to be thoroughly scrutinised to ensure that people's privacy is not violated. Perhaps this is the reason senior managers in the Public Sector remain reluctant to fill in declaration forms. It may as well be that some of the senior managers are benefitting in one way or another in BEE companies, which render service to the Government, either as shareholders or directors of these companies, hence completing declaration forms would expose them. The reluctance of senior management to complete declaration forms may as well be attributable to a lack of reinforcement tool for compliance. This is an administrative omission that would only serve to swell the levels of corruption and fraudulent practices on the part of Senior Management Service (SMS).

The new term that is commonly used to portray those with business interests and who continue to benefit from this is *invisible partners*. It is difficult for authorities to track them down as they are not registered anywhere, though they are sure of extra remuneration from the companies that they give tenders to. The above being the case, it might require a new measure to control the behaviour of employees in the awarding of tenders. These should perhaps include providing a workable risk management strategy that would help minimise the irregular and unethical behaviour of employees. Perhaps a

life-style audit of employees should be conducted to discourage unethical behaviour of employees, where employees' life styles would be measured against their income.

5.9 PUBLIC ADMINISTRATION MUST BE BROADLY REPRESENTATIVE OF THE SOUTH AFRICAN PEOPLE

The *Constitution* (1996) promotes equality and human rights. Race and position should not be seen to be benefiting anyone in the democratic government. Sangweni (2004:36) argues that the desire for ability, objectivity and fairness should be seen as criteria on which personnel practices should be based. The best finance managers may be found in all racial groups.

The new challenge facing South Africa is the willingness as mentioned in the introduction, to perform what the *Constitution* (1996) dictates. The country is no longer fighting racial war, neither is it grappling with challenges of racial integration as it used to be 10 years ago. The energy should now be channeled towards the improvement of the poor through BEE programmes, the success of which is dependent on good management skills.

The new challenge perhaps is ethnicity and ethnic intolerance, more especially in the area of recruitment and service delivery as mentioned earlier on; tenders should not be an exception in this regard. South Africa is still faced with racial challenges (Radio 702 July 2006). The nature of this racism, it was said; is perpetuated by blacks against other blacks, including indians, who are said to have been on the receiving end. The country has just seen the resurgence of xenophobia in the townships where black foreign nationals were subjected to brutality.

Sangweni (2004:36) maintains, 10 years ago, until the democratic transition, the South African State was the preserve of specific groups within the white population who benefited enormously from their control of the public purse. These groups, he maintains, were not only the beneficiaries of state activities, but also gained easy access to

employment. This has led to the introduction of *Employment Equity Act, 1998* (Act 58 of 1998) that outlaws discrimination and promotes affirmative action in the workplace. It seems as if the similar challenge is emerging where the new form of discrimination based on class has posed a phenomenal concern among the society. It does not seem like the *Employment Equity Act, 1998* (Act 58 of 1998) has the capacity to address these challenges in its present form as it has the propensity to be abused to the extent of excluding even the most capable and efficient employees who may not necessarily be black.

The very practices that were regarded as repulsive and unfair continue in a different form and shape and tend to hamper economic development and retard the implementation of the Government's BEE programmes. What the country experiences is the consistent elevation of a particular ethnic grouping in the Public Service to the positions of power. Perhaps laws will have to be rewritten to address these new challenges. The challenge here is that there will have to be a new paradigm shift from, purely addressing injustices of the past characterised by racial discrimination, to the injustices of today which manifest themselves in ethnicity and class.

Having discussed the constitutional principles of the Public Sector in the previous paragraphs, it is necessary to bring to bear the disciplinary measures and procedures that follow in the event of expressed violation of these principles. In the paragraphs that follow, the focus will be on the disciplinary processes that have to be followed to redress shortcomings and shortfalls experienced during the service delivery processes. It is necessary to look into the procedures that have to be followed when meting out discipline.

As mentioned earlier on, discipline if being an option for correction, has to be in compliance with the disciplinary procedures laid out in the Acts and codes of conduct. It is believed that, though disciplinary measures should be considered as deterrent to misconduct, its implementation to meet the desired outcome remains a challenge. This being the case, it cannot be imagined how the broad goals of poverty alleviation that are

supposed to be driven by the Public Sector functionary could become realisable under the circumstances. The government that cannot punish devious behaviour stands in marked contrast to what is expected of it to do, namely to serve its citizenry. It must be pointed out that this function is not only delegated to the courts of justice to address, but entities such as Commission for Conciliation, Mediation and Arbitration (CCMA). The fact that misbehaviour is hampering quality service delivery and serving as a hindrance to development and economic empowerment cannot be denied. In the Public Sector, the nature of misconduct is normally in the form of fraud and corruption. Under the circumstances, resources would only be concentrated in the inner circle of those who are connected to those holding the purse rather than being equitably shared among those who deserve them, in this context the beneficiaries of BEE programmes.

5.10 DISCIPLINARY PROCEDURES

A mention has been made in the previous paragraphs that the promotion and management of discipline in the public sector should strive towards achieving lasting labour peace in the Public Service. The BEE/BBBEE is implementable in an environment where any form of deviation from the policy is checked and corrected. Discipline forms part of risk management. Paragraph 3.8 states that SCM must be applied fairly and equitably. It has to be said that this can take different forms and shapes. Employees may in pursuit of labour peace, be subjected to disciplinary procedures for having not, for example, applied SCM fairly and equitably. This may result with misconduct. *Misconduct* is the intentional or negligent breach of a legitimate and known work requirement. The outcome of the process may include dismissal. Dismissal if being an option, must comply with labour regulations and procedures. In most cases, dismissals in the Public Sector fall short of compliance with labour regulations. In the absence of any form of corrective measure, employees may for example, allocate tenders to their own companies or the companies of their closest of kin. The absence of discipline may for instance, result in anarchy under these circumstances.

The aspect of discipline remains relevant to the objective of this study as the contractual employer/employee relationship presupposes the possibility of conflict and conflict resolution procedures. The equitable and effective implementation of government policies such as BEE cannot be left to chance as long as the possibility for misdemeanors such as those discussed in the previous paragraphs where misappropriation of funds by senior officials of the Government has become rampant, threaten the Government's effort to provide for the poor.

In a communication with Cilo (2006), reference was made to the case of a school where the principal was said to have mismanaged funds. He pointed out that though the principal is employee he may not be charged as he is not the accounting officer. The School Governing Body (SGB), according to the *South African Schools Act, 1996* (Act 84 of 1996) Section 21 states that the SGB of a school is responsible for the finances as part of its function; this effectively makes SGBs accountable for finances of the institution. Though evidence may exist, it would be difficult to charge the principal as there will be no legal basis to charge him. This exposes a serious loophole in as far as holding principals accountable for finances at schools is concerned. One would expect principals to be the chief financial officers of schools, where they would be held accountable for any misappropriation of funds. The funds that schools raise or receive as an allocation from the Gauteng Department of Education for instance, need to be managed according to Circular 34 of 2004 where the budget is allocated as follows; 60% for learning support materials, 28% for services, e.g. electricity and water and 12% for maintenance. Though these funds are deposited in one account, need be that they are spent according to the regulated percentages. The mismanagement of school funds can for example hamper the delivery of essential services such as repairs and renovations and in the end hamper the establishment of school-based BEE through PPPs. Normally schools would enter into partnership with service providers for a variety of services including the supply of writing materials, teaching aids and learning aids, for instance.

The paragraphs that follow discuss in detail procedures that have to be followed whenever a public employee violates of the Code of Conduct or the laws governing his or

her condition of service. It must be borne in mind that any government employee is accountable for the equitable and unbiased delivery of service, including a fair and equitable consideration for allocation of tenders to promote BEE policies. It would pose serious administrative problems if employees are not held accountable for their behaviour.

A number of pieces legislation that focused on the disciplinary processes for educators have been discussed. Though educators are also public servants, it stands to reason that their conditions of service are regulated slightly differently. The education sector has (ELRC) Education Labour Relations Council as the body that adjudicates over disciplinary procedures and the Public Sector uses Public Service Co-coordinating Bargaining Council (PSCBC). Focus will be on how discipline is conducted in the Public Sector, looking at the principles of discipline. The *discipline* as analysed below, does not necessarily focus on discipline in respect of specific misdemeanours but broader offences. The promotion of the conditions for BEE/BBBEE implementation is possible where employees flouting the rules and procedures are disciplined.

5.11 THE NEW DISCIPLINARY CODE AND PROCEDURES FOR THE PUBLIC SERVICE

The principles of the code as encapsulated in the PSCBC Disciplinary Chart state the following:

- i. the code is a corrective measure not a punitive one;
- ii. the code must be applied in a prompt, fair, consistent and progressive manner;
- iii. the code is a management function;
- iv. the code is necessary for the efficient delivery of service and the fair treatment of public servants; and
- v. the code must be understandable to all employees (*Explanatory Manual on the Code of Conduct for the Public Service*, 2002:20).

The challenges faced by the Public Sector in general are that in some cases these procedures are flouted to the extent where the constitutional rights of the employee to privacy become completely eroded as a result of the delay in prosecution. Some cases take longer than is required before they are prosecuted. This practice makes members vulnerable to media intrusion and other stressors. The longer it takes to finalise cases of misconduct, the more the service delivery is hampered more especially in the area where there is a dearth of skills, such as finance and procurement.

Misconduct that is a criminal offence may undergo a separate procedure; internal disciplinary procedure and external criminal procedure. The difficulty with this process is that the courts may acquit an employee only for the employer to fine him or her, or vice versa. Some employees are often found guilty in the court of law for having committed acts of violence, theft or sexual abuse in the workplace only to get away with a slap on the wrist in the internal disciplinary proceeding. This is one area that needs some attention.

The question can be asked: what stage does an employee have to face suspension as a censor? The following conditions will have to be complied with when the employer suspends an employee:

- i. the member must be considered to have committed serious offence;
- ii. the employer believes that the presence of the member at the workplace might jeopardise any investigation into the alleged misconduct or endanger the well-being or safety of any person or state property;
- iii. suspension of this nature must be on full pay; and
- iv. if the employee is suspended or transferred as a precautionary measure, the employer must hold a disciplinary hearing within a month. The chairperson of the hearing must then decide on any further postponement (*Public Service Handbook, 2003*).

There are challenges facing the employer in the implementation of the above, more especially with regard to the period of suspension. There are cases where members get suspended for a much longer period. It is not clear at the present moment if employees would have recourse in the event that their labour rights are infringed upon in this manner.

Having touched on the disciplinary code of conduct, it is now opportune to discuss the code of conduct for both the employer and the employee. *A practical guide to ethical dilemmas in the workplace* (2002:8-8) outlines the responsibilities of the employer and the employee. The responsibilities of the employer include the creation of an appropriate environment in which values are established and exemplary models are set for all employees. The employer here refers to the Minister/MEC or the Public Service managers.

Section 195(1) (a) of the *Constitution* (1996) requires that a high standard of professional ethics be promoted and maintained in public administration in general. It must be mentioned that it is essential to sensitise all employees about the importance of observing the code of conduct. This may be done by way of advocacy campaigns geared toward promoting a disciplined Public Service cadre, which will be motivated to pursue the plight of the poor and implement the pro-poor policies of government such as BEE without bias or prejudice.

5.12 PERFORMANCE DUTIES OF PUBLIC SERVANTS

The promotion of conditions for the implementation of BEE/BBBEE may not be possible in the environment where the public officials are self-serving and do not have passion toward poverty eradication. *A Practical Guide to Ethical Dilemmas in the Workplace*, (2002:37-50) extrapolates the following as duties expected of employees in the Public Sector. These should be seen as essential en route toward creating a caring Public Service that is not self-serving and inward looking:

- i. An employee strives to achieve the objectives of his or her institution cost-effectively and in the public interest.

It is expected of employees to ask themselves from time to time if they are doing that which adds value to their post of duty. This requires all employees to have a thorough knowledge of the goal and objectives of their components and their duties within the component.

- ii. An employee is creative in thought and in the execution of his or her duties, seeks innovative ways to solve problems and enhances effectiveness and efficiency within the context of the law.

It is expected of employees to apply their minds quicker and seek to do their work better at all times. In the field of finance, it is expected of employees to be able to pick up the red flashing lights in matters of the budgets. They should be able to detect fraudulent practices on time and put in place corrective measures urgently to avoid the escalation of malpractices.

- iii. An employee does not engage in any transaction or action that is in conflict with or infringes on the execution of his or her official duties.

Employees should behave themselves in such a manner that the Government of the day and members of the public will trust them.

- iv. An employee is honest and accountable in dealing with public funds and uses the Public Sector's property and other resources effectively, efficiently and only for authorised official purposes.

The general public has entrusted the public servants with assets, property and funds, expecting employees to handle these in a responsible and honest manner. It is important for employees to realise that the lower the state's expenses can be kept, the more and

better quality services can be rendered to the country within the limits of the available resources. The observance of the above duties will result in the equitable and transparent allocation of resources for poverty alleviation through BEE, where allocated resources will not be wasted or spent irregularly. The equitable management of resources is imperative for the reduction of poverty as there will be sufficient resources to advance the course of BEE through PPP.

5.13 FINANCIAL MISCONDUCT

Having discussed the roles and responsibilities of school governing bodies, it has become apparent that there are gaps in policy formulations with regard to who is held accountable for financial mismanagement, though a Governing Body shall establish and administer a school fund (Circular 13 of 2000). The crux of the matter here is when someone would be hauled before the disciplinary hearing for having flouted the provisions of *PFMA*, (1999) Section 81 to 84. The Act explains that failure to comply with the requirements as outlined in the Act is tantamount to misconduct. Paragraph 5.10 explained how school funds are allocated and how any form of mismanagement hampers service delivery and the realisation of BEE through PPP. The programmes in which the budget is rolled out are listed as follows: Strategic Management Services, Economic and Fiscal Management, Provincial Financial Management Reforms, Provincial Financial Management and Governance and public-private partnerships. When a budget is allocated in either of the five programmes, it should not matter whether that budget is reserved for PPP formations, any mismanagement of it would affect the operation in the entire department. For example, if R500, 000 is allocated in the Strategic Management Services for training through PPPs and R100, 000 of it goes unaccounted for, any activity for which the money was budgeted for would be grossly affected. For BEE through PPPs to be realised, every programme listed above should have budget allocated for it.

Financial misconduct includes unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure. The *PFMA*, (1999) states that *financial misconduct* is a ground for dismissal or suspension against a member or person referred to in

Subsection (2) or (3). The difficulty here is that a disciplinary hearing would be applicable only to employees. It will be problematic to discipline a member of a school governing body (SGB), who may not be an employee of any of the Government departments. Reliance on a court of law to take action against any member of an SGB who flouts the law often results in frustrations as such cases never get concluded timely enough. The promotion of favourable conditions for the implementation of BEE/BBBEE would be difficult in an environment of litigations and counter-litigations.

The purpose of disciplinary code for senior managers is pointed out in the SMS handbook (*Public Service Handbook*, 2001:89). Senior Management System comprises of members from the level of director to director general.

The Disciplinary Code and Procedures for members are intended to achieve the following (*Public Service Handbook*, 2001:89-90):

- i. support constructive labour relations in the Public Service;
- ii. promote mutual respect between members and between members and the employer;
- iii. ensure that supervisors and members share a common understanding of misconduct and discipline;
- iv. promote acceptable conduct;
- v. provide members and the employer with a quick and easy reference for the application of discipline;
- vi. avert and correct unacceptable conduct; and
- vii. prevent arbitrary or discriminatory actions by supervisors towards members.

The above procedures are envisaged to achieve among other things, the ideal of resolving the conflict at the source, rather than going through a convoluted procedures of arbitration which may take much longer than it is expected. The promotion of conditions for BEE/BBBEE implementation is achieved in the presence of checks and balances, where both employees and employers abide by the conditions of service and the norms of

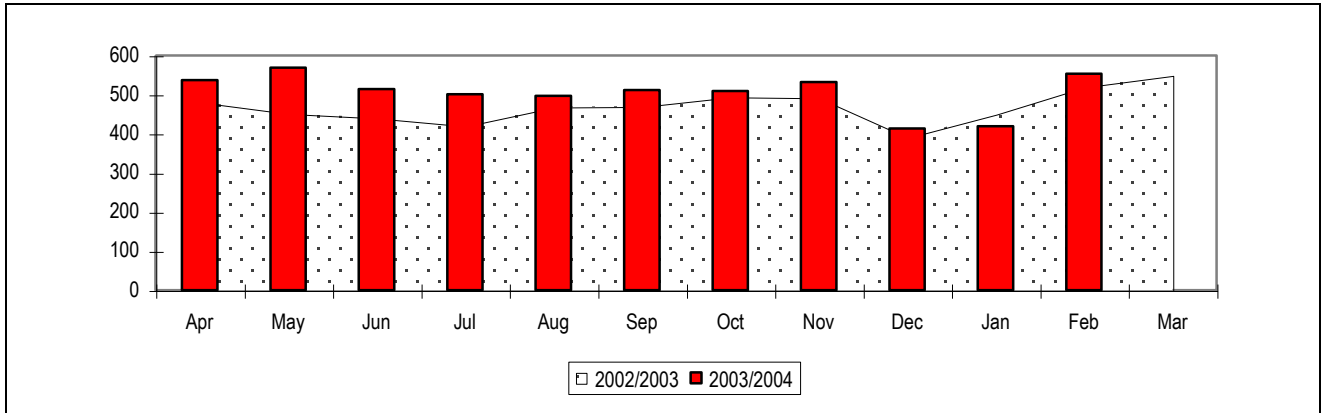
propriety. The employees should know that flouting of the rules is punishable by law. The accounting officer for instance, cannot simply award tenders to his or her friends and relatives with impunity, similarly the employer may not take action against employees without a good cause. The formation of PPPs in the presence of lawlessness is a challenge as investors will find it difficult to associate with a public sector that is characterised by chaos where returns on investment are not achievable.

What needs to be investigated is whether the current laws are actually a deterrent for any form of misdemeanour. This will be exemplified in the number of cases reported and whether those cases resulted in convictions. As indicated in the preceding paragraphs, it will be vital to look at information provided by the CCMA. The statistics below will help shed some light in terms of reported cases. A closer look at these cases will provide information with regard to those offences that are committed regularly as well as the information around the sanction meted out against those who are at fault. In an ideal environment, a company that intends entering into partnership with the Government would need to be assured of recourse in the event of a misdemeanor.

In order for BEE to be implemented in the Public Sector, there has to be laws and policies that discourage any form of misbehaviour. The creation of an environment for the implementation of BEE has already been referred to in the previous chapters. Once more, it should be noted that BEE through PPP may not be exercised in the presence of ill-discipline. Critical to this discussion is whether the introduction of laws and statutes can deter corruption in the Public Service and whether there is any evidence of any form of ill-discipline having been punished. The figures below may not necessarily be case-by case specific as mismanagement of fund cases reported do not indicate statistically the amount of money pilfered or what the money was budgeted for. What is important is that every budget misused in any form or shape creates an environment of mistrust which will not be in the good interest of PPP formation for the realisation of BEE ideals. Paragraph 5.13 has alluded to the programmatic budgeting used in Public Sector. A misuse of funds in one programme will affect the other in the long run as in turn, the units or departments will run out of cash to execute BEE mandates.

During February 2004, a total of 11068 cases of misconduct were recorded as new referrals on the Case Management System over a period of 20 working days – an average of 553 cases every working day.

FIGURE 5.1-AVERAGE NUMBER OF REFERRALS PER DAY FROM APRIL 2002 TO FEBRUARY 2004



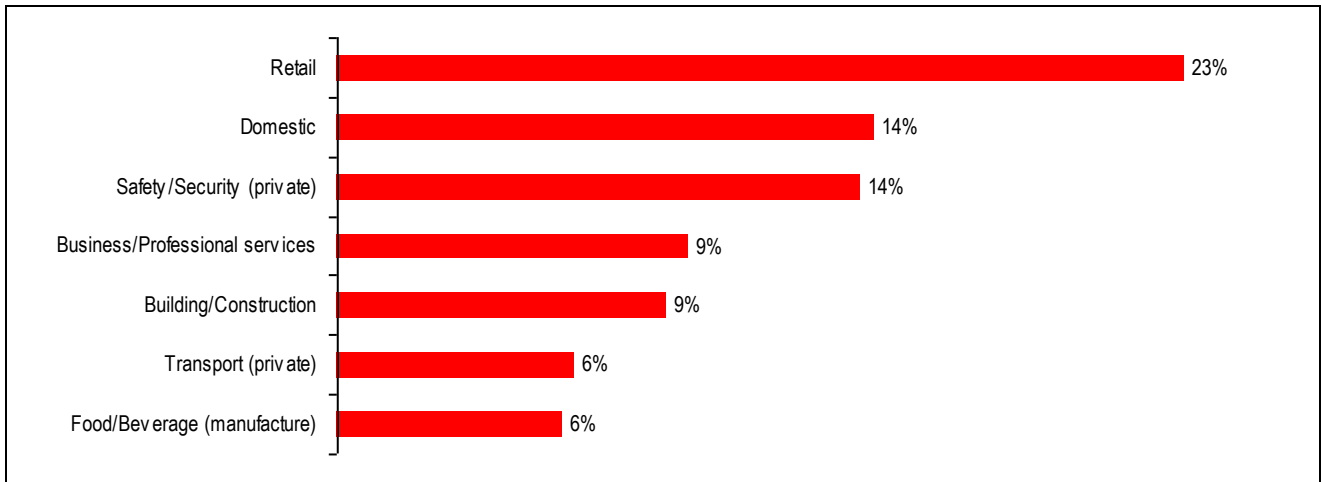
Source: DPSA (2006), RSA.

FIGURE 5.2-REFERRALS BY ISSUE



Source: DPSA (2006), RSA

FIGURE 5.3-REFERRALS BY SECTOR



Source: Parbhoo, S., Modise, S., Milton, E., Chauke, T., Gavender, N., Khosa, D. and Modise, L. *et al.* (2004).

In analysing the figures above, it is worrisome to note that the level of unfair dismissal stands at 81%. This in itself displays a crisis in understanding procedures. The promotion of conditions for BEE/BBBEE implementation in an environment where employees feel insecure poses a challenge. Grossett (2004:51) spells out procedures that have to be followed when meting out disciplinary procedures. The labour courts look primarily at whether the punishment for the crime was commensurate with the nature of the crime. It must be understood that should employees who are found guilty of serious financial offences have these guilty verdicts overturned by the court of law, this will only serve to exacerbate the levels of corruption and discourage PPP formation. Where corruption abounds, service delivery grinds to a halt. Considering the number of referrals in these figures, from the number of referrals to referrals by sector, it may not be denied that issues of misconduct are pervasive in the Public Sector and that if not properly managed will pose a challenge to the ideals of poverty alleviation in that it may seem as if the employees are more concerned about enriching themselves than serving the populace. Government resources must be put under the custodianship of trustworthy and ethical cadres rather than in the hands of crime syndicates with unwavering intentions of

defrauding the very government that employed them. If a company for instance, is awarded a tender fraudulently and fails to deliver the intended service because of collusion with the employees in the Public Sector, it is those employees who are hauled before the disciplinary hearing for misconduct. In promoting the conditions for BEE/BBBEE implementation, such cases would, for instance be recorded as acts of misconduct as indicated in the foregoing statistics.

5.14 NATURE OF FINANCIAL MISCONDUCT

Though Figures 5.1-5.3 provided a general overview of statistical presentation of cases presented to CCMA, it is vital to scrutinise if there are cases of financial nature that require to be analysed in this study. It was mentioned in paragraph 5.15 that acts of fraud do have an impact on the delivery of the Government broad goals of economic empowerment and development. It is for this reason that it is essential to highlight issues of corruption in this study. Highlighting the statistical representation of the levels of misconduct provides a helpful mechanism through which the entire Public Sector can be overhauled so as to attract partners from the private sector to invest in those projects the government on its own may not have capacity to deliver on, *e.g.* building hospitals, building schools, roads and prisons. This endeavour will promote BEE through PPP. The statistical analysis of misconducts, the trend and intensity thereof, presents an opportunity for academics, in partnership with the Government to develop new policies that would help curb the spiraling corrupt practices pervasive throughout the Public Sector in spite the legislative frameworks that seek to curb criminal activity within the Public Sector.

Simmons (1999:2) posits that public employees are expected to be rational professionals who follow the routines and duties of the agencies for which they work. Their values are expected to be limited to the neutral pursuit of their agency's objectives or official norms. Corruption is characterised as the self-interested pursuit of undeserved rewards (bribes, insider deals) or position (nepotism and favouritism). Corruption may include fronting as well. Critical to Simmons' postulate is the key phrase – *undeserved rewards*; which may not necessarily be in the thinking of the one who commits corruption, as the one committing corruption may see the act as equitable distribution of wealth, for instance.

This may have a propensity to touch on values embedded in a particular society as discussed in paragraph 5.4.

Despite Government's effort to root out corruption within the Public Service, the picture remains discouraging, as the most prevalent transgressions reported to the Commission, are fraud and theft (*Report on Financial Misconduct, 2002/2003 and 2003/2004*:vii). Fraud and theft hamper the creation of wealth and discourages the principles of BEE through PPP. It has been reported that dismissal as a sanction was only imposed in 50% of the cases. Below is statistical presentation of financial misconduct committed by officials for the years 2001 to 2004. Later in this study, reference will be made to the outcome of the referred disciplinary cases. The difficulty here is if employees continue to steal from the Government rather than help implement BEE, and get away unpunished. An example has been presented in paragraph 5.10 with regard to budget allocation for schools. As this budget is allocated, various activities are considered as in the case of services, repairs and renovations, the same applies to departmental allocations per programme as listed in the Annual Report (2006/2007:19-25). Employees could, for instance, hire their own companies to renovate a school under the guise of BEE. This act of misconduct would, for instance, be reported as financial mismanagement.

Table 5.1- Financial misconduct

FINANCIAL YEAR	TOTAL NUMBER OF CASES
2001/2002	434
2002/2003	849
2003/2004	582

Source: Report on financial misconduct (2002/2003). Government Printers: Pretoria.

At first glance, there seems to be a substantial increase in the number of reported finalised financial misconduct cases during the 2002/2003 financial year (*Report on Financial Misconduct, 2002/2003 and 2003/2004*:16). The indication is that there seems

to be some level of compliance with respect of pursuing the acts of misconduct committed by employees.

The Table below provides an overview of the number of cases reported at national and provincial spheres for the 2002/03 and 2003/04 financial years:

Table 5.2- Report on financial misconduct (2002/2003)

National/Provincial	Number of cases
National	355
Eastern Cape	54
Free State	46
Gauteng	108
Kwazulu-Natal	110
Limpopo	26
Mpumalanga	84
North- West	56
Northern cape	4
Western Cape	6
Total	849

Source: Report on financial misconduct (2003/2004). Government Printers: Pretoria.

Table 5.3- Report on financial misconduct 2003/2004

National/Province	Number of cases
National	181
Eastern cape	181
Free State	60
Gauteng	16

KwaZulu-Natal	55
Limpopo	9
Mpumalanga	19
North West	46
Northern Cape	2
Western cape	13
Total	582

Source: Report on financial misconduct (2003/2004). Government Printers: Pretoria.

Reference has been made to the departments that reported various types of misconduct cases committed by officials. The types of misconduct cases reported were categorised as follows:

- i. fraud and theft;
- ii. misappropriation;
- iii. gross negligence;
- iv. fruitless, wasteful and irregular expenditure; and
- v. corruption.

More often than not, the departments did not specify the nature of financial misconduct. This resulted with the skewed analysis of data (*Report on Financial Misconduct, 2002/2003 and 2003/2004:18*). In order to test the efficacy of existing disciplinary procedures, it may be necessary to refer to the outcomes. The Public Service Commission (2004/2005:13) reveals that in those cases where charges were brought against employees, 77% of employees were found guilty of financial misconduct. The number of employees who absconded, resigned, retired or passed away, which resulted in disciplinary action not taken against them has remained at 7% over the past 3 financial years. General reporting of this sort of misconduct should be programme-based to be able to put in place risk control mechanisms that are responsive to a particular misdemeanour. Paragraph 5.15 discussed risk management.

Being found guilty of financial misconduct may not be panacea to continuing with such practices, of importance remains the nature of sanction meted out. It is required of each case to be treated according to its merit. The decision on the nature of sanction is dependent on the prevailing norms and values of the society. In line with the attempt by the Government to root out corruption from the Public Sector, the high incidence of that sanction of dismissal (38%) is an indication of the zero tolerance on financial misconduct (*Public Service Commission, 2004/2005:13-14*).

Having discussed issues of fraud and financial misconduct, it may be appropriate to look at the findings of Southern African Institute of Government-Auditors (SAIGA)'s Public Sector Fraud Survey (2001/2002). According to this survey, more than 80% of the respondents believe that fraud in the Public Sector is a major problem. The study continued to make analysis of fraud awareness among employees in the three spheres of government. It became apparent that the level of awareness in this regard differed from one sphere to another, with provincial government top of the list, followed by national government, with local government as the least sphere in the graph (SAIGA, 2001/2002:15). The implementation of BEE policies in the atmosphere of fraud and corruption will be near impossibility. The pieces of legislation available will not be of any assistance where those who are charged with the responsibility to implement them are engaged in fraudulent activities. Fraud and corruption in South Africa is caused by the following:

- i. collusion between employees and the third party;
- ii. collusion between employees;
- iii. type of industry;
- iv. management override internal controls;
- v. poor hiring practices (CV fraud);
- vi. lack of control over management by directors; and
- vii. poor non-existent corporate ethics policy (Gobodo Forensic Accounting, 2004:3).

The above causes of fraud call for review of the supply chain management as it in its current form where employees are members of the bidding committee. This aspect will be discussed further in Chapter 7. The current structural formation of bidding committees does not bode well for the promotion of conducive conditions for BEE/BBBEE implementation, more especially as it relates to collusions among employees and third parties. It is vital that the risk areas are identified so that attention is focused in the high risk areas. The following paragraph will discuss the management of risks.

5.15 RISK MANAGEMENT

Of vital importance is the recognition that every sector, institution or department faces a particular risk, at times peculiar to that sector, unit or department. The Department of Health, for example faces the challenge of having to control the dispensing of medicines with maximum caution to ensure that patients are not provided with expired medicines. The Gauteng Department of Education having commissioned Edu-Solution to supply learning support materials could face a different risk of the wrong supply of materials. The National Intelligence Agency (NIA) faces a different risk to manage, which is ensuring to safe-guards the intelligence received about the impending attack by another country. What has to be taken into consideration here is that by recognising the existence of risk is not in itself, risk management. Risk management is about proactively identifying and understanding the factors and events that may impact on the achievement of strategic and business objectives (Risk Assessment Information Handbook, 2006:2-3). The risk management is about monitoring and reporting the risks identified. Good risk management is all about taking good risks and managing them well. Risk management objectives are as follows (Risk Assessment Information Handbook, 2006:2-3):

- i. create the right awareness and understanding of risk at all levels of the department;
- ii. instill the culture of risk management and risk ownership being practiced as everyone's responsibility;
- iii. engage risks and manage them well in the department;

- iv. embed risk management in the way the department is run; and
- v. comply with appropriate risk management practices in terms of corporate governance guidelines.

As far as the Public Sector is concerned, risk is likely to be identifiable at the level of procurement. It has been mentioned that it is not enough to simply state the existence of risks. What matters here is to address risks in a systematic and concerted way.

Risk is identifiable as it manifests itself in employees' behaviour as it relates to the legislature and executive authority. Corrupt public officers are those who directly or indirectly accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or person who directly or indirectly gives or agrees or offers to give any gratification to a public officer, whether for the benefit of that public officer or for the benefit of another person (section 4 (1) (a –b) of the *Prevention and Combating of Corrupt Activities Act*, 2004 (*Act 12 of 2004*)).

Risk can manifest itself for example, in fronting. According to the *BBBEE Act*, 2003 (*Act 53 of 2003*) section 9 (5) (6.1-6.3); fronting practices include, but not limited to the following:

- i. window dressing: where black people are appointed to an enterprise on the basis of tokenism, as a result they do not participate actively in the activities of the enterprise;
- ii. benefit diversion: this includes initiatives implemented where the economic benefits received as a result of the BEE Status of an enterprise do not flow to black people in the ratio as specified in the relevant legal documents; and
- iii. opportunistic intermediaries: this includes enterprises which have concluded agreement with other enterprises with a view to leveraging the opportunistic intermediary's favourable BEE Status in circumstances where the agreement

involve among others, terms and conditions which are not negotiated at arm's length on a fair and reasonable basis.

Risk indicators in this particular area can be high or moderate. Considering the above, it may be that compliance in respect of BEE/BBBEE requirements as it appears on paper may not necessarily be the panacea for equitable BEE/BBBEE implementation. It is for this reason that a meticulous checks and balances must be put in place to ensure that the poor benefit from this policy as it was envisaged at its inception.

5.15.1 HIGH RISK INDICATORS

The creation of an environment where BEE through PPP thrives poses a challenge in the absence of checks and balances. The identification of areas of risk plays an important role in ensuring that the conditions for the promotion of BEE/BBBEE are realised. A private company for example, may find it difficult to form a partnership with the Public Sector in the area where return on investment is not assured; similarly the Public Sector will find it difficult to form a partnership with a company, which does not have a good reputation. The risk indicators are as follows:

- i. black people who an enterprise claims are its shareholders, executives or management are unaware or uncertain of their role or participation within an enterprise;
- ii. black people who serve in an executive or management position in an enterprise are paid significantly lower than the market norm;
- iii. an enterprise only performs a peripheral or marketing function;
- iv. an enterprise relies on a third party to conduct the majority of core functions normally conducted by enterprises similar to the enterprise;
- v. an enterprise cannot operate independently without a third party, as a result of contractual obligations or a lack of technical or operational competence; and
- vi. any practice which circumvents or attempts to circumvent codes (The Risk Assessment Information Handbook, 2006:3-4).

In pursuit of equity, any form of corruption should be investigated and exposed. As long as these wayward practices are left to flourish, it will be difficult to achieve the rationale for wealth distribution among all the citizens. It is imperative to isolate the listed high-risk indicators and establish mechanisms to manage them in such a manner that they do not compromise the promotion of the condition for the equitable implementation of BEE/BBBEE.

5.15.2 MODERATE RISK INDICATORS

The indicators for moderate risk are as follows:

- i. the black people identified by an enterprise as its shareholders, executives or management have limited knowledge of an enterprise;
- ii. there is no significant indication of active participation by black people identified as top management at strategic decision-making level;
- iii. an enterprise pays management or administration fees to a related person or shareholder with no BEE status;
- iv. an enterprise acquires goods and/or service at a significantly different rate from market from a related person or shareholder (transfer pricing);
- v. an enterprise obtains loans, not linked to the share acquisition, from a related person at an excessive rate; and
- vi. an enterprise shares all premises and infrastructure with a related person, or with a shareholder with no BEE status or a third-party operating in the same industry where the cost of such premises and infrastructure is disproportionate to market-related costs (Section 9(5) *Broad Based Black Economic Empowerment Act, 2003* (Act 53 of 2003)).

The answer does not lie in the classification of risks according to their degree of intensity, but in the act of preventing them. CIPFA (2001:1) outlines a process towards risk management which encapsulates the following:

- i. risk identification: what is the risk here?
- ii. risk evaluation: what will happen to desired outcome?
- iii. risk/benefit analysis: does the benefit outweigh the risk?
- iv. risk reduction: can something be done to reduce the risk?
- v. risk monitoring: determining if something has happened which altered the risk;
- vi. continuity planning: what plans have to be put in place in the event of risk happening?
- vii. risk transfer, as buying insurance to defray the risk; and
- viii. risk funding: what financial provisions should be held for the primary or residual risk?

Risk management differs from sector to sector. The above process when used properly can be used to develop risk management strategies. It is essential though to note that everybody should be involved in risk management (CIPFA, 2001:14). Table 5.4 shows the level of involvement of employees in risk management:

Table 5.4- Involvement of employees in risk management

	Develop the corporate risk management strategy	Agree on the corporate risk management strategy	Provide advice and support on strategy development and implementation	Implement the strategy	Share experience of risk and risk management issues	Review the effectiveness of the strategy
Board of trustees		✓				
Executive management	✓			✓		✓
Risk managers	✓		✓	✓	✓	✓
Service team			✓	✓		✓
Risk management group			✓		✓	✓
Support service			✓	✓	✓	✓
Service managers				✓	✓	✓
Employees				✓	✓	
External partners					✓	

Source: Chartered Institute of Public Finance and Accountancy 2001. Johannesburg. p14.

On the basis of the discussion above, the creation of a somewhat free risk environment, or the understanding of the possible risks in the work environment will go a long way towards making the goals of BEE through PPP realisable. It is incumbent upon government functionaries to do a situational analysis before embracing a partner for service delivery. Any partner who may not add value to a governmental department is a risky partner and should therefore be ignored. In recognition of possible risks, the government has introduced register for Tender Defaulters according to *Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004)*.

Risk has the propensity to manifest itself in different forms and shapes. Identification of *risk* requires management to draw a risk management strategy that will not be static as risks are prone to change from time to time. According to Tladi (2006), in the North West Province, risk assessment applies in areas where construction is to be conducted. This is normally done by quantity surveyors, who have the freedom to disqualify or qualify. The difficulty here is when it applies to the implementation of BEE quotas, where the majority of black-owned companies still lag behind.

The same challenge was raised at the feedback meeting of senior management. Hospitals in Gauteng, for fear of risking the lives of patients, prefer to procure goods and services from the most reliable vendor with brand name, rather than fulfilling the requirement of the policy that requires them to purchase from the BEE companies. This poses a serious challenge of compliance versus the safety of patients as most of the black-owned companies seem to be unable to provide the preferred quality equipment required for the Hospitals on time. This may be attributable to a number of factors, ranging from the inability for these companies to secure loans from the banks to buy quality equipment, lack of basic resources such as transport to deliver the goods on time or lack of skills. It has nevertheless been raised as a serious concern by the chief executive officer of hospitals in Gauteng (Gauteng Shared Service Centre, 28 September 2006).

It is generally acceptable to procure services from a company, which is not only capable to deliver quality service, but also deliver these services on time and be compliant with BEE codes. The challenge may either be to promote the policy of the preferential procurement as mentioned above and risk lives or be seen to be non-compliant and save lives.

5.16 CONCLUSION

The discussion of the management and promotion of discipline in the Public Service for the creation of conducive environment for the realisation of a fair and equitable distribution of wealth through PPP has not been without challenges. An attempt has been

made to highlight a few challenges in realising this objective. Though there are pockets of excellence in diverse areas of policy development in the Public Sector, the challenge lies in the implementation. Without favourable conditions created for the promotion of the conditions for BEE/BBBEE implementation, in the form of corrective measures among other things, it will be difficult to realise the ideals of BEE. The introduction of corrective measures needs to be guided by the extent at which the existing policies and procedures are being implemented and the success thereof. The statistical presentation of offences reported and prosecutions carried out, as indicated in this chapter served to present a picture of the level of honesty, loyalty and commitment by the employees and employers to carry out BEE directives and create jobs.

The difficulty in policy implementation may be attributed to fundamental human resource weaknesses. These weaknesses manifest themselves in the area of recruitment, where the emphasis is put on cronyism rather than on competence and experience. This presents itself as a human resource risk that needs to be managed effectively. It has been proved by a number of researches that the Public Sector in South Africa does not perform to its optimum.

This chapter highlighted how provinces have been unable to spend their capital budgets. The solution here lies in the equitable and open recruitment strategy that is free from any form of nepotism or favoritism. In order to realise this objective, private recruitment agencies should be commissioned to recruit personnel for the Public Sector, more especially in high-risk areas such as chief financial officers.

The challenge facing the Public Sector today is the inappropriate placement. In some cases, personnel in senior positions are placed purely on policy consideration rather than on competence to achieve redress. This practice makes it difficult for the condition for the implementation of BEE/BBBEE to be realised. The consequences of a lack of skilled employees in the Public Sector are that the ordinary citizens suffer as a result of shoddy service delivery.

In terms of accountability with regard to school finances, it will be appropriate for principals to be held accountable for finances so that as employees it is possible to prosecute in the event of financial mismanagement. In terms of the current dispensation with schools, principals are responsible for procurements and SGBs for authorisation. The supply chain management system would at times take unnecessarily long, more especially if members of the SGB are not available to authorise the expenditure.

The promotion and management of discipline in the Public Sector require a concerted effort by all involved, *i.e.* employees and employers. In order to realise the ambitious objective of arriving at what has been adopted by the ANC as the ruling party in its manifesto entitled people at work for a better life for all, it is incumbent upon the Public Sector as a whole to address the challenges outlined in this study. It has so far become apparent that matters of discipline in the Public Sector do not only address the behaviour of employees in the workplace alone, but also that of the employer and the Government. The employer as the one responsible for the management of discipline is expected to lead by example.

Chapter 6 of this study will focus on Gauteng Shared Service Centre as procurement office and how it executes its procurement functions. The specific areas of responsibility in respect of the Gauteng Shared Service Centre's role are analysed in line with its strategic objectives and broad organisational goals. The success of BEE in this chapter focuses on how women, youth, people with disabilities as well as people in the rural areas have benefited from BEE through PPP initiatives as discussed in paragraph 4.5.

CHAPTER 6

GAUTENG SHARED SERVICE CENTRE AS PROCUREMENT OFFICE AND PROVIDER OF SERVICES FOR GAUTENG PROVINCIAL GOVERNMENT DEPARTMENTS

6.1 INTRODUCTION

This chapter highlights the origin and purpose of the establishment of the Gauteng Shared Service Centre as procurement office, which has been referred to in this study as the GSSC. The chapter serves as a focus chapter as it summarises what was discussed about the GSSC in the previous chapters. For the GSSC to carry out its task, it has to have systems and processes that make its task easier to execute. Chapter 5 analysed the conditions for the implementation of BEE/BBBEE. Reference will be made to the systems of control and management of finances GSSC has been assigned to administer, which resonate the conditions as analysed in Chapter 5. The committees and structures that have been put in place, their role and responsibilities in relation to user departments are discussed. The Gauteng Provincial Government, as it is the case with the other provinces, also observes the prescripts of the *Constitution* (1996) and the Acts promulgated by the national Government. From time to time reference will be made to how the national financial policies and legislations are implemented in the province and the effect that these policies and pieces legislation have on poverty alleviation through BEE initiatives.

The chapter refers to the vision/mission statements of the GSSC and its procurement unit, values guiding its operations and the strategic objectives, as they relate to SCM and *Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000)*. The information technology (IT) support service as a means towards achieving effective and efficient service delivery is discussed. The Human Resource Services, Finance Services, Audit Services and Corporate Services are discussed as important vehicles for the execution of

a core business of procurement for the 13 Government departments in Gauteng for the realisation of BEE through PPP.

A number of audit services will be referred to in this chapter, which forms a basis for equitable service delivery. The GSSC has been designed to accomplish its tasks as centre of excellence. Whether this objective has been achieved will depend on how the GPG under the premier Mokonyana and its clients, namely, the departments, perceive the services rendered by the GSSC. Of note will be the strategic objectives of the GSSC as well as its role and responsibility side by side with other similar formations such the Gauteng City Region Academy (GCRA) and the Gauteng Economic Development Agency (GEDA). The purpose of highlighting similar formations is to ensure whether the duplication of functions if any, does not hamper the realisation of the rationale for which the GSSC was formed. The afore-mentioned agencies serve to enhance the work of the GSSC in as far as provision of skills and capacity building for the aspirant entrepreneurs, without which it will be difficult to achieve the BEE goals. Of importance is that the establishment of the GSSC has been for the purpose of rendering the procurement service for all the departments in Gauteng, including the Gauteng Department of Education.

6.2 THE ESTABLISHMENT OF THE GAUTENG SHARED SERVICE CENTRE

The GSSC was established in 2001 by the Gauteng Provincial Government, which will be referred to as the GPG. The purpose of its establishment has been to provide a dedicated and professional back-office support. The GSSC's core function is the provision of a provincial government- wide internal support service in terms of procurement, harnessing the Gauteng Provincial Government's collective buying power, thereby reducing the overall cost of purchasing goods and services (*Gauteng Shared Service Centre*, 2010). The GPG started the process of creating the GSSC in 2000. One component of GSSC was the creation of a procurement organisation for the GPG (*Gauteng Provincial Government Supply Chain Management*, 2004:16). GSSC procurement vision is spelt out as follows:

GSSC procurement is a trusted world class organisation that effectively and efficiently renders quality service to satisfied GPG customers (Gauteng Provincial Government Supply Chain Management, 2004:18).

The vision is based on four thrusts, namely: finance, customer, people and process. In terms of finance, the GSSC procurement commits itself to good governance and economic empowerment by unlocking value through optimal and equitable utilisation of resources in strategic sourcing and shared supply chain initiatives. As customer-oriented organisation, the GSSC procurement commits itself to building a purchasing organisation that is performance-oriented, flexible yet aligned to process, both socially conscious and driven by customer satisfaction. In respect of the people-oriented thrust, it boasts of empowered teams of professionals and thoughtful and socially responsible leaders, while in terms of its process, the GSSC uses up-to-date reliable systems to enable simple standardised processes providing satisfactory delivery management information to drive continuous improvement.

Currently the GPG expends R4 billion a year on goods and services, which the GSSC aims to achieve 2,5% cost saving, translating to annual saving of R100 million. The GSSC strives to drive and redirect provincial spending patterns as a means of promoting BBBEE. Former premier Shilowa said the Gauteng Provincial Government has launched a BBBEE strategy to accelerate transformation and ensure the redistribution of the country's wealth. Shilowa further indicates that Gauteng has paid special attention to services and programmes aimed at dealing with the needs of young people in the province (Gautalk, 2006). The GSSC' procurement business unit has set out five year strategic priorities which will be mentioned in paragraph 6.9. The challenging priority is that of finding a balance between the commercial imperative and the social responsibility.

The challenge of balancing commercial imperatives with social responsibility requires dedication and high-level risk-taking. Above all, the necessity to identify entrepreneurs remains a priority.

In balancing the commercial and social imperative, the entire SCM needs to be geared towards achieving the BEE imperatives, which consist of the following:

- i. providing historically disadvantaged persons with the opportunity to directly or indirectly acquire shares or interest in state-owned commercial enterprises;
- ii. encouraging and promoting savings, investments and meaningful economic participation by historically disadvantaged persons;
- iii. promoting and supporting business ventures pioneered and run by historically disadvantaged persons;
- iv. promoting the universal understanding of equity ownership among historically disadvantaged persons;
- v. encouraging the development of a competitive and effective equities market inclusive of all persons in the Republic of South Africa;
- vi. contributing to the creation of empowerment opportunities; and
- vii. generally employing such schemes, business and enterprises as may be necessary to achieve the objective of the Act (*National Empowerment Fund Act, 1998 (Act 105 of 1998)*).

In the light of the thrust aimed at helping the beneficiaries, which are, the historically disadvantaged persons, the pressure may be divested of the commercial banks to be intrinsic providers of the start-up companies whose survival remain precarious, given a lack of experience and sustainable capital.

The aims of the GSSC are to provide the following services to 13 departments:

- i. audit;
- ii. finance;
- iii. procurement;
- iv. technology; and

- v. human resource (*Gauteng Shared Service Centre Annual Report, 2009-2010:10*).

The current strategic plan of GSSC focuses on attaining the four strategic objectives identified as follows:

- i. improve customer experience;
- ii. optimise efficiency and service delivery;
- iii. improve quality; and
- iv. establish the GSSC as an employee of choice.

Reference is made to the agreements between user departments and the GSSC, which are regulated by the service level agreement, which is referred to later in this chapter. The user departments can as well be referred to as internal customers. It is expected of the user departments to enjoy a favourable customer experience. It is imperative to consider the operations of the GSSC from the perspective of its vision, mission and values. The following paragraph will highlight the vision, mission and values of the GSSC. The GSSC maintains a positive influence over the role played by the departments it serves. The departments are relieved of the burden of day-to-day management of administrative functions; instead the departments are afforded the opportunity to focus on their core service delivery (GSSC, 2010). In this case for example, the Department of Education focuses on curriculum delivery, the Department of Health focuses on the delivery of health services and the Public Works focuses on building roads and bridges; while the GSSC is delivering procurement-related services.

Pooling of departmental resources within the GSSC has enabled the creation of centres of excellence which render specialised advisory and consulting services across the province. Though various departments focus on their core business, the identification of their area of needs may not be abdicated. It is envisaged that the identified needs are met in line with the BEE through PPP initiatives. For example, if the Department of Health requires a new machine, the procurement of such a machine complies with the policies of

preferential procurements, which are in harmony with the BEE/BBBEE initiatives. The specialised services of the GSSC are provided in the following fields:

- i. labour relations;
- ii. organisational development;
- iii. computer auditing;
- iv. information technology; and
- v. training (GSSC, 2010).

The primary objective has been to share knowledge and to deliver standardised, quality service. The training was aimed at offering employees of the GSSC to grow professionally and develop new skills for them to be on the cutting edge of service delivery. Chapter 5 of this study analysed the conditions for the implementation of BEE/BBBEE, which are resonated in the above fields. The Gauteng Provincial Government in pursuit of an equitable and efficient procurement system has introduced the GSSC as procurement office. The paragraph that follows highlights the salient factors of the GSSC.

6.3 GAUTENG SHARED SERVICES CENTRE AS SERVICE PROVIDER

The GPG started the process of creating GSSC in 2000 as procurement organisation of the GPG. In 2002, the GSSC conducted an analysis of the entire GPG procurement expenditure, where it was determined that R4, 2 billion across all departments was spent. It was on the foregoing basis that procurement strategy was developed using as a baseline, the dimension of commodity, location and supplier (*Gauteng Supply Chain Management*, 2004:16).

The Gauteng Provincial Government, referred to as GPG established the GSSC to ensure that the departments continue to render their respective core business while the GSSC takes the responsibility of rendering procurement service and other relative tasks for the

departments. In rendering service to the departments, the GSSC shall adhere to the following:

- i. to carry out the instructions given to it by the client and to perform services in accordance with the partnering agreement and the service level agreement;
- ii. to identify cost-reduction and service enhancement opportunities;
- iii. to periodically assess the costs and the value of existing services, communicate recommended changes and implement approved adjustments as appropriate;
- iv. to explain significant variances in relation to performance and pricing targets and to implement corrective actions thereto;
- v. to alert the department of any changes in pricing in time for the department to incorporate such changes in its budgeting and planning for the relevant financial year; and
- vi. to present the GSSC pricing structure of the services in such a manner that the budget and estimates coincide with the budgeting and MTEF cycles (Partnering Agreement, 2004:4).

The role that is played by the GSSC appears to be that of *back office* in that it takes over functions that are duplicated by all provincial departments. The GSSC has been adopted as the common service provider model for procurement in the GPG. Central to the GSSC's responsibilities is, value adding services in the areas of finance, human resources, procurement, technology support services (Partnering Agreements 2004:13). These functions are critical in the promotion of the conditions for BEE/BBBEE through the ethics and risk management, as analysed in Chapter 5. Managing procurement-related risks requires the availability of technology as well as reporting as required by *PFMA*, (1999). The management of procurement is essential for the realisation of BEE through PPPs.

To comply with reporting as one of the pillars of procurement, the GPG approved the establishment of a variety of permanent procurement decision making structures in the province. Though these structures have been fully spelt out below, they will be referred to in the paragraphs following, in abbreviation form. The abbreviations are spelt out as follows:

- i. the Gauteng Provincial Government Acquisition Council (GPG-AC);
- ii. the various Departmental Acquisition Councils (DAC);
- iii. the GSSC-Accredited Procurement Unit (GSSC-APU); and
- iv. the various Departmental Accredited Procurement Units (DAPUs)
(*Gauteng Supply Chain Management Manual, 2004:24*).

The GPG-AC is a permanent structure appointed by the MEC of the Department of Finance and Economic Affairs and the GSSC, consisting of the heads of department of various GPG departments, chaired by accounting officer of the GSSC or the delegated official. The DACs are permanently appointed bodies, established in each department by the relevant head of department. Each DAC consists of the management of the department at the level of senior management, chaired by the accounting officer or his/her delegate. The procurement-related services to the GPG institutions are provided by the GSSC-APU. The DAPUs were dissolved and their functions were taken over by the DACs as the supreme procurement decision-making body. The roles and responsibilities of DAC are stipulated as follows:

- i. participate in drafting tender specifications, to be incorporated in the tender document;
- ii. participate in the technical tender evaluation;
- iii. exercise the choice of supplier based on the points awarded for performance, price and preference;
- iv. review the adjudication process on all material and high risk tenders in the department;

- v. sign term agreement (compiled by the GSSC-APU) as contracting party together with supplier;
- vi. monitor compliance to Acts, procurement strategies, policies and procedures;
- vii. arbitrate in disputes regarding compliance to the regulatory framework between GSSC-APU and departmental users;
- viii. attempt to resolve external disputes regarding open and effective competition with suppliers;
- ix. handle court cases with suppliers;
- x. monitor the conduct of the procurement staff of the GSSC-APU;
- xi. manage the conduct of all departmental staff associated with procurement;
- xii. monitor procurement performance against BEE strategies;
- xiii. recommend corrective actions; and
- xiv. monitor implementation of corrective actions suggested by GSSC-AC and/or department (Transition from the GTB Act to PFMA, 2002:Appendix B).

Two different needs are identified, namely: normal needs and high-priority needs. The normal needs are requirements that must be fulfilled by the GSSC-APU by using normal tender procedures as detailed below:

- i. estimated value < R500, 000: 3 quotations, according to service level agreement, the stipulated period of tender shall be 19 working days;
- ii. estimated value > R500, 000: 4 week public tender; according to service level agreement, the duration for the tender will require 70 working days; and
- iii. call-off orders from a term agreement, which according to service level agreement between the GSSC and a GPG department, will require 2 working days to fulfil (*Gauteng Supply Chain Management Manual*, 2004:36).

The high-priority needs must be fulfilled by the GSSC-APU by using the emergency procedure which deviated from the normal tender procedures. This deviation may happen under exceptional circumstances where such deviation is duly authorised. The GSSC APU acts as common service provider or procurement agent on behalf of the departments (*GPG Procurement Reform, 2002:6*). The GSSC-APU will not have any decision-making power over department budgets, procurement requirements or choice of suppliers. Decisions that GSSC-APU has to take will be in collaboration with the DAC, head of procurement and users (*GPG Procurement Reform, 2002:18*).

In the case of the unbudgeted needs, the Member of the Executive Council (MEC) of the Department of Finance and Economic Affairs may authorise emergency funds. The deviation may create difficulty if not kept under check. For example, if the Department of Education has experienced an emergency need for the provision of hearing aids for the hard of hearing children, who have suddenly enrolled in Gauteng schools from other provinces, the procurement of such devices must first be authorised accordingly. This procurement must however be in accordance with BEE through PPP provisions. This postulate is explored further in Chapter 7. The steps that the accounting authority of an institution has to take to avoid abuse of SCM system are as follows:

- i. take all reasonable steps to prevent abuse of supply chain management system;
- ii. investigate any allegations against an official or other role player of corruption;
- iii. check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, nor any of its directors are listed as companies or persons prohibited from doing business with the public sector;
- iv. reject any bid from a supplier who fails to provide written proof from the South African Revenue Service that that supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations;

- v. reject a proposal for the award of a contract if the recommended bidder committed a corrupt or fraudulent act in competing for the particular contract; or
- vi. cancel a contract awarded to a supplier of goods or services if the supplier committed any corrupt or fraudulent act during the bidding process or execution of that contract (*Framework for Supply Chain Management, 2003*).

The above provisions play an important role in preventing procurement fraud. The realisation of BEE through PPP happens through procurement guided by the policies of SCM. It is envisaged that the GSSC in the execution of the procurement role, will take the above steps into consideration. Where deviations in respect of the above have been noticed, it is vital that the deviations are reported expeditiously to avoid the perpetual recurrence of fraud and corruption.

Critical to the management of finances in relation to procurement is reporting. Through reporting, the principle of transparency is enhanced and deviations reported. Access to information makes it easier for the Auditor-General to identify weaknesses well in advance so as to evolve strategies of resolving them. Having made reference to the roles and responsibilities of the DACs in the previous sections, it is essential to refer to the role and responsibilities of the DAPUs, which have been spelt out as follows:

- i. participate with GSSC-APU in value teams to jointly develop commodity for top GPG spend items;
- ii. jointly with the GSSC-APU review recommendations on commodity strategies prior to submission to the GSSC Acquisition Council for approval;
- iii. enter into supply agreements as communicated with the DAC and the GSSC-APU;
- iv. provide advice to department users to ensure that they receive appropriate services at a cost best suited for their needs;

- v. compile tender documents;
- vi. advertise and receive tenders in line with policies and procedures;
- vii. compile recommendations for the departmental APU/DAC;
- viii. compile purchase orders;
- ix. compile any amendment to purchase orders as required;
- x. manage the departmental APU procurement staff's compliance to the Acts, procurement strategies, policies and procedures;
- xi. participate in internal audits of the procurement process in the departmental APU;
- xii. negotiate and implement service level agreements with the GSSC-APU, which will contribute to improved service delivery through a more effective and efficient procurement approach; and
- xiii. report timeously and accurately on the procurement performance to all stakeholders, e.g.:
 - the Treasury;
 - the GSSC-APU;
 - the DAC; and
 - departmental users (*GPG Procurement Reform, 2002:23*).

It seems as if with all the procurement-related structures the GSSC has introduced; it may be difficult for acts of fraud to be committed. It remains a problem though that these structures have the propensity to create the red tape that will at the end defeat the very purpose for which the GSSC was created, which is speedy and efficient delivery of procurement for the user-departments. The small and medium enterprises are unlikely to survive if they experience delay in payments after rendering a service. The ideals of BEE through PPP would be gravely compromised if the process of procurement is long and convoluted.

6.3.1 COMPOSITION OF BID ADJUDICATION COMMITTEE

The procurement process forms part of the essential component of the BEE/BBBEE in the Public Sector. In order for BEE through PPP to be realised, for instance, the identification of private partners should be done through the equitable procurement process of the SCM. The composition of bid adjudication committees, which forms part of the procurement process is latched on the understanding that tender boards in the GPG have been abrogated (*GPG Procurement Reform, 2002:2*). The following are the principles underpinning the proposed procurement reform, without which the realisation of BEE through PPP would be difficult, these are:

- i. there will be no tender boards;
- ii. accounting officers will be fully responsible for procurement decisions;
- iii. accredited procurement units will be responsible for awarding tenders;
- iv. there will be pillars necessary to ensure that procurement system is effective;
- v. there will be a framework for preferential procurement; and
- vi. best practice models and IT will be fully utilised to ensure maximum benefits in achieving efficiency and effectiveness (*GPG Procurement Reform, 2002:2*).

The bid adjudication committees are appointed in writing by the accounting officer or the accounting authority who will determine the term of office for members. This committee can be equated to the Departmental Acquisition Council (DAC) in the Gauteng procurement context (*National Treasury Circular on Code of Conduct for Bid Adjudication Committee, 2006:3*). This circular served as a directive to all provinces, and was circulated as such. Such committee shall consist of at least four senior officials with the chief financial officer as chairperson. The duties of the chairperson are as follows:

- i. has a casting vote as well as a deliberate vote;
- ii. retains all his or her rights as a member;

- iii. may adjourn a meeting;
- iv. may rule on points of order which will be final;
- v. may withdraw any proposal or other matters under discussion before it is put to the vote; and
- vi. convene extraordinary committee meetings on request.

The circular stipulates code of conduct for committee members, which is based on mutual respect for the rights of each other and respect for the purpose of the meeting, where members accept the following:

- i. the chairperson must be respected;
- ii. the chairperson has the right to interrupt and ask a member to stop speaking;
- iii. a member must stop speaking if ruled out of order by the chairperson;
- iv. decisions are made by general consensus or by a show of hands when a matter is decided upon by voting;
- v. once a decision has been made it is final and not open for discussion unless additional information which was not available at the time of decision making can be produced;
- vi. information and documentation are confidential;
- vii. a member shall declare beforehand his or her interest regarding any matter serving before the committee and the member will then recuse her or himself;
- viii. outvoted members must abide by the majority decision of the Committee; and
- ix. no communication should be made with a bidder/contractor by any member prior to or after any meeting (*National Treasury Circular on Code of Conduct for Bid Adjudication Committee, 2006:8*).

The above stipulations cannot be considered watertight given the fact that the composition of this committee is made up of colleagues whose familiarity with each

other may compromise the purpose for which the committee was formulated. This submission will be discussed further in Chapter 7. The achievement of BEE through PPP depends on transparency and compliance with the code of ethics, which forms part of the component for the promotion of the conditions for the implementation of BEE/BBBEE as analysed in Chapter 5. A lack of proper monitoring and venting of officials participating in bid committees is likely to make it difficult for PPP through BEE to be achieved.

6.4 REPORTING

The National Treasury in collaboration with Institute for Public Finance and Auditing (IPFA), have conducted Standard Chart of Accounts (SCOA) Road Show in 2008 for Gauteng province personnel working with finance. The New Economic Reporting Format (NERF) and SCOA as a significant national development and change management exercise were introduced (Learner's Toolkit, 2008:1). The purpose of NERF is to classify financial transactions accurately and consistently Learner's Toolkit (2008:5). Paragraph 5.13 outlined five programmes within which the budget is allocated. It is envisaged that through NERF, it will be possible to identify programmes that are lagging behind in the implementation of BEE imperatives.

Reporting on how the departments spend the allocated budgets per programme is essential, for example, overspending on one programme and underspending on another will not be appropriate. It is therefore essential for departments to report regularly on their budget expenditure patterns. A report on the amount of money spent in relation to the budget allocated on training for instance, will have to reflect how procurement of service providers complied with preferential procurement policies that are in agreement with BEE/BBBEE provisions. Suppose there were no reports presented on the details of how the budget was spent, this will inevitably hamper the realisation of BEE through PPP. NERF has been introduced as a new budget reporting format whose aim is to harmonise the budgeting and reporting definitions of items of payments, receipts, assets and liabilities. The SCOA is a combination of the requirements of NERF and annual financial statements and it upholds the principles of transparency and accountability in

the management of resources as prescribed in Section 216 (*National Treasury*, 2004). The national legislation must establish a national treasury and prescribe measures to ensure that both transparency and expenditure control in each sphere of government are in place, by introducing the following:

- i. generally recognised accounting practice;
- ii. uniform expenditure classification; and
- iii. uniform treasury norms and standards.

The mandate to introduce SCOA is derived from *PFMA*, (1999). The *SCOA* is defined as a new structure of government accounts based on both Government finance statistics and International Public Sector Accounting Standards (IPSAS) (Laerner's Toolkit, 2008:7). The *SCOA* contains detailed spending items supporting the new budget format, which is NERF. *SCOA* has the following as its main features:

- i. it is standard- there are standard sector-specific items;
- ii. any changes to the budget format will be supported by corresponding changes to *SCOA*; and
- iii. the accounts correspond to the requirements of the new budget format (Learners' Toolkit, 2008:7).

Given the number of budget items that have to be accounted for, to curb the levels of fraud and corrupt practices there has to be standardised reporting format for the Auditor-General to detect deviation and solicit deviations from the accounting officers where they occur. There is however no guarantee that these measures are so water-tied that the issuance of clean audits by the Auditor-General would be a common practice across the departments. It is for this reason that a standardised reporting format is required, which will be more user friendly than the previous format. The question can be asked: why the switch over to the new uniform format of reporting? The main reasons for the change are as follows:

- i. the old standard item structure of classification was characterised by outdated account labels, for example, stores and livestock;
- ii. as a result, government reports were not a reliable source of accurate and timely information needed for decision-making ;
- iii. in the old system a vast number of line items existed, including several which were no longer in use. This was an unmanageable system, which did not promote transparency;
- iv. the old system allowed for duplication of items, with standardised item comparable information could be attained; and
- v. the old system was fragmented where departments used a range of financial systems such as BAS, FMS and Walker.

NERF as a reporting format has been developed as:

- i. part of a public sector budget reform;
- ii. being compliant with the Government Finance Statistics (GFS) classification system;
- iii. being compliant with the Special Data Dissemination Standard (SDDA); and
- iv. the format to be employed for the budgeting process for all of the government sector (Learner's Toolkit, 2008:8-15).

GSSC as a procurement office needs to be well equipped with the knowledge of new systems for it to account for the budgets of all Gauteng departments it caters for. It is expected of all officials responsible for finance to be familiar with the new system and the new reporting format. As the reports will be on the basis of the item-based expenditure, it is vital these items are standardised across all the departments. The Government recognises the effect of capacity constraints on the ability to spend effectively (*National Treasury Budget Review*,2006:3). It is for this reason that the emphasis is placed on improving the efficiency of Public Sector delivery. Technical support to boost planning and financial capacity in provincial and local governments has

received new impetus. The GSSC and the Gauteng Provincial Government departments have also been beneficiaries of the new impetus in the form of training in the implementation of the SCOA and the NERF. Through improved technical support, the implementation of PPP through BEE will be achieved as proper planning and allocation of resources will be done in advance and any form of deviation from the norm of propriety will be detected and corrected promptly.

6.5 THE VISION, MISSION AND VALUES

The GSSC vision statement is to be a provider of world-class support services in the Public Sector (GSSC, 2010). Its mission statement is to enable the improvement of the quality of service in the public sector by providing efficient support services by continuous improvement through leading-edge technologies and processes, by being customer-focused, by implementing quality service standards and performance measures and consolidating functional expertise into centres of excellence. The values are stated as follows:

- i. superior performance and continuous improvement;
- ii. high level of customer satisfaction;
- iii. organisational learning and development;
- iv. use of appropriate technologies to improve efficiency; and
- v. competitiveness and cost-effectiveness.

The achievement of the above would make the GSSC a centre of excellence. The GSSC as centre of excellence would be measured against its ability to execute procurement services to the user departments, the function which is guided by *PFMA*, (1999). The substance of a PPP is normally the procurement of service. The paragraph that follows discusses GSSC as a centre of excellence in relation to the realisation of BEE through PPP (*National Treasury Standardised PPP Provisions*, 2004).

6.6 GSSC AS CENTRE OF EXCELLENCE

The GSSC as a centre of excellence outlines the following:

- i. project management office of the Gauteng Audit Service;
- ii. focuses on audit methodology, processes and best practice investigation;
- iii. manages a quality assurance programme focusing on consistent quality reporting;
- iv. ensures compliance with international standards for professional practice of internal auditing;
- v. coordinates customer relationship management;
- vi. coordinates training to ensure that personnel are continuously improving their skills regarding audit capabilities; and
- vii. provides template audit software support to users (*GSSC Annual Performance Plan, 2009-2010:16*).

Of importance is whether the external customer feels any impact as a result of what the achievements excellence stipulated above. The translation of excellence into quicker delivery of service to user departments will result in an improved service of note, in hospitals where lower mortality would be reported for instance. Improved payment of service providers for service rendered would result with fewer SMMEs going bankrupt. Quicker delivery of textbooks to schools as well as expeditious transfer of subsidies to institutions of learning would assist these institutions implement procurement policies. Schools would be able to implement BEE imperatives, by commissioning service providers for learner support material on time and be able to pay for the service rendered expeditiously, in line with the National Treasury requirements. Strengthening partnership with private sectors helps in the creation of jobs (*Gauteng Treasury Budget Booklet, 2010:7*). Job creation forms part of BEE. In the following paragraph, it will be proved whether BEE through PPPs in the Gauteng Shared Service Centre has achieved what it set out to achieve, guided by the vision/mission statement as reflected in paragraph 6.5.

Any excellence that does not translate into tangible outcomes may not be accepted by customers as such. Having referred to the GSSC as procurement entity, it is vital to consider the measures it has put in place to manage a variety of risks, ranging from fraud to incapacity. The Procurement Business Unit has implemented the supplier relationship management module used to facilitate the procurement of goods and services, whose benefits include the following:

- i. creation of shopping cards;
- ii. supplies on line registration and bidding;
- iii. automatic creation of purchase orders;
- iv. enhanced reporting that will include spend analysis; and
- v. enlarged contract management (*GSSC Performance Plan, 2009-2010:50*).

The aim of the GSSC is to provide procurement-related services to the GPG customers. For this objective to be achieved it is vital that it improves its systems and processes to give expression to what has been analysed in Chapter 5 as far as the promotion of conditions for BEE/BBBEE implementation is concerned. The GSSC develop and implement sourcing strategies that will assist the GPG departments to purchase goods and services effectively from suppliers (*GSSC Performance Plan, 2009-2010:45*). It is envisaged that the suppliers from whom the GSSC procures should be BEE accredited to ensure compliance with the provision of the preferential procurement processes. It is mentioned in paragraph 6.7.3 for instance, that Tshwane South District of the Gauteng Department of Education was found to have not completely complied with all the procurement requirements in that some suppliers used were not accredited.

The 58% of the budget during the financial year was spent on the historically disadvantaged individuals. Women in Gauteng departments have benefited 17%, while the youth and people with disabilities benefited 3,7% and 0,8% respectively. Information pertaining to the service providers has not been disclosed in the report, though this would have assisted in determining the number of PPPs that have been established in line with the preferential procurement policy. In order to check

compliance, weekly in-house BBBEE development workshops involving 1,620 participants were conducted (*GSSC Annual Report, 2008/2009:28-29*).

The following table presents information pertaining to BEE/BBBEE expenditure in Gauteng Provincial Government and GSSC (*Gauteng Treasury Budget Booklet, 2010/2011:30*):

Table 6.1- % Value of contracts awarded to BBBEE owned companies

Beneficiaries	Target	Actual results for the Gauteng Provincial Government	Actual results for GSSC
Historically disadvantaged individuals	70%	49, 1%	65, 2%
Women	15%	15, 5%	4, 4%
Youth	5%	4, 3%	1, 7%
People with disabilities	5%	0, 4%	0, 02%

Source: Gauteng Treasury Budget Booklet 2010/2011, Johannesburg: Gauteng Provincial Government. p30.

The information as presented in the table above provides the extent to which Gauteng Provincial Government Departments and the GSSC have succeeded in reaching the procurement targets for BBBEE owned companies. The Gauteng Departments as well as the GSSC seem to have not missed the set targets significantly. There seems to be a determination from the departments in Gauteng as well as the GSSC to conduct procurement processes to achieve BEE imperatives as discussed in paragraph 4.5 of this study. The maintenance of medical equipment in the Department of Health has 40% of maintenance contracts procured through the BEE suppliers (*Gauteng Treasury Budget Booklet, 2010/2011:31*). The GSSC could achieve its objective of being a center of

service excellence if it conducts procurements in the manner that enhances the realisation of BEE through PPP. The areas where the Gauteng Provincial Departments fell short of reaching their procurement targets need to be identified and reported in accordance with the New Economic Reporting Format (NERF), as discussed in paragraph 6.4 so as to speed up the process towards the realisation of BEE through PPP initiative.

Paragraph 4.5.2 of this study referred to the need for rural people to benefit from the BEE initiatives. Agriculture plays a small role in Gauteng, constituting 1% of import and export category of goods in Gauteng Province, with contribution to the national GDP ranging from 0,5% in 2005 to 0,3% in 2011 (*Provincial Economic Review and Outlook*, 2008:8). Regarding the employment by sector, Agriculture constitutes 2,5%. The statistical presentation above poses a challenge in that rural development may be considered of lesser importance by virtue of the value it adds to the Gauteng Province economy (*Provincial Economic Review and Outlook*, 2008:8-40).

Rural area is defined as a sparsely populated area in which people farm and depend on natural resources. A *rural area* is further defined as rural development that enables the rural people to take control of their destiny through the effective use of and management of natural resources (*Gauteng Department of Agriculture and Rural Development*, 2010:7). The overall objective of the Gauteng Rural Development Strategy is to support the implementation of poverty alleviation and to enable rural communities to achieve sustainable livelihood. The predicted outcome of the strategy is the closer cooperation with local government and the private sector. The challenge here is predicated by a lack of evidence whether this rational has been achieved. The statistical records of the number of PPPs formed, for instance; would have lent credence to the success or failure of this objective.

6.7 GAUTENG AUDIT SERVICE

Having analysed the GSSC as a centre of service excellence and the importance of reporting as outlined in paragraph 6.4, it is imperative that the information reported on

the aspects of budget expenditure is followed up appropriately. Should it be pointed out in the report for instance, that the Department of Public Works has achieved its procurement targets for BEE suppliers and that such tenders were awarded to one company, the mechanisms of control should be put in place to avoid the recurrence of such a practice. The Audit Service as discussed in the following paragraph would be essential to ensure compliance with all procurement processes and to put mechanisms in place to detect fraud at its inception.

The GSSC (2010) stipulates that the main aim of Gauteng Audit Service is to provide a world class service in internal control, corporate governance, integrated risk management processes and best practice in order to maintain an efficient and effective internal control environment. The Gauteng Audit Service aims to provide a full range of internal audit services to all GPG departments including the Gauteng Department of Education. The services carried out are the following:

- i. risk and compliance audit;
- ii. computer audit;
- iii. performance audit;
- iv. control risk self-assessment; and
- v. centre of excellence.

The above services are discussed in the following sub paragraphs showing how they impact on the study of BEE through PPP in GSSC. An analysis of how these foregoing factors contribute towards the promotion of conditions for the implementation of BEE/BBBEE as discussed in Chapter 5 finds expression in this chapter as well.

6.7.1 RISK AND COMPLIANCE AUDIT

The risk audits review processes comprehensively at a strategic level. Risk audits include an evaluation of the department's control environment and performance improvement recommendation (GSSC, 2010). The department's level of compliance with legislation,

regulations, policies and procedures in relation with procurement processes is also audited. The departments in Gauteng for instance, would be expected to procure goods and services through BEE companies to achieve the set targets as outlined in paragraph 6.6. The paragraph that follows will discuss computer and performance audits.

6.7.2 COMPUTER AND PERFORMANCE AUDITS

Computer audits perform risk assessment of the IT environment. They evaluate a department's general computer control environment as well as the system in use (GSSC, 2010). Performance audit reviews the processes and control measures implemented to assess whether the use of resources is economical, efficient and effective. It evaluates whether value for money has been achieved and conducts performance information review.

The Gauteng on Line is a provincial initiative initiated in 2001 aimed at province-wide computer network. R500 million has been allocated for the project over the period of three years. The ultimate objective is access to internet and personalised email addresses to about 1,5 million learners in Gauteng by 2006 (Finance Portfolio Committee, 2010). To make the project successful, cooperation with information and communication technology industry was sought in pursuance of PPP initiative. The SMMT Online Consortium became the successful bidder for the Gauteng on Line project in 2001. The SMMT is a 100% black-owned company (<http://www.smmt-gol.co.za> [accessed: 2011-9-3]). As the need for computer literacy among learners is vital for their future participation in the digital world, it is the responsibility of the province to ensure that its young citizens are equipped with the knowledge of computers at their early stage. The Gauteng on line project is an important portal for finding information, resources and opportunity. The portal has been designed to improve communication and service delivery across governmental agencies and stakeholders (Gauteng on line, 2010). Vital information pertaining to tenders for BEE through PPP would be located in this portal.

An assumption is made that with the knowledge of computer acquired, learners will in future be able to access information electronically in terms of available tenders advertised as well as acquiring information through internet in terms of the requirements pertaining to tenders and procedures in GPG. It seems as if the youth stand to benefit in technological empowerment to fully participate in the mainstream economy of South Africa. Paragraph 4.5 discussed the empowerment of the youth.

6.7.3 CONTROL RISK SELF-ASSESSMENT

The Gauteng departments are assisted with risk and control identification ratings by carrying out facilitated control risk self-assessment workshops (*GSSC Performance Plan, 2009-2010:13*). The aim of these workshops is to ensure that employee operations are comparable with best practices. In the context of this study, the best practice would be that of seeking to promote the effective and efficient implementation of BEE/BBBEE through PPPs. It is hoped that turn-around time productivity would improve. For example, customer demand would be responded to timely, more especially with the payment of money for the services rendered.

Having discussed audit services as one of the strategic areas of operation for the GSSC, it is vital to discuss service units of the GSSC such as Technology Support Services, Procurement, Human Resource, Finance and Corporate Service and how these units assist the Gauteng departments realise the objectives of BEE through PPP.

The Gauteng Department of Education internal audit report has as its objective, to provide assurance as to whether the new procurement framework manual was being complied with among schools. In reviewing the compliance, the scope of audit covered the following:

- i. obtaining of quotations according to the procurement framework;

- ii. the procurement preferential system as prescribed in the procurement framework, in particular adherence to the 80:20 preference point system in the awarding of orders between R30,000.00 and R100,000.00;
- iii. delegation of authority for procuring of goods and services;
- iv. purchasing and authorisation limits as prescribed in the procurement framework manual;
- v. Pre-qualification of suppliers; and
- vi. validity of orders with approved vendors.

In view of the above scope, a sample of schools was selected for audit with the hope that the findings would reflect the common procurement practices in the Gauteng schools. It is expected of schools in Gauteng to comply with pieces of legislation governing the procurement processes.

The purchase orders and payment advices at a sample school were not authorised according to the delegation of authority. The delegation of authority for the procurement of goods and services stipulated that the senior provisioning administration officer had to authorise the amounts between R10,000.00 and R29,999.99, while the assistant director delegated authority was limited to the amounts between R30,000 and R49, 999.99 and the deputy director authorisation power limited to the amounts between R50,000.00 and R99,999.99 (Procurement Framework Compliance Review at Tshwane South District of Gauteng Department of Education, 2003:2-3). A number of transactions were discovered where officials authorised purchase orders and payment advices in excess of their approval limits as per the delegation of authority (Procurement Framework Compliance Review at Tshwane South District of Gauteng Department of Education, 2003:6). Paragraph 5.10 of this study elicited the budget allocation processes. Having mentioned the importance of programme budgeting is essential that every employee in charge of the budget spend the budget in an acceptable manner. If employees approve budgets above their delegated powers for instance, this will pose challenges of control in terms of curbing over expenditures on the budget. Compounding the problem in the area of procurement was instances where quotations and orders were requested from vendors not

on the vendor master, which will result in service providers falling outside the BEE criterion being awarded tenders that would have been set aside for the designated groups catered for in terms of the policy of preferential procurement.

The procurement anomalies identified above if not corrected would create serious systemic complexities, more especially if those vendors had not been validated and accredited for compliance with BEE qualification standards. Non-compliance would make it difficult for the ideals of BEE in the Gauteng Department of Education to be achieved. The identification of accredited vendors has been made possible by captured data on the vendor master, which is made possible by use of technology.

An example of good practice in as far as procurement is concerned is the Glen High School in Tshwane South District of the Gauteng Department of Education. The development of a property on the corner of Corrobay and Garsfontein Road, has required the Glen High School to send out a tender notice where the prospective bidders were invited to tender (Tender Notice of 12 January 2007). The tender notice specified the time and venue for a compulsory site meeting. The address and facsimile for postage are clearly specified. It should be noted though, that no mention was made in the tender notice whether the bidders coming from the designated groups in terms of BEE would be considered favourably, guided by the provisions of the (*Preferential Procurement Policy Act*, 2000 Act 5 of 2000). The risk with open tenders is that big companies may become beneficiaries at the expense of the smaller companies.

6.8 TECHNOLOGY SUPPORT SERVICES (TSS)

Technology Support Services Unit, gives effect to the transition of the GPG into a smart province through the use of information and communication technology. Technology plays a role in the procurement processes as well as in the compilation of reports for audit purposes (GSSC, 2010:1). In the absence of checks and balances, it will be difficult to gauge the extent at which BEE/BBBEE imperatives are put to effect. If for instance, the Department of Health expects all programme managers to implement preferential

procurement policies in the allocated budgets and that in procuring goods and services, there are no measures to ascertain if all service providers comply with BEE imperatives, that directive would be useless. The information technology infrastructure covers end-user devices and technology, to enable users to run end-user and business applications to perform their job-related tasks. This service includes the following:

- i. workstation services;
- ii. local area network;
- iii. wide area network services; and
- iv. executive support services.

The executive support is targeted to the senior management team of all the departments and the GSSC. A lack of roll out plan may result with the Technology Support Services not achieving its objective. The plan should cover training of managers on the use of computers and a variety of soft-ware programmes that would assist management in monitoring and managing the budget.

Other services rendered by the unit include communication services by internet, email, intranet and web development. The housing, hosting and managing server is the responsibility of the TSS. It remains the responsibility of the unit to deliver and support IT services, which are appropriate to the business requirements of the organisation. The other agency of the GPG is the Gauteng Economic Development Agency (GEDA). GEDA (2010) has as its main thrust, the development of the GPG as a smart centre with specific emphasis on information technology and telecommunication equipment. GEDA is an independent organization, which is funded by the provincial government. It has a CEO who reports to the board of 10 directors. It is not clear whether GEDA performs its role in collaboration with what the GSSC has identified as its thrust in this regard.

As far as technology is concerned, Gauteng Department of Education has worked on proliferation of technology ahead of the right applications or training (Price-Water-House

Coopers, 1999:27). The existing systems in the Gauteng Department of Education are as following:

- i. Persal;
- ii. FMS;
- iii. Vulindlela;
- iv. Oracle Financial Analysis (OFA); and
- v. Virtual Bank (Price Water House Coopers, 1999:5).

A lack of working systems for example, in the Gauteng Department of Education would result in difficulties when budgets for schools are rolled out as well as ensuring the effective tracking of expenditure for all institutions in the Gauteng Department of Education, such as further education and training colleges and the payment of service providers. Technology plays an important role in as far as keeping record of vendors is concerned, so as to ensure that only the vendors on the data-base are the ones who have met selection criteria. These institutions are expected to spend their budget in line with the procurement processes and legislations for the furtherance of BEE ideals. This aspect will be discussed in paragraph 6.9 below.

6.9 PROCUREMENT SERVICE BUSINESS UNIT'S ROLE

The Procurement Service Business Unit facilitates the acquisition of goods and services, thus enabling the departments to effectively execute their legislative mandates. The unit strives to redirect provincial spending patterns as a means of promoting BBBEE within the provincial economy and achieving empowerment targets. The unit ensures delivery in respect of the GPG's five-year strategic priorities, which according to Gauteng Department of Education Annual Performance Plan include the following:

- i. enabling faster economic growth and job creation;
- ii. fighting poverty and building safe, secure and sustainable communities;
- iii. developing healthy, skilled and productive people;

- iv. deepening democracy and promoting constitutional rights; and
- v. building an effective and caring government (GSSC, 2010:1).

The above priorities form part of an essential strategic direction which the departments should take to realise the broader aspects of BEE. The realisation of these priorities requires PPP, more especially as far as skills transfer is concerned, for instance. In order to achieve the above priorities, the unit set out the following objectives (GSSC, 2010:1):

- i. to develop and maintain a world class procure-to-pay process within the Public Sector;
- ii. to ensure continuous improvement through a process of ongoing training and development of the unit's staff and end-users;
- iii. to develop and implement sourcing strategies for high-value, high-volume and complex commodities as an enabling mechanism for the purchase of goods and services across all departments;
- iv. to develop relationship with, specifically black empowered SMME vendors in support of the GPG preferential procurement strategy;
- v. to provide procurement process optimisation support through the creation of an enabling environment for the Procurement Services Business Unit; and
- vi. to develop and implement effective and efficient contract processing and management, which enhances value delivery to departments.

As far as the above factors are concerned, the procurement of goods and services in accordance with the preferential procurement policy would help in the achievement of BEE through PPP. The Procurement Services Business Unit has identified the following initiatives, which are to be undertaken during the 2008/2009 financial year:

- i. the achievement of the GPG preferential procurement target of 60%;

- ii. ensuring that the GPG business opportunities are made more accessible through the identification of and support for competitively viable BEE-based SMME;
- iii. continuing to improve the management of the GPG centralised vendor database of pre-qualified and BEE-verified vendors;
- iv. continuing with the provision of procurement process and system support;
- v. enhancement of management of online tendering and online supplier self-registration;
- vi. introducing a purchasing card which will have an effect on reducing time consuming administrative processes in respect of high volume purchases;
- vii. analysing the GPG spend report at various levels to assist departments with budgeting;
- viii. promoting alternative channels for interacting with the GPG in terms of e-tendering; and
- ix. improving customer/supplier experiences through the introduction of simplified and streamlined forms and documents (GSSC, 2010:1).

Though the above initiatives appear plausible, the challenge will inevitably be the implementation thereof. Notwithstanding the levels of computer literacy among the potential vendors, the high levels of poverty in the country and in Gauteng in particular are of such a nature that tendering on-line would only deepen the marginalisation of the communities who stand to benefit from the system. The BEE is intended for the poorest of the poor. In implementing tendering on-line, it is essential that the designated beneficiaries are not further marginalised. A study will have to be conducted to ascertain if the majority of potential vendors would benefit whether procurement processes are digitised. Another challenge facing the implementation of and achievement of preferential procurement targets, more especially in terms of gender is the attitude of management to gender issues.

Of managers, 41 % perceive that gender focuses equally on women and men, while 52% perceive that gender issues focus on women and that gender equality is often considered

to be for women and about women (*Report: Gender Audit of All Departments of the GPG*, 2006:34). This causes tensions in both gender mainstreaming strategic and programmatic development. Paragraph 4.5 has addressed the need for women empowerment. It is expected of managers to embrace women empowerment policies in GPG and implement them. Given the tensions alluded to, the implementation of women empowerment policies in respect of wealth creation may pose a challenge. This challenge is in spite of the fact that according to the *Report on gender audit of all departments of the GPG* (2006:41) most of the departmental plans appear to recognise the importance of targeted women and girls' intervention programmes.

The challenges besetting the procurement system to meet the demands for BEE are myriad. The significance of these challenges in schools in the Gauteng Department of Education ranges from a lack of effective and economical management of school finances to poor management of assets. The paragraph that follows outlines school-based challenges as identified by O.M.A Chartered Accountants Report of 2007. The achievement of the ideals for BEE through PPP is dependent on the effective management of finances by all institutions, including schools. As procurement is a vehicle for the achievement of BEE through PPPs, it is essential that all institutions involved in procurement manage resources responsibly.

Detailed findings and recommendations flowing from the audit of schools in the Gauteng Department of Education, were made (O.M.A Chartered Accountants Report, 2007:8). The findings in this regard helped to determine whether an environment existed for the implementation of BEE through PPP. Chapter 5 of this study has discussed the promotion of the conditions for the implementation of BEE/BBBEE, which among other things, is latched on the effective, efficient and economical use of the allocated budgets. An inference can therefore be made that in the absence of proper financial controls, the implementation of BEE through PPP would pose challenges. These include the following:

- i. lack of formalised policies and procedures;

- ii. composition of Finance Committees not in accordance with regulations;
- iii. there is no criteria for the selection of service providers; and
- iv. the list of preferred suppliers is not maintained and a lack of quotations obtained in respect of the procurement of goods and services.

In order to correct the identified anomalies mentioned above, O.M.A Chartered Accountants (2007:64), has recommended the following:

- i. the finance committees should elect other members of the finance committee to assist the finance officer with the bookkeeping functions of the school;
- ii. income and expenditure reports, cash book, bank and payroll reconciliation should be performed monthly;
- iii. the principal should perform monthly reviews and sign the income and expenditure reports, cashbook, bank and payroll reconciliation as evidence of review;
- iv. the finance committee must ensure that an approved budget is made available to the school;
- v. monthly income and expenditure projections should be prepared based on the budget;
- vi. financial management training should be provided to the staff responsible for the financial management of the school; and
- vii. bank reconciliation should be reviewed and signed as having been reviewed by an independent senior official to ensure that reconciling amounts are resolved timeously.

The implementation of the above recommendations requires some training of the school managers and school-based finance officials, through partnership with renowned financial institutions such as Price-Water-House-Coopers, for instance. This partnership would help build capacity in schools for the effective implementation of BEE through PPP. A number of schools in Gauteng do not have a finance committee (O.M.A Chartered Accountants, 2007:10-12). For these committees to perform their duties

effectively, they need to be trained. The paragraph that follows addresses the Human resource services rendered by the GSSC.

6.10 HUMAN RESOURCE SERVICES

The Human Resource Development Strategy of the Gauteng Provincial Government, (2006:4) in recognition of the importance of the Human Resource Development (HRD) Strategy and its impact on economic growth, has spelt out the following overall provincial priorities:

- i. enabling faster economic growth and job creation;
- ii. fighting poverty and building safe, secure and sustainable communities;
- iii. developing healthy, skilled and productive people;
- iv. deepening democracy, nation building and realising constitutional rights;
and
- v. building an effective and caring government.

All the above play a major role in the achievement of BEE in that poverty eradication is an important component of BEE.

The Human Resource Services endeavours to provide departments with a wide range of human resource interventions (GSSC, 2010:2). The unit is responsible for the provision of expert advice on and support for the formulation of organisational design, development, job evaluation and change management. The unit is responsible for the management of PERSAL, report analysis and policy formulation. The focus of the unit is on skills development. Former deputy president Mlambo-Ncquka (2006) pointed out that failure in the human resource and skills development sphere caused the failure of AsgiSA. She asserts that for the dreams about the economic growth to be achieved, suitable skills are essential. To enhance the performance of Gauteng provincial economy, the provincial government has adopted an economic plan, which is premised on three strategic pillars for a new growth trajectory, which are as follows:

- i. the development of Gauteng as South Africa's smart centre;
- ii. the development of high value-added manufacturing and mineral beneficiation; and
- iii. developing the province's service sector (Gauteng Provincial Skills Plan, 2001:4).

The GSSC is expected in its endeavour to enhance the skills of its personnel, to pursue the above identified provincial prerogatives as they contribute towards the development of the economy of the province.

The role and responsibility of the Human Resource unit of GSSC are in tandem with what has been stated in the *National Treasury Budget Review* (2006:7) namely, achieving equity and human development requires full realisation of human dignity and the freedom to pursue economic opportunity, which are incompatible with the poverty that continues to afflict a large number of South Africans. Sustained progress in reducing poverty requires continued economic expansion, job creation and quality services, which enable people to improve their standards. The improved efficiency of the public sector is critical for the reduction of poverty.

The challenge facing the GSSC to achieve this endeavour lies in the evident lack of common approach in achieving the skills development goal. There are a number of challenges facing various departments in the GPG (*Maximizing Human Capital for Shared Growth*, 2007:68-69). There are few official systems to support HRD initiatives in the province. While some departments pay close attention to the skills development and explain how they plan to approach the development of their employees, others simply vaguely refer to the development of their employees. Not all departments have done skills audits, hence training of employees tends to be *ad hoc* and it is neither needs-driven nor outcome-based.

The challenge the GSSC has to grapple with in its mandate of executing capacity building lies in the conceptualisation of the capacity building initiative itself. The cliché of

building capacity needs to be reviewed to achieve the benefits. Mokgoro (2005:5) posits that the word *capacity* does not need to be used too loosely without clear and common understanding. Administrative capacity implies effective administration of basic physical and social infrastructure.

Where teachers are not producing good results for instance, because learners do not receive learning materials on time and learn under trees where learning only happens when it does not rain, there is no need to send teachers on capacity building workshops to improve on their results. The other variables contributing to the poor performance of learners also need to be attended to. The same goes for putting personnel in wrong jobs and positions and expect them to improve their performance. The delivery of an acceptable standard of service in the Public Sector is dependent on the skills and administrative acumen of personnel. Human capital plays an important role in the achievement of BEE ideals in that PPP formation requires a variety of aspects to succeed, these are for example, feasibility study, project management skills, knowledge of budget and financial management. Building capacity among employees is vital to avoid disastrous service delivery, more especially in the area of management of finances.

The GSSC has through the Matthew Goniwe School of Leadership and Governance been able to reach out to the school based managers in the Gauteng Department of Education, offering exclusive training courses for the newly appointed principals and providing mentorship programmes. These programmes cover, among other things, school development planning and money matters, the latter addresses the effective management of school finances (Matthew Goniwe School of Leadership and Governance: Quarterly Report for the Period, 2005:46). Paragraph 6.7 has discussed the procurement issues in schools in the Gauteng Department of Education. The need for training in the management of finance cannot be overemphasised because the inability to manage finances would make it difficult for the ideals of BEE to be achieved. The school budgets in Gauteng are spent on activities that do not seek to advance the realisation of BEE.

6.11 FINANCE SERVICES

The Finance Services plays a role in ensuring that payments for service rendered are made on time. If for instance, a service provider has been procured to supply stationery and struggles to get paid for the service rendered, the possibility is that such service provider may not sustain the business, more especially if it is an SMME. The Finance Services provides an effective enterprise-wide transversal financial service for the GPG. The key objectives of Finance Services are:

- i. maintaining general ledger accounts of the departments;
- ii. accurately and timeously processing payments to the suppliers;
- iii. administering the payroll;
- iv. administering the cash books; and
- v. acting as the debt collection agent (GSSC, 2010:1).

The payroll services are the following:

- i. processing salary-related mandates;
- ii. implement and authorise garnishee and other court orders;
- iii. recover and pay salary-claims;
- iv. process salary related amendments;
- v. perform month and payroll closure and deduction reconciliation;
- vi. perform the annual tax reconciliation, and
- vii. clear outstanding ledger accounts (*Service Level Agreement between Gauteng Department of Education and Gauteng Shared Service Centre, 2007:55*).

While the GSSC performs finance-related tasks, the problem emerges when other departments seem to be executing more or less similar functions. What has to happen is to delineate roles and functions that have to be carried out by departments and those that remain the terrain of the GSSC. A lack of clarity in this regard may result in audit

problems as the GSSC may report on asset register of a particular department for instance, while the same department provides a different report on the same to the Auditor- General.

The priorities that would have fallen within the jurisdiction of GSSC were identified. Among others, the priorities include effective, efficient and economical financial management systems, sound asset management systems and human resource development (*Gauteng Department of Education Annual Performance Report Plan, 2008/09:30*). It is not very clear where the responsibility of the GSSC should start in this regard and where it should end. The same goes for the recovery of debt. It is not clear if the recovery of debt would be the responsibility of individual departments or the GSSC on their behalf as a procurement office. Given the role and responsibility of the GSSC with all the systems outlined, it would have been difficult to experience acts of alleged fraud or irregularity in the departments. The promotion of favourable condition of the implementation of BEE/BBBEE as discussed in Chapter 5 will be in jeopardy where the allocated budgets cannot be accounted for and subsequently, PPP with special reference to the realisation of BEE, would be a failure.

6.12 SERVICE LEVEL AGREEMENT

The GSSC provides to the sourcing Gauteng Department of Education, the services that are provided to the other GPG departments such as the following:

- i. finance-related;
- ii. human resource;
- iii. procurement;
- iv. technology support; and
- v. audit services (*Service Level Agreement between Gauteng Department of Education and Gauteng Shared Service Centre, 2007:15*).

The agreement defines the minimum acceptable levels of service that were provided by the GSSC to the Gauteng Department of Education. The above services have been discussed in paragraphs 6.7 to 6.11. In the event where there are variances in respect of the agreed service standards, the same shall be managed in terms of the following key processes:

- i. the early warnings;
- ii. managing service variances; and
- iii. dispute resolution mechanism (*Service Level Agreement between Gauteng Department of Education and Gauteng Shared Service Centre, 2007:12*).

As indicated in paragraphs 6.1, it remains to be seen whether the GSSC has achieved the mandate it set out to be achieve, among others, to ensure the speedy delivery of service and payments and the creation of a smart and excellent centre. The premier Mokonyana is reported as having said GSSC has now been incorporated under the Gauteng Department of Finance. The reason for the incorporation has been that the GSSC experienced the backlog of R1,7 billion it owed to suppliers to schools and hospitals Incorporating the GSSC under Gauteng Department of Finance (Anon, 2010:2). This may serve as an indication that the GSSC was not able to satisfy the requirements for which it was formed or that it did not get sufficient time to prove itself. Any partnership where partners are not committed to conditions of that partnership, for instance, prompt payment of service rendered would result in chaos and endless litigations. PPP as a means towards BEE has to be contracted in a manner in which all partners stand to benefit.

6.13 CONCLUSION

Chapter 6 as focus chapter of this study highlighted the role played by the GSSC as procurement office. A number of challenges and limitations were highlighted to serve as a basis for recommendation in the final chapter of this study. A wide range of technical systems and policy processes were referred to. The GSSC was presented as a strategic

partner, though referred to as procurement office; by virtue of the strategic role that it plays in ensuring that the GPG departments are relieved of secondary responsibilities and focus on the mandated core businesses. Whether the GSSC has succeeded in its role will depend on how the user departments conceive the services it provides and how the public at large perceives the quality of the service it renders.

The GSSC as procurement office, in view of the service it renders and its relation to user departments; could not be portrayed as yet another department. Its existence depends on how it helps other departments to exist. The GSSC as procurement office keeps data of vendors who qualify as beneficiaries of preferential procurement policy. The success hereof is in record keeping, which would be dependent on appropriate reporting by user departments, hence the introduction of SCOA and NERF.

The following chapter provides recommendations and conclusion. In discussing recommendations and conclusion, reference is made to a variety of issues raised in the previous chapters. The suggestions as to how the identified challenges may be dealt with are made in a manner that is not reflected as a mere repetition of what has been mentioned already. A new thinking will be introduced to address the problem of leadership and management in the organisation, which will call for a new culture and a new way of rendering service in a manner that makes it possible for BEE rational achievable.

CHAPTER 7

CONCLUSION AND RECOMMENDATIONS

7.1 INTRODUCTION

This study has dealt with PPP in South Africa with reference to the realisation of BEE, in order to redress past socio-economic inequalities. The role of Public Administration in the study of PPP was highlighted. Public Administration and its generic functions was analysed so as to ascertain its impact on the BEE through PPP. Having discussed BEE through public-private partnership as a means towards poverty alleviation, a question was raised whether this ideal has been achieved. A number of challenges have come to the fore, which have the propensity to make the BEE difficult to achieve. This chapter addresses the conclusion which covers the entire study making specific reference to the salient aspects discussed in Chapters 1 to 6 as well as the recommendations that if implemented, would make it possible for PPPs in the Republic of South Africa with reference to the realisation of BEE to become achievable. The recommendations are interspersed in the ensuing sub-topics.

The achievement of BEE through PPP is hampered by some challenges. In discussing the enumerated challenges ranging from leadership to commitment of staff, a number of BEE aspects such as code of practice will be taken into consideration. Other aspects of importance to be discussed will be corruption and how to deal with it, paradigm shift and the implementation of SCM. Before the recommendations can be presented, it will be necessary to look at the summary as discussed in the following section.

7.2 SUMMARY

This study contributes in several ways to the existing body of knowledge on Public Administration in general and Public Finance in particular. Policy inaction on the part of the state is a cause for concern to the repertoire of mechanisms and programmes for the

implementation of BEE/BBE through public-private partnership. This study has provided another opportunity for further study in the field of BEE as it is applicable to South Africa.

Through this study, a determination is made whether BEE has in its current context and practice benefited those who were intended to benefit, being the poorest of the poor. In pursuing this study, it became apparent that the need to redefine *poverty* should be sought, rather than to continue linking poverty to the colour of one's skin in order to achieve what has been stated in the problem statement in paragraph 1.4. This debate has already been stated in the previous chapters, where the terms *disadvantaged* and *advantaged* were discussed.

Chapter 1 put into perspective the definition of terms such as *BEE*, *BBE* and *PPP* in the context of this study. Other relative terms have also been hinted on to make it easier to understand not only the context, of the research but also the line of thought that has been followed throughout this study. This line of thought has encapsulated looking into the past system and its mistakes for purposes of coming up with a new model that would assist in addressing poverty among the greater part of the populace without creating yet another system of deprivation and segregation. The model that has been addressed in this study is that of creating wealth through PPPs.

BEE was discussed in terms of the historical background of the impoverishment of the black population, which was highlighted with reference to policies that sought to justify the discrimination of blacks in South Africa. However, a lot has to be done to ensure that blacks gain access to wealth, rather than just a few, as it is proved to have been the case so far. Concomitant to the foregoing argument is, looking into the current situation where there seems to be the ever increasing number of poor whites, who may have carried their poverty and degradation from the past to date. This section of South African citizens could not have benefited from the previous economic policies. More research in this area has to be conducted to ensure that the current empowerment strategy for blacks does not leave behind a trail of poverty among whites, the situation which would in the future

require a legislation to correct by introducing yet another system of empowerment that could be referred to as white economic empowerment (WEE). Flowing from the foregoing, a new debate emerges for a call for people economic empowerment (PEE). This debate lends credence for a new discourse that seeks to encourage a departure from colour based definition of poverty to socio- economic condition of the entire populace in South Africa.

Chapters 3, 4 and 5 address how BEE initiative can be implemented, with reference to a number of legislations and policies that have been developed. It is here where policy frameworks such as *Preferential Procurement Policy Framework Act, 2000* (Act 5 of 2000) and other relative programmes such as AsgiSA and JIPSA came to the fore. Challenges and successes have been highlighted. It cannot be said that these programmes have been a success as they have just been introduced. They still require some time and modification to be able to deliver the required results.

The challenges of the organisational structure do impact on the effective and efficient delivery of government programmes. The bureaucratisation of the Public Sector remains the greatest cause of concern. The way SCM is structured with the accounting officer having absolute powers has not lived up to the expectations for the formation of this procurement system. Compounding this problem remains a lack of leadership skills in the Public Sector. The organisational structure was referred to in this study with the understanding that, where there are no favourable structural conditions, it will be difficult for BEE through PPP to be achieved. The achievement of the BEE ideal is dependent on the skilled personnel who understand procurement processes.

Chapter 6 is a focus chapter where the previous chapters find expression in terms of procurement processes with regard to supply chain management. The *GSSC* concept as introduced by the GPG was discussed in terms of its successes and challenges to help highlight the research question whether BEE in its current form has achieved what it set out to achieve.

In practice, the central dilemma of BEE initiative in South Africa seems to be the over-politicisation of BEE deals. BEE-related committees in the main, consist of politicians from the ruling party some of whom could have benefited from the BEE deals. It is recommended that a committee on BEE should be made up of people who are not aligned to political parties. The committee should include the people from the designated groups as well as academics in the field of Public Finance with a thorough knowledge of PPPs.

As much as Broeder Bond in the past was seen to be in control from the banking sector to politics, the ruling party is perceived to be falling in the same trap with the recycling of the same personalities for empowerment deals as well as deployment strategy currently in use. The moment BEE deals of significance are announced, the names that populate the media are of those who are known to have some sort of political connections or those who are known to have amassed enough wealth and are millionaires.

For poverty alleviation initiatives to succeed, every facet of the administration should undergo total transformation, from recruitment to appropriately matching personnel to job functions. A new discourse of redefining the terms *black* and *empowerment* should be introduced to encourage robust debates in the field of Public Administration. It should be determined who should be the beneficiaries of BEE through public-private partnerships. The research demonstrated that the problem statement in paragraph 1.4, whether the BEE through PPP has been realised, could not be substantiated given the complexities of implementing and conceptualising the rationale of BEE policies and the ramifications thereof. Compounding the insufficient realisation of BEE through PPP is a lack of proper budget management that takes into account the national imperatives for poverty alleviation through BEE/PPP initiatives.

For the constitutional imperatives of poverty alleviation to be achieved, there has to be a new definition of *advantaged* and *disadvantaged* groupings to arrive at equitable poverty alleviation of the impoverished citizens of the Republic of South Africa in such a manner that it does not engender a vicious circle of impoverishment. South Africa belongs to all who live in it. Its wealth must be to the benefit of all irrespective of colour, gender or

creed. The Government is responsible for ensuring that all its citizens become beneficiaries to the economic programmes that are intended to benefit them.

7.3 RECOMMENDATIONS

The introduction of checks and balances is essential for the achievement of public-private partnership in South Africa with reference to the realisation of black economic empowerment. A specific reference is made to the equitable distribution of wealth through BEE in line with the problem statement as encapsulated in paragraph 1.4. In dealing with aspects non-compliance, it is vital that a code of good practice is introduced. The effective implementation of a code of good practice would assist in curbing the high levels of graft and fraud.

7.3.1 BEE CODE OF GOOD PRACTICE

Reference to the BEE Code of Good Practice as promulgated in the *Broad Based Black Economic Empowerment Act, 2003* (Act 53 of 2003) in paragraph 4.6, shows that there are some challenges of note in this code in that it is among other things not legally binding. Some of these challenges will be addressed below. Challenges facing PPPs are broad and pervasive. The obstacles to achieving sustainable BEE in PPPs are outlined as follows:

- i. there is a small pool of black equity in South Africa. Historically black people have not accumulated capital and it is a challenge for black enterprises to raise the required levels of equity at reasonable prices;
- ii. sources of BEE funding are generally expensive, reflecting lenders' assessment of risk associated with new black enterprises whose balance sheets may be relatively small, or whose experience may be relatively limited;
- iii. costs of independent financial and legal advice to black enterprises are an inhibiting factor in the preparation of bids;

- iv. there is limited black experience and skill in PPPs resulting in an uneven playing field with established company partners;
- v. established companies in the consortium often become obliged to provide sponsor and security for the committed BEE capital and to guarantee the performance of the black partners, contributing further to the uneven playing field for consortium members; and
- vi. there are few black South African PPP transaction advisors, and those who are, are overcommitted (*Code of Good Practice for Black Economic Empowerment in Public Private Partnerships, 2004:6-7*).

Taking the above challenges into consideration, it becomes self-evident that capacity building needs to be done. This should include training aspirant entrepreneurs in courses that are in line with entrepreneurship. The intersectoral approach involving the education, labour and business sector should play a leading role to support aspirant entrepreneurs. Aspects of unethical practices among those in authority are discussed in paragraph 5.3, which could hamper the realisation of BEE. Perhaps this should be discussed forthwith in order to suggest possible remedies to it. It is not certain whether, as it was addressed in the previous chapters; what has to be emphasised should be compliance or commitment, because compliance implies cohesion and commitment in itself presupposes a person's free will.

A recommendation is hereby made that the small pool of entrepreneurs from the designated groups should be introduced incrementally, with clear bench-marks that have to be achieved over time. The emphasis does not need to be on blacks alone, but on women, the disabled, people living in rural areas and the youth of all races. Jack and Harris (2007:33) concede that when developing the code of good practice, their mandate from the Government as consultants was to include women and a broad-based involvement, not clear who the latter encapsulated. The difficulty here is that, though women have been singled out, the rest of the other designated groups such as people living with disability and the youth have been mainstreamed, which may create the problems of losing focus.

Callon (1996:3) maintains that the most important role of business leadership is to deal effectively with the long-term viability of a business and support key strategies through the use of information systems that can be used to assist and support. What is implied in the forgoing is the importance of technology in managing an effective business, more especially in the 21st century. The aspect of technology has been analysed in paragraphs 6.7 and 6.8. A viable business is a business that can compete effectively in the global market. When evaluating the policies of the Government for the promotion of small business initiative, what becomes evident is a lack of emphasis in training the aspirant small enterprises in the field of business etiquette and information technology.

The cost of starting a small business is high due to the high risk that goes with it, the new start-ups should be given sponsored intensive training before they are registered. This training should involve the understanding of basic finances. Entrepreneurs from designated groups should be taught how to compile and understand financial statements as well as interpreting cash flows. To be able to sustain their businesses, it is imperative for them to have some training on labour relations to be able to deal with all labour-related disputes. The *designated group* in this chapter does not refer to a particular race. An understanding of the term *designated group* should be socio-economic based, which includes the poor and the disadvantaged from all racial groups. The identified group should be designated a lead status to empower those whose business disposition may not necessarily be good enough to start businesses and sustain them.

The business sector should be encouraged to relax the stiff regulations for providing aid to the start-ups. The Government should be willing to offer guarantee certificates as collateral to the banks just in case the loan granted is not paid back for one reason or the other. The foregoing should not be considered the only panacea available for a successful start-up, but one among many. Timmons *et al.* (1999:39) state that whether it is assets for the business, key people, the business plan, or start-up and growth capital, entrepreneurs think about cash last. Entrepreneurs are driven by a quest to do more with less and minimise and control resources not own them. Critical to a successful start-up is the brain behind it. Through the start-ups, PPPs can be pursued to advance BEE

initiatives. This can take the form of the delivery of stationery to schools or disposition of waste materials from hospitals. The same may as well apply in the hospitality industry where a lot of equipment and skills are required, for instance.

7.3.2 DEALING WITH CORRUPTION IN THE PUBLIC SECTOR

A number of high-ranking officials and politicians have demonstrated a lack of compliance to ethical practices and at the same time demonstrated the greediness for wealth, as discussed in paragraph 5.2. The question here may not lie in the introduction of the new procurement policies. What has to be addressed is the extent at which the old procurement regimes of tender boards has had portholes and identify them with the hope to have them corrected for the achievement of the equitable procurement process. Ki (1984:308) posits that corruption and injustice destroy the country and that the cause of corruption lies in the spirit and the social trend.

Ki (1994:311) maintains that if a government wants the state and its people to be strong and wealthy, it should prevent income without labour. Il (2009:210) concedes that Indonesia, for example, is a poor-rich country because of an uncaring government that is keen on enriching itself rather than its populace, where 40% of the population is going hungry. The success in wealth creation does not depend on the availability of policies. Paragraph 2.6 of this study has referred to the successes of the Korean approach to PPP, with specific reference to the Private Participation in Infrastructure (PPI) Act.

The new procurement system of supply chain management, with the current practices in respect of its management as discussed in paragraphs 3.7 and 3.8, seems not to have lived up to its expectation in terms of considering the poor favourably. Perhaps a centralised system of procurement conducted by independent institution could be an answer to this challenge. Procurement should in the short term be conducted by institutions of higher learning with a view to establishing an institution in the long term that would be run by a civil society or people with impeccable character.

The *Constitution* (1996) is supposed to be a guiding document in terms of how the citizenry should behave. There is an avalanche of pieces of legislation flowing from the *Constitution* (1996) to correct bad practice. The previous chapters have covered legislations upon which the formation of BEE and PPP are based, laying a foundation for ethical behaviour.

The argument here is that it is not so much the identification of the designated groupings for the purposes of empowerment, but it is how the process of empowerment is rolled out. The common practice of empowering a section of the black population economically serves to confirm as true the Owen's old adage of some animals being more equal than the others. Empowering just a section of the populace does not work, it is simply unconstitutional.

The problem of recycling the same people for empowerment, which can be ascribed to enriching the rich and empowering the empowered, cannot assist in alleviating poverty in South Africa. It is recommended that a ceiling should be put on the number of times an individual should be eligible for BEE-related bids, more especially if it involves huge sums of money. A new legislation should be put in place to restrict resigned government officials and parliamentarians to have a cooling-off period before they can get themselves involved in PPP programmes, which are geared towards empowering the poor. Perhaps five years would be ideal to link the period to the next election with the hope that the new cabinet with whom they may not be familiar would be sworn in by then.

The pursuit of speed money in any form or shape remains an indication that a new class is emerging, namely, a class of the black elite. A number of senior officials in the Eastern Cape were arrested and convicted of fraud. These officials identified a window of opportunity for winning lucrative tenders for their own companies. The entire Public Sector is fraught with similar cases. All these are under the guise of BEE. The Public Sector employees and politicians should lead by example. The responsibility that politicians have to play has been outlined in paragraph 2.4.1.

The current awarding of tenders by accounting officers, who themselves are either relatives or friends of some owners of companies, creates a major challenge. This postulate has been raised in paragraph 7.2. Perhaps the responsibility should be taken away from one individual to a committee made up of ordinary citizens who are not known to be active members of any of the political parties, men and women of integrity.

The current dispensation is not only deceptive but also divisive in that the perception persists that political connections are a prerequisite for access to wealth. An alternative to the current system of procurement as discussed in paragraph 3.5 is an institution consisting of members of civil society to execute the procurement tasks for all the departments in the country. The duration for participating in the institution responsible for procurement should be short with members rotated on a regular basis to even conduct procurements in other provinces than where they live.

A system such as the one applied in Gauteng, where the inclusive Departmental Acquisition Council (DAC) is the decision-making body, is recommended. The challenge though is that when DAC is formed in consultation with the accounting officers as the sole decision-makers in this regard. Their independence here stands to be questioned. Paragraph 7.2 has raised concerns about the absolute powers the accounting officer wields. Perhaps for this council to function independently, it will be advisable for it not to be consisted of employees in the provincial government. In the light of the pervasiveness of corruption across departments, committee members serving in tender committees would need to go through a strict vetting process.

Perhaps the public sector needs to refocus the strategy of reaching out to the poor in a more robust manner. This might require redefining *poverty* and the *poor*. The following paragraphs seek to further expand the discourse on blackness in the context of what appears to be corrupt practices masquerading in BEE partnerships.

Giving loans to officials or relatives of officials may not necessarily pose a material danger to the credibility of organisations. The difficulty surfaces when the organisations

giving out such loans do so to position themselves to win lucrative tenders from governmental departments. Government officials and parliamentarians should be restricted by law from borrowing money anywhere else apart from registered financial institutions. The same should apply to political parties, as discussed in paragraph 5.6.

Many questions can be asked as to what black companies have to do to qualify as *real* black. It appears as if for them to qualify for recognition they will subtly be expected to buy their blackness by brushing shoulders with the powerful and the famous of this country. The tendency seems to be that most corrupters do not go into business without their eyes fixed on who to corrupt to advance the course of their businesses and be guaranteed in perpetuity. Perhaps it is an opportune time to start looking at legislative ways of handling this challenge of corruption in the context of corrupter/corruptee relationship. The companies which are known to have shadowy relationships with people holding high offices in the Government should be identified, isolated, named and shamed. They should never be considered for selection to participate in government PPPs or any other government project for that matter.

7.3.3 LEGISLATIVE REQUIREMENTS AND ITS CHALLENGES

In terms of *PFMA*, (1999) the procurement procedure may include a preference for categories of bidders, in terms of the *Preferential Procurement Policy Framework Act*, 2000 (Act 5 of 2000), such as persons disadvantaged by unfair discrimination, provided that this does not compromise the value for money requirement as discussed in paragraph 4.6. This clause read superficially, may be interpreted to be containing a proviso, which if not read in line with extracts from BEE legislations may be deemed to be devious from the intent to economically empower the previously disempowered in that value for money may imply quality service delivery. The delivery of quality service requires knowledge and skills. The candidates for the empowerment envisaged here might be disqualified. This would, in turn, be defeating the very purpose for empowerment. The focus should be building capacity among the poor for them to be able to sustain BEE initiatives.

Institutions of higher learning and NGOs can play a critical role in empowering the poor to sustain their businesses.

Former MEC for Finance in Gauteng, Mashatile said the Gauteng government would no longer do business with white owned companies after 2009, instead, small, medium and micro enterprises (SMME) would snatch up the majority of contracts under the Province's new draft BEE policy. The former MEC is quoted as having said that Gauteng he intends to increase the number of SMMEs from 20 to 70 percent (Fronting in Provincial Governments Anon., 2005: 3).

What remains to be seen is the applicability of the foregoing, given the challenges mentioned earlier on, in achieving sustainable BEE through PPPs, among others, a small pool of black equity in South Africa and the current reluctance on the part of Banks to grant loans to high-risk black start-ups. Compounding this challenge is a lack of training in the field of project management among the majority of blacks and the fact that the majority of black companies or start-ups may not have machinery to do the work, let alone the skills. They would be forced to rent the machinery from white-owned companies at exuberant amounts, which will make it difficult for them to gain profit. An ideal situation would be that the Gauteng Provincial Government should establish a warehouse of equipment and machinery, which can be rented out to the SMMEs who win tenders and require the use of such machinery. Local people should be trained in the use of such machinery to create more jobs.

7.3.4 FRONTING

The malady of fronting as manifested can be addressed through a call for commitment. Perhaps the answer here lies in the reconstruction and development programme (RDP) of the soul, referred to by the former President Nelson Mandela (1994). Perhaps this is something higher than compliance, but commitment to the desire to do good and make contribution toward a better life for all. The introduction of life-style audits may as well

be one of the many ways of discouraging the pilferage of government resources through fronting.

An incessant desire to amass wealth at all costs poses a challenge to the society as this may create a rat race for getting richer every day, which can only polarise the society between the rich and the poor. Fronting is one of the many manifestations of social ills discussed in paragraphs 2.4.3 and 5.14 where social solidarity has been pushed to the background with greed taking the center stage. Fronting is used as one of the exemplars of a greedy society that seeks to get rich quicker. It was reported that a firm used unsuspecting black employees to get R19m in tenders from the Gauteng Department of Education (Black Labourers Serving as Directors of a BEE Company Anon., 2005:1).

A number of challenges that put Mashatile's argument of only considering black-owned companies for tenders at risk are a lack of funds. The implementation of this idea would require the Gauteng province to raise additional funds for financial and legal advice, training for purposes of skill acquisition, provision of security and hiring of PPP transaction advisors. All these services may not necessarily be found among blacks, given the historical reasons stipulated in paragraph 2.4.1 of this study.

7.3.5 THE INVOLVEMENT OF HIGHER EDUCATION INSTITUTIONS

Higher education institutions (HEIs) could provide the requisite training for the new start-ups. The challenge here may be the language of instruction that will be used to train the participants as most of the literature would be either in English or Afrikaans as the only well-developed languages in South Africa. The fact that the country has not in 18 years succeeded in developing the African languages to the requisite levels cannot be denied. The same goes for the need for training aspirant entrepreneurs in the use of computers as well as in basic accounting skills. Given the levels of poverty, it may be advisable to introduce community-based agencies of higher education institutions, for example. The training should be linked to the economic demands of a particular community guided by the potential for economic growth. To alleviate the economic pressures on higher

education institutions, students at these institutions should be encouraged to do community service as a way of ploughing back into the community. The training should for example include: basic accounting, project management, brick laying, sawing, cooking, interior decoration and tourism.

7.3.6 THE PUBLIC SECTOR AS THE IMPLEMENTER OF ENABLING POLICIES

The public sector as the administration arm of the Government plays a major role in the implementation of policies that seek to create accessibility to wealth to all citizens of South Africa. The paragraphs that follow deal with what the Public Sector should be like in order to meet the challenges of the century in as far as economic empowerment is concerned. The 21st century administration entails the 21st century leadership. The many policies that have been developed to eliminate poverty in South Africa require a transformed organisation with transformed managers and appropriate leadership. Paragraph 4.8 has addressed the aspect of leadership for the economic growth. The emphasis is currently put on the financial audit without any attempt toward organisational and management audit, especially in the Public Sector. The aspects of audits have been discussed in paragraphs 4.5 and 6.10. The determination with which the Auditor-General intervenes in financial matters of the departments, the same should be with skills audits and organisational audits, though by a different office, perhaps.

The challenges that have been highlighted in the previous chapters bordered on a lack of audit in these areas, hence the recruitment of personnel that continues to demonstrate the lack of competence, more especially in the area of financial management. The paragraph that follows seeks to create a benchmark for management competence and the organisation that is transformed to cater for the needs of all citizens. The assumption made here is that the current organisational structure that is charged with the responsibility to deliver the BEE through PPPs does not live up to the 21st century expectations.

7.3.7 PARADIGM SHIFT IN MANAGEMENT

What is necessary in the Public Sector is 21st century leadership, more especially in managing BEE/PPP projects. The 21st century leadership in the Public Sector is the type of leadership that can stand innovation and encourage development. It seems as if this is not the case, given the pervasive inertia in policy implementation. Strategies that have been crafted seem not to be translated into the requisite growth.

The difficulty here is that the idea of empowering the SMMEs is often not followed up by administrative intervention, which would help these businesses to experience breakthroughs. Compounding this challenge is the current debate whether an entrepreneurship is taught or inherited, in other words is it in the genes or from the book? It further must be said that universally accepted definition of who an entrepreneurship is has not yet emerged, hence it will be difficult to even venture in what remains uncharted waters of the etymology of the term and what makes entrepreneurs what they are. A word of caution here is that to all intend and purpose, the Government with its vibrant policies and legislations, should guard against pushing people into business by virtue of their skin colour, driven by the quest for poverty alleviation.

A number of pieces legislation encourage training and skills acquisition as key to the building of sustainable economic development and the strengthening BEE/BBBEE through PPPs. It should be explained what these training sessions would entail, what the content should be and who should be involved in these training sessions. It was mentioned in the paragraph 4.5 that women, rural areas, youth should remain the target. The challenge here is how true entrepreneurs are going to be identified. Macleod (1999:5) outlines the following critical personal attributes for the target groups for economic development:

- i. high degree of drive and energy;
- ii. high level of self-confidence;
- iii. capacity for long-term commitment;

- iv. independence, initiative and innovative ability;
- v. integrity and reliability;
- vi. ability to set clear goals;
- vii. ability to cope with uncertainty;
- viii. high level of determination to solve problems;
- ix. enthusiasm for taking moderate but challenging risks;
- x. ability to accept failure as part of the learning process;
- xi. desire for feedback about performance;
- xii. self-imposed standards (an internalised competitive drive);
- xiii. perception of money as a measure of performance;
- xiv. thorough knowledge of the proposed business;
- xv. awareness of the need to utilise the expertise of others; and
- xvi. ability to build a sound entrepreneurial team.

The foregoing should not be considered as conclusive of all attributes that are pertinent to aspirant entrepreneurs. It can be said with certainty that as BEE policies are pushed through with gusto, there is very little talk about evaluating the competences of the beneficiaries against these attributes. What still remains to be mentioned is the suggestions in respect of basic and generic aspects of business, which need to form part of the training for successful BEE/BBBEE projects. Additional to the above attributes is what Hisrich and Peters (2002:233) refer to as putting the new venture in a proper context by conducting an environmental analysis to identify trends and changes occurring on a national and international level, which may impact on the new venture.

The analysis of the environment in its totality would to a greater extent include, in the case of a bidding company, extra materials that are required to fulfil the order; extra-part time labour, overtime or other labour costs and extra energy and maintenance costs for the machinery and equipment required to complete the order (Drury, 2000:379). It seems as if the above aspects are not taken into consideration by SMMEs when bidding for tenders, yet they are fundamental to any business success. These are some of the areas to be focused on when training SMMEs.

Hisrich and Peters (2002:7-10) posit that the term *entrepreneurship* stems from French term for “between-taker” or “go-between”. They continue to state that in all definitions there seems to be an agreement that entrepreneurship is the kind of behaviour that includes:

- i. initiative taking;
- ii. the organising and reorganising of social and economic mechanisms to turn resources and situations to practical account; and
- iii. the acceptance of risk or failure.

The concept of entrepreneurship is spawned here. Reference has been made to the effect that employees should be given freedom, though trammled to some extent, even being that they should not be allowed to trade their entrepreneurship during normal working hours or within the departments they are employed in. This can be used to enhance the realisation of BEE through PPPs in every department and every unit responsible for procurement for instance. Nieman *et al.* (2003:348-349), define this category of people as having the ability to solve problems, having patience, capable to make compromise and that they are acting within the existing business.

7.3.8 SETTING UP THE SCM TEAMS

The solution for setting up the SCM teams is the effective implementation of the *PFMA*, (1999). The SCM is responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution. On discovery of any unauthorised, irregular or fruitless and wasteful expenditure, these must immediately be reported in writing *PFMA*, (1999).

Implementing the new procurement system called supply chain management, though complex as it may look, requires of CFOs to act with care when choosing committees to serve in bid adjudication committees. The difficulty with the secrecy forms signed by members is that, though it appears to be binding members to secrecy, it is lacking in

terms of consequential action for any breach thereof. The challenge in implementing the policy is what happens should the culprit be the executive authority who has the power to fire and hire? A new policy needs to be developed to cater for this anomaly. It is not common practice to put the minister of a department on precautionary suspension. The sooner a new legislation is developed to cater for this, the better for the realisation of BEE through PPPs.

7.3.9 BUDGETING PROCESS

Expenditure problems could be solved by ensuring that all departments and units at all levels comply with a system of budget control regulated by the National Treasury. All government offices should spend their budgets in line with this format of budgeting. Drury (2000:571) argues that the budgeting process in a non-profit making organisation normally begins with the managers of the various activities calculating the expected costs of maintaining current ongoing activities and then adding to those costs any further development of the services that are considered desirable.

There seems to be little emphasis on measures of managerial performance in terms of the results achieved. The reason for this is that there is no clear relationship between resources inputs and the benefits flowing from the use of these resources. Line item budgeting shows the nature of the spending but not the purpose. This is the system commonly used in governmental departments. What this system emphasises is the programme budgeting as referred to in paragraph 3.4 without details given on activities to the detriment of BEE achievement. The system of budgeting plays a major role in avoiding over or under-expenditure. Shah (2005:194) maintains that governments failing to maintain necessary balances or to control funds reliably from budget to activity are considered inefficient. The inefficiency mentioned here may be attributable to a dearth of allocation of budgets aimed at poverty alleviation projects. Each programme should clearly spell out how much of it will be used for BEE projects. This will make it easier for each programme to be measured against what it has achieved in terms of BEE as well as the number of PPPs it has been able to establish.

In order to make the budgeting process successful, there has to be constant reporting by all departments and units to ascertain the extent to which the budget is used to achieve BEE through PPP targets. The issue of reporting was discussed in paragraph 6.4. In Gauteng, the education department for instance, is using what they call *Matlotlo* (Sotho term for revenue) to report on expenditure on monthly basis.

Circular 13 of 2000 of Gauteng Department of Education for example, outlines the financial administration and bookkeeping as follows:

- i. a school governing body shall open a current account;
- ii. the signatories of a bank account opened in terms of Section 37 of *South African Schools Act, 1996* (Act 84 of 1996);
- iii. receipts shall be issued immediately for all monies received and
- iv. cash cheques may only be issued for replenishment of petty cash.

These measures if adhered to by schools for financial management, financial irregularities may be minimised to bolster effective and efficient utilisation of resources. The similar measure should be applied across departments to curb the high levels of fruitless expenditures and foster accountability. The difficulty with the current regulation is that they are convoluted and not user-friendly. It is for this reason that in spite of the number of repeated cases of financial mismanagement as indicated in paragraph 5.11, these cases do not always yield successful prosecution with a number of repeat offenders as a result.

The system that budgeting departments should use, needs to be linked to service delivery. Budgeting has been discussed in paragraph 3.5. The phrase *service delivery* has become hackneyed in the Public Sector, perhaps with little understanding of what it stands for. In the context of this research, *service delivery* should be seen and conceptualised in the ability of Public Sector to ensure that resources (inputs) meet the expected delivery (outputs), which translate into customer satisfaction (outcomes), which in the context of this study is BEE through PPPs.

The budget preparation should be preceded by priorities. Operational plans are prepared around the priorities. Operational plans make it possible for fiscal discipline to be ensured. It will be difficult for a financial management process to ensue in the absence of operational plans. Controls, reporting, auditing, whether on monthly or quarterly basis would make it possible for the accounting officer to detect problems related to undue expenditures such as fruitless, unauthorised or any other deviation well in advance. Every budget should be spent in line with policy priorities of the department in question. The evaluation process should happen at all phases to avoid irregularities. It was mentioned in paragraph 5.7 that a lack of delivery that manifests itself in under expenditures as pointed out, often is as a result of lack of effective controls and monitoring.

In the final analysis the question can be posed: “Did PPPs assist in the realisation of BEE, with the GSSC as an exemplar?” Though there is a semblance of success in the realisation of BEE through PPPs in this regard, much lot has to be done to address poverty alleviation in the Gauteng province, more especially with regard to women, the youth and people with disability. The same goes for the empowerment of the poor who may not necessarily be black. The myriad of corrupt practices in the public sector is so complex that it makes it difficult to infer that PPP in South Africa with reference to the realisation of BEE has indeed been achieved. The same goes for the need to redefine *poverty* in the context of the current pieces of legislation and practices.

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