

Supporting non-state providers in water service delivery

Water Non-State Providers (NSPs) such as informal private providers and civil society organisations often focus on serving low income and poorly served areas in developing countries, where they tend to have a substantial market share. This applies to both urban and rural areas. This situation arises because in the allocation of the limited government services and resources, preference is usually given to serving the more formal high and middle income areas.

In the provision of water there is significant scope for productive engagement between government and NSPs. For example, public agencies and NSPs often use the same water sources such as groundwater, rivers, and lakes, which tend to be threatened by contamination or rapid depletion. Different forms of engagement can lead to better management of those sources. Where urban NSPs take water directly from utility pipelines they are in effect customers of the public utility, so there is clear scope for better collaboration to improve services for end users. In rural areas neither government, the private sector nor civil society institutions generally have sufficient capacity to provide adequate water services on their own. It is only through effective collaboration that real improvements can generally be made.

Some examples of effective government engagement with water NSPs are emerging through activities such as: recognition and registration of NSPs, collaboration on scaling up of approaches, contracting NSPs, tripartite partnerships and market friendly regulation. Carefully designed support programmes are required that are attractive to existing and potential NSPs, while being appropriate to the needs and demands of consumers. Governments cannot provide basic services for all on their own. Working with capable NSPs is therefore, important for effective government. For this to happen on a large enough scale to have extensive impacts on service provision, there is a need for a stronger civil society and a thriving private sector. This is not always the case in the water sector in many countries, so governments need to consider how best to enhance the enabling environment for both civil society and the private sector.

Who are the main water NSPs?

Non-state providers (NSPs) in water and sanitation services can usefully be divided into three broad types that reflect the main types of NSP activity undertaken:

- Informal private (for profit) water providers (also referred to as small scale independent providers (SSIPs) and small water enterprises (SWEs)
- Civil society organisations supporting community based management such as CBOs and NGOs.
- Public Private Partnership (PPP) operators for water services.

These main categories of NSP tend to be very different in the types of service they deliver and in the characteristics and ethos of their organisations.

Benefits and challenges for productive engagement

If government works effectively with water NSPs to enable them to provide better and/or more extensive services on a significant scale, there are a number of distinct potential benefits, including:

- Consumers can experience improved or cheaper services, even if those services may only be a temporary arrangement until other service options are developed.
- NSPs will gain confidence from productive engagements with public agencies and are more likely to be willing to expand their operations to serve more customers.
- Government will be able to focus its efforts and resources more on achievable objectives. For example, government departments can concentrate on their governance and enabling roles, while public agencies such as water utilities can focus their attention on improving services in their existing service areas, knowing that NSPs are being supported in serving other areas.

- As government agencies gain useful experience in collaborating with and contracting NSPs, they can utilise that experience in scaling up its engagement with NSPs. Such experiences can also be translated into improving interactions between and within public agencies. For example, the National Water and Sewerage Corporation in Uganda has utilised its experience in supervising water services management contracts with the private sector in Kampala, to develop more effective performance contracts with government and with its own area offices.

There are, however, clear challenges for governments intending to work more with NSPs, not least of which is the institutional compatibility between bureaucratic agencies and the more informal NSPs, who may resist efforts to make them formal. There are also challenges in working with the formal private sector. International private water operators are now much less likely to enter long term contracts in developing countries because of the risks involved. But there is increased interest in how governments can engage more effectively with in-country NSPs such as informal and formal private water providers and civil society institutions (NGOs and CBOs). Carefully designed programmes are required to enable better collaboration with NSPs and to overcome the constraints.

Comparative advantages

In assessing the comparative advantage of different types of NSPs we need to consider the benefits, cost and limitations of particular services that they provide and/or the characteristics of the typical contracts that they win. There is a wide diversity of NSPs and contracts used in the water sector, each with their own distinct comparative advantage. Caution is required about making sweeping generalisations, even though there are some common factors that can be drawn out.

In general terms, the private sector (formal and informal) are more flexible in their operations and more responsive to consumer needs, than the public sector. This is due to their commercial orientation and the fact that they are less encumbered by bureaucracy than the public sector. Where NSP services are procured through formal contracts they are usually able to respond better to incentives for improving performance because of their inherent flexibility and the competition incentives. Although it should be noted that some elements of competition and incentives can also be used for public sector agencies, through measures such as performance agreements, incentive payments and benchmarking.

CSOs have comparative advantage in delivering community based services where the state is unable or unwilling, particularly in poor communities. However, the long term sustainable management of those services is a concern in many cases. CSOs are often effective in their advocacy activities to influence policy on community based activities, enhance consumer voice and tackle prejudice against disadvantaged groups.

State purchase of basic water services – contracting out

In the urban water sector where government and public utilities wish to contract out services to the local formal private sector, the use of service, management and lease contracts tend to be worth considering for local companies who tend not to have the required capacity and enabling environment for longer term contracts such as concessions. However, a 20 year joint venture has been operating in Nigeria - the Karu – Maraba concession and provides a possible model for adaptation.

Management contracts for 40 small towns in Uganda – have been let and have usually delivered improved services and increased revenues. However, management contracts do not generally provide adequate incentives for investment and expansion of services to new areas. It is for this reason that Output Based Aid (OBA) is being pursued as a potential solution to serving unserved areas of such towns in Uganda.

Karu – Maraba joint venture concession in Nasarawa state, Nigeria has developed new water services in a town that has been funded by the private sector. By giving government a 15% share the operator and lender had some confidence that government would assist them in gaining access to land and dealing with bureaucratic hurdles. The local private sector were willing to invest in and manage water services as part of a joint venture with government. While there are concerns about the bidding and regulatory processes, the joint venture approach could be adapted for replication elsewhere.

In the Kenyan rural water sector the use of water assurance schemes where communities can opt into schemes of paying local companies for water system maintenance. This offers a promising solution to the

continuing problems of achieving sustainable rural services. Governments have often procured the community facilitation skills of NGOs as part of rural donor assisted programmes. However, in some cases, for example in Uganda, there is reluctance by government to contract NGOs because of reasons such as NGOs with their tax free status competing against private contractors, and the tension between NGOs as alternative service providers and/or advocates for the poor.

It had previously been rare for Governments to contract CBOs to deliver rural water services, but two interesting cases of community contracting have emerged in India and South Africa. The Swajal Rural WS&S project in Uttar Pradesh piloted the approach of registered CBOs procuring works and services by themselves with project funds, assisted by NGOs. This approach has been scaled up in the *Swajaldhara* programme for rural water supply in India. In Alfred Nzo District in South Africa, the municipal government have contracted CBOs to undertake certain ongoing tasks with the assistance of support service agents. However, for such contracts to be scaled up, legislation needs to be reviewed to waive the need for competitive bidding for CBOs.

Creating an enabling environment for NSPs

Government engagement with NSPs can usefully be split into five main engagement categories which are shown at the top of the five columns of Table 1, in the order of increasing levels of commitment and capacity requirements (from left to right). For example, effective regulation requires significantly greater levels of capacity than does either recognition or dialogue. Within each of the five engagement categories in Table 1 a variety of types of engagement are shown.

Table 1: Types and levels of government engagement with water NSPs

	Category				
	Recognition	Dialogue	Facilitation/ collaboration	Contracting	Regulation
High levels of engagement			Compacts (Longer term agreements between governments and civil society)	Long term contracts for service provision (10 yrs+) Medium term contracts for service provision (3 -10 yrs) Output-Based Aid	Independent economic regulation (for larger utility operators) Regulation of minimum service quality levels
Medium levels of engagement	Registration of NSPs Formal legal recognition of NSPs and their rights to provide services	National policy dialogue Local policy dialogue	Collaborative arrangements including: co-production MoUs, and scaling up approaches Umbrella NGO networks Facilitation of NSPs	Short term contracts with private sector and/or civil society institutions (up to 3 years) Client/customer relationships	Regulation of market entry (promoting competition) Publicising NSP performance and costs Consumer forums and watch groups Supporting self regulation by NSP associations Flexibility in standards and supportive supervision.
Lower levels of engagement	Limited formal recognition of NSPs Non-interference in acceptable NSP activities	Exploring options for local collaboration			

Table 1 can serve as a menu of potential government interventions with NSPs. In some situations government agencies may opt for a non-interference approach in their interactions with NSPs, while in other cases more substantial forms of engagement will be pursued to achieve specific benefits. But some form of recognition and dialogue is likely to be beneficial in most cases. The merits of the use of a particular type of engagement will depend on the size and capacity of the NSPs in question and the capacity and willingness of the concerned government agency.

Those government agencies who have yet to formally engage with NSPs can commence with the types of engagement identified in the lowest level of Table 1 (the bottom row), which generally are not particularly demanding on government resources. For example, by encouraging non-interference of acceptable NSP activities and having some limited formal recognition of NSPs, the negative impacts of arbitrary government interventions can be minimised.

However, if government agencies want to support and enhance the services provided by NSPs and the public sector, then more substantial forms of engagement should be considered, such as those activities listed in the middle row of Table 1 – medium levels of engagement. If these types of activities are done well, synergies can be achieved through collaboration between government and NSPs. Successful government/NSP relationships often entail a number of different forms of engagement such as dialogue, collaboration, contracting and market friendly regulation.

The types of government intervention in the medium levels of engagement section of Table 1 require some levels of ongoing capacity to achieve effective outcomes. But more importantly, they require a continuing commitment to positive engagement with NSPs. The higher level types of engagement shown in the table, such as long term contracts and economic regulation, generally require high levels of capacity that are often scarce in many developing countries.

Recognition and registration of NSPs

In the water sector the lack of formal recognition of NSPs by governments and their agencies is a key limiting factor to more productive forms of engagement. There is evidence of formal recognition of informal providers such as water vendors leading to reduced costs to consumers. To develop more effective engagement, two forms of recognition are key. Firstly, the respective government agency needs to openly recognise that their organisation alone cannot provide adequate services to all, at least in the medium term; NSPs also have important roles to play. Secondly, formal recognition of NSPs and their rights to provide certain services is an important precursor to other potentially productive types of engagement.

Many CBOs lack clear ownership and legal standing. Although *de facto* recognition of CBOs occurs through development projects, clearer legal requirements for formal CBO registration would reduce confusion and could lead to more scaling up of community based approaches.

Dialogue

Locally based dialogue can be about collaboration options between government agencies and NSPs related to future implementation, or be in the form of local policy dialogue. There is limited water/sanitation related dialogue between government agencies and civil society institutions. Such dialogue is often initiated by NGOs and/or is done as part of donor programmes. Many public sector institution staff however, are reluctant initially at least, to engage in effective dialogue with NSPs but particularly with the informal private sector.

A lack of dialogue with NSPs can lead to wasted investments. For example, in Dhaka, DSK a local NGO with donor support, provided over 100 new community water points in informal settlements. Unfortunately the majority of these water points have now been demolished due to slum clearance programmes. If local dialogue is really to be effective it should lead to more comprehensive forms of engagement with NSPs such as co-production, contracting or market friendly regulation.

But dialogue should be more than just a process of initiating other forms of interventions. In the case of tripartite contracts between government agencies, private sector and NGOs to provide new water services, the NGO partner may often be concerned about their lack of power or voice. Ongoing dialogue and communication amongst partners can reduce this problem. Such joint contracts are often oriented to the provision of services. The more difficult task is to engage with and inform policymakers about scaling up delivery and ensuring sustainability of services. It is therefore important that the government agencies that contract NGOs and the private sector allow sufficient opportunities for strategic dialogue with NSPs to inform

future programmes. Where dialogue is contemplated with smaller more informal NSPs such as CBOs and informal private water providers, the use of umbrella organisations makes ongoing dialogue more feasible.

Facilitation and collaboration

Collaboration between utilities/governments and community groups has occurred in a number of cities, where CBOs have been seeking piped water connections for new small distribution systems that the CBOs intend to manage, often in informal settlements. These cities include: Blantyre and Lilongwe in Malawi, Nairobi, and Port-Au-Prince in Haiti. In each case local government or the water utility have collaborated with CBOs, with NGOs usually acting as intermediaries.

A promising type of collaboration is where governments work with NGOs to scale up successful participatory approaches. Examples of this happening are particularly evident in sanitation in South Asia, but have also occurred in rural water supply. For example, in the Swajaldhara community contracting approach being scaled up as part of the *Swajaldhara* programme to rural water supply in India .

Regulation

Regulating longer term PPP contracts

Regulatory functions are often split amongst a number of government agencies at different levels, leading to inconsistent regulatory decisions. The regulation of formal utility water services does lend itself to more comprehensive and independent regulation because service levels and costs are relatively easy to measure. The establishment of independent water regulators is a growing trend around the world. This applies mainly to the regulation of private providers under long term PPP contracts but also to public providers.

Without the creation of capable independent regulators, problems with serving poor areas are likely to persist in PPP contracts, as is illustrated by the Dolphin Coast Concession contract in South Africa and elsewhere. To date there are a few independent water regulatory agencies in low income countries such as Mozambique, Zambia and Ghana. These agencies are still relatively new and are working out their functions including how best to serve the urban poor. Development of the capacity to regulate is key. If improved and more independent regulation of public utilities is achieved, it could provide an effective entry point for future PPP contracts.

Regulation of informal and community based NSPs

The regulation of smaller NSPs such as informal private providers and community groups in the water sector presents challenges due to their small scale and informal characteristics. NSPs such as water vendors often charge high water prices, so it is tempting for government agencies to try and regulate their prices (economic regulation). However, because of the diverse, small and informal nature of the activities of NSPs such as water carriers. It would be impractical for a regulator to study and take into account all the varying costs of a wide range of water NSPs in a city and then regulate those NSPs on a fair basis. Economic regulation of smaller informal NSPs is unlikely to be an efficient use of resources. Other, more market friendly and supportive forms of regulation, that are shown in Table 1, are likely to be more effective. Some examples of these approaches are: supporting self-regulation by NSP associations, flexibility in service standards, and community water watch groups. The choice of regulatory instruments should be based on a comparative assessment of the trade offs between effectiveness, ease of implementation and costs and benefits.

Options for scaling up support to NSPs

Governments need to consider how best to enhance the enabling environment for both civil society and the private sector. Potential measures to be considered by government and donor partners to enhance the willingness and capacity of utilities and local government to engage effectively with water NSPs, include:

- 1) *Promoting/supporting appropriate types of engagement with NSPs* by utilities/local government. The range of the different types of engagement are set out in Table 1, under the six main categories: recognition, dialogue, facilitation/collaboration, contracting and regulation.
- 2) *More dissemination of evidence of the typical experiences and benefits* of engagement between government/utilities and NSPs. This should assist in overcoming some of the resistance to working with NSPs.

- 3) *Providing appropriate government incentives* for better engagement with NSPs can be developed through changes in policies such as official recognition of water NSPs and their services, performance related pay, performance contracts and enabling market friendly regulation.
- 4) *Intermediaries or bridging interventions*, to work with utilities and local government to encourage them to engage more effectively with NSPs or NSP associations.
- 5) *Encouraging NGOs and other CSOs* to have more inputs into aspects such as informing policy, working in areas of the country where government cannot, scaling up effective participatory approaches, as well as supporting consumer voice initiatives. CSOs often have clear comparative advantages in these areas.
- 6) *Pro-poor targeting mechanism such as Output Based Aid* that involve NSPs in longer term contracts to provide services. Other forms of targeted funding of infrastructure can also enable NSPs to provide better services to the poor.
- 7) *Assisting small companies to become larger* perhaps by facilitating more and/or longer term contracts. It is important to strengthen the local private sector so that it is more able to respond to consumer needs and invitations to bid for contracts.
- 8) *Mobilising formal finance for NSP businesses*. Access to finance is a key constraint for both the formal and the informal sectors who are wishing to develop their businesses.
- 9) *Improved sector monitoring and evaluation* that captures NSP services, which are often not reported through government systems. Good quality M&E information is important for informing future investments and policy development.
- 10) *Seek national or programmatic approaches* where feasible, piloting as necessary. For governments to scale up support to NSPs on national programmes there needs for a good level of confidence of the effectiveness of particular approaches that have been piloted. This has happened on the *Swajaldhara* approach to rural water supply in India.

Lessons for all basic services

There is a rising tide of informality in the developing world, by some estimates 70% of its workers are outside the official economy. (Palmade and Anayiotos, World Bank, 2005). Perhaps more than most other sectors water services are relatively easily measurable and hence services can be contracted out using output based contracts, subject to an enabling environment. This attribute also makes it easier to achieve well informed regulation. If other sectors are able to develop more appropriate indicators to measure the various forms of services, then there is better scope for beneficial contracting and regulation. If measuring performance remains problematic then co-production and collaboration may be the best forms of government engagement with NSPs.

How governments can engage better with informal NSPs is a matter of increasing concern in all sectors. Users of water services in a neighbourhood have day to day experience of water (deficiencies) in a way that is more pervasive than in the case of the other service sectors. Thus consumers are more able to make relatively well informed decisions about where best to obtain their water, whether it be from the public supplier or choosing the preferred NSP. Performance of providers in other sectors in such as education and health is less easy for consumers to assess. All sectors would benefit from governments obtaining more information about the services of the various providers and disseminating this widely. Consumers can then make better choices in choosing their providers, which can lead to improvements in NSP services.

Conclusions

Examples of successful engagement between government and water NSPs are somewhat limited, but positive cases are emerging. Unless governments and their agencies carefully plan their engagement with NSPs, then misguided arbitrary interventions can occur, which have a negative impact on NSP water services. Where there is a shared understanding between government agencies and NSPs about the working environment and incentives of both parties, there are much better prospects for effective partnerships and win-win situations emerging. It is therefore, important for government agencies to allow adequate opportunities for ongoing dialogue, in order to explore and support the best opportunities for effective collaboration.

This summary note and full report was drafted by Kevin Sansom, WEDC, Loughborough University