Pandora's water closet

Recently, in Zambia adverts appeared in the local press for tenders to develop the software side of a water supply project. This project was funded by a partnership of donors and administered jointly by the private sector and local government. As government decentralisation gathers pace in Africa such invitations made at local level are increasingly likely to become the way in which development finance is disbursed.

The most competent organisations to support water project software development are usually international or local NGOs. Does this mean that NGOs are going to be drawn into direct competition against each other and the private sector for aid intended to benefit the poor?

Over the past few years it has not been unusual to establish Private Sector – NGO partnerships in which the private sector lead and the NGO's feature as subcontractors; this is especially the case when bidding is at the international rather than national level.

But if indeed an increasing amount of finance is to be gained by competition at the national and local levels, then we may well see NGOs pushed towards open competition with the private sector for these funds. Its fair to say that should significant numbers of NGOs begin to take the lead in bidding for local contracts then we may have to question how suitable the rules and conditions for awarding contracts are under these new circumstances.

The idea that charitable foundations have to compete for funds to assist the poor is awkward. It may be that not for profit organisations would not want to utilise funds which lead to debt in HIPC countries, particularly when internationally they are probably arguing for debt relief. So a division might emerge whereby the private sector bid for loan money whilst the NGO's bid for grant money, but as yet there appears to be nothing to prevent either organisation bidding for either source of finance.

The idea is also awkward because, whilst there are rules which are supposed to keep bidding fair – there are a range of tactics from clever to corrupt which often create a minefield for organisations simply aiming to put in the best bid at their lowest price.

The private sector would almost certainly argue that competing against NGOs is unfair, because NGOs enjoy special tax and duty status and do not have a financial responsibility to the shareholders whose money established the company. In other words NGOs ought to be able to win bids on the basis of a much lower cost. But if an NGO that won a contract failed to perform satisfactorily it would very likely argue that the penalties this incurred, such as retention of a proportion of funds, were unfair. For example a failure to work to a budget or a time could mean the client can reduce their payment to the NGO.

Such penalty mechanisms are intended to improve the behaviour of the contractor, by cutting back on their profit margin. This measure is not intended to kill off contractors. But in the case of an NGO contractor operating at a near to zero profit margin, such financial penalties would push the NGO itself into debt.

So if we have open competition between NGOs and the private sector under the present rules of contracting its very unlikely to be seen as fair by any of the parties. So does this mean that we need a new set of rules for bidding for contracts?

The answer probably depends upon the specific context, how frequent NGO versus private sector bids occur and how much foresight we care to apply to the situation before it arises.

Imagine for example that international NGOs felt that competing against each other was just simply inappropriate, and so they chose to always bid jointly – as a consortium- for such jobs. In other words they combine their efforts and so reduce their costs in bidding. This practice certainly occurs amongst private sector companies but is seen in some situations as underhand and disreputable. It is odd then that it could appear to make good sense when NGOs bid.

To end up in an argument or legal dispute and risk stranding the money for water projects would be a wholly pointless situation to find ourselves in. Should indeed increasing amounts of finance be emerging at national and sub national level and should NGOs find themselves "pushed" into competing against (rather than with) the private sector for these funds then it would be very important to think constructively about what sort of ground rules we would want to have for such forms of competition. Existing development bank and aid agency rules may prove counter productive and risk weakening the quality and cost of bids with obvious implications for both the client and the final beneficiaries.

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