SALGA’s Action Plan in Promoting a Seamless Public Service

SMS conference on SPS

Port Elizabeth

08 September 2008
Councillor S. Somyo, NEC SALGA
• President Mbeki in his 11 February 2003 State of the Nation Address announced that “…we will this year also finalise the proposal for the harmonisation of systems, conditions of service and norms between the public service in the National and Provincial spheres on the one hand, and municipalities on the other hand” and on 9 Feb 2006 highlighted the complexity of the matter and the “need to secure the agreement of all relevant stakeholders”

• SALGA’S Position took a cue and was informed and made to be IN LINE WITH THE ABOVE. The input on seamlessness needs to be anchored on a clear understanding of where SALGA stands and where she comes from on SPS.
• SALGA, having been invited, formed part of the conceptualisation of the integrated Public Service (SPS) at ANC’s 2002 Stellenbosch Conference.

• Equally, SALGA formed part and participated in, among others, processes leading to the adoption of the current ANC Polokwane Resolution on SPS.

• The communication of developments from these and other stages of the evolution of the programme took place through conference, consultative summits, workshop and our PEC and NEC meetings etc., the genesis and exodus of which is as outlined below.
• The SALGA’s NGC of 2002-2003 resolved that “SALGA should be an equal partner with DPSA and DPLG in the development of policy and framework legislation around the integration of the public sector” and further that “The constitutional status of local government as a sphere rather than a tier of government needs to be protected” (See SALGA’s NGC Resolutions/Declaration, 2004, page 32).

Lastly, the 2004, SNC raised the fact that public service legislation should be an **overarching legislation** “aimed at instituting common norms and standards whilst separate legislation should govern sector specific issues” and further that “the current bargaining arrangements should be maintained within the context of common norms and standards which would be set by the Public service” (ibid, 5.4 (2) and (4) page 86).

The SALGA National Conference of April 2007, in terms of the Single Public Service, resolved as follows:

- **SALGA shall:**
  - Develop and roll out a programme for the achievement of the SPS;
  - Communicate effectively on SPS to its stakeholders to eliminate possible confusion and anxiety;
  - Consult on SPS with the various stakeholders, which include the relevant public service and local government trade unions;
• Further research the impact of integration on local government; and
• Ensure that it is an equal partner in driving the integration of the public service.
The Minister of Public Service Administration (MPSA) made presentation to the NEC of SALGA (NEC) in May/June 2006 on the SPS concept.

NEC August 2006 Lekgotla resolved to contribute and support the government programme of integrating the Public Service with special regard to, inter alia, to development of framework legislation on the integration of the public service and framework for alignment of conditions of service and remuneration practices between Loc Gov and Public Sector as well as the E-Governance and ICT stream of the work.

NEC dispatched SALGA officials to serve on the 5 different workstreams i.e. Ant-Corruption, Thusong Centres, Legal Drafting and HRD workstreams.

SALGA developed a discussion/position paper for Provincial members assemblies/conferences for discussions during January/February 2007.

Inputs from provinces were incorporated in discussion/position paper for SALGA National Conference of April 2007, for discussion/consideration in the Conference, in conjunction with presentation from MPSA.
DISCUSSION

• In making the Single Public Service a reality, it must cover critical areas necessary for ensuring existence of capable and sustainable service delivery institutions at all spheres of government. These areas that are important to foster the Single/integrated Public Service include, amongst others, the following:-

• Provide for the mobility of staff between and within the spheres of government and public entities;
• Stabilise and improve intergovernmental relations;
• Facilitation and transformation of systems and mechanisms for service delivery such that there is smooth and seamless service delivery at and between all institutions of government;
• Clearly defined Human Resource Framework that covers all employees; including but not limited to realisation of RSA ILO obligation on “equal pay for work of equal value”.
• Clearly defined Labour Relations Framework and the resultant mandating arrangements;
• The alignment of sphere-specific legislation as well as clearly defined roles and responsibilities, accountability and funding arrangements.
1. CONSTITUTIONAL IMPERATIVES
   • From the onset the development of the draft legislation was premised on the following constitutional imperatives:-
   • The three spheres of government are distinctive, interdependent and interrelated;
   • All spheres have an obligation to individually and collectively secure the well-being of the people and to, provide effective, transparent, accountable and coherent government;
   • Cooperate with one another by assisting and supporting one another and coordinating their actions accordingly;
   • Basic values and principles governing public administration;
   • Legislation regulating public administration may differentiate between different sectors, administrations or institutions; and
• Local government specific provisions:
  1. The municipality has a constitutional executive and Legislative right to govern the affairs of its community, subject to national and provincial legislation,
  2. Matters in respect of local government not dealt with in the constitution may be prescribed by national legislation.

2. OBJECTIVES OF LEGISLATION
• The overarching goal of legislation is to improve service delivery by:-
• Creating a common culture of service delivery based on Batho Pele principles;
• Stabilising and strengthening intergovernmental relations;
• Achieving more coherent government, integrated planning, budgeting, implementation, monitoring and evaluation; and
• Establishing norms and standards for employment in the Public administration, including employment practices and employee relations and mandating arrangements for collective bargaining.
• Further objectives are to -
• Create a framework for remuneration and other conditions of service to be informed by the outcome of the impact study and actuarial evaluation on medical and pension arrangements, human resource development strategy and the development of integrated skills database;
• Formulate mechanism to transfer staff between institutions and spheres; and
• Adhere and uphold government’s anti corruption strategy and standards of conduct.
POST CONFERENCE WORK AND RESULTS THEREOF

• NEC’s HRMWG adopted terms of reference on the study of impact of SPS on local Government and commissioned study on:
  - Constitutionality of the Bill
  - Impact on SALGA as Employer Body
  - Impact on municipalities
  - Impact on organised labour (trade unions) in LG
  - Impact on the SALGBC
  - Impact on LGSETA
  - Proposed different SPS models
• Adopted a possible position on the Bill and used that as means to obtain mandate from Municipalities, facilitate their discussion in preparation for the National Consultative workshop in mid October 2007
• The possible position was premised on three key issues emanating from previous conference resolutions and other practical considerations, namely
  • Local Government must;
    » remain a sphere and not a tier of government
    » Bargain collectively in the present bargaining council
    » Remain an employer in their own right and per the constitution but to ensure harmonisation of service conditions including mobility of staff among the spheres, SALGA must concur with the other sphere, as an employer body, on what these norms and standards should be.

• Conducted the Provincial consultations during 18 -25 September 2007
RESULTS OF PROVINCIAL CONSULTATION

• Provinces;
  • supported the proposed position as outlined above
  • supported a need to have a national consultative summit on the SPS as that will give Municipalities an opportunity to refine the proposed position as they will have obtained their individual Council views on the matter.
  • Expressed a hope that the equality that constitutionally must exist between the three spheres will indeed exist as, per the explanatory note to the 8th draft SPS, “no sphere will manage the other”
  • Raised certain questions/or made inputs like;
    – Will budget cycle be aligned
    – Secs 151, 154,156 (5),160,163 of Constitution not be undermined
    – Must not undermine gains made in Loc Gov since Structures Act, Retirement age must be 60 not 65
    – Why exclude Municipal Entities
The study, the full report of which was received on 01.10.07, and whose purpose was to address the Terms Of Reference in slide 12;

- Premised its input on desktop study of relevant local and comparative literature as well as relevant policy documents.
- Highlights that
  - In the past 20 years developed and developing countries, including Africa, show trends towards decentralisation to local government.
  - Integration of personnel with central government being, as the Bill stands, a strong determinant of issues (e.g. Norms and Standards and service conditions including the percentage of salary increases and mandating of SALGA on what to go and negotiate on) seems to be in direct contradiction with the decentralisation of power emerging from the Ruling party policy documents where Provinces etc need to be given appointment powers than a concentration of these to National structures.
Strong local government is an important component of South Africa’s new democracy with the current constitution signifying a move towards a stronger separate personnel system with section 160(1)(d) thereof empowering a Municipal Council to employ personnel that are necessary for the effective performance of its functions”. The need for concurrence between SALGA and DPSA is meant to avoid erosion of this point.

- Advises against a micromanagement of Municipalities by MPSA as that would amount to encroachment into the constitutional integrity of Local Government to govern its affairs.
• Cautions against forced deployment/secondment of personnel, in the name of an undefined “public Interest” or generally as that may lead to loss of or inability to attract skilled staff.

• Further cautions against an introduction of a system where those who appoint, Municipalities in our case, do not enjoy accountability of the staff they employed as same may be caused to focus on central government than the Municipality.

• Advocates for an existence of a separate Local Government Pension fund than, as the Bill (Schedule 3) purports, membership of Government Employees Pension Fund.

• Also advocates for the retention of a separate bargaining council as local government issues will receive no focus if SALGA is one of 36 employers in the Public Service Co-coordinating Bargaining Council let alone that “a future Public service Strike including local government could bring the country to a standstill” – otherwise it is pointless for SALGA to continue to exist!!!
• On Risks to LG, the Study;
  - Points to need to lobby (Treasury) for retention of section 10 of the Systems Act which, to avoid unfunded mandates, if a power is to be assigned to a Municipality, whoever requires same must submit a Memo to Treasury, inter alia,
    - giving at least three year projection of the financial implications of the function or power
    - disclosing any financial risks or liabilities to Municipality post the function
    - Indicating how any additional expenditure by the Municipality will be funded.
Examples of issue with funding concerns in the Bill are transfers and secondment of staff and the Thusong Centres, the pay incentives and regulated Bonuses, Minimum interoperability Standards on uniform HRD systems
• The study compares the Proposed SPS model with four that are popular in the world;

• Separate Model – is similar to what presently obtains, Local government is separate to other sphere with no transfer from, within and to itself. It has space for nepotism, corruption and dismissal of senior staff by councils if they do not tow the line or are opposed to certain unwelcome actions. SALGA (2007 NC) asked if the re is no need to change these rules and conventions. Poorer Municipalities find it difficult to attract scarce and skilled personnel.

• Integration Model - is similar to what is being proposed in the Bill. The major criticism of this model is that it “could be more rule- driven and bureaucratic than the more flexible local government system whereby each municipality is an employer. This could conversely lead to more red tape and slower service delivery”.
It also has a lot of a top-down development approach which “in Africa in the 1970s and 1980s failed spectacularly because of lack of popular participation". Sec 152 (1) of Constitution requires LG to encourage involvement of Local Communities in affairs of Municipality including its performance management. This is a variant of the French Model where if staff lose jobs in one sphere, they are kept in a deployment list. Its good as it avails skilled staff to all spheres.

Unified Model – means the introduction of a Central Local Government Commission. Under this model transfers of staff would happen among Municipalities but not National and Provincial Government – the Systems Act, is model around this.

The model is criticized as it does not live up to the seamless and one stop service as well as deploying human resources to where they are most needed notion that are so laudable about the SPS initiative.
The last model is the Hybrid Model – this is similar to a Kenyan Model where only senior level employees are potentially transferable. “The advantage of this model is that it is less disruptive on local government given that the vast majority of staff would remain permanent employees of local government. There are limited skills at local government that are potentially transferable”.

This model is restricted version of the integrated (French Model) as it only transfers between and within employers, the senior management staff.
• The SPS process needs to be linked up with the white paper review process as that will set in the strategy and the SPS the structure. This is more so that an organisational overload is imminent – structural reforms (twice), territorial changes (twice), new management structures, developmental local government, new forms of service delivery and PMS all introduced in the last 10 years. Staff morale and consequent poor service delivery a real risk.

• The SPS process has profound potential negative effects on local government and consideration should be given to considering alternatives. e.g. make transferability at top level only.

• A feasibility of transferring only senior level and technical staff should be given (mindful of the dual loyalty problems) as that will also protect the bargaining arrangement as only Unions in the sector will continue operating there than local government being opened to all Unions in Government.

• International experience suggest overwhelmingly that the introduction of a SPS will lead to the weakening of the system of local government
• While attempts to improve citizen access to services should be promoted, integrated public service does not necessarily need a SPS. Canada has introduced a model of “joined up government and seamless service delivery” while simultaneously strengthening local government.

• SALGA stands to be weakened as the representative of organised local government if this sphere of government were to lose powers e.g. of determining conditions of service of staff etc.

• SALGA should lobby as vigorously as possible in order to ensure that it still has sufficient collective bargaining powers. To this end, the notes in the Final draft Bill along lines of keeping SALGBC separate are a good base.

• The bill must be made to not only focus on service delivery issues but to the equally important democratic component of local government.

• On secondment of staff, the receiving municipality need not be burdened alone with the consequential costs e.g. of death of the seconded employee.

• Municipal Managers employment powers per the Systems Act must be retained.
• All the above (conference resolution, research study and outcomes of Provincial Consultative summits) were tabled at a National Consultative Conference SALGA convened as means to communicate on subject and get cohesion thereto moving forward.

• Such Consultative summit was held in Sandton, Gauteng in October 2007.

• Such was a strategically critical engagement of about 800 Senior Political and Administrative leaders of Municipalities – Ex Mayors, Mayors, Speakers, Chief whips MMs and other sec 57 managers.

• The said summit endorsed the key pillars of SALGA and/or Local governments position on Bill that;
  - Local Government must be a sphere of government per Constitution
  - Each Municipality will remain employer in own right per Constitution
  - Current Collective Bargaining for local government be maintained
  - Staff be transferable between municipalities and between spheres.
On 13th December 2007, SALGA was invited by the DPSA EXCO to make a presentation on the SALGA position. The presentation was positively received, with emphasis of concern in some areas. Further engagement between SALGA, DPSA and DPLG are required to imbed the mandate.

In December 2007, SALGA leadership met with Senior Leadership Unions in Local Government.
In there articulated the SALGA position on SPS and listened (not bargaining) on Unions take on the Bill, which is that of being opposed to Bill.
Exchanged and received later on position papers of Unions to Bill and interactions are ongoing.
• In May 2008, commented on gazetted Bill and submitted these to DPSA – fuller text below.
• Sought and obtained a Constitutional Law legal expert opinion as some Municipalities expressed a view that Bill is unsupportable as it is unconstitutional.
• Satisfied with Opinion that challenge of Unconstitutionality unfounded and not sustainable.
• Participates in sophistication of Bill and SPS through active and instructive role in Costing and remuneration scenarios for SPS, Determination of Pension and Medical Aid dispensation thereof AND CHANGE MANAGEMENT ETC
<table>
<thead>
<tr>
<th>ISSUE</th>
<th>KEY PROPOSALS OF THE BILL</th>
<th>SALGA’S PROPOSAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Norms and Standards</td>
<td>MPSA approves and a committee of 3 ministers give mandate on salary increase etc.</td>
<td>Co-determine the norms and standards including conditions of service and other employment practices for all spheres</td>
</tr>
<tr>
<td>Bargaining Arrangements</td>
<td>SALGBC sub-council of PSCBC or its equivalent</td>
<td>Keep present bargaining arrangement separate, but work towards framework of equal pay for work of equal value. In so doing, competition for skills will be between Private and Public sector than between Public Service – a disruptive factor.</td>
</tr>
<tr>
<td>Employer role and status of</td>
<td>• Sphere with diminished role</td>
<td>• Full sphere in terms of RSA constitution</td>
</tr>
<tr>
<td>LG</td>
<td>• Blackmailing of corrupt officials for personal gain</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ISSUE</td>
<td>KEY PROPOSALS OF THE BILL</td>
<td>SALGA’S PROPOSAL</td>
</tr>
<tr>
<td>-------</td>
<td>---------------------------</td>
<td>------------------</td>
</tr>
<tr>
<td>Staff Transfers</td>
<td>All levels will be transferable</td>
<td>Agree, transfers of skills to where most needed is noble.</td>
</tr>
<tr>
<td>Service Centres, anti-corruption and E-governance</td>
<td>Bill proposes these</td>
<td>Supports proposal but needs costing to precede implementation as required by the section 9 of the Systems Act</td>
</tr>
<tr>
<td>Pay incentive schemes</td>
<td>Bill proposes PMS with attendant bonuses for all employees</td>
<td>Supports proposal but needs costing to precede implementation as required by the section 9 of the Systems Act</td>
</tr>
<tr>
<td>Staff remuneration</td>
<td>KEY PROPOSALS OF THE BILL</td>
<td>SALGA’S PROPOSAL</td>
</tr>
<tr>
<td>--------------------</td>
<td>---------------------------</td>
<td>------------------</td>
</tr>
<tr>
<td></td>
<td>Bill proposes common remuneration for all spheres, subject to category of Municipality</td>
<td>Proposes equal pay for work of equal value in line with the RSA’s ILO obligations in terms of LRA, for all employees regardless municipality they work for and that employees be remunerated from fiscal (National Treasury) like public office bearers</td>
</tr>
</tbody>
</table>
• Options favoured by SALGA on Costing, Remuneration, Pension Fund, medical Aid, Norm and Standards, communicated to Municipalities for input.
• Envisaged that same will be finalised by year end or early next year, per the mandating policy framework of SALGA herein below.

• Salga continues, intergratedly with DPSA on Change Management programmes.
• SALGA remains of View that such co- determinist approach enhances communication flow, avoids confusion and easies anxiety among recipients.

• Continues at NEDLAC.
• Continues to have this matter high up in the agenda of it Provincial and National Assemblies and or conferences – a means of ensuring empowerment of its cadres for ability to communicate matter at grassroots level.
• Continues to sophisticate approach by comparative studies with other countries.
## PROCESS FLOW

**SPS Costing, HR Norms and Standards**

### SALGA Mandating Framework VS The Proposed Way Forward

<table>
<thead>
<tr>
<th>Action</th>
<th>Timeframe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Presentation to HRMWG.</td>
<td>22 March 2008</td>
</tr>
<tr>
<td>Technical Task Team – development of 1st Draft Position Paper.</td>
<td>3 July 2008</td>
</tr>
<tr>
<td>Presentation/ discussion at EMT</td>
<td>9 July 2008</td>
</tr>
<tr>
<td>Obtain expert opinion.</td>
<td>July 2008</td>
</tr>
<tr>
<td>Final draft: recommendations to HRMWG.</td>
<td>August 2008</td>
</tr>
<tr>
<td>SALGA position recommended to NEC (Approval).</td>
<td>August 2008</td>
</tr>
<tr>
<td>Communicate SALGA position to member municipalities and DPSA. After NEC endorsement</td>
<td>September 2008</td>
</tr>
</tbody>
</table>

### Diagram:

- **Develop submission or position paper**
- **EMT for comment**
- **Provincial offices for input, with clear recommendations**
- **submission to political or technical structure as SALGA position**
- **National working group for input, with clear recommendations**
- **NEC for discussion and approval**
- **National working group for input, with clear recommendations**
• It is our considered view that a non-multiplicity of decision making centres is key to a seamless Public Service hence our integrated approach to these matters.

• Service excellence centres, like the Thusong centres, are good means to seamless Public Service, and SALGA, with its members, the Municipalities, is at centre of roll out and optimal functioning of these.

• It further remains our view that co-ordinated and integrated approach like is presently happening even at Governance and Administration cluster, Mayors Forums, Premiers Co-ordinating Forums as well as Presidential Co-ordinating Council remain critical to sophisticate the seamlessness.

• Integration of Ward Committees and CDW is on track and is a critical feeder to seamlessness and our action plan.

• SALGA has as a plan, continuous improvement of the ideals of SPS through continuous comparative studies and guard against weaknesses that come from some of the bad aspects as highlighted by the models covered above.
Thank You