



صندوق تطوير وإقراض البلديات  
Municipal Development & Lending Fund



# THE MUNICIPAL DEVELOPMENT AND LENDING FUND

## Study Of Public Private Partnership in the Municipalities

Funded by: The World Bank

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## ABBREVIATIONS & ACRONYMS

MDLF	Municipal Development and Lending Fund
WB	World Bank
PNA	Palestinian National Authority
PA	Palestinian Authority
MOLG	Ministry of Local Government
LGU	Local government unit
WB&G	West Bank & Gaza
MOF	Ministry of finance
PPP	Public Private Partnership
TABO	Land Registry
BOT	Build, Operate and Transfer Contract
BOOT	Build, Own, Operate and Transfer Contract
BOO	Build, Own, Operate and Transfer Contract
BTC	Belgian Technical Cooperation
GTZ	German Agency for Technical Cooperation
JICA	Japan International Cooperation Agency
CHF	Community Habitat Finance

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## **1. INTRODUCTION:**

In the West Bank and Gaza, municipalities face two key challenges: (i) a crippling financial crisis that is preventing them from covering their operating costs or making necessary capital investments in new projects and (ii) redefining their role in light of the consolidation of key services (water, sewage, electricity, solid waste, roads, and public facilities) and increasing need for demand-driven service provision.

Close to 70% of the population of the West Bank (2 million) and Gaza (1.5 million) is urban and lives within the boundaries of 132 municipalities. Municipalities predate the establishment of the Palestinian Authority (PA) and have historically provided a variety of public services. Prior to the year 2000 almost 90% of the budget of municipalities came from local revenue collection. In the last five years however, municipal revenues have declined substantially due to the ongoing conflict, Israeli-imposed movement and access restrictions, and contraction in the economy.

The Ministry of Local Government (MOLG) with the support of the Municipal Development and Lending Fund (MDLF) is leading initiatives to reform local government. The Palestinian Reform and Development Plan, 2008-2010 (PRDP) has set a national developmental agenda (i) that prioritizes an effective and accountable local government system and (ii) calls for new legislation to establish a policy framework which promotes fiscal autonomy and discipline at the local level. Significant progress has been made in reforming and streamlining municipal financial management and accounting systems and practices. These reforms will enable the municipalities to manage budgets and control finances in a more effective manner.

Nevertheless, municipalities are in a dilemma: they have to improve services, invest in new infrastructure projects and increase revenues but they do not have the capital or finance needed to achieve these objectives. The shrinkage of the Palestinian GDP by 13% during the previous period (2000-2008) has been a major factor contributing to the problems the municipalities are currently facing.

Municipalities have therefore to find alternative sources of capital and finance. The private sector is an important source in this regard. This study focuses on the relationship between the public sector and the private sector and the potential and mechanisms for partnership with the private sector to finance new projects.

## **2. OBJECTIVES AND SCOPE OF THE STUDY**

The main objective of this study is to conduct a survey of existing Public Private Partnership (PPP) practices and models at the Palestinian local level (municipalities) in order to provide a descriptive background and real information to be used for further development of the PPP concept and framework. The study highlights the strengths and weaknesses of PPP practices at the local level and provides recommendations for future actions.

The study provides an in-depth review of PPP practices at municipalities in general (Section 4). This information will be of interest to central government, local government, business leaders and institutions, specialists, researchers, students and other interested parties. Furthermore, a review has been conducted of the existing legal environment for public private partnerships (Section 5). The review covers related laws, regulations and bylaws of commercial laws, local government law and business law.

The PPP survey will examine the different practices relating to joint public private projects and initiatives at the local level; and will obtain feedback from mayors of municipalities on their respective perceptions of these activities. An appropriate methodology and an action plan will be developed during the first stage of the implementation of the study. The study will cover 132 municipalities in the West Bank and Gaza of which at least 90% are expected to respond fully and provide information and data.

The collected data will be analyzed. A 10% sample will be selected from those municipalities who appear to have more involvement in PPP activities (taking into consideration different types of municipalities classified as A, B, C and D; as well as geographical distribution) and conduct further investigation about their experiences in order to draw lessons and to highlight the positive and negative aspects in their practices. Subsequently, recommendations will be made for the decision makers at the national and local government levels.

### **Issues Covered by the PPP Study**

The following issues have been examined in the study:

1. Assessment of the different stakeholder views, interests and incentives regarding PPP practices.
2. Assessment of institutions readiness to manage PPP.
3. Identification of impacts of PPP on municipal services such as:
  - prices/tariffs (incl. willingness and ability to pay service fees and taxes)
  - access to goods and services
  - assets
  - transfers and taxes
  - employment (incl. public works-generated employment, etc)
4. Assessment of risks relating to PPP management performance. Wherever possible, adequate risk mitigating measures were suggested; and opportunities to enhance performance and impact were identified.



### **3. METHODOLOGY AND APPROACH:**

The study has utilized participatory approach tools for data collection. These include: questionnaires, focus groups and individual interviews.

The following methodology has been used in the conduction of the study:

#### **3.1 Desk Review**

A review has been conducted of all the relevant available data within MDLF and MOLG in order to assess the type of information available and to define the framework of the data that needs to be collected. Other relevant documents and papers produced by other involved organizations, projects and donors (such as Belgium, Danish) have also been reviewed.

The reviews include:

- Review of the MDP Project Appraisal Document (PAD)
- Review MOLG Ministry database information
- Palestinian Local Authorities laws and regulations
- Palestinian company law and other relevant laws and regulations
- Review of other relevant documents: These included statistics, relevant studies, surveys, and other project documents implemented in the country for the benefit of MOLG.

#### **3.2 Individual Meetings**

Meetings have been conducted with the MDLF project manager and other relevant MDLF staff, staff from related Ministries and with other organizations to establish common grounds regarding the scope of work and the expected outputs from the point of view of the different stakeholders.

Other key players and experts in this regard have been met in order to generate more information of the expected outputs. These included:

- Meetings with mayors and directors of the municipalities to create good rapport; establish lines of communication and assign the municipality's representative for this survey.
- Meetings with local government directors in selected governorates and other government officials who are related and/or directly involved with the issue of PPP in MOLG.

Meetings were held with the MDLF representative on a regular basis to review progress and to discuss issues and constraints arising during the course of the survey.

#### **3.3 Survey Questionnaire**

Upon review of the documents and meeting with the different parties, a questionnaire was developed based on the TOR, comprising a matrix of the data to be collected and

accommodating the different municipal classifications A, B, C, and D.

A comprehensive questionnaire has been designed to collect the survey data. Specifically, the questionnaire has to provide answers to several questions, such as:

- Why have the municipalities collaborated with the private sector in different type of activities?
- What are the forms of partnerships that exist between the municipalities and private sectors in Palestine?
- What are the major obstacles and challenges that face private sector investment in public services and infrastructure at the local level in Palestine?
- What are the necessary requirements to establish vital partnerships between the public and private sector at the local level in Palestine?
- What are the provisions that must be available to succeed in the partnership between the public and private sectors in Palestine?
- What is the expected role of national government in assisting the partnership between private business and municipalities?

The questionnaire was reviewed and discussed with MDLF (project manager and relevant staff), MOLG staff (relevant to the task) to enrich the matrix and ensure that it covered all aspects of Private Public Partnership in the municipalities. Upon approval of the matrix and survey tools, a pilot test has been conducted on a selected sample of municipalities in the West Bank and Gaza, two from each classification (A,B,C and D). The purpose of the pilot survey was to obtain feedback on the time required in filling the questionnaire, the complexity of the questions, availability of and ease of access to information, identification of municipality representative/s concerned with PPP issues, as well as other issues that need to be checked, in order to ensure that the survey process goes smoothly and the collected data is commensurate with the scope of work.

Based upon the analysis of the collected data from the municipalities during the pilot phase, some modifications and changes have been made to the survey matrix, people interviewed and data collection tools. A progress report covering all aspects of the pilot phase has been presented and discussed with MDLF representatives to finalize and approve the questionnaire and data collection tools.

Regional workshops have been conducted in West Bank cities to distribute and explain to the surveyed municipality representatives how to fill in the questionnaire and to answer their queries. An SPSS framework has been developed specifically to compile and analyze the data collected by the questionnaires.

### **3.4 Semi Structured Interviews**

Interviews and meetings have been conducted with various personnel and officials relevant to this study. These include:

- Interviews with the MDLF relevant staff and departments
- Interviews with the Municipality mayors & city directors
- Interviews with a selected sample of MOLG regional directors
- Interviews with Government officials from different ministries and agencies
- Interviews with representatives of existing PPP projects.
- Interviews with private sector representatives
- Interviews with key informative people
- Interviews with experts in this field
- Interview with a representative of the Private Sector Coordination Council, Bethlehem Chamber of Commerce
- Interview with a representative of the Federation of Chambers
- Interview with a representative of the Paltrade; Trade Policy Director
- Interview with a representative of the Palestinian Federation of Industries and Industry Modernization Center.
- Interview with a representative of the Commercial Centers Management Company.

### **3.5 Workshops & Focus Groups**

Seven workshops were conducted, each for duration of 3-4 hours to present the questionnaire and to explain the objectives and scope of work of the study to the participants. The attendance was mainly from the municipalities as well as representatives from private sector organizations associations such as the Palestinian Businessmen's Association, the Palestinian Contractors Union and engineering consulting firms. Following is a list of the workshops held:

1. 19/8/2009: Jenin workshop with 8 participants from 15 LGUs (Jenin has 12 municipalities & Tubas 3).
2. 17/8/2009: Nablus workshop with 4 participants from 9 LGUs (Nablus has 9 municipalities).
3. 20/8/2009: Tulkarem workshop with 11 participants from 16 LGUs (Tulkarem has 11 municipalities & Qalqilia 5).

4. 17/8/2009: Salfeet workshop with 6 participants from 9 LGUs (Salfit has 9 municipalities).
5. 18/8/2009: Ramallah workshop with 15 participants from 31 LGUs (Ramallah has 18 municipalities, Jerusalem 10 & Jericho 3).
6. 19/8/2009: Bethlehem workshop with 5 participants from 10 LGUs (Bethlehem has 10 municipalities).
7. 20/8/2009: Hebron workshop with 13 participants from 17 LGUs (Hebron has 17 municipalities).
8. 06/09/2009: Gaza workshop with 9 participants from 7 LGUs and 6 participants from private sector and other organizations.



**One of the workshops held in Gaza**

### **3.6 Data Collection and Data Compilation**

The data collected has been cross checked and saved in the database. An analysis has been conducted on the data for each category or type of municipality and other correlated factors as per the agreed upon framework.

The following data related issues have been achieved:

- All completed survey forms have been filed. Any answers which have been written or clarified by the surveyor following discussion with the Municipality have also be recorded and filed.
- Progress on the survey stages for each municipality has been logged. All responses have been inputted into database.
- Statistical analysis of quantifiable information, and evaluation of qualitative information carried out; both of these on the basis of a framework that has been agreed upon with MDLF.
- Conclusions on reliability and representativeness of the survey, and conclusions on any differences between the various categories of Municipality identified.
- Summary of examples of good practice/ constraints.
- Preliminary conclusions, in the light of the results of these surveys, on the appropriate scope and survey methodology which might be used by the MOLG to establish and maintain a data base covering all Municipalities.

Data analysis is covered in (Section 6).

## **4. PUBLIC PRIVATE PARTNERSHIP CONCEPTS AND GENERAL PRACTICES**

### **4.1 Introduction**

During the past few decades, Arab and Palestinian cities have undergone rapid changes in the fields of development that took place in tandem with new and continual changes that most urban communities have been going through. This has contributed to the creation of sound living conditions able to accommodate the varied human activities which in turn raised the levels of growth, though at different rates from city to city and from country to country, depending upon the prevailing political, social and economic circumstances of each country.

The changes in Palestine differ from those in other Arab and international cities in that the Palestinian cities have been living throughout the past period under an Israeli occupation which hindered growth and prevented the development of cities in their own wide space caused primarily by Israel's settlement colonization policies that confiscated land and built Jewish settlements in the West Bank and Gaza. During the occupation, the Palestinian cities have grown in a distorted manner because of the limitations imposed on lateral expansion, which compelled the cities to grow in a haphazard, unorganized and unplanned manner in order to circumvent the Israeli impediments to their growth.

The growth in population and the increase in the rate of emigration from the villages and countryside to the cities because of check points and closures, and the ditching of working in agriculture in favor of working in construction and working in the cities' labor market at the expense of working in the countryside has forced the cities to absorb increasing numbers of city dwellers and in light of this, there should be a parallel increase in public services and expansion of infrastructure, which required the municipalities to harness all their resources to drive the development efforts in order to provide the needed services, the basic equipment and public utilities in addition to meeting the demand in construction. Thus, the municipalities will be required to fulfill the growing future needs that accompany population growth and building expansion. The municipalities have to supervise all matters relating to city planning, supply and maintenance of basic equipment, provision of municipal services and contributing to improvements in public health and the environment, through integrating municipal services with those of other governmental bodies. In order for the municipalities to achieve both a high level of quality in service provision and the expansion of service provision, huge investment is required in infrastructure and services which surpasses the financial capabilities of the municipalities especially that their abilities to obtain revenues have seen a marked decrease due to the prevailing bad economic conditions, the closures and the political situation in general.

Many observers note that in analyzing the current municipal investments, it appears that there are several probable reasons for the shortcomings of existing municipal revenues to fulfill all the municipal requirements. One reason is the improper utilization of available economic resources in a manner that generates the highest returns for the least costs. Another reason is the weak participation of the private sector in the field of municipal

investments either because it is not given the opportunity to participate or because of the absence of necessary information about investment opportunities or due to other reasons.

In modern thinking, municipal work concentrates on the developmental role of municipalities whereas in the past it was limited to services only. Nowadays, municipalities can establish investment projects that bring material benefit and improve revenues. This, in turn, reflects positively on improving the quality of services provided to the population and enables municipalities to go into partnership with the private sector. This developmental role is an important qualitative leap and will improve the quality of municipal work and open the way for private sector participation in developmental projects.

This also stresses that municipalities have to exercise huge efforts to meet the many demands they face in order to achieve their objectives, which under the current circumstances are hard to attain. In turn, this poses the challenge of finding other means of municipal finance whether through service revenues, cutting costs, municipal taxes or joint public private sector projects.

Eng. Badr bin Nasser Al-Hamdan, an urban planning engineer and the mayor of 'Al-Mujamma'ah in Saudi Arabia diagnoses the forms of partnership between the public and municipalities asserting that there exists a large gap between the two sides that has to be overcome. He points out that the localized administration by the municipality will not achieve its objectives without the participation of the private sector. He also quotes the scholar and thinker F.C. Turner who says "if we want to manage a complex and structured being like a city, we have to establish an equally complex and structured administrative, executive and planning body."

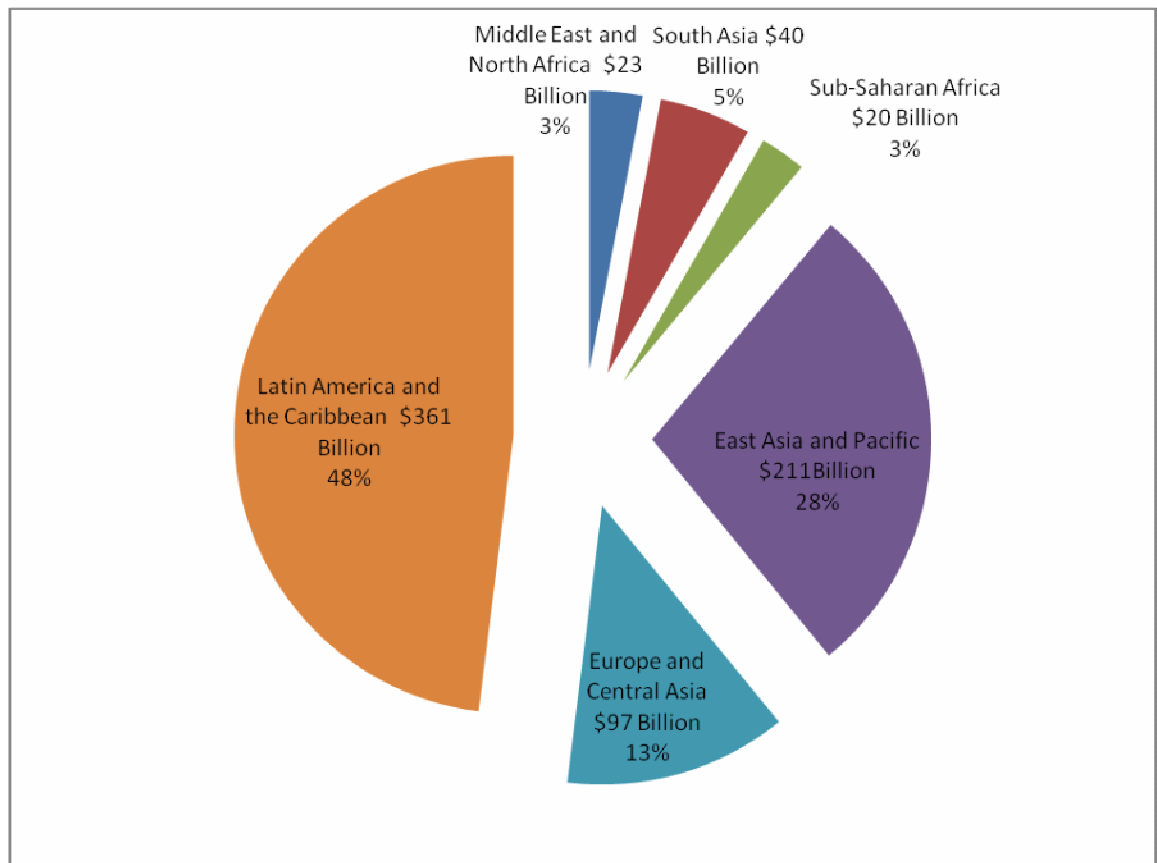
In spite of all the studies, books and reports that dealt with the subject of public private partnership, they did not provide accurate answers to the main underlying issues due to several objective considerations: first and foremost is that the administration of municipalities is one of the most complicated issues since it deals with a complex, comprehensive, and intertwined environment that is involved with people's lives and spatial environment; it is also linked to the future vision of city planning, the control of development, the patterns of land use in the city, the housing policies, the performance of infrastructure networks, the discussion of method of city administration and the motivation of programs of integrated urban achievements programs.

Some urban administration specialists have a very expressive description of the city by considering it a "living being" since it very much resembles the human being's life cycle. During its growth phases, a human being requires a lot of care and the type and level of this care changes as the human being grows and his needs, burdens and responsibilities grow. And so is the city; in all its stages of growth it requires continuous care and attention which has to grow in line with the growth of the city to keep up its services and supervisory scope.

With this in mind, it has become of utmost importance and urgency to make the transformation to the participation of the private sector in municipal investment projects

in spite of the obstacles and difficulties that pose a great challenge to this transformation. Real and concrete steps have to be taken in this direction, given that the current economic trends are governed by the modern market economy system which allows for a bigger role for the private sector in the developmental process.

**Figure 1: Investment in Infrastructure Projects with Private Participation in Developing Countries, 1990-2001, by Region**





## **4.2 Status of Public Private Partnership (PPP)**

The issue of public-private sector partnership has attracted a lot of attention from governments, communities and research centers all over the world, ever since it has become clear that the social and economic development process depends upon accumulating and consolidating all the community's capabilities, resources and expertise drawn from both the public and the private sectors to participate in establishing and operating different types of projects. Advanced and developing countries therefore seek to create the necessary regulatory and legislative environments and the systems that help in integrating all sectors of society in guiding, managing and operating businesses and projects, and developing and expanding these projects to serve its purposes on the basis of collaborative partnership, good governance, transparency, accountability and mutual benefit.

The guarantee for success of the partnership does not depend upon laws and legislature alone but it is also imperative to create the links between them and good governance. Both have multiple dimensions with administrative, legal, economic and social aspects that cross at common points. They also rely upon the principles of transparency, publicity, accountability, equal rights for stakeholders and allocation of responsibility in order to utilize resources efficiently, reinforce competitiveness, attract investments and expand projects, thereby creating new job opportunities and supporting economic stability.

Many researchers envisage that the issue of partnership is still in the first stages of establishing unified principles, rules and systems governing and regulating the various forms of partnerships between the public and private sectors, such that it encompasses most if not all the economic and social sectors. Main topics such as concepts, principles and standards are still undergoing research in order to have them developed and categorized under specific frameworks and guidelines.

The Palestinian National Authority has started to adopt the strategy of private sector partnership in development programs as one of the main pillars of good administrative performance in order to elevate the level of utilities and projects, stemming from the importance of building and laying the foundations of the independent Palestinian state. The joint meetings between the government and the private sector coordination council are but a strong manifestation of the desire to strengthen the relationship between both sides, to establish an agenda and draw up a work plan to develop the partnership between the government and the private sector in formulating policies, developing investment and enhancing cooperation.

### **4.3 Municipalities and Partnership with the Private Sector**

The partnership between the public sector, the local government institutions and the private sector has become a predominant international phenomenon during the last ten years. In part, this has been due to lack of investments and increasing pressures on government budgets. In addition, there has been general concern about the inefficiency of the services provided by government agencies and municipal bodies. Whereas public private sector partnerships have been applied in areas of economic infrastructure such as electricity, water, telecommunications and roads, the basic infrastructure services have remained the responsibility of the public sector suffering high costs, limited spread and bad maintenance.

The importance of public private sector partnerships has thus emanated from the desire to obtain better and more efficient services, coupled with the need for additional sources of finance has increasingly pushed governments to adopt public private partnerships to provide these services.

The participation of the private sector in municipal investments aims to achieve the following:

- 1- Raise the level and efficiency of municipal services delivery.
- 2- Lessen the burdens on the municipalities.
- 3- Increase the coverage of municipal services in populated areas.
- 4- Provide new sources of finance.
- 5- Narrow the gap between municipal requirements and financial capabilities.
- 6- Bring private sector management and expertise into the public services sector and involve it in the sharing of risks.
- 7- Achieve better value for money.
- 8- Implement investment project promptly and within allocated budgets.
- 9- Introducing innovations in project design with regard to assets, operation and maintenance.
- 10- Shifting risk that can be managed better by the private sector away from the limited municipal resources.

From a scientific point of view, an applied study conducted by the World Bank in 1994 on a sample of several countries that opened the way for private sector participation in developmental projects, found that operational efficiency improved on average by 26% in comparison with the previous situation and concluded that private sector participation has restructured the governmental and municipal projects in such a way that enabled them to achieve a better level of operations for their economic resources.



### **One of Al Bireh Municipality's Private Public Partnership Projects**

(The Taxi station was built of Cement Block and not from Limestone as with all other buildings in the city.)



### **One of Ramallah Municipality's Private Public Partnership Projects**

(Arab Bank Building in Old Ramallah was built by a private investor)



**Ramallah Municipal Park**



**Al Bireh Municipal Park**

#### **4.4 Public Private Sector Partnership: Definitions, Justifications, Pre-requisites, Types and Characteristics**

##### **4.4.1 Definition of Public Private Sector Partnership**

Every literature and study on this subject has put its own definition of the partnership which does not diverge from the basic premise that public private partnership (PPP) is concerned with the various aspects of interaction and collaboration between the public and private sectors. These aspects relate to the employment of their human, financial, managerial, organizational, technological and knowledge capabilities on the basis of sharing, commitment to goals, freedom of choice, common responsibility and accountability. The goal is to achieve the economic and social objectives that concern the majority of society that have a long term effect on its aspirations thereby enabling the society to keep up with modern developments in an effective manner and accomplish a better competitive status.

It is apparent from this definition that the concept of partnership is quite new, multi faceted, of rising importance and is linked with notably managerial, organizational, collaborative, economic, social and legal dimensions. It is also clear from the various definitions that the partnership with the private sector is a long term relationship that re-assigns the responsibility of providing services or implementing what otherwise would have been governmental or municipal projects to the private sector without relinquishing the primary role of these public institutions in terms of planning, improvement, monitoring and supervision of services and projects, albeit through a new system of contracting and service provision.

Some people see that the concept of PPP as a collection of service contracts that the private sector undertakes in lieu of and under the supervision of the public authorities. Others see it as a management contract granted by a representative of the municipality to a private sector entity to finance investment in the public facility, to manage, maintain and profit from it throughout the contract period in return for an agreed upon financial amount paid to the municipality over the contract period, during which representatives from both parties work together to implement projects or provide services to the public, especially in infra structure projects.

##### **4.4.2 Justifications for Municipal-Private Sector Partnerships**

The partnership between municipalities and the private sector is considered an advanced model of business activity that helps in increasing private sector investments in all aspects of economic and social activities in order to meet the needs of society for goods and services utilizing modern methodologies.

By way of example, public private partnerships may be justified for the following reasons:

- 1- The inability of municipalities to achieve sustainable development on their own.

- 2- Accelerating technological and economic changes provide opportunities to reduce project costs.
- 3- Increased pressures of competition and the reduction in growth rates.
- 4- The limitations imposed on the financial, human and technological resources of the municipalities due to wide scopes of needed projects.
- 5- The shrinkage of sources of finance for social development and the public demands for improvement of services provided by government institutions.
- 6- Increasing efficiency and effectiveness through reliance on the competitive characteristics of the private sector when compared with the work performance of municipalities.
- 7- Provision of comprehensive solutions by the partners as required by the nature of the related problems.
- 8- Enlargement of the circle of decision making in favor of the public interest.

#### **4.4.3 Impact of the Municipal-Private Sector Partnership on the Public**

The question that comes to mind is what the degree of responsiveness of the private sector to enter into partnerships with the municipalities that will have a clear impact on serving the public, reducing municipal expenditures and freeing municipalities to concentrate on management and supervision and reducing demands on the budgets of local and central governments?

It is generally agreed that the partnership between municipalities and the private sector represents a marked change in municipal management. This partnership is considered an indirect municipal financing tool that offloads part of the municipal expenditure burdens onto the private sector whether in implementation or operation or maintenance, which in turn will open up other facets of municipal services.

In spite of this, another important question comes to mind: what if this new partnership policy imposes on the public higher fees for services which the municipalities provided previously for free or at subsidized rates? It may be premature to answer this question at this point except that it is of such importance that it necessitates putting in place regulations and mechanisms whereby low income groups are not denied essential services that impact the community collectively, like garbage collection, environmental safety and public health. It is no wonder then to find opposition to such partnerships amongst city councilors or notables or the public. Such opposition is not against the principle of partnership, however, it is out of concern that the low income groups would not benefit from these services should the new policies impose higher tariffs. It is imperative to acknowledge that this opposition, if it materializes, compels those seeking the partnership to introduce controls and regulations to go along with the policies of the partnership to lessen the

negative impact on the low income groups but in the meantime enhance its positive aspects of economic efficiency, productivity, increase in level and quality of services and reducing the demand on municipal budgets. This also highlights the importance of economic feasibility studies of the partnership project.

#### **4.4.4 Attitudes relating to Real Partnership between the Municipality and the Private Sector**

It may be feasible before going into real partnerships between the municipalities and the private sector to benefit from the basic principles that other nations have implemented in this field and to learn from their experience in order to formulate an effective framework for the society and its urban environment. Normally, the investor who risks millions in service projects considers profit an important but not guaranteed component. The sound attitude for achieving this partnership depends in essence on clarity, transparency, provision of information and vision before indulging in any partnership. The investor can conduct a feasibility study right from the start, thereby eliminating all unknowns or elements of uncertainty linked to this relationship.

The truth of the matter is that the continuity of services provided by the private sector is in itself a reflection of the capabilities and policies of the municipality in town. Clever investors do not enter into the battle zone of a partnership in the absence of a suitable investment environment with continual crystal clear regulations. The opposite of this is having maverick investors operating in an unsuitable environment and whose sole aim is profit, which will reflect negatively on the level and quality of services provided to the public and ultimately the municipality. Furthermore, the partnership must be linked to a stringent legal cover that offers protection to both parties and assures achieving project objectives.

Therefore the municipality has to deal with the private sector as a partner and member in the development regimen; the private sector has to deal with the municipality as its real supporter in the society's development. Such attitudes are conducive to a real partnership with realizable aims and effective content and this requires a new attitude towards the concept of the partnership in city administration. In the forefront comes the private sector partnership in the management of the urban environment: this is not just an investment or services partnership but a real partnership in leadership, planning, administration and shouldering the responsibilities of the future. It is still to be determined if the private sector has the ability of taking charge of administering that living being, the city?

#### **4.4.5 Responsibilities of the Municipal-Private Sector Partnership**

In discussing the area of specialization of the private sector, it is possible to say that it has not yet provided any indications that it is not just profit oriented. All specialized studies on this topic based upon accurate statistics have yet to show that the private

sector has the basic essentials to enact a real partnership with the municipalities. In spite of the staunch belief in the eventuality of the partnership between the municipalities and the private sector, it is prudent to stress that the municipalities are suffering tremendously in their relationship with the private sector.

Having evaluated the performance of the private sector work in the municipal sector, it is quite apparent that municipalities have suffered as a result of the weakness of some contractors and the delays in executing projects. Municipalities have also had a hard time with investors not presenting the 'hoped for' projects. Furthermore, the private sector has not adhered to playing a positive role in the preservation of the environment or conservation of natural resources or in adhering to municipal regulations and bylaws and which municipalities have not been able to follow up on.

Given this negative picture, it is fair to say that the private sector has to bear a big burden in presenting itself to society at large and to the municipalities in particular, in a positive manner so as to gain their trust and to show that it has the essential elements to make it a trustworthy partner in providing quality services to the public.

#### **4.4.6 Pre-requisites for a Successful Partnership**

Upon reviewing some studies on this topic and conducting interviews with representatives of the municipalities, a number of pre-requisites for a successful partnership have been identified:

- 1- Provision of strong political support at the governmental and national levels for the partnership between the municipalities and the private sector. Encouragement can be given in the form of legislation, finance, logistical support and easing procedures and licensing.
- 2- Conduction of a social and economic feasibility study for the project prior to contractual agreement in order to assess the financial feasibility and the impact on public life. The project has to have a defined framework of inputs and outputs, with specified financial costs, terms of financing, rate of return on investment, payback period, payment mechanisms in addition to other technical and financial requirements. The project also has to have a dedicated and loyal working team with the necessary expertise to ensure a successful contract.
- 3- A detailed analysis of the project risks covering technical, commercial and investment risks in addition to political risks.
- 4- Willingness on the side of the municipalities to agree to creative and innovative solutions proposed by private sector applicants.
- 5- An agreed upon and detailed contract that can accommodate changes in the project requirements over time.



- 6- Effective and professional monitoring by the municipalities of the private sector during the full operation stage. Such monitoring should be seen in the spirit of full partnership and not taken negatively in a police-like sense.
- 7- Selection of suitable projects vis-à-vis size, capabilities and type, and keeping a far distance from projects that the private sector can do individually.
- 8- Suitable consulting support in the legal, technical and financial fields to be provided by highly qualified specialists to assist the municipalities in selecting the suitable project and the right partner, which will be effected through a transparent contractual process having a competitive and solid structure within a defined legal and clear legislative framework, and is fair to both the municipality and the investor.
- 9- Continuous follow up by the municipality throughout the design, construction, operation and maintenance phases of the project.
- 10- Enhancing the capacity of the municipal employees, development of systems and work mechanisms in order to keep up with the managerial and technical capabilities of the private sector during the preparatory, selection and follow up phases with the partner.

#### **4.4.7 Types of Partnerships**

The partnership between the municipality and the private sector involves the creation of a collaborative relationship between one or more partners from civic organizations, government or municipalities, and one or more partners from the private sector. More so, the partnership can be formed by assigning the roles between the municipality and the private sector whereby each partner has a specific role within a unified developmental framework. The partnership is categorized by the concepts, directions and applied standards such as organizational pattern, decision making, sector type, nature of activities and nature of the contract; and the role of the public sector, the municipalities and the private sector will be specified within the partnership.

Institutional arrangements vary: the issues of basic infrastructure may be assigned to the municipality or it may be left totally to the private sector; between both there are various stages and institutional grades where the roles may be divided between the two parties. This is quite apparent in case of consolidating the basic infrastructure services through service contracts, management, leasing, concessions, and partnerships.

There is not just one method for achieving the partnership between municipalities and the private sector that is applicable in all partnership cases. However an optimal method can be applied in each individual case depending upon the prevailing social and political circumstances in each country. Then again, the methods may differ according to the degree of the private sector's contribution and responsibility in the

partnership: On the one extreme, the municipality may have a service contract where it bears all responsibilities in financing, risk taking, and implementation investment; on the other extreme, the municipality may go the way of full privatization where the private sector assumes the full responsibility for construction, operation and total management, in addition to absolute ownership of project assets.

According to researchers, the most acceptable partnership categories can be graded as follows:

### **1- Collaborative Partnerships:**

These revolve around organizing and managing the partnership on a collaborative basis where a horizontal relationship exists between the partners. In this case, decisions are taken by consensus; all partners participate in performing tasks and duties and there is no single sided supervision by one party over the other.

### **2- Contracting Partnerships:**

These are concerned with delivering services according to a contract between two parties where a vertical relationship exists between them. In this case there is one party (the municipality) that acts as the sole point of reference and exercises full monitoring and control over project activities and over the other partners (the private sector). This party does not perform any tasks but depends on other parties to do so. It is also capable to terminate the partnership, sometimes unilaterally, according to the terms of the contract that governs the relationship between the municipality and the private sector.

According to this categorization, the municipal-private sector partnership (PPP) is considered a collaborative partnership whereas the contracting partnerships may take different forms such as: leasing, management, services, strategic partner, and concessions. Concessions may take different forms and it is also possible to create new forms of contracting partnerships to suit the project.

Contracting partnerships with the private sectors can take different forms and differentiating degrees as follows:

#### **i. Service Contracts:**

The municipality maintains its full responsibility for operating and managing the whole facility but it can contract out some services to the private sector such as: reading meters, revenue collection and maintenance. These contracts can have duration of between one and three years.

#### **ii. Management Contracts:**

The municipality transfers the responsibility of managing a group of activities in a specific sector to the private sector. In this case, the municipality finances both the investment capital and the operational

capital and it also specifies the policy of cost recovery. Such contracts can have duration of three to five years.

**iii. Leasing Contracts:**

Private companies rent the facility from the municipality and bear full responsibility for operating and managing the facility as well as collection of fees. The tenant in effect purchases the right to collect the revenues and in turn bears a high degree of commercial risks. These contracts can have duration of between five to fifteen years with possibility of extension.

**iv. Long Term Benefit Contracts:**

These contracts are used to purchase large basic infrastructure projects. The private company is required to finance, build and operate the facility for a specified duration (20 – 30 years) after which the ownership of the facility reverts to the municipality. This type of contract can take several forms that can also be used to implement basic infrastructure projects.

**v. Concession Contracts:**

Private companies bear the responsibility of investment, operation and management of the facility but the municipality maintains ownership of the facility's assets. Such concessions may be granted at the level of the municipality or at the level of a whole city and have durations between 25 – 30 years.

**vi. Transfer of Ownership:**

The private sector takes ownership and responsibility of the facility and will be monitored by a monitoring body.

**Table (1): Options Available for Partnership Projects.**

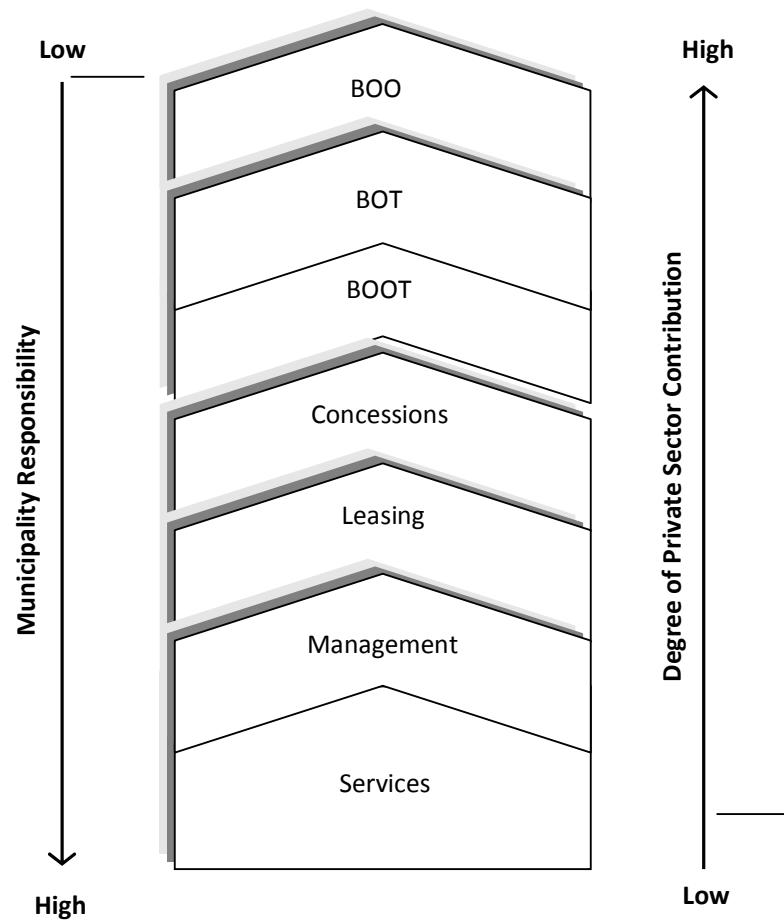
<b>Mechanism of Partnership Contracts</b>	<b>Duration of Contract</b>	<b>Provision of Services or Management</b>	<b>Provision of Working Capital</b>	<b>Obtaining Net Revenue or Losses</b>	<b>Provision of Long Term Finance</b>	<b>Legal Ownership of Assets</b>	<b>Planning and Monitoring</b>
Establishing and providing required financing	Unlimited	Municipality	Municipality and private sector	Municipality	Municipality and private sector	Municipality	Municipality
Services contract	1 to 3 years	Private sector	Municipality	Municipality	Municipality	Municipality	Municipality
Management contract	3 to 5 years	Private sector	Municipality	Municipality	Municipality	Municipality	Municipality
Build, operate and Transfer (BOT)	20 to 30 years	Private sector	Private sector	Private sector	Private sector	Municipality	Municipality
Build, operate and own (BOO)	20 to 30 years	Private sector	Private sector	Private sector	Private sector	Private sector	Municipality
Concession contract	20 to 30 years	Private sector	Private sector	Private sector	Private sector	Municipality	Municipality
Private sector financing initiative	10 to 30 years	Private sector	Private sector	Private sector	Private sector	Private sector	Municipality

Table (1) clarifies the types of partnership with the private sector in services projects and the degree of involvement of the partners as follows:

- Service contracts
- Management contracts.
- Leasing contracts.
- Concessions contracts.
- Build, operate and transfer contracts (BOT).

- Build, own, operate, transfer contracts (BOOT).
- Build, own and operate contracts (BOO).

**Figure (2): Types of Partnership with the Private Sector and Level of Involvement.**



## **Detailed Description of PPP Contracts**

### **1- Service Contracts:**

Definition: a service contract is considered a binding agreement between two parties, a government body or municipality having the necessary authority and a company or more from the private sector in order that the latter can perform specific tasks in return for an agreed upon remuneration. The duration of this type of contracts is rather limited and can vary between six months and two years. This type of contracts is widely used to provide varied services like repair and maintenance, substitution and renewal of potable water networks or operation and maintenance of sewage treatment plant etc.

Advantages: it provides an opportunity for open competition through contracting with more than one partner from the private sector and benefitting from the technical expertise available in the private sector, thereby enabling the facility to concentrate on its basic functions. In view of the short duration of the contract, contractors tend to compete more and in turn result in better performance and efficiency and lower costs.

Flaws: the burdens of operation and maintenance remain with the municipality. Responsibility for financing and commercial risks related to the operation of the facility will be solely shouldered by the municipality. The success of the operation on the other hand relies on the experience of the undertaking company.

### **2- Management Contracts:**

Definition: a management contract is an agreement between a government body or municipality and a private company to manage the facility. In this case only operational rights and not ownership rights revert to the private company. The private company receives special fees in return for its services and such fees may be linked to the profitability and/or performance of the company. The public institution remains responsible for investment and operational costs and the duration of this type of contract ranges from three to five years.

Advantages: this type of contract has been successful in various sectors and has been applied in services such as garbage collection, operation and management of rubbish incinerators, solid waste processing plant. This method has been applied in Nablus to manage the municipal compound building by a private sector company. An important distinction of a management contract for a municipality is that it allows it to maintain its ownership of the facility and at the same time overcome its managerial deficiencies by getting external managerial expertise while in the meanwhile maintaining control over the facility.

Flaws: management contracts suffer from the duplicity of private management and public ownership. The contractor does not shoulder any risks; the municipality stands to bear any losses arising from the private company's operation. According to the terms of this type of contracts, the governmental side commits to cover the

costs and management fees of the private sector in the form of lump sum fees or in the form of a share in the profits of the project or both, in order to motivate the management company to raise the efficiency and effectiveness of the facility.

### **3- Leasing Contracts:**

Definition: is a type of contract through which the owner of the assets (municipality) grants a private company the right to use its assets and keep the generated profits for an agreed upon period (six to ten years) in return for paying rent. In contrast with the management contract, the private company in case shoulders the commercial risks, which in turn motivates it to reduce costs and maintain the value of the assets. However, the municipality remains responsible for the fixed investment and any related debt service. This type of contract has been used extensively in the railways sector.

Advantages: this type of contract saves the municipality operational costs without having to give up ownership, as well as generating an annual income without being exposed to commercial risks, let alone the suspension of financial support and/or other money transfers. Leasing also attracts advanced managerial and technical skills which in turn contribute to better utilization of company assets.

Flaws: the main problem attached to leasing contracts is that since ownership of assets is not transferred to the private company, it has no motivation to increase these assets beyond what is required to guarantee it a suitable return on its investment during the leasing period. Therefore this type of contract is most suitable in projects that require improvement in operational efficiency and not needing expansion or upgrading.

### **4- Concession Contracts:**

Definition: when municipalities grant concessions to the private sector, they transfer the rights of operation and development to the beneficiary i.e. the private company. A concession contract may also include all the characteristics of leasing in addition to the capital investments and expenditure that fall upon the owner of the concession. The assets revert back to the municipality at the end of the concession period, which may be between 15 and 30 years according to the assumed life of the investment. The revenues of the concession are specified in such a way that guarantees the covering of operational costs, service of debt, depreciation on investments. This method has been used successfully in countries like Argentina in the transportation sector (railways). On the international level, the concession contracts in the services sector represented around 80% of all concession contracts between 1988 and 1993.

Advantages: the main advantage of this type of contract is that the owner of the concession remains responsible for the capital investments and expenditures, which reduces the municipality's financial burdens. For the same reason, many

countries face difficulties in finding investors in view of the large size of investments required by this kind of contracts. The basic idea in a concession is that a private company finances, builds and operates a new services project or utility such as electricity, telecommunications, water and transportation for a specified period at the end of which the assets revert back to the state or municipality. During the concession period, the municipality regulates and monitors the investment operation, quality and prices.

Flaws: in general, there are no apparent flaws in this kind of contract except that a concession gives rise to monopolies and does away with competition between companies providing the service. Nevertheless, concession contracts do specify clearly the scope and nature of the services of the contractor and the authorities of both parties during the contract period. However, the municipalities must not interfere in the management of the company in order to guarantee the success of this type of partnership.

## **5- Build, Operate and Transfer (BOT):**

Definition: this method is one form of service provision whereby for a limited period, the government or municipality grants the selected representative of the private sector, also to be known as the project company, the right to design, build, operate and manage a specific project suggested by the municipality, in addition to the rights of commercial utilization of the project for a number of years. The project duration is long enough to ensure recovery of project costs as well as the realization of reasonable profits from project earnings or from other privileges granted to the company in the contract. Project ownership reverts in the future to the municipality with or without due compensation according to the terms of the contract.

The roots of BOT go back to what is known as concession contracts that has been widely spread towards the end of the 19<sup>th</sup> century and the start of the 20<sup>th</sup> century in France and other countries. France has used such contracts to implement railway projects, power stations and supply of potable water. Egypt also implemented this system in the forties of the 20<sup>th</sup> century whence the neighborhood of Misr al-Jadidah was supplied with water, electricity and tram lines. Some consider the Suez Canal to have been the most famous example of concession contracts at the end of the 19<sup>th</sup> century. During the mid-eighties of the 20<sup>th</sup> century, the BOT system was applied to the Channel Tunnel that connects between Britain and France. The agreement was between the British and French governments on one side and the Euro Tunnel consortium on the other.

Advantages: this approach transfers the risks of construction, operation and management to the private sector. In addition, the municipality will benefit from the expertise of the private sector in managing and maintaining project and in transferring advanced technologies. This method also represents a attraction factor



for large national and foreign investments in view of the huge size of the projects under this category.

Flaws: this kind of partnerships requirement special attention to the details of contract documents; the tendering and awarding process may be prolonged and relatively complex, which in turn affects adversely the preparation of the development plans related to the implementation of this partnership.

#### **6- Build, Own, Operate and Transfer (BOOT):**

Definition: with this method, the municipality or one of its arms grants an investor from the private sector the right to establish a services project. This investor finances, owns, operates and maintains the project and charges fees for the service in order to cover the costs of financing and realize a suitable return on investment during an agreed upon period. The ownership of the assets reverts back to the municipality at the end of the contracted period. This method differs from BOT in that BOOT is considered an outstanding application of private projects for public benefit where during the project duration, the project assets are wholly by the private sector. This aspect is not realized in the aforementioned types of contracts.

Advantages: this type of contract, like BOT, transfers the risks of construction, operation and management as well as investment and finance, totally to the private sector.

Flaws: throughout its duration, the project will not be subject to municipality or government control however it will be just subject to monitoring only.

#### **7- Build, Own and Operate (BOO):**

Definition: this method is considered as total privatization, whereby the private sector is assigned the responsibility of construction, operation and full management, in addition to full ownership of project assets. The operation and management of the project is not constrained by any time limits or by a commitment to transfer ownership to the municipality. This method is used for not previously established new projects.

Advantages: this type of contract, like BOOT, transfers the risks of construction, operation and management as well as investment and finance, totally to the private sector. Thus, it does not put any investment burdens on the municipality and encourages national and foreign investments.

Flaws: throughout its duration, the project will not be subjected to municipality or government control even though it will be just subject to monitoring. Furthermore, there is a risk that the municipality might lose control over the nature of the project which may be changed by the original owner's (private sector) decision.

#### **4.4.8 Difficulties Facing the Partnership:**

Public private partnerships face a number of difficulties and challenges when applied in Palestine. The following issues are identified and need to be addressed in order to ensure a successful outcome:

##### **1- The Shortcomings of the Legislative System**

The legislature and prevailing laws in Palestine is discussed in detail in a separate section (Section 6).

##### **2- Difficulties Relating to the Institutional Framework:**

These can be summed up as follows:

###### **1- Absence of a Unified Strategy:**

At the government level, there is no unified strategy for dealing with the participation of the private sector in financing and operating this type of (public) projects in addition to the presence of a multitude of bodies and/or terms of reference responsible for organizing this partnership.

###### **2- Lack of Expertise:**

Many municipal sectors suffer from the lack of technical, financial and legal expertise necessary to present such projects to investors, let alone organizing the partnership. Furthermore, the municipalities have deficiencies in strategic planning abilities which meant they could not identify their own needs and priorities and thus they could assess the social and economic feasibilities of these projects.

##### **3- Weakness in Public Awareness:**

The weaknesses in public awareness can be summed up as follows:

###### **1- General Lack of Awareness in the Public and Private Sectors:**

There is in general no or little awareness on the part of the government, the municipalities and the private sector to the importance and advantages of private sector participation in financing and operating such projects, and the positive effects this participation has on socio-economic development.

###### **2- General Lack of Awareness in the Forms of Partnership:**

The general public belief is that the private sector cannot form partnerships with the public sector and that its involvement only applies in the case privatization of public projects.

#### **4- Lack of Available Finance for Projects:**

The Municipal Development and Lending Fund (MDLF) is the authority responsible for raising the necessary financing to support the municipal-private sector partnership projects by providing between 40% to 60% of the needed capital in the form of long term soft loans and/or grants in order to encourage socially and economically feasible joint projects.

## **5 The LEGAL FRAMEWORK FOR PUBLIC PRIVATE PARTNERSHIP IN PALESTINE**

### **5.1 Introduction:**

This part of the study aims to shed light on the applicable legislation in the Palestinian Authority that governs the relationship between the public sector (the municipalities in this case) and the private sector. It also indicates whether the existing legislation supports or hinders the formation of public private partnerships.

In the course of the study, it has been necessary to review many of the relevant legislation in an attempt to identify the legal base in Palestine, whether it regulates the relationship directly (such as the Local Authority law (1), for the year 1997), or those that contain provisions that are relevant but do not tackle the subject in a direct manner.

### **5.2 Methodology of the Legal Study:**

The study has primarily adopted analytical methods to explain the relevant legal texts in a comparative and reconciling manner in an attempt to arrive at a realistic interpretation of the applicable rules of law in this matter. Where necessary the study also adopts in part a descriptive methodology in presenting a description of the legal structure of the subject of the study.

The study relies on the applicable legislation in Palestine and the legal texts related to the subject of the study regardless of comparative legislation in order to clarify the legal framework of the relationship between municipalities and the private sector.

### **5.3 The Scope of the Legal Study:**

An attempt has been made by this study to answer a number of questions about the possibility of partnership between municipalities and the private sector, mainly to answer the following questions:

- Does the current legislation help municipalities to form companies and joint ventures with the private sector?
- Does the current legislation help municipalities to lease or rent their property to the private sector to implement projects on them?
- Does the current legislation help municipalities to establish companies to manage municipality properties and assets?
- Does the current legislation help municipalities to privatize municipal services and sub-contract these services to the private sector?
- What are the legal impediments in promoting partnerships between municipalities and the private sector?

- Are joint ventures exempt from property tax, income tax, value added tax, municipal fees, crafts and industry licenses, etc.?
- What distinguishes these projects in terms of exemptions, monopoly, etc.?
- Is there a difference if the municipality deals with an individual and/or private or public limited shareholding companies?
- Does the council member representing the municipality on the Board of Directors have the right to personally benefit from the privileges or fees as board member or is this the right of the municipality which he represents?
- Are there mechanisms for monitoring and accountability for the municipal council members who are assigned by the Board of Directors of these companies in order to ensure there is no conflict of interest and to preserve the interests of the municipalities they represent?

By way of example, the following are projects which have been undertaken and represent a sample of joint projects between the municipalities and the private sector:

- Municipality owns a land and leases it to an individual or company for investment for a fixed period and under certain conditions;
- The municipality leases a park or bazaar (market) or parking lot to a company or individual;
- The municipality establishes a company to exploit a water spring in the city through establishing a factory with partners from the private sector to bottle spring water;
- The municipality grants a monopoly to a private sector company to establish and operate a poultry or cattle slaughterhouse.

#### **5.4 Legal Adaptation of the Municipality:**

Before delving into the possibility of forming partnerships between municipalities and the private sector it is necessary to determine the identity of the municipality, or more precisely, to determine the legal adaptation of the municipality. In fact, the Palestinian Local Authorities Law No.(1) for the year 1997 sets a legal framework for municipalities as in the text of the first paragraph of Article (3) of the law, which states:

“1. The local authority is considered a legal entity having its own financial independence, and its functions and authorities are defined by the law.”<sup>1</sup>

It is clear from the previous text that the law considers the local authorities (including municipalities) as a legal entity (personality) having financial independence, and this means municipalities are qualified to acquire the rights and bear commitments. In spite

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<sup>1</sup> Article (1/3) from municipality law No. 29 for the year 1955

of the legal entity status granted to the municipalities, the authorities given to municipalities are not absolute. The above text clearly states that this entity's functions and authorities are governed by and limited in accordance with the provisions of the law. This study clarifies these limitations with regard to the public private partnership in the subsequent sections of this study:

## **5.5 Municipal Partnership with the Private Sector:**

In this part of the study, the main question which is: "Can the municipalities build any form of partnership with the private sector. In other words, does the law give the municipalities the right to contract with the private sector in order to provide municipal services or in the exercise of its powers or authority?

The answer to this question is yes. Through reading the various legal texts, it is possible to say that the relevant legislation gives the municipalities the right to contract with the private sector so as to carry out some or all of the authorities granted to them.

Here are some articles of the law that demonstrate the validity of this statement:

### **First: The Text of Paragraph (A) of Article (15) of the Local Authority Law:**

"(A) The local authority, roles and responsibilities designated in this law or any other relevant law or bylaw within the geographic boundary of the local authority can be exercised directly by the local authority or its staff and employees or can be delegated wholly or partially to subcontractors, contractors and lessees; or privileges can be granted in part or all to individuals or companies for a period not to exceed three years.

"The local authority council may also delegate all of or part of its authority and responsibilities to individual individuals or companies more than three years on condition of approval by the minister of local government."<sup>2</sup>

It is clear from the previous text, the legislator mandated the local authorities (including the municipalities) a set of functions and authorities and defined the legal means through which the local authority councils can exercise and practice their authority, as follows:

### **5.5.1 Direct Practice:**

This way, the local authority council can practice its authority directly through the members of the council or by staff and employees of the local authority, without the need for any external contracts with any other entity whether public or private.

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<sup>2</sup> compare article (41/A) for Local Authority Law No. 29 , 1955 stating that the municipality is transfer part or all its authority to people or companies no longer than 30 years under condition to get approval by the Ministry Cabinet regarding the period of time and its conditions.

The legislator did not place any restrictions on the local authority council in the exercising its powers directly except for the legal geographical boundaries of the local authority as referred to in the legal text at the beginning of the preceding paragraph. This means that local authority council is not allowed to undertake any projects outside the geographical boundaries specified under the relevant laws and regulations.

### **5.5.2 Partnership with the Private Sector:**

The other method set by the legislator for the local authority to exercise its powers is the indirect method i.e. contracting with a third-party (i.e the private sector) to entrust them to carry out all or some of these powers. The legal text referred to a number of scenarios that can be applied to contracting with the private sector such as service and construction contracts or concession contracts.

#### **5.5.2.1 Scenario #1: Public Works and Sub-Contracts:**

The first scenario approved for the municipality to exercise all or some of its powers is contracting individuals or companies. The legal text did not place any restrictions on the exercise of municipal powers by using this scenario, or on the methods of partnership with the private sector.

The only constraint lies in the geographical boundaries prescribed by law and regulations. In other words, the municipality is prohibited from entering into any contract with the contractor for any project located outside the geographical boundaries of the municipality.

#### **5.5.2.2 Scenario #2: Concession Contracts:**

Another case referred to by the previous text where the municipality can exercise all or some of its powers is in concession contracts. Unlike the first scenario the article placed special provisions for this case, as follows:

##### **5.5.2.2.1 Concession Contracts for Less Than Three Years:**

"... The local authority, roles and responsibilities can be delegated wholly or partially thereof to subcontractors, contractors or lessees or privileges to be granted in part or all to individuals or companies for a period not to exceed three years."

It is clear that the law gives the municipality the right to ratify a concession contract with individuals or companies for the exercise of its legally defined functions, but the concession contracts should not exceed a period of three

years. This contract within this time frame is not bound by any restrictions except for the geographical boundary limitation described above.

Some may interpret this as saying that the public works' contracts must also be within this period (3 years). This is incorrect; the legislator specified the time limitation only for concession contracts.

#### **5.5.2.2.2 Concession contracts for more than three years:**

The text referred to this case as follows:

“The local authority council may also delegate all of or part of its authority and responsibilities to individuals or companies more than three years on condition of approval by the minister.”

This case has already been explained above, namely, when the municipality ratifies concession contracts with individuals or companies in the exercise of all or some of its powers. However, in this new text it is stipulated that concession contracts in excess of three years, would become applicable only upon approval of the Minister, and by reference to Article (1) of the Local Authority Law, we find that the Minister referred to in this text is the Minister of Local Government.

In other words, the Municipality can enter into concession contracts with persons or companies for more than three years only after approval of the Minister of Local Government.

In fact, defining the time scale of three years for concession contracts has also been referred to in other sections of the law's text, as follows:

#### **Second: Item (26) of paragraph (a) of Article (15) of the Local Authorities Law:**

##### **Article (15 / a / 26) of the Local Authorities Law**

26 - " The management of the local authority finances and assets and the construction of the necessary buildings and the leasing and mortgaging of these assets for a period not exceeding three years, and acceptance of donations, wills and grants."<sup>3</sup>

The text stated, that the local authority council is authorized to manage the local authority's properties and funds and the construction of the necessary buildings; and the leasing and mortgaging of the assets for a period not exceeding three years. The text did not set any conditions or limitations on the Council in the exercise of its powers. However, the text implies that the municipal council requires the approval of the Minister

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<sup>3</sup> Article (41,a,38) from municipality law No. 29 for the year 1955.



when the Council administers within this context its property and funds for a period exceeding three years.

**Third: Article (20) of the Local Authority Law:**

“The fixed assets of the local authority must be registered in the name of the local authority and cannot be sold or exchanged or donated, or cannot be mortgaged or leased for a period exceeding three years without a municipal council decision and the approval of the Minister.”<sup>4</sup>

This text confirms what was mentioned previously: that the municipal council has the right to administer the properties and funds of the municipality, whether by mortgaging or leasing for a period not exceeding three years without the need for approval from anyone. But if these properties are contracted for a period that exceeds three years, the Municipality must obtain the approval of the Minister of Local Government.

**5.6 Members of the Municipal Council and the Partnership with the Private Sector:**

Another issue pointed out in this study, is the role played by the members of the municipal council in the partnership with the private sector. In other words, is the municipal council member entitled to be a member on the board of directors of a company that is contracted to implement projects with the municipality?

It must be noted that the decision to contract with individuals or companies for the implementation of any of the tasks entrusted to the municipal council is the decision of the municipal council, as evidenced by the texts already mentioned. The Local Authority Law clarifies the authorities mandated to the council chairman, and in Article (16) thereof, and what matters in this regard, as stated in paragraph (b) of this article, stating the following:

**Article (16 / B) of the Local Authority Law:**

“The council chairman has the following responsibilities and authorities:

To represent the council in signing contracts relating to mortgages, leases, borrowing money, conciliations, tendering, contracting, commitments, purchasing and selling in accordance with prevailing laws and regulations.”<sup>5</sup>

It is clear from this text, that the chairman of the municipal council represents the Council in signing the contracts of the municipality with other parties, but did the legislator set limits on the members of the municipal council in terms of obtaining personal benefits from contracts concluded with external parties?

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<sup>4</sup> Article (44) from Municipality law No. 29 for the year 1955.

<sup>5</sup> Article (42/1/B) from Municipality law No. 29 for the year 1955.

The answer lies in the texts of the Local Authority Law as stated in Article (13) as follows:

**First: Article (13 / 1 / B) of the Local Authority Law**

"1-The chairman or the council member loses his membership in the council:  
b) If he conducts work or acquires a right from the council thereby using his membership for personal benefit directly or by proxy."<sup>6</sup>

**Second: Article (13 / 1 / C) of the Local Authority Law**

"The chairman or the council member loses his membership in the council if:  
c) He signs an agreement with the council or if he or a first degree relative standing for him became beneficiary in any agreement with the council.  
The exception for this is in the case of contracts and benefits arising to the member from being a shareholder in a public shareholding company on the condition that he is not a manager, a member of the board, an employee or a representative of that company." <sup>7</sup>

Having reviewed the previous texts, it is clear that the legislator prohibited any mixing between membership of the municipal council and the possibility of any of its members having contracts with the municipality to implement a project of its own, whether individually or even via a company in which the council member is a shareholder or holds a position in it. The legislator excluded only one case: where the council member may be a shareholder in a public shareholding company that contracted with the municipality to implement a project on the condition that the council member is not a manager or on the board of directors of that company.

The legislator has imposed a penalty for breaking this law whereby the member who contracts with the municipal council or benefits from any of its contracts will lose his membership by force of law.

## **5.7 Municipalities and the Forming of Companies:**

Do the municipalities have the right to establish companies in the exercise of their functions?

There is no clear provision that gives the municipalities the right to establish a company in the exercise of their functions. The most likely explanation is because it will be incompatible with the nature of the role played by municipalities, and the public services they provide.

Company law No.(12) for the year 1964 that is applied in the West Bank makes no reference to the possibility of municipalities establishing companies, but inferred the

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<sup>6</sup> Article (37/1/B) from Municipality law No. 29 for the year 1955

<sup>7</sup> Article (37/1/C) from Municipality law No. 29 for the year 1955

possibility of the municipality entering as a shareholder in a company. This is stated in Article (108) of the Companies law as follows:

**Article (108) Companies law:**

1. A public corporate body, such as the state or a municipality, which is a shareholder in a company, shall have the right to appoint its representatives on the Board of Directors as agreed upon by the Parties concerned, provided that the proportion of this public body's representation on the Board of Directors shall not be less than the proportion of its share in the capital of the company. The membership of Boards of Directors of companies shall be adjusted in accordance with the provisions of this sub article within a period of one month from the date of this law coming into force.
2. The representatives of a public corporate body shall enjoy the same rights as the other elected members of the board, and shall be subject to the same duties; but they shall not participate with the shareholders in the election of the other members of the board.
3. The aforesaid corporate body shall be responsible for the actions of its board representatives towards the company, its shareholders and its creditors.

**5.8 Monitoring Municipal Contracts:**

The various related legal texts have set mechanisms of supervision and monitoring of municipal transactions including municipal contracts undertaken by the municipal council:

**First: Article (32) of the Local Authority Law:**

"The chairman/mayor presents the financial statements for the fiscal year within a maximum period of two months from year end and after approval by the municipal council, to the Minister for endorsement."

**Second: Article (35) of the Local Authority Law:**

"The auditing of the local authorities accounts and the review of the financial, administrative and legal operations and transactions and the annual auditing of inventory audit will be conducted by auditors appointed by the Ministry of Local Government or the Public Monitoring Committee."

**Third: Article (36) of the Local Authority Law:**

"The chairman presents an annual report about the local authority's operations and sends a copy to the Minister with the comments of the council members on the annual report."

**Fourth: Article 5 (Amendment to Article 35 of the Original Local Authorities Law<sup>8</sup>):**

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<sup>8</sup> Regulation of law No. (9) for the year 2008, amendment to Local Authority Law.

A- The Minister has the right to form monitoring and inspection committees which can at any time conduct monitoring and inspection of all local authority financial, administrative, legal and organizational transactions and check their adherence to the applicable rules and regulations applicable; and the chairman of the local authority has to provide all the necessary facilitation for the execution of this task.

B- The Minister has the right to take the necessary corrective measures to rectify proven cases of malpractice and excesses.

It is clear from the above texts that all the actions carried out by the municipal council, including contracts with individuals and companies within the scope of work of the municipality are in principle subject to monitoring by the Minister of Local Government as well as by the Administration and Financial Affairs.

## **5.9 Investments and Municipal Projects:**

As deduced previously, the municipality is entitled to enter into contracts with the private sector at both levels, individuals or companies for the implementation of projects related to municipal functions. However, the question raised here is: “do municipalities take advantage of the investment incentives in accordance with the applicable laws, if they decide to engage in such investment projects?”

In order to know the status of investment in municipal projects, it is imperative to review the relevant laws, primarily law No.(1) of the year 1998 on the promotion of investment in Palestine.

The promotion of investment law did not include clear and forthright statements on granting investment incentives to projects undertaken by bodies like the municipalities. Nevertheless, it did not prevent municipalities from entering into investment projects; and this is what transpires from the statements contained in the text of the first article of the Investment Promotion Law, which stipulated as follows:

### **Article (1) of the Investment Law:**

“Investor: is any individual or entity that invests or has invested in Palestine according to this law or preceding laws”.

This article defines who the investor is. The article refers to ‘entities’ which in this definition may include municipalities.

If this is the case, the question raised here is: “does the investment promotion law refer to privileges or incentives granted to investment projects which the municipality is party to?”

The law does include any clear clauses regarding granting incentives to investment projects in which municipalities are involved. However, the law contained a general clause which opens the way to national investments whether by individuals or entities to

be granted preferential treatment or incentives. This appeared in article (24) of the Investment Promotion Law as follows:

**Article (24/D) Investment law:**

“The PNA may grant preferential treatment or set incentives or special guarantees to the national investor.”

It may have been preferable if the Investment Promotion Law has included clear clauses about granting incentives for investments in projects in which the local authorities participate.

**5.10 Taxes and Municipal projects:**

The Income Tax Law No.(17) for the year 2004 and its amendments, in its first article, defined the local authority as ‘a local government unit within a specific geographical and administrative scope’.

With regard to projects that the municipality contracts with the private sector, do these projects obtain any tax exemptions?”

There is no clear or explicit text on this issue but the first paragraph of Article (6) of the Income Tax Law referred to the following:

**Article (6 / 1) Income Tax Law:**

The exemption from taxes imposed by this law applies to incomes arising from the following:

1- The income of local authorities and public institutions that arises from a non-profit activity.

Article (6) specifies the incomes exempted from income tax. Clause no. 1 indicates that the incomes of local authorities (including municipalities) are exempt from income taxes on the condition that such incomes arise from non-profit activities. This means, to the contrary, that the incomes of local authorities (municipalities) derived from profitable businesses remain subject to taxes, thus not benefiting from exemptions.

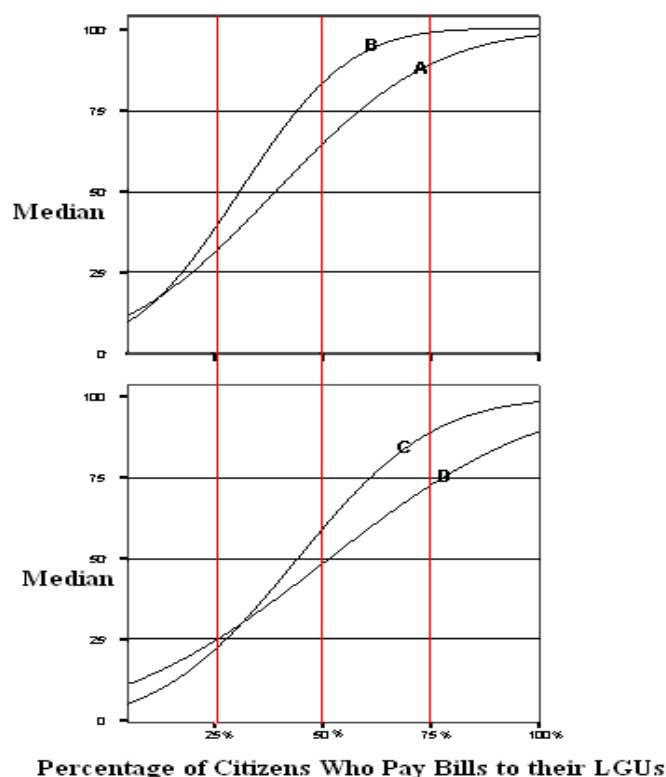
## 6 DATA ANALYSIS

This section presents the analysis of the questionnaire that has been distributed by the team to (132) local governments in the West Bank and Gaza Strip, thus the total respondents are (111). Moreover, six workshops were conducted in the West Bank (Hebron, Bethlehem, Ramallah, Nablus, Salfeet, and Jenin) and one workshop was conducted in Gaza Strip. The main objectives out of these workshops are to present the concept of the partnership and to explain the questionnaire.

The data shows that in 10% of municipalities in Palestine, less than 10% of the public pay municipal taxes and settle the bills for services received; half of the municipalities say that less than 30% of the public pay their dues, and 75% of municipalities say that less than 60% of the public pay their dues.

By focusing on the interpretation of the median (Percentile 50) in Table (2), it is clear that more than 70% of the public do not settle their dues in 50% of all municipalities. In other words, 70% of the public in 50% of the respondent municipalities are “Free Riders”.

Table (2): Percentile of Paid Dues	
Percentiles of municipalities	% of Public who settle dues in all municipalities
1	5
10	10
25	20
50	30
75	60
90	90



The data in table (2) discloses the status quo in all municipalities; the graphs on the left show in detail the public's behavior towards paying municipal dues according to the municipal classification (A, B, C & D). It can be seen from the graphs that the percentage of “**Free Riders**” in A & B municipalities is greater than in C & D municipalities. The possible interpretations for this phenomenon are (1) C & D municipalities provide less services and (2) A & B municipalities have larger populations and subsequently they do not possess accurate information about their constituencies.

One possible solution to the “Free Riders” problem is involving the private sector with the municipalities. The private sector can take over the

responsibilities from the municipalities to provide services and utilities in sectors such as

water and electricity. The private sector is better equipped to manage and operate these services efficiently and effectively and hence it can help reduce the financial burdens and budget deficits incurred by municipalities.

Table (3) shows that more than half of the municipalities do not have a comprehensive database. Municipalities classified B & C are the most in need for it.

Table (3): Availability of Comprehensive Information Database							
			Municipality classification				Total
			A	B	C	D	A
Is there a comprehensive data base for the municipality	Yes	Count	9	9	19	8	45
			64.3%	34.6%	42.2%	53.3%	45.0%
	No	Count	5	17	26	7	55
			35.7%	65.4%	57.8%	46.7%	55.0%
Total		Count	14	26	45	15	100
			100.0	100.0	100.0	100.0	100.0
			%	%	%	%	%

### 6.1 Municipalities' Capabilities:

60% of the Palestinian municipalities are classified as category C & D. Many of these municipalities were originally local or village councils and were upgraded to municipalities after the establishment of the PNA and their level of institutional development is limited.

Strategic planning is considered one of the main indicators to measure the level of development of the municipality. The data shows that 53% of the municipalities have strategic plans and only 14% of them drafted their first strategic plans before the year 2000. However, in 63% of these municipalities the plans were developed in the last five years and were supported by donor funded agencies such as BTC, CHF, GTZ, JICA and others. Only 28% of municipalities with strategic plans engaged the private sector in the development. This is an indicator of the relationship between municipalities and the private sector.

The remaining municipalities (i.e. without strategic plans) work on an ad hoc basis without any clear directions towards fulfilling the needs of their communities.

Regarding the development of organizational structures, 90% of organizational structures of municipalities were developed after 2005 and only 49.5% of the municipalities stated that they have organizational structure by approved by MOLG. Nevertheless, 32% of municipalities do not have job descriptions for their staff.

In general, the level of institutional development of the municipalities is still in the embryonic stage except for some 10-15 municipalities which are considered big and well established. Given the relative capabilities of these well established

municipalities, they still need to introduce new systems, new technologies and modern management regimen.

In general, the municipalities are fairly weak to deal with the relatively well developed private sector. The private sector can utilize all its capabilities in PPP and if necessary will hire consultants, legal experts and technically capable personnel to conduct feasibility studies and to manage the partnerships. The municipalities on the other hand lack capabilities and dynamism and are slow in decision making: in most cases major decisions need the approval of the Ministry of Local Government.

### 6.1.1 Municipality Classification

As shown in table (4) below, only 111 out of 132 questionnaires (82.6%) were returned. Out of these 111, (13.8%) are classified as municipality type A, (24.8%) are classified as type B, (45%) are classified as type C, and (16.5%) are classified as D.

**Table (4): Municipality Classification**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	A	15	13.5	13.8	13.8
	B	27	24.3	24.8	38.5
	C	49	44.1	45.0	83.5
	D	18	16.2	16.5	100.0
	Total	109	98.2	100.0	
Missing	System	2	1.8		
Total		111	100.0		

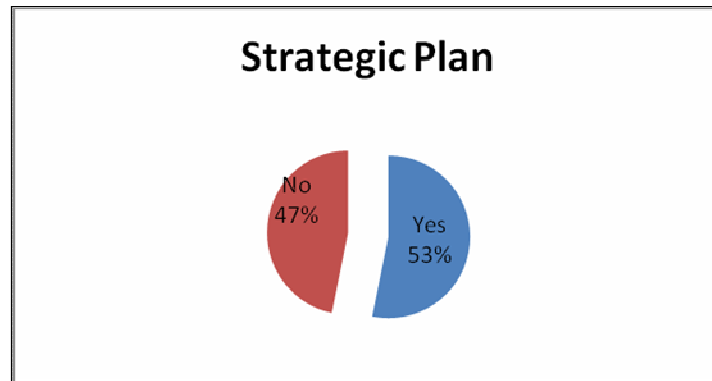
### 6.1.2 Strategic Planning

#### 6.1.2.1 Municipalities Having Strategic Plans

The municipalities were asked if they do have strategic development plans or not. Figure (3) below shows that (53.2%) of these municipalities do have strategic development plans and (46.8%) have no strategic development plans.



**Figure (3): Strategic Plan**



#### **6.1.2.2 Year Plan First Prepared**

It is noticed that (63.1%) of the municipalities that have strategic plans developed their plans during the last five years, whereas (16.9%) developed their plans during the years (2001-2004), (8.1%) during the years (1995-2000) and only (6.2%) developed their plans before the Palestinian Authority took over in West bank and Gaza Strip (see table 5).

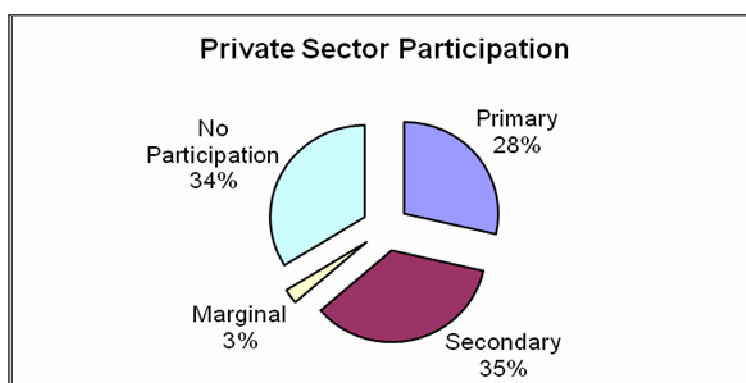
**Table (5): Year of the First Plan Prepared**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	before 1994	4	3.6	6.2	6.2
	1995-2000	9	8.1	13.8	20.0
	2001-2004	11	9.9	16.9	36.9
	2005-2008	41	36.9	63.1	100.0
	Total	65	58.6	100.0	
Missing	System	46	41.4		
Total		111	100.0		

#### **6.1.2.3 Participation of Private Sector in Planning**

As shown in figure (4), (33.8%) of the municipalities did not involve the private sector in the preparations of their plans, while (35.1%) mentioned that there was secondary participation by the private sector, (28.6%) said that the private sector was fully involved in the preparation of the strategic plan, and only (2.6%) had marginal participation by the private sector.

**Figure (4): Private Sector Participation in Planning**



### 6.1.3 Organizational Development

#### 6.1.3.1 Municipalities Having Organizational Structure

Table (6) shows that (49.5%) of the municipalities have an organizational structure approved by the Ministry of Local Government and (45%) do not, while (5.4%) of municipalities did not answer this questions.

**Table (6): Organizational Structure**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	55	49.5	52.4	52.4
	No	50	45.0	47.6	100.0
	Total	105	94.6	100.0	
Missing	System	6	5.4		
Total		111	100.0		

#### 6.1.3.2 Year of Development of Organizational Structure

Almost (90%) of the municipalities reviewed and developed their organizational structure recently during the years (2005-2008), while (7.4%) reviewed and developed their structure during the years (2001-2004), and only (2.9%) before the year 2000 (see table 7).

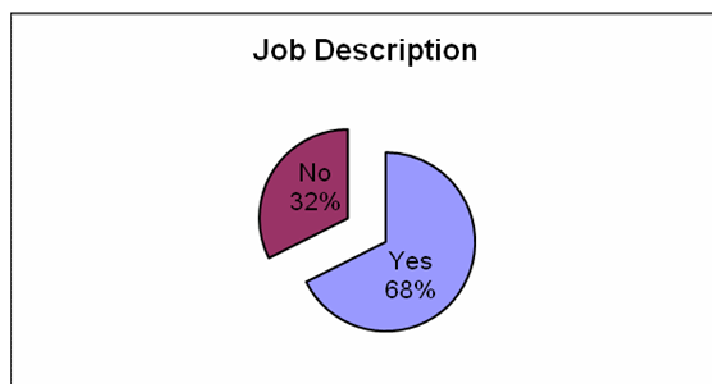
**Table (7): Last Revision of the Organizational Structure**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1995-2000	2	1.8	2.9	2.9
	2001-2004	5	4.5	7.4	10.3
	2005-2008	61	55.0	89.7	100.0
	Total	68	61.3	100.0	
Missing	System	43	38.7		
Total		111	100.0		

### 6.1.3.3 Municipalities Having Job Descriptions

Figure (5) below shows that two third of the municipalities (67.6%) have clear job descriptions, (32.4%) do not. Almost (95%) of the municipalities mentioned that their staff participated in different training programs; (44%) mentioned that the municipalities' employees participated in less than four courses in 2008; (31.2%) participated in 5 to 9 courses whereas (24.8%) attended more than 10 courses.

**Figure (5): Have Job Descriptions**



## 6.2 Municipal Land

Most of the municipalities participated in the large scale PPP projects provided land as part of share in the partnership. The land is normally evaluated according to the market price. In many cases, the land may be in very expensive locations such as city centers where the price can run into \$1000 per sq. meter.

The survey concentrated on gathering information relating to all aspects of the municipal land such as the land registration deeds the Land Registration Authority (TABO). The data collected shows that 41% of municipality land is registered with the Land Registration Authority; and 77.8% of municipalities have their own master and zoning plans. It is clear from the data that most of the municipalities developed their master plans after the establishment of the PNA and only 4.6% had master plans prior to that. Both land registration and master plans are indicators of the capabilities of the municipalities to engage in PPP projects.

The data also shows that 80% of municipalities own less than 50 dunums of unused land. This is considered to be insufficient to undertake PPP partnerships since the municipalities continually need land for public facilities such as public parks, recreation centers, sewage farms etc.

The survey indicates that 72% of municipalities in the last five years increased their ownership of land through one or more of the followings ways:

- 52% through purchasing land at market prices.
- 15.3% through acquisition in which the municipality will pay 70% of the market price of the land.
- 34.2% through land donations by private citizens to municipalities. 75% of the municipalities added less than 10 dunums each on average within the last five years in this way.
- 10.8% through governmental land grants for the use of municipalities.
- 19.8% as a result of parcelation of private citizens' land. By law, the municipalities can acquisition up to 30% of the original land area for free. Usually this land is used for opening new roads and local public facilities. In this manner, 67.5% of the municipalities added less than 10 dunums each on average in the last five years.

The survey data indicates that most of the municipalities (over 67%) acquire new land at market prices but their financial resources and hence the acquired land areas are rather limited. The perception that municipality land is acquired at zero cost is generally not valid. Municipalities should consider acquisitioning land at zero cost through the activation of the current laws and regulations relating to land parcelation.

Table (8): Land Registration (TABO)					
			Is the land registered with the Land Registry (TABO)?		Total
			Yes	No	Yes
Municipality classification	A	Count	11	3	14
			78.6%	21.4%	100.0%
	B	Count	13	14	27
			48.1%	51.9%	100.0%
	C	Count	15	33	48
			31.3%	68.8%	100.0%
	D	Count	5	13	18
			27.8%	72.2%	100.0%
Total	Count	44	63	107	
		41.1%	58.9%	100.0%	

As shown in Table (8), almost 60% of all municipalities do not have a TABO registered land. Municipalities in categories C and D barely have TABO registration. Unregistered land is therefore unprotected and is subject to abuse by some members of the general public.

## 6.2.1 Municipal Master Plan

### 6.2.1.1 Land Registration

The municipalities were asked about the TABO land registration deeds. (41.7%) of the municipalities mentioned that they register their land in the TABO (as shown in the figure 6 below).

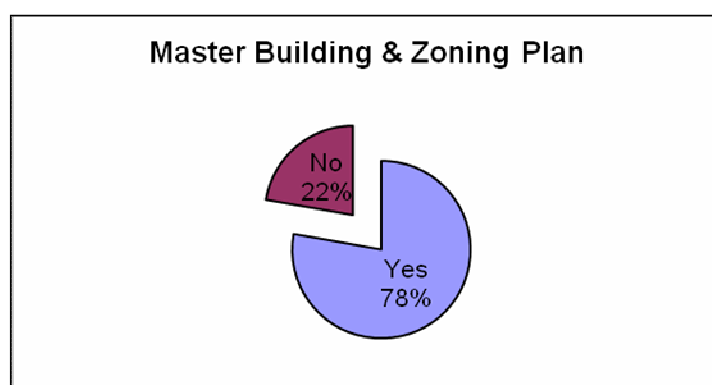
Figure (6): TABO Land Registration



### 6.2.1.2 Master Building and Zoning Plans

Figure (7) shows that (77.8%) of the municipalities have a master building and zoning plan officially approved by the Higher Planning Council. Only (4.6%) were approved before the Palestinian Authority took over West Bank and Gaza Strip in 1994, (4.6%) during the years (1995-2000), (35.6%) during the years (2001-2004), and (55.2%) during (2005-2008).

**Figure (7): Master Building & Zoning Plan**



### 6.2.2 Unused Municipal Land

Table (9) below shows that (80%) of the municipalities own less than 50 dunums of unused land, (6.3%) have between 51-100 dunums, (6.3%) have between 101-500 dunums, and (7.4%) have more than 501 dunums of unused land.

**Table (9): Land Ownership and Areas of Unused land**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	less than 50	76	68.5	80.0	80.0
	51-100	6	5.4	6.3	86.3
	101-500	6	5.4	6.3	92.6
	more than 501	7	6.3	7.4	100.0
	Total	95	85.6	100.0	
Missing	System	16	14.4		
	Total	111	100.0		

### **6.2.3 Expansion of Land Ownership**

The survey shows that (72.9%) of the municipalities increased their land ownership within the last five years. (52.3%) of the municipalities increased their lands through purchasing, (15.3%) increased their lands through acquisition by law, (34.2%) by citizen donation, (10.8%) are through government grants, and (19.8%) are from the parcelation of private land. Almost (67.5%) of the municipalities added less than 10 dunums to the municipality property from parcelation within the previous five years, and (75.6%) added less than 10 dunums through private donation.

## **6.3 Municipal Finances**

The survey indicates that revenues from local municipal taxes and services cover the expenses in around 57% of the municipalities. In 40% of the municipalities revenues fall short of expenses which leaves them with a budget deficit that accumulates year after year.

The municipalities in categories C & D use the cash basis in accounting whereas those in categories A & B use the modified accrual system. The cash basis doesn't recognize accounts receivable and accounts payable, leading the municipality to a situation where their actual financial situations are not reflected accurately.

The modified accrual system used by the big municipalities is far better than the cash basis. Still, the system needs to be upgrade to the full accrual basis where all financial transactions are registered including assets, liabilities, depreciation and other previously unrecorded accounts.

### **6.3.1 Sources of Revenues**

The municipalities were asked about the sources of their revenues. (27%) of the municipalities have self generating investment projects, (49.5%) have income from property taxes, (91%) from the construction and professional license fees, (62.2%) from loans and external aid and grants, (69.4%) from water utility charges, (45%) from electricity utility charges, (87.4%) are from sanitation charges.

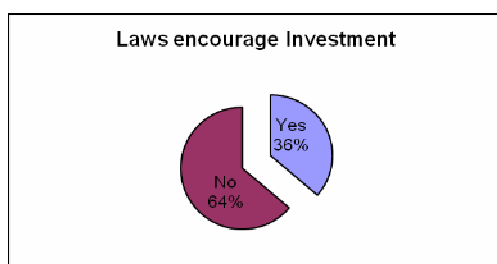
### **6.3.2 Adequacy of Revenues**

It is important to know that (57.7%) of the municipalities expressed that revenues from the abovementioned sources are sufficient to cover the municipal expenses while (39.6%) said that these fees do not cover expenses.

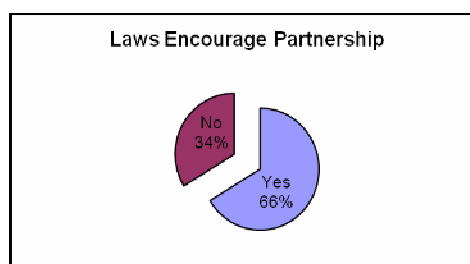
## 6.4 Laws and Regulations

Figure (8) shows that (63.7%) of the municipalities' representatives expressed their views that the current laws and regulations do not encourage investment. Figure (9) shows that (66.3%) said thought that the current laws do not encourage partnership between municipalities and private sector.

**Figure (8): Laws and Investment**



**Figure (9): Laws and Partnership**



## 6.5 Infrastructure

71% of municipalities that participated in the survey indicated that they don't have a sewage network; this is a problem and an opportunity at the same time. The municipalities that have sewage networks do not cover all the municipal areas due to lack of investment. The opportunity exists for the private sector to invest in this sector in partnership with municipalities with partial or no sewage networks.

Other opportunities exist in tapped water networks. 18% of municipalities stated that around 80% of the households are connected to the water networks whereas 65% of the municipalities stated that their tapped water network covers between 61-80% of households. These figures indicate that tapped water is still a problem in many municipalities even though some are considered to be well developed.

The problem in water is not only in connectivity but also in consistency of the water delivery. In the summer many municipalities have to cut off the water delivery for days due to shortages on the supply side. 43% of the surveyed municipalities stated that water shortages and inconsistent delivery are considered a major problem.

46% of the municipalities consider tapped water networks as major potential projects for PPP.

The same applies to the electricity network: only 60% of municipalities state that they cover 60-80% of the households and 15% claim that they cover 80% of households. 22.5% of municipalities state that there is a problem in supplying electricity and 40% of the municipalities consider the problem as a major one.



The problem of electricity is not as severe as the water and sewage problems. However, it is considered by 48% of the municipalities as one of the major potential projects for PPP.

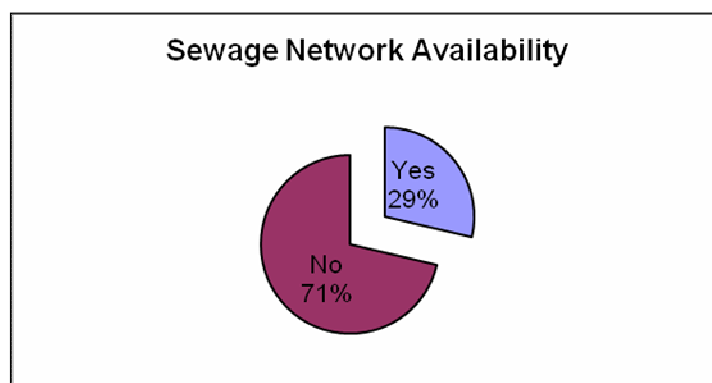
As regards solid waste collection, most if not all of the municipalities said that they cover almost 97% of households.

The majority of municipalities (around 70%) consider solid waste collection as a major potential project for PPP.

### 6.5.1 Sewage Networks

As shown in figure (10) below, only (29%) of the municipalities mentioned that there are sewage networks in their areas.

**Figure (10): Sewage Network**



#### 6.5.1.1 Houses connected to Sewage Network

As shown in table (10) below, (1.8%) of the municipalities claim that less than 20% of the houses are connected to the sewage network; (2.7%) claim that 20%-40% of the houses are connected to the sewage network; (2.7%) mention that 41%-60% of the houses are connected, (18%) say that 61%-80% are connected, and (3.6%) claim that more than 80% of the houses are connected to the sewage network.

**Table (10): Percentage of Houses Connected to the Sewage Network**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid less than 20%	2	1.8	6.3	6.3
20%-40%	3	2.7	9.4	15.6
41% - 60%	3	2.7	9.4	25.0
61% -80%	20	18.0	62.5	87.5
80% - 100%	4	3.6	12.5	100.0
Total	32	28.8	100.0	
Missing System	79	71.2		
Total	111	100.0		

**6.5.1.2 Year of Connection to Water Network**

Only (4.5%) of the municipalities mention that their areas were connected to the water network before the year 1980, (41.4%) of the municipalities are connected during the years 1981-1990, (29.7%) during 1991-2000, and (8.1%) after 2001 (see table 11).

**Table (11): Year of Water Network Connection**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid before 1980	5	4.5	5.4	5.4
1981-1990	46	41.4	49.5	54.8
1991 -2000	33	29.7	35.5	90.3
after 2001	9	8.1	9.7	100.0
Total	93	83.8	100.0	
Missing System	18	16.2		
Total	111	100.0		

### 6.5.1.3 Percentage Connected to Water Network

Table (12) shows that only (18%) of the municipalities mention that more than 80% of the houses are connected, (65%) mention that 61%-80% of the houses are connected, and few municipalities say that less than 60% of the houses are connected to the water network.

**Table (12): Percentage of Houses Connected to the Water Network**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	less than 20%	1	.9	1.0	1.0
	41%-60%	3	2.7	3.1	4.2
	61% - 80%	72	64.9	75.0	79.2
	80 % -100 %	20	18.0	20.8	100.0
	Total	96	86.5	100.0	
Missing	System	15	13.5		
Total		111	100.0		

### 6.5.1.4 Water Shortage Problems

(43.2%) of the municipalities claim that there are big shortages in water, (19.8%) consider the shortage as middle-sized problem, and few municipalities consider it as minor one (see table 13).

**Table (13): Water Shortage Considered a Major Problem**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	big	48	43.2	56.5	56.5
	middle sized	22	19.8	25.9	82.4
	normal with mild affect	15	13.5	17.6	100
	Total	85	76.7	100.0	
Missing	System	26	23.4		
Total		111	100.0		

### 6.5.1.5 Potential Partnership in Water Networks

As shown in table (14) below, almost half of the respondents believe that water network is considered as one of the projects that can be implemented through the private sector,

**Table (14): Potential Partnership in Water Networks**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	46	41.4	49.5	49.5
	No	47	42.3	50.5	100.0
	Total	93	83.8	100.0	
Missing	System	18	16.2		
Total		111	100.0		

### 6.5.1.6 Percentage of Houses Connected to Electricity Network

Almost (60%) of the municipalities mention that 61-80% of the houses are connected to the electricity network, (15%) claim that more than 80% of the houses are connected, and only (2%) mention that there less than 60% of the houses are connected to the electricity network (see table 15 below).

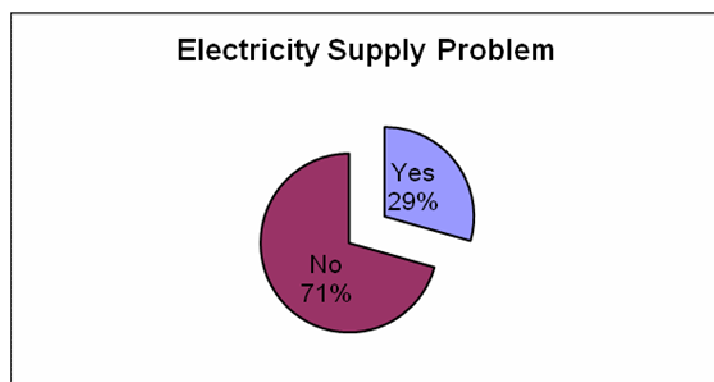
**Table (15): Percentage of Houses Connected to the Electricity Network**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	41-60%	2	1.8	2.4	2.4
	61-80%	66	59.5	77.6	80.0
	80-100%	17	15.3	20.0	100.0
	Total	85	76.6	100.0	
Missing	System	26	23.4		
Total		111	100.0		

### 6.5.1.7 Size of Electricity Supply Problem

Figure (11) and table (16) below show that (22.5%) of the municipalities state that there is a problem in supplying electricity. Almost (40%) of these municipalities consider the problem as a big one, and (34.6%) as middle-sized ones.

**Figure (11): Electricity Supply Problem**



**Table (16): Size of Electricity Supply Problem**

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid big	10	9.0	38.5	38.5
middle sized	9	8.1	34.6	73.1
normal with mild affect	7	6.3	26.9	100.0
Total	26	23.4	100.0	
Missing System	85	76.6		
Total	111	100.0		

### 6.5.1.8 Potential Partnership in Electricity Networks

As shown in the table (17), almost half of the respondents believe that electricity network is considered as one of the projects that can be implemented through private sector,

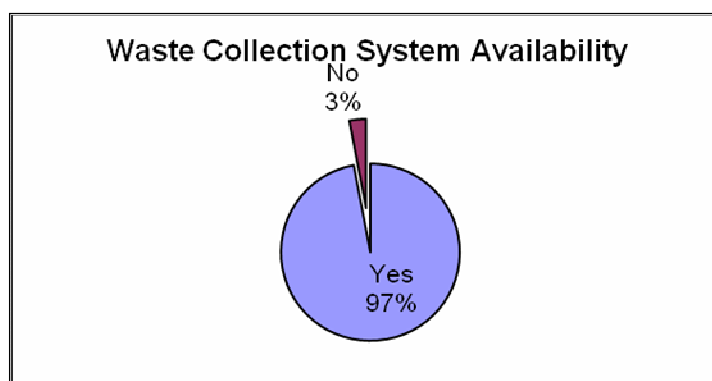
**Table (17): Potential Partnership in Electricity Networks**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	48	43.2	59.3	59.3
	No	33	29.7	40.7	100.0
	Total	81	73.0	100.0	
Missing	System	30	27.0		
Total		111	100.0		

### 6.5.1.9 Waste Collection System Availability

(90.1%) of the municipalities mentioned that they have their own waste collection systems (see figure 12).

**Figure (12): Waste Collection System Availability**



#### 6.5.1.10 Waste Collection System Coverage

Two-third of the respondents assured that the waste collection systems covered all areas and the percentage of coverage was improved during the last few years (see table 18).

**Table (18): Waste Collection System Coverage**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	74	66.7	73.3	73.3
	No	27	24.3	26.7	100.0
	Total	101	91.0	100.0	
Missing	System	10	9.0		
Total		111	100.0		

#### 6.5.1.11 Potential Partnership in Waste Collection Systems

As shown in the table (19) below, almost two-third of the respondents believe that waste collection is considered as one of the projects that can be implemented through the private sector.

**Table (19): Potential Partnership –Waste Collection System**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	78	70.3	77.2	77.2
	No	23	20.7	22.8	100.0
	Total	101	91.0	100.0	
Missing	System	10	9.0		
Total		111	100.0		

## 6.6 Other Services:

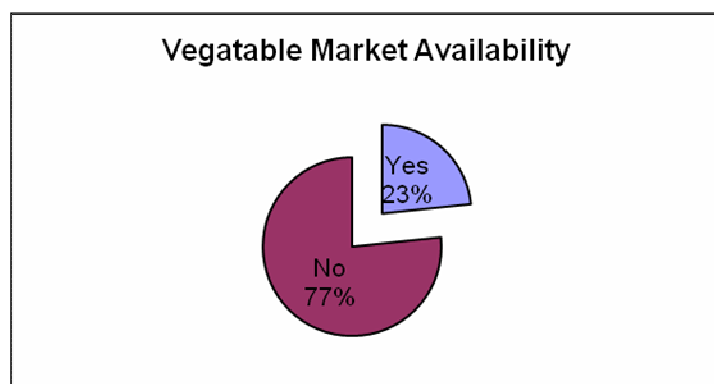
Vegetable markets are mostly available in large municipalities. Only 23% of the total municipalities stated that they have vegetable markets and that they have contracted out the management of these markets to the private sector.

Many municipalities have public parks: 40% of the municipalities stated that they have public parks and that 50% of the parks are managed by the private sector. Most of the contracts are for one year 59% and the duration of contracts does not exceed three years.

### 6.6.1 Availability of Vegetable Markets

Figure (13) shows that only 24% of the municipalities have vegetable markets and that most of these markets are managed by the private sector. The duration of the contracts is normally one year.

**Figure (13): Availability of Vegetable Market**

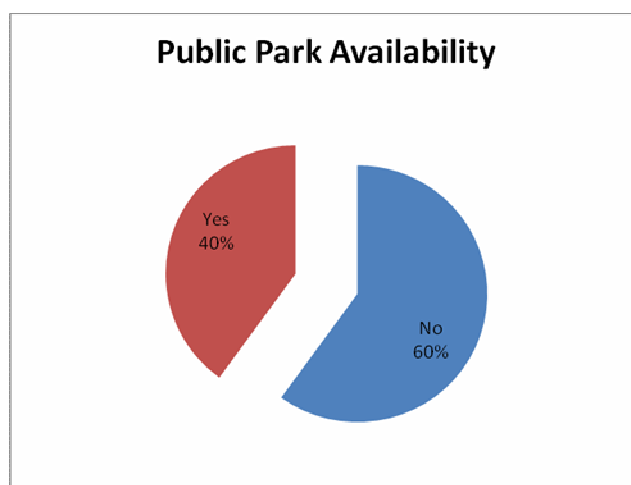


### 6.6.2 Public Parks Management

39.6% of the respondents have their own public parks. Half of these parks are managed by the private sector and most of the management contracts are less than 3 years (see figure 14).



**Figure (14): Public Park Availability**



### **6.7 PPP Projects:**

Municipalities have been practicing PPP for a long time. However, the majority of these partnerships are simple small scale projects. Most partnerships are in the form of management contracts whereby the private sector manages municipal assets and facilities for an agreed upon fee. Contracts duration ranges from one up to three years. In some cases the contracts can be seasonal.

Examples of management contracts include public parks, fish markets, vegetable markets, slaughter houses, central taxi and bus stations and beach fronts. In most of these cases the private sector partners are SME's, such as entrepreneurs, individual investors or local businesses.

The municipalities that engage in such small scale PPP projects constitute around 45% of all municipalities.

Medium to large scale PPP projects are invariably limited to the big municipalities which constitute 12.6% of all respondent municipalities. These projects tend to be construction projects where the municipality contributes land for its share in the enterprise. Such projects include commercial complexes and central taxi and bus stations.

The medium to large scale projects can take different forms: some are management contracts but on a larger scale; others take the form of build operate and transfer (BOT) projects.

By way of example, Nablus municipality formed a company with a number of private sector companies to manage its newly built commercial complex which houses a shopping mall, offices and a service taxi station. Nablus municipality is a partner in

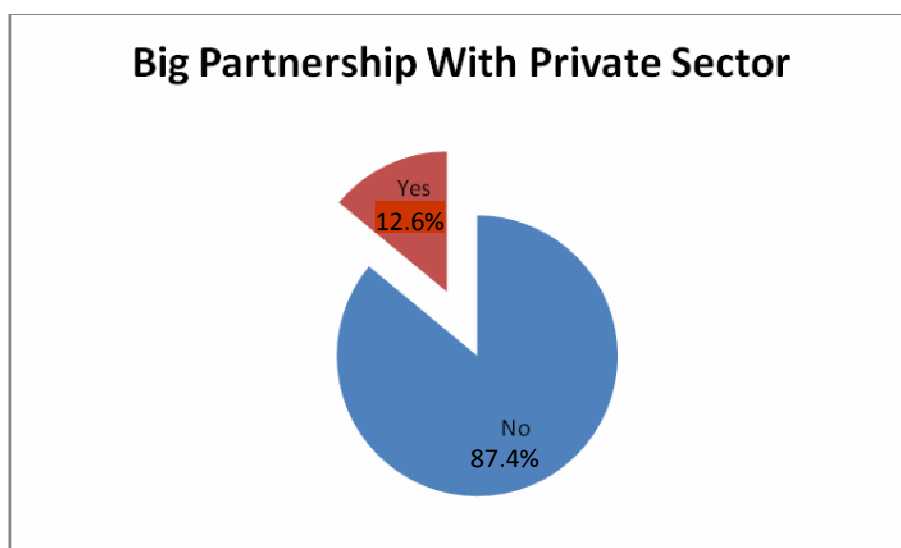
the Palestine Electronics Company (Samsung) and has a solid waste recycling project with Al-Sairafi Co.

El-Bireh and Bethlehem municipalities have individually entered into PPP projects with a real estate development company on a BOT basis. The projects are a multi-storey service taxi station in El-Bireh and a bus station in Bethlehem. Both projects are in operation but both municipalities are facing difficulties with the PPP partner. Some projects are in the courts awaiting settlement of the disputes.

### 6.7.1 Percentage of Partnership

As shown in figure (15), a small number of municipalities (14 out of 111) which represents only (12.6%) of respondents run projects in partnership with the private sector. (54%) of these projects started after 2001, (37%) were started during 1994 – 2000 and (9%) before 1994.

**Figure (15): Percentage of Partnership**



### 6.7.2 Private Sector Partnership Findings

Following is a summary of findings regarding the municipality business partnership projects. It is noticed that:

- Most of these partnership projects are fairly unsuccessful. It seems that municipalities did not prepare the feasibility or risks for such partnerships.
- Most of these partnership projects are traditional ones: real estate and public parks.
- Most of the municipalities did not show clear mechanisms of how they

selected or evaluated their partners.

- In almost all cases the private sector party is represented by one company or its subsidiaries. It seems that municipalities did not follow clear procedures for selecting their private partners.
- Most of the municipalities claimed that they were looking for private businesses because of shortages in money or looking for efficient management or higher quality.
- Most of the municipalities suffer from the unclear laws and regulations to organize the relationship between the different parties.
- Most of the municipalities did not clearly negotiate the roles and responsibilities of the different parties.

When municipalities were asked about the conditions to be available to build successful partnership projects, most of them answered that:

Political stability, community awareness, trust between the different parties, governmental support through creating laws and regulations in order to encourage such relationships are the most needed conditions to be available.

## 7 FINDINGS AND RECOMMENDATIONS

This section summarizes the main results of the survey and the interviews. In addition, specific recommendations have been made to strengthen the partnership between local governments and private sector. It should be noted that properly designed PPP projects can provide the needed solutions to the problems of lack of finance and low revenue collection (“Free Riders”) in municipalities.

### 7.1 Findings

- Almost half of the municipalities have some kind of small scale PPP with local businesses. Such projects include fish markets, fruit and vegetable markets, public parks, sea shore beach, slaughter houses etc. These PPP projects are invariably management contracts with durations of up to three years. Such contracts are managed directly by the municipalities but the private sector has proven to be more efficient and effective in managing the projects’ resources.
- Only around 12.6% of municipalities reported implementing big projects in partnership with the private sector; and almost 50% of the partnership projects were started after 2001. Such projects require large financial investments and managerial capabilities that in general are beyond current municipal capabilities.
- There exists a general lack of national awareness about the practices and benefits of PPP and its impact on local economic development.
- It is clear from the study that in medium to large scale PPP projects the municipalities participate with land as their main contribution to the investment. Therefore the comparative advantage of municipalities is in the provision of land and the comparative advantage of the private sector is in the provision of financial and managerial resources.
- It is noticeable that the municipalities increase (expand) their land holdings primarily through acquisition and to a lesser extent by direct purchase. These methods impose additional financial burdens on municipalities. However, not all of the municipalities take advantage of certain municipal laws that allow them to acquire up to 30% of parcelated private land for free.
- Only 40% of the municipalities have their land registered in the Land Authority department in TABO. This means that 60% do not have proper registrations, which is a legal pre-requisite for implementing PPP.
- Almost half of the municipalities do not have strategic plans. These municipalities do not have clear vision about their strategic projects, what kind of partnership they need, or how they are going to finance their projects. In addition, many municipalities did not involve representatives from the private sector in the formulation of their plans.

- Almost half of the municipalities do not have clear organizational structure approved by the Ministry, meaning that there are no clear responsibilities between the different departments and sections inside the municipality. The institutional capabilities of the municipalities in general were developed year after year but still they need more development.
- Almost 60% of municipalities do not have comprehensive computerized information system. The prevailing information asymmetry creates uncertainty for prospective private sector investors who wish to go into partnership with the municipalities. As a result, negative externality is most likely to happen when the information is inadequate or not available.
- The municipalities also do not have the expertise or capabilities to negotiate and/or design the necessary contracts for PPP projects. As a result, many of the ongoing partnership projects have been unsuccessful primarily due to legal and contractual issues. The problem is evidenced by the number of existing court cases to settle disputes between the municipalities and their private sector partners.
- In fact many PPP projects have been in the courts for many years without arriving at a settlement resulting in heavy losses for the PPP partners and the community as a whole. This is due to the noticeable absence of the rule of law.
- Almost two-thirds of the municipalities stated that the current laws and regulations do not encourage investment or partnership between public and private sectors. The current laws and regulations do not grant privileges or give preferential status to municipalities to initiate PPP projects.
- Many municipalities claim that 70% of the public do not pay their municipal taxes nor do they pay for municipal services and utilities. Consequently the “free rider” problem is very significant.
- In general the services provided by municipalities (water, electricity, sewage networks etc.) do not cover all service recipients within the municipal boundaries and the recipients of these services claim that they are of low standards of quality.
- Almost half of the respondents believe that water networks are considered as projects that can be implemented through the private sector.
- Almost half of the respondents believe that electricity networks are considered as projects that can be implemented through the private sector.
- Almost two-thirds of the respondents believe that waste collection systems are considered projects that can be implemented through private sector.
- The majority of PPP projects focus on management contracts for operation of municipal facilities or buildings; the scope of innovation in these projects is therefore limited. Nevertheless there are exceptions and Beita Municipality stands

out as a good example in innovative PPP projects with its spring water bottling and juices factory.

- The current local government laws and regulations grant the Minister of Local Government powers of approval in most of the municipalities' decisions regarding PPP. This is considered to be good for monitoring and accountability on one hand but has its negative side in limiting the municipal councils' authority and flexibility in such decisions.
- The political situation has a direct effect on the investment projects in general and on PPP in particular. The main precondition for the long term big PPP projects is stable political and security environments in view of the long period implementation and duration of PPP projects.

## **7.2 Recommendations**

Based on the above-mentioned findings, the following recommendations are presented:

- The capabilities, capacities, resources and willingness of the Palestinian private sector should be explored in depth in order to assess the potential for implementing PPP projects with the municipalities.
- There is an urgent need to revise and reform all laws and regulations that facilitate and govern the relationship between public and private sectors in general and the partnership projects between municipalities and the private sector in particular. The Rule of Law is a key dimension in the promotion of PPP.
- MOLG should develop the relevant laws and regulations to allow the municipality to work in a less restricted decentralized manner and to cut out the red tape that is prevalent in government ministries. This will encourage the private sector to engage with municipalities in PPP projects.
- The administrative and fiscal decentralization of municipalities necessitates the development of new monitoring and evaluation procedures for municipalities to assure transparency, accountability and integrity as the basis of good governance. Additionally, external financial and management audits will ensure adherence to these procedures.
- There is a need to conduct an awareness campaign to develop the concept of partnership between the public and private sectors. This will help build confidence and trust between the different parties and encourage the private sector to initiate innovative and profitable business ideas that will provide the needed solutions to municipal challenges.

- The establishment of comprehensive and accurate computerized information systems at the municipalities is vital for conducting meaningful feasibility studies for PPP projects.
- Municipalities require assistance in enhancing their capabilities in different areas such as developing strategic plans, taking into considerations the private sector interests and involvement. The involvement of the private sector in developing the municipalities' strategic plans will consolidate the relationship between the two parties with aim of initiating partnership projects based on community needs.
- There is need to develop the organizational structure and specify the responsibilities and authorities for the different departments and sections in the municipalities. This will assist in clarifying the relationship between the municipalities and the private sector.
- Most PPP projects invariably involve municipal land and infrastructure such as water networks, electricity networks, and solid waste collection systems. The municipalities have to study the feasibility of these PPP projects with the private sector in order to assess the economic and social feasibility of such projects.
- MDLF and other international agencies can support PPP by establishing a special fund that will encourage the private sector to initiate such projects through grants or soft loans to implement infrastructure projects with the municipalities.
- In view of the relatively high competence of the private sector in conducting business, the municipalities require external assistance from MDLF or other agencies to help in negotiating, formulating and designing PPP contracts with the private sector.
- The PPP in Palestine is mostly needed due to the financial situations of the municipalities that require additional financing for new investments and building infrastructure and this can be allocated from the private sector rather than just waiting for the central government.

## **ANNEX 1:**

### **Summary of PPP Projects and Practices in Selected Municipalities**

#### **1 Bethlehem Municipality:**

The municipality currently has a joint commercial project with the private sector.

The project implemented is the central bus station which has a compound for taxis and tourist busses and houses commercial stores. It is a commercial and service oriented project with a capital of US\$12m and has been implemented during 1994-2000. The municipality initiated the project and the partner is a public shareholding company from the private sector. The municipality contributed land as its share in the partnership and the annual profit is around 5%.

The reason behind the project is to generate revenues as well as providing public services to the community. The project has a board of directors but the municipality is not represented on it. The municipality opted for the partnership because it did not have the financial resources to go it alone. Although the municipality believes that partnerships between municipalities and the private sector are important, its experience in this regard has been unsuccessful.

#### **2 Betunia Municipality:**

The municipality believes that partnerships between municipalities and the private sector are important. The municipality however implemented profit oriented projects on its own in the form of two commercial building for rental purposes.

#### **3 Jericho Municipality:**

The municipality has three primary PPP projects: the wholesale vegetable market, the Allenby Bridge Passengers Terminal and the Spanish Park. All these projects are contracted out to private sector businesses for management and/or sub-leasing.

#### **4 El-Bireh Municipality:**

The municipality currently has a joint commercial project with the private sector.

The project implemented is the central bus station which has a compound for taxis and commercial stores. It is a commercial and service oriented project with a capital of JD3.865m and has been implemented during 1994-2000. The municipality initiated the project and the partner is a public shareholding company from the private sector. The partnership was implemented as a concession contract for 26 years. The municipality provided the land but does not own shares in the project. The municipality's annual



return is 2.7% of the profits. The reason behind the project is to generate revenues as well as providing public services to the community in addition to reducing traffic congestions in the town center. The project has a board of directors but the municipality is not represented on it. The project is rated as being 85% successful. The municipality opted for the partnership because it did not have the financial resources to go it alone in addition to the private sector's ability to manage such projects effectively and efficiently. Although the municipality believes that partnerships between municipalities and the private sector are important, its experience in this regard has been unsuccessful.

## **5 Nablus Municipality:**

The municipality currently has two joint commercial projects with the private sector.

- A contract with al-Sairafi Co. to recycle solid waste.
- A management contract with a real estate company (Al-Aqariyyeh Management Co.) to manage the municipality's commercial complex for 20 years.

The commercial complex was constructed as a services project during 2001-2009. It is capitalized at US\$32m and is 100% owned by the municipality. The partnership was initiated by a third party not from the municipality or the private sector. The project construction has been financed by the private sector partner (i.e. the real estate company). The municipality's revenues from this project are 50% of all key money and 38% of the profits. The project is profitable and the reason behind it is to generate revenues as well as providing public services to the community.

The project has a board of directors but the municipality is not represented on it. The project is rated as being 50% successful. The municipality opted for the partnership because it did not have the financial resources to go it alone in addition to the private sector's ability to manage such projects effectively and efficiently.

The municipality believes that partnerships between municipalities and the private sector are important and stresses that in order to implement successful joint projects, there have to be suitable laws and legislations to activate and motivate PPP; awareness campaigns for all sectors about the importance of PPP and cooperation from the private sector in this regard. As regards the municipality's role, it is to provide land and logistical support.

The municipality believes that the private sector partner should be chosen in a direct manner and through direct contact. Thereafter, by the way of an initiative from the private sector (or otherwise), the municipality can choose the partner after performing a full study of the project and according to the type and nature of the project.

**6 Tulkarem Municipality:**

Currently, the municipality does not have joint commercial projects with the private sector. The municipality also is not implementing profit making investment project on its own.

The municipality believes that the reasons for partnerships with the private sector are because the municipality cannot bear the projects' financial burdens alone and that the private sector is better qualified to manage such projects.

**7 Beit Sahour Municipality:**

Currently, the municipality does not have joint commercial projects with the private sector.

The municipality believes that the reasons partnerships with the private sector are because the municipality cannot bear the projects' financial burdens alone and that the private sector is better qualified to manage such projects.

However, the municipality believes that municipal partnerships with the private sector are not important.

**8 Hebron Municipality:**

The municipality has various joint commercial projects with the private sector. The municipality believes that the reasons partnerships with the private sector are because the municipality cannot bear the projects' financial burdens alone and that the private sector is better qualified to manage such projects.

The municipality also believes that municipal partnerships with the private sector are important and considers its experience in this area as being successful.

**9 Bir Zeit Municipality:**

Currently, the municipality does not have joint commercial projects with the private sector and thereby did not provide answers to this part of the questionnaire.

**10 Beit Jala Municipality:**

The municipality currently has a joint commercial project with the private sector. The nature of this project is real estate and tourism and the project capital is US\$500,000 and has been constructed during 2001-2009.

The partnership is in the form of leasing a public park known as "Peace Park" to a private individual and the initiator has been the municipality. The reason for the project

has been to provide a public service to the community. The project does not have a board of directors or management committee.

The municipality believes that the reasons and motives behind partnerships with the private sector are to generate employment opportunities and therefore these partnerships are important and its experience in this field has been a success.

In case the municipality has suitable projects to be implemented with the private sector, the partner will be selected through public tenders in the local newspapers.

With regard to profit making investment projects, the municipality has constructed during 1994-2000 a medical facility in an industrial area with a capital of JD 300,000. This is a profit making services project; the reason for its implementation is revenue generation and providing a public service to the community.

## **11 Beita Municipality:**

The municipality currently has a joint commercial project with the private sector.

The project is a spring water bottling company with a capital of JD 1 million. The project has been constructed during 2001-2009 and is a commercial project for one year. The private sector partner is a public shareholding company and the initiator of the project is a third party other than the municipality or the private sector.

The nature of the partnership is a shareholding company whereby the municipality owns 35% of the shares and obtains 35% of the profits. The project is considered profitable; the reasons behind the project are revenue generation and providing public service to the community.

The project has a board of directors and the municipality is represented on the board and also is chairman of the board.

The municipality believes that the reasons behind partnerships with the private sector are because the municipality cannot bear the projects' financial burdens alone and that the private sector is better qualified to manage such projects.

The municipality therefore believes that municipal partnerships with the private sector are important and considers its experience in this area as being successful. Should the municipality have future projects and wishes to form new partnerships with the private sector, the partner will be selected by directly or after performing a full study of the project, its type and nature.

## **12 Halhul Municipality:**

The municipality currently has joint commercial projects with the private sector but none have been specified in the replies to the questionnaire.

The municipality believes that the reasons behind partnerships with the private sector are because the municipality cannot bear the projects' financial burdens alone and that the private sector is better qualified to manage such projects.

The municipality therefore believes that municipal partnerships with the private sector are important; and that effective partnerships require commitment and laws and legislation to protect the interests of both parties.

The municipality said that should it have future projects and wishes to form new partnerships with the private sector, the partner will be selected directly or by public tender or after performing a full study of the project, its type and nature.

## **13 Salfeet Municipality:**

The municipality has various joint commercial projects with the private sector but this is not clarified in its answers to the questionnaire. The municipality mentions that its experience in partnerships has not been successful without giving the reasons.

The municipality said that should it have future projects and wishes to form partnerships with the private sector, the partner will be selected directly or by public tender or after performing a full study of the project, its type and nature.

The municipality currently has profit making projects that it implemented on its own. These include the following:

- 1- Owns and rents out one and a half floors in a private building.
- 2- Leases out the municipal park and a wedding hall.
- 3- Rents out a light industries and craftsmen complex.
- 4- Leases out a car parking complex.
- 5- A motor vehicle testing station (under construction).
- 6- Rents out commercial store.

The vehicle testing station is designed to serve the whole of Salfeet district. It is capitalized at JD 250,000; started construction in 2001 to date; and it is a long term profit making services project.

#### **14 Qalqilya Municipality:**

The municipality currently has joint commercial projects with the private sector. It leases out the central fruit and vegetable market as well as the cafeteria of the public park and the municipal zoo.

The municipality considers that it must play an active role in the management of joint projects and that the legal aspects of the partnership must be clear.

The municipality said that should it have future projects and wishes to form partnerships with the private sector, the partner will be selected by public tender.

#### **15 Ramallah Municipality:**

The municipality currently has joint commercial projects with the private sector. It has a joint real estate project with an individual private investor: the municipality provided the land; the investor who initiated the project financed and constructed a building known as the Arab Bank building in Ramallah al-Tahta during 1994-2000.

The nature of the partnership is construction of the building and benefitting from the rental income over a period of 25 years. The reasons behind the project are revenue generation and providing public services to the community.

The project does not have a board of directors or a management committee. It is considered 60% successful.

The municipality believes that the reasons behind partnerships with the private sector are because the municipality cannot bear the projects' financial burdens alone and that the private sector is better qualified to manage such projects.

The municipality therefore believes that municipal partnerships with the private sector are important; and that effective partnerships require good profitable projects and commitment and trust between the partners.

The municipality said that should it have future projects and wishes to form partnerships with the private sector, the partner will be selected directly or by public tender or after performing a full study of the project, its type and nature.

## **ANNEX 2:**

### **BEITA MUNICIPALITY**

Beita Municipality Council developed its own development strategic plan since 2006 for 10 years. They started work by establishing a comprehensive data base about the community needs (agriculture, health, education...).

The Municipality has been very active in forming relationship with the private sector. It has concluded partnership projects with many parties, some of which are mentioned below:

- Renting the equipment of the Ministry of Public Works for six months, repaired and using the revenues to pave new roads.
- Providing 12 dunums to build a central market for fruits and vegetables. Private investors' involvement in this project focuses on building the structures and paving the market grounds.
- In the year 2007, the municipality and local Palestinian businessmen established a new Limited Liability company called "Palestinian Industrial and Rural Development Co." with a total capital of 2 million USD. The share of the municipality is 35%. The company's business activities include:
  - Importing and marketing pre-paid electricity meters
  - Importing and marketing PVC pipes.
  - Importing and marketing PVC window profiles
  - Establishing a new factory for water bottling, packaging and distribution.
- Established in cooperation with Palestinian Medical Relief Committee a medical centre.
- Providing land with ready infrastructure for building houses (still looking for investors).

**ANNEX 3:****Questionnaire****PPP Municipality Survey Questionnaire**

<b>1. General Information:</b>		No. of questionnaire: <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
1.1	Name of person responsible for filling in questionnaire in municipality		
1.2	Position:		
1.3	Governorate:		
1.4	Name of city/ town/ village:		
1.5	Phone number:		
1.6	Fax number:		
1.7	e-mail or website:		
1.8	Municipality classification:	1. A    2. B    3. C    4. D	<input type="checkbox"/>
1.9	Number of employees at the municipality that have monthly salaries and are approved by the Ministry of Local Affairs	1. (50 and less)    2. (51-100)    3. (51-300)    4. (301-1000)    5. (above 1001)	<input type="checkbox"/>
1.10	Is the current municipal council:	1. elected    2. appointed	<input type="checkbox"/>
1.11	Year of election or appointment:	1. (before 1994)    2. (1995-2000)    3. (2001-2004)    4. ( 2005-2008)	<input type="checkbox"/>
1.12	Is the municipality building	1. owned    2. rented	<input type="checkbox"/>

<b>2. Municipality capabilities</b>			
2.1	Does the municipality have a strategic development plan	1. Yes    2. No	<input type="checkbox"/>
2.2	Which year was the first plan prepared?	1. (before 1994)    2. (1995-2000)    3. (2001-2004)    4. ( 2005-2008)	<input type="checkbox"/>
2.3	To what extent did the private sector participate in the preparation of the	1. primary participation 2. secondary participation 3. marginal participation	<input type="checkbox"/>

	plan?	4. no participation	
2.4	Does the municipality have an organizational structure approved by the Ministry of Local Government?	1. Yes 2. No	<input type="checkbox"/>
2.5	When was the last organizational structure reviewed and developed?	1. (before 1994) 2. (1995-2000) 3. (2001-2004) 4. (2005-2008)	<input type="checkbox"/>
2.6	Is there a comprehensive data base for the municipality?	1. Yes 2. No	<input type="checkbox"/>
2.7	Is there cooperation between the municipality and nearby municipalities?	1. Yes 2. No	<input type="checkbox"/>
2.8	Is there a clear job description for each employee in the municipality?	1. Yes 2. No	<input type="checkbox"/>
2.9	What is the percentage of employees who have bachelor degrees or any higher degree out of all employees?	----- %	
2.10	Has the staff joined any training courses?	1. Yes 2. No	<input type="checkbox"/>
2.11	Number of courses that were attended by the municipality employees locally during 2008?	1. (zero) 2. (less than 4) 3. (5-9 courses) 4. (more than 10 courses)	<input type="checkbox"/>
2.12	Number of courses that were attended by the municipality employees abroad during 2008?	1. (zero) 2. (less than 4) 3. (5-9 courses) 4. (more than 10 courses)	<input type="checkbox"/>

3. Master City Plans and Environment			
3.1	Is there a registration of land in Land authority for the city (tabo)?	1. Yes 2. No	<input type="checkbox"/>
3.2	If there is a registration of land in Land authority, what is the percentage of land that has registration plan?	-----%	
3.3	Is there a Master City plan officially approved by the Upper Organizational	1. Yes 2. No	<input type="checkbox"/>



	Council?		
3.4	If yes, which year was it approved?	1. (before 1980)      2. (1981-1990) 3. (1991-2000)      4. ( 2001-2009)	<input type="checkbox"/>
3.5	If no, is there one being prepared?	1. Yes      2. No	<input type="checkbox"/>
3.6	When was the last comprehensive appraisal for price of lands and buildings in the city?	1. (before 1980)      2. (1981-1990) 3. (1991-2000)      4. ( 2001-2009)	<input type="checkbox"/>
3.7	What is the percentage of lands under security zone (A) out of the total Master Plan ?	-----%	
3.8	What is the percentage of lands under Master Plan (B)?	-----%	
3.9	What is the percentage of lands under Master Plan (C)?	-----%	
3.10	Is there a need for a new appraisal for price of lands and buildings for the coming two years?	1. Yes      2. No	<input type="checkbox"/>
3.11	Do you think the laws in Palestine that are active (investment law/income tax law/local government law) encourage investment?	1. Yes      2. No	<input type="checkbox"/>
3.12	Do you think the laws in Palestine that are active support partnership between municipalities and the private sector?	1. Yes      2. No	<input type="checkbox"/>
3.13	Do you think the local government law supports partnership between the private sector and municipalities specifically?	1. Yes      2. No	





5.2	Is the budget announced to the public	1. Yes      2. No	<input type="checkbox"/>
5.3	Is the budget compared to the actual balance sheet?	1. Yes      2. No	<input type="checkbox"/>
5.4	Specify the main sources of funding the municipality budget, with the percentage of each resource	1. self produced income <sup>9</sup> from investment projects 2. property tax 3. construction and professional license fees 4. loans and external aids and grants 5. fees for offering water utilities 6. fees for offering electricity utilities 7. fees for offering other services such as sanitation services, solid waste collection and others 8. other, specify:.....	_____ % _____ % _____ % _____ % _____ % _____ % _____ % _____ %
5.5	Does the income cover the municipality expenses?	1. Yes      2. No	<input type="checkbox"/>
5.6	If yes, is there excess for investment in infrastructure or public utilities?	1. Yes      2. No	

6. Services and activities offered by the municipality				
		Type of service or activity	1. Yes 2. No	Body offering service if not municipality
		1. water	<input type="checkbox"/>	
		2. electricity	<input type="checkbox"/>	
		3. sanitation/sewage	<input type="checkbox"/>	

<sup>9</sup> Through establishing capital projects such as real estates and renting them, benefits of placing money in local banks

6.1	Services or activities offered by the municipality (other services can be added)	4. solid waste collection	<input type="checkbox"/>	
		5. gardens	<input type="checkbox"/>	
		6. parks	<input type="checkbox"/>	
		7. graves	<input type="checkbox"/>	
		8. central vegetable market	<input type="checkbox"/>	
		9. public library	<input type="checkbox"/>	
		10. industrial zone	<input type="checkbox"/>	
		11. building/ craft license	<input type="checkbox"/>	
		12. cultural and children centers	<input type="checkbox"/>	
		13. road cleaving and construction	<input type="checkbox"/>	
		14. medical clinic	<input type="checkbox"/>	
		15. public parking lots	<input type="checkbox"/>	
		16. garage lots	<input type="checkbox"/>	
		17. commercial buildings	<input type="checkbox"/>	
18. others, specify	<input type="checkbox"/>			
<b>If the municipality is responsible for the sanitation/sewage services, please answer the following questions</b>				
6.2	Is there a sewage network in the city?	1. Yes      2. No	<input type="checkbox"/>	
6.3	When was the sewage network in the city constructed (which year)	1. before 1980    2. 1981-1990 3. 1991 -2000    4. after 2001	<input type="checkbox"/>	
6.4	Percentage of houses connected to the public sewage network	1. less than 20% 2. 20%-40%    3. 41% - 60% 4. 61% -80% 5. 80% - 100%	<input type="checkbox"/>	
6.5	Are there yearly maintenance fees?	1. Yes      2. No <input type="checkbox"/>	Value of fees	_____ NIS
6.6	Is sewage networks considered one of the	1. Yes      2. No	<input type="checkbox"/>	

	projects that can be implemented and managed through private sector?		
<b>In case the municipality is responsible for supplying water, or if you know the answer, please answer the following:</b>			
6.7	Which year was the city connected to the water network?	1. before 1950      2. 1951-1980 3. 1981 – 2000      4. after 2001	<input type="checkbox"/>
6.8	When the water network was last rehabilitated?	1. before 1950      2. 1951-1980 3. 1981 – 2000      4. after 2001	<input type="checkbox"/>
6.9	What are the percentage of houses are connected to the water network?	1. less than 20%      2. 20% - 40% 3. 41%-60%      4. 61% - 80% 5. 80 % -100 %	<input type="checkbox"/>
6.10	Is there shortage in water supply?	1. Yes      2. No	<input type="checkbox"/>
6.11	Is it permanent shortage?	1. Yes      2. No	<input type="checkbox"/>
6.12	Is the water shortage considered a _____ problem?	1. big      2. middle sized      3. normal with mild affect	<input type="checkbox"/>
6.13	What is the price of a cubic meter of water for domestic use?	_____ NIS	
6.14	Are water networks considered one of the projects that can be implemented through private sector?	1. Yes      2. No	<input type="checkbox"/>
<b>In case the municipality is responsible for electricity service, or if you know the answer, please answer the following:</b>			
6.15	Is there an electricity network in the city?	1. Yes      2. No	<input type="checkbox"/>
6.16	Which year was the city connected to the electricity network?	1. before 1950      2. 1951-1980 3. 1981 – 2000      4. after 2001	<input type="checkbox"/>
6.17	What are the percentage of houses are connected to the electricity network?	1. less than 20%      2. 20% - 40% 3. 41%-60%      4. 61% - 80% 5. 80 % -100 %	<input type="checkbox"/>
6.18	What are the percentage of houses are not connected to the electricity and are	1. less than 2%      2. (3-5%)      3. (6-10%) 4. (11-15%)      5. (more than 16%)	<input type="checkbox"/>

	connected to a private motor?		
6.19	Is there a problem in supplying electricity constantly?	1. Yes there is a problem      2. No	<input type="checkbox"/>
6.20	If yes, is the problem.....	1. big      2. middle sized      3. normal with mild affect	<input type="checkbox"/>
6.21	What is the price of a kilo watt of electricity for domestic use?	_____ NIS	
6.22	Is electricity considered one of the projects that can be implemented through private sector?	1. Yes      2. No	<input type="checkbox"/>
<b>In case the municipality is responsible for solid waste service, or if you know the answer, please answer the following:</b>			
6.23	Is there a system for solid waste collection in the city?	1. Yes      2. No	<input type="checkbox"/>
6.24	Does the system cover all areas in the city?	1. Yes      2. No	<input type="checkbox"/>
6.25	If the answer is no, what is the percentage of coverage?	1. (less than 30%)      2. (31-50%) 3. (51-80%)      4. (81-99%)	<input type="checkbox"/>
6.26	Is the solid waste management and dumping considered one of the projects that can be implemented with the private sector?	1. Yes      2. No	<input type="checkbox"/>
<b>Other services</b>			
6.27	Does the municipality have a vegetable market?	1. Yes      2. No	<input type="checkbox"/>
6.28	If yes, is it managed by the private sector?	1. Yes      2. No	<input type="checkbox"/>
6.29	If yes, what is the duration of the management contract (warranty)?	1. one year      2. 2 years      3. 3 years 4. 4 years      5. more than 4 years	<input type="checkbox"/>
6.30	What is the value of yearly contract?	_____ Jordanian Dinars	
6.31	Does the municipality have a public park?	1. Yes      2. No	<input type="checkbox"/>
6.32	If yes, is it managed (under warranty) by the private	1. Yes      2. No	<input type="checkbox"/>

	sector?		
6.33	If yes, what is the duration of contract?	1. one year      2. 2 years      3. 3 years 4. 4 years      5. more than 4 years	<input type="checkbox"/>
6.34	What is the value of yearly contract?	_____ Jordanian Dinars	
<b>The extent to which the citizens are committed to paying for the services rendered by the municipality during the year 2008:</b>			
6.35	Percentage of citizens that are committed to payments for (water, electricity, sewage maintenance, taxes, waste) regularly and fully	_____ %	
6.36	Percentage of citizens that pay part of the bills and inconstantly	_____ %	
6.37	Percentage of citizens that don't pay bills at all	_____ %	

<b>7. Partnership with the private sector</b>			
7.1	<p>Are there commercial projects at present with the private sector?</p> <p>Such as: a land owned by the municipality and being built by an investor / commercial building/ Taxi stations/ a land owned by the municipality and building a park on it/ entertainment playground/ a spring of water being used for bottled water to be sold, as well as other projects</p>	1. Yes      2. No	<input type="checkbox"/>
7.2	If yes, specify the number and in detail	<hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	



<b>If the answer is yes, please answer the following:</b>			
7.3	Name of project:		
7.4	Project capital:	_____ Jordanian Dinar	
7.5	Year of project establishment	1.before 1980 2. 1981-1994 3. 1994-2000 4. 2001-2009	<input type="checkbox"/>
7.6	Nature of project:	1. real estate 2. tourism-entertainment 3. services 4. commercial 5. industrial 6. other, specify.....	<input type="checkbox"/>
7.7	Project duration	_____ years	
7.8	Is the partner from the private sector?	1. person 2. Joint stock company limited 3. Public Shareholding Company 4. NGOs	<input type="checkbox"/>
7.9	Who is the initiating body for partnership?	1. municipality 2. private sector 3. other, specify	<input type="checkbox"/>
7.10	Nature of partnership and its type?	1. by establishing a shareholding company 2. partnership agreement 3. warranty 4. other, specify.....	<input type="checkbox"/>
7.11	The total municipality share from the project capital in percentage	_____ %	
7.12	The total municipality share from the yearly profit of the project in percentage	_____ %	
7.13	Is the project profitable?	1. Yes 2. No	<input type="checkbox"/>
7.14	What are the reasons for establishing the project?	1. profit 2. public service for the community 3. both	<input type="checkbox"/>
7.15	Does the project have a Management Board/committee/higher	1. Yes 2. No	<input type="checkbox"/>

	commission for its management?		
7.16	If yes, is the municipality a member of the Board?	1. Yes      2. No	<input type="checkbox"/>
7.17	If yes, is the municipality a member of the Board as a president of the Board?	1. Yes      2. No	<input type="checkbox"/>
7.18	In your opinion, what is the percentage of the project's success?	_____	
7.19	What are the reasons and incentives for partnership between the municipality and the private sector? (you can choose more than one answer)	1. inability of the municipality to put up with the financial burden of the project 2. external funding source 3. private sector efficiency is better in terms of quality and management in offering services 4. others, specify	1. Yes 2. No  1. Yes 2. No  1. Yes 2. No  1. Yes 2. No
7.20	Do you think that partnership between the municipalities and the private sector is:	1. Important      2. unimportant	<input type="checkbox"/>
7.21	From your experience in partnership with the private sector, do you consider this experience as	1. successful      2. unsuccessful	<input type="checkbox"/>
7.22	If your experience was unsuccessful, what are there the reasons?	_____ _____ _____	
7.23	What do you think are the conditions that should be available for effective partnership with the private sector?		

7.24	If there were projects at the municipality and it was willing to establish a partnership with the private sector, how do you specify the partner from the private sector	1. tenders in official newspapers and magazines 2. direct communication with the partner 3. after studying the project, the municipality defines the partner according to the type and nature of the project. 4. if initiated by the private sector 5. other ways, specify.....	
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<b>8. private projects</b>			
8.1	Are there profitable investment projects that are carried out by the municipality	1. Yes    2. No	<input type="checkbox"/>
8.2	If yes, please specify number and in detail		
<b>If yes, please answer the following:</b>			
8.3	Name of project:		
8.4	Project capital:	_____ Jordanian Dinars	
8.5	Year the project was established:	1. before 1980    2. 1981-1994 3. 1994- 2000    4. 2001-2009	<input type="checkbox"/>
8.6	Is the project profitable?	1. Yes    2. No	<input type="checkbox"/>
8.7	Nature of the project is:	1. real estate                  2. tourism and entertainment 3. services                      4. commercial 5. industrial                    6. others, specify.....	<input type="checkbox"/>
8.8	Duration of project	_____ years	
8.9	Reasons for establishing the project?	1. profit                  2. public services for the community 3. both	<input type="checkbox"/>

**We greatly appreciate your time and effort spent in filling in this questionnaire.....**

**With compliments**

**New Vision Management Consulting**

#### ANNEX 4:

##### List of Municipalities Participating in the Study:

1	Alebideah	57	Aldomah
2	Jab'a	58	Alzabadeh
3	Alswahrah alsharqiyah	59	Jameen
4	Arrabah	60	Beit Foureeq
5	Borkeen	61	AlShyokh
6	Anata	62	Ateel
7	Dier Elgsoon	63	Almezra Elsharqyeh
8	Zeta	64	Tormus Ayieh
9	Albierah	65	Qalqilya
10	Qabatyeh	66	Salfeet
11	Bedyah	67	Halhoul
12	Yabad	68	Tarqoumya
13	Alyamoon	69	Saeer
14	AlKodor	70	Beitah
15	Seilah Alharethiah	71	Beit Jala
16	Kofr Tholoth	72	Bani Naiem
17	Aqraba	73	Sengel
18	Kofr Ra'i	74	Beir Nabala
19	Qarawa Bani Hassan	75	Alezariah
20	Tulakrem	76	Birzeit
21	Beit Leed	77	Beit Awa
22	Mythaloona	78	BeirLaqya
23	Atarah	79	Hebron
24	Yatta	80	Althahryeh
25	Ne'leen	81	Beit Sahour
26	Banizeid Alsharqiyah	82	Beit Fajar
27	Hablah	83	Kefl Hares
28	Allar	84	Qafeen
29	Jericho	85	Tulkarem
30	Qabalan	86	Beit Omar
31	Ramallah	87	Nablus
32	Zaytoonah	88	Alitihad
33	Qatanah	89	Selat Elthaher
34	Soureef	90	Tafouh
35	Azoon	91	Janata
36	Deir Debwan	92	Alzawyyeh
37	Zatarah	93	North Gaza
38	Ibouin	94	Um elnaser
39	Elsamou'	95	Beit Lahyah
40	Deir Estyeh	96	Jabalyah

41	Silwad	97	Gaza
42	Altybah	98	Almigrapa
43	Brouqeen	99	Alzhra City
44	Afram	100	Albraij
45	Bitounya	101	Almagzi
46	Brouqeen	102	Der Albalah
47	Dieir Baloot	103	Almasdar Village
48	Jayous	104	Bani Sahyla
49	Beit Lahem	105	New Isan
50	Nablus	106	Big Isan
51	Kharas	107	Qoz'a
52	Hourah	108	Alfakhari
53	Kofr Eldeek	109	Nasr
54	Alougah	110	Elshoukah
55	Dourah	111	Ethna
56	Beddo		