

# Change of water and sanitation services management model in small towns with a participatory approach

A summary of guidelines





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Lima, May 2008

#### **WSP Mission**

The Water and Sanitation Program (WSP) is an international partnership to help the poor gain sustained access to improved water supply and sanitation services.

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#### **Summary report prepared by:**

Jorge Luis McGregor, WSP Consultant

#### **Editing:**

Sandra Urteaga

#### **Water and Sanitation Program, Latin America and Caribbean Region**

Francois Brikké, Regional Director

Iris Marmanillo, Coordinator for Peru and Task Manager of the STPP

Oscar Castillo, Institutional Development Specialist

#### **Production:**

Beatriz Schippner, Regional Communications Specialist

Luciana Mendoza, Communications Assistant

#### **World Bank Office, Lima**

Álvarez Calderón 185, San Isidro, Lima 27, Perú

Phone: (511) 615-0685 Fax. 615-0689

Email: [wsplac@worldbank.org](mailto:wsplac@worldbank.org)

<http://www.wsp.org>

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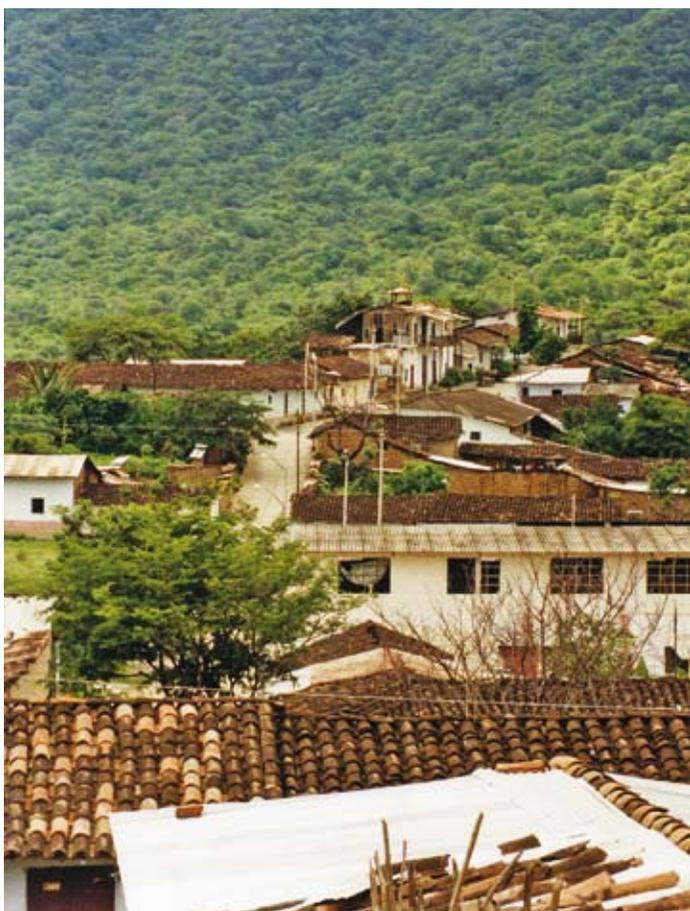
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# Presentation

A management model provides the framework in which the roles and responsibilities of all the participatory forces that have a stake in the water supply and sanitation services sector are defined. In an effort to make service providers more accountable to citizens and due to the need to empower local institutions, most of the Latin American Region is in the process of decentralizing responsibility for key areas of the service delivery to the local areas. This document presents the lessons learned from the process carried out in Peruvian small towns, where the local authorities are empowering local institutions so that the actors and the roles they assume are more active in the decision making process.



The present Reference Guide is a contribution to the development of the water and sanitation sector in small towns<sup>1</sup>. This guide pursues the establishment of a social agreement as a mean to attain an efficient management of the water and sanitation services, and thus become the foundation of a Public-Private-Social Partnership.

The participatory approach of the change process, supported in a “new social agreement for an efficient management of the water and sanitation services” as foundation of a Public-Private-Social Partnership (PPSP), searches to reach civic commitment to solve the problems of the water and sanitation services of small towns. In its participatory approach to management it strives to maintain the political commitment during the change process, rather different from the traditional way of doing things, where the municipal authority makes all the decisions and afterwards communicates the decision adopted to the population.

However it must be mentioned that the traditional process can be efficient in the presence of a mayor with strong leadership, recognition and credibility, while in its first year of administration.

This document has been designed to serve as reference to the officials and professionals of local, regional and national governments; of non-governmental organizations (NGO), of consulting firms and for independent professional that are responsible of giving technical assistance to promote a new management model for the water and sanitation services in small towns.

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<sup>1</sup> In the water and sanitation sector in Peru, small towns are localities that range from 2.001 to 30.000 inhabitants.

# 1. The advantages of change

## 1.1. Today's situation and the need to change

### *Today's situation*

In Peru there are approximately 650 small towns which are mainly capitals of provinces and districts as well as smaller populated centers. Around 4.1 million Peruvians inhabit in these towns. In 150 of these localities the water and sanitation services are administered by municipally owned water and sanitation enterprises regulated by a National Regulatory Agency (SUNASS), while in the 500 remaining towns, the services delivery is mainly municipal and it is characterized by:

- Low quality and coverage
- Tariffs that do not cover operating costs
- Nil maintenance of the infrastructure
- Low technical knowledge on water and sanitation system operation
- Low willingness to pay of the users
- Low political will to charge for the services
- Highly political interference in the services

As a result, there are low quality and non sustainable water and sanitation services in small towns.

### *The causes*

The main causes of the described current situation are:

- Political interference in investments and set up of the tariffs to be charged to the users
- Absence of technical planning of the production systems
- Expansion of water and sewage networks without technical criteria
- Lack of resources to hire qualified personnel for operation systems
- Lack of resources and unawareness of the need of periodic maintenance of the systems
- Lack of knowledge of the cost structure of water and sanitation services

- Ignorance of the users of their rights and obligations
- Ignorance of the legal norms in force related to the water and sanitation services delivery.

As it can be observed, the causes of the problems of the water and sanitation services are not of exclusive responsibility of the municipalities, as they indicate a structural problem of the sector, and therefore, going beyond the competence of the municipal authorities to resolve it.

### *The high cost of inefficiency*

The inefficiency of the services management in small towns has consequences:

- High cost of public health
- Shorter useful life of infrastructure
- Subsidies for those who have more
- Public dissatisfaction of local authorities performance

### *The advantages of change*

The change of the current municipal management model, to another that implies the professionalization of the water and



sanitation services delivery and the active participation of the population to improve the water and sanitation services and reach its sustainability would bring along the following advantages:

- The improvement of the quality of the services received by the population would, elevate the standard of living of the population and have a positive impact on health.
- The availability of water and sanitation services would promote the development of different economic activities in the locality.
- The municipality would stop subsidizing the administration, operation and maintenance of the services, liberating these resources to attend other needs of the population.
- The municipality would progressively reduce its investments in infrastructure, liberating resources to be invested in other projects.



- The improvement in the quality and coverage of the services would generate new jobs in the locality.
- Upon professionalizing the services, the municipality would have a technical advisor interested in the expansion and development of the services.
- The sustainability of the water and sanitation services would serve to attract non refundable resources from the national and international technical cooperation.

## 1.2. A new social agreement for a more efficient management of water

### *The current social agreement*

A “social agreement” is the way in which the community and the municipality agree on those issues related to the way operations must be done. In the management model accepted by the social agreement in force, the municipality was the sole entity in charge and all 5 basic roles of the water and sanitation services were concentrated on it:

- Ownership of the infrastructure
- Establishment of rates and tariffs
- Delivery of the services
- Supervision of the services delivery
- Issuing of norms for the local services

However in this model the municipalities failed to fulfill their assigned roles. This could have been due to lack of knowledge, absence of resources or capacities, political interference or concentration of roles without accountability, and the municipalities not complying efficiently with the roles assigned in the social agreement in force. If this problem existed in two or three small towns it could be attributed to people, but when the problem is generalized with few exceptions, then a structural problem exists. Structural problems demand a change of social agreement to solve the problem.

### *The new social agreement*

To improve the water and sanitation services and to tend to their sustainability, this guide proposes a redistribution of roles among 3 local actors: the municipality, the population represented by a Community Board of Supervision (CBS) and a Specialized Operator (SO). The proposal of redistribution is the following one:

- The municipality continues being the owner of the infrastructure in representation of the community, but the population and the specialized operator would support it in its task of improving and expanding the systems.
- The municipality continues approving the tariffs -according to its legal attribution- but with the prior consent of the population and also associating it to agreed levels of quality and coverage levels.
- The specialized operator hired by the municipality is responsible for delivering the water and sanitation services.
- The population, by means of a Community Board of Supervision (CBS), supervises the quality of the services that the users receive.
- The municipality, in a participatory way, norms the water and sanitation services delivery in the locality, establishing the rights and duties of users and of the specialized operator.

Under this scheme it is possible to evolve from the Public-Private Partnership (PPP) model to a Public-Private-Social Partnership (PPSP), where the social participation in the model would make the difference not only in access to information and decision-making but also in the supervision of the service. This fact would support the new social contract, guaranteeing the sustainability of the services.

To achieve the implementation of the PPSP a new social agreement is needed to be built, where municipality and community accept new rules and roles, as a condition for the



new management model to have economic, social, and political sustainability. The challenge is usually big due to the social and institutional context of small towns that is characterized by:

- Highly and persistent levels of social exclusion
- An attitude of deep distrust of local authorities and social leaderships
- Weak executive capacities of the local government
- The political instrumentation of the services

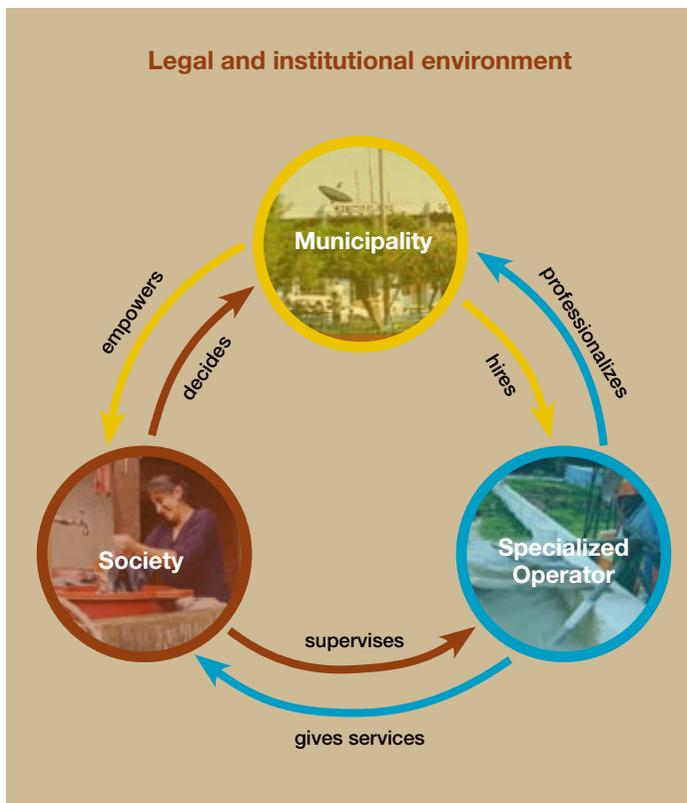
Nevertheless, the environment presents opportunities generated by the transition process from rural to urban of small towns in its search for better standards of living, within the framework of a diversified and heterogeneous social and economic interests, which also generate a democratic demand for civic rights and duties, the formation of public opinion and a space for civil participation. These are opportunities that will facilitate the construction of a new local alliance.

### 1.3. The Public-Private-Social Partnership

#### *New management model*

The new social agreement between municipality and the local community is a result of a process by which both sides accept the need for change and the commitment of new actors in the water and sanitation services delivery of the locality. It implies a redistribution of the roles traditionally assigned to the municipality.

The new services management model considers the interaction of three actors: the municipality, the Community Board of Supervision (CBS) and the Specialized Operator, to improve and expand the technical systems, and to improve its quality and sustainability.



#### *The municipality*

In the new model of management, the municipality changes its role of services deliverer and delegates this role to a specialized operator (SO); furthermore, it shares with the community the decision of the quality-price of the services as well as the supervision of the quality of the service that the users receive. Under the new management model the municipality assumes the following roles:

- Planner of the development of the services and government of the locality in all the dimensions established in the Organic Law of Municipalities.
- Regulator of the water and sanitation services delivery in its jurisdiction by means of the emission of ordinances according to the legal norms in force and the guidelines of the sector authorities.
- Administrator of a long-term contract with the SO, which involves the development of new capacities to enforce the compliance of the contract, as well as to analyze with the other actors the possible amendments to the contract when needed.
- Agent of the necessary investments to improve and to expand the systems, according to the commitments assumed with the community and the SO. This role is performed under the advice and in coordination with the SO.
- Decision-maker on the commercial claims of the users as last administrative instance, in accordance with the established claims attention mechanisms.

#### *The specialized operator*

In the new management model, the municipality delegates in a specialized operator the water and sanitation services delivery of the locality. This implies that after the subscription of the contract of delegation with the municipality, the SO assumes the following responsibilities:

- Advise the municipality in the planning of the development of the services.
- Administer, operate and maintain the water and sanitation services, according to the terms and conditions of the contract signed with the municipality.
- Cover the costs of administration, operation and maintenance for the water and sanitation services delivery.
- Allocate part of the resources collected by concept of tariffs for the equipment reposition, as well as for the future minor investments under its responsibility.
- Arrange the corrective measures, in case of breach of its obligations to the users, in the framework of the contracts signed with the municipality.
- Carry out collections related to the water and sanitation services delivery according to the agreed procedures and the contract.

### ***The Community Board of Supervision (CBS)***

The Community Board of Supervision (CBS) is one of the ways of social participation that supports the change process. The functions of the CBS are:

- Supervise the compliance of the legal and contractual obligations of the SO referred to the services quality, in coordination with the local government.
- Supervise the SO in the correct application of the rates and tariffs approved by the municipality in the ordinances.
- Oversee the operational claims and accusations of the users with reference to the service that the SO deliver.
- Verify that the drinking water is adequately used by the population; watch for delinquent or illegal connections, and to promote the rational use of water.
- Watch that the principles that govern the public services are complied, according to the economic possibilities of the SO.



- Communicate to the municipality the breaches of the SO of the water and sanitation services.
- Carry out campaigns against the lateness in the payment for the services, in coordination with the SO and municipality, by means of educational methods, supervision and monitoring.
- Collaborate with the municipality and the SO in the evaluation of the users that request their inclusion in the social tariffs.

## **1.4. The social participation and the change process**

### ***The traditional way of change***

The traditional way of changing how things are done in a small town usually follows these steps:

- 1º The municipality recognizes the need of the change.
- 2º The municipality makes studies to determine the main problems.
- 3º The municipality evaluates the political implications of the change.
- 4º The municipality implements adjustments in its management model.
- 5º The municipality informs the community of the adjustments and its eventual benefits.

In the traditional way, the community does not participate in the decision making and the communication process to inform about the possible benefits. With this traditional method, it is difficult to make deep structural changes and gain commitment from the population, and generally demand an extended time for its full compliance.

### ***The participatory way to change***

The starting point to change the social agreement is to admit the existence of a problem related to the quality of the service that the population receives. In many cases it puts in risk the family health, contaminates the environment and affects most of the poor people. It is accepted that this situation has been maintained for several years, in which the actors have kept a “low level equilibrium” in the quality of services rendered, recognizing that there are two parts involved: municipality and community, and that both parts are interested in finding a solution for the problem that requires structural changes, not only in the way that the services are managed but also in the attitude and responsibilities that each actor assumes.

To change the existing social agreement, a participatory methodology is used where:

- 1° The municipality recognizes the need for change.
- 2° The municipality decides policies to carry out the change in a participatory way.
- 3° The municipality calls the leaders of the community organizations to analyze the problem.
- 4° The community and the municipality in a joint way evaluate the causes of the problem and present solutions in workshops attended by specialists in the theme.
- 5° The specialists elaborate social, financial, economic, and technical studies, and develop the different alternatives of solution, with its implications on investment and associated costs.
- 6° The community leaders and the municipality sensitize the population on the problem and communicate the possible solutions.
- 7° The community and the municipality in a joint way evaluate the alternatives of solution developed by the specialists and then choose the most adequate alternative according to their perception of the reality, culture, customs and economic possibility.
- 8° The community leaders and municipality inform the population of the alternatives of solution selected, their benefits and demands for commitment, and promote the change.
- 9° A civic consultation process is carried out to accept a new social agreement or to keep the existing social agreement.
- 10° Once the new social agreement is approved; the municipality implements the necessary instruments for the formalization of the arrangement.
- 11° The community and the municipality in a joint way define and implement the new rules as well as accept their new roles in the new social agreement.

The decision making process may take a longer time, but its implementation is much faster. For the adoption of the most feasible alternative, a key factor is the performance of the professionals to seize the perceptions and possibilities of the population in the socio economic studies. The leaders and local authorities should be informed of these perceptions and of the possibilities to adopt more appropriate solutions.

The participatory approach presents the following benefits:

- It can be carried out at any time by the local administration in office due to its low political risk.
- It facilitates the decision making for deep structural changes.
- The new social agreement terms are explicit in a minute signed by neighborhood delegates.

- Community participation supporting the PPSP reduces the risk perception of the private sector.

Though the participatory process presents benefits, its implementation should be carefully planned, because a social process demands a balanced equilibrium between expectations, opportunity and information.

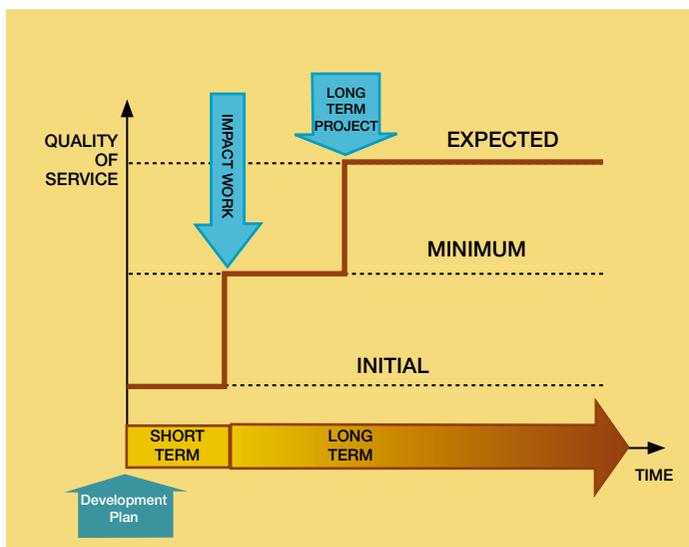
### 1.5. The investment needs

The management model change process has needs of investment in two levels: in the rehabilitation, improvement and expansion of the infrastructure, and in the construction of the PPSP.

#### Infrastructure investments

The infrastructure of the water and sanitation services can be in either of three conditions:

- Under the minimum adequate operating level. In this status, not even with a good operational control will the service quality be improved.



- Over the minimum adequate operating level. In this status, with a good operational control, improvements in the service quality that will be perceived by the users can be achieved.
- Optimum operating level. In this status with a good operational control, costs can be reduced and this economy can be transferred to the users.

To initiate the change process, the systems must be over the minimum adequate operating level, or the needed investments guaranteed to punt the systems in this status, otherwise a SO will not be able to improve the quality of the service and the population will have the perception that the new management model will not solve nor contribute to solve the problem.

#### Investments to build the Private-Public-Social Partnership

The investments required to build the Public-Private-Social Partnership have two components: the technical assistance and the support of the communication process.

The investments in technical assistance can be quantified considering the professional fees of the consultants that will perform the studies and support the change process. This

technical assistance can be in the rank of USD 30,000 to USD 100,000 depending on the availability of consultants in the regional level and the technical assistance that can be provided by the National Government.

Regarding the investment in communications, this can demand a very variable investment, since it will depend on the existing social networks, local mass media and degree of participation of the organization leaders in the locality.

### 1.6. Issues to be considered by the municipal authorities

While the change in the management model advances toward the professional operation of the water and sanitation services with the purpose of improving the services as well as reaching the sustainability of the investments, the municipal authority should always have in mind the following issues:

- The amount required to eliminate the bottlenecks and to optimize the use of the existing infrastructure varies depending on many factors such as the installed capacity and its state of conservation, the upsetting growth of the networks, the deficient operation of the systems and the absence of preventive maintenance, among others relevant factors.
- The municipality is responsible for the water and sanitation services in the locality. Therefore, the empowering of the people

to participate in the new social agreement, does not exempt it of its legal responsibility in the compliance to all the legal norms in force.

- There are successful experiences in Peru, where the change of the management model has conducted to an improvement in the quality of the services, social acceptability and to obtain significant contributions of the Government Programs for the expansion and improvement of the systems.
- The change of the management model implies that the municipality incorporates the users of the service to help it improve the services and their sustainability; furthermore, it implies the delegation of the delivery of the water and sanitation services to a third party. The municipality stops delivering the services directly to professionalize the administration and operation of the water and sanitation systems of its property.
- The change process should be conducted in an adequate way, being the critical factors of its success the transparency of the process, the participation of the population, the application of the gender equity approach, the quality of the technical assistance, the capacity of local actors to assume their new roles, the adequate management of the expectations of the population, the opportunity for investments in infrastructure, and the adequate selection of the SO through a transparent and competitive process.

## 2. Organization and change preparation

### 2.1. The requirements of technical assistance

The technical assistance can be provided by entities of the National or Regional Government or NGO, amongst other entities, unless the Local Government has the economic resources to hire specialists that can give the necessary support to the change process.

The technical assistance team should have expertise in social promotion, socioeconomic studies, water and sanitation infrastructure, water and sanitation services, legal advisory and PPP transactions. While the social promotion specialist should have expertise in supporting the change process from beginning to end, the other specialists have specific participation along the project cycle.

For the capacity building process of the municipality, the Community Board of Supervision (CBS) and the Specialized Operator (SO) should carry out a training program. It will require the support of the full team of technical assistance. The times and moments of the training will be established depending on the needs. The organization of the CBS should be prior to the training stage and its training should be before the phase of implementation; while the training of the Specialized Operator will be in a continuous way during the entire process until the final weeks prior to the transfer of the services.

### 2.2. The gender equity approach

#### *The concept*

Gender equity signifies that men and women have equal access to the information, to decision making and to social recognition for their work. Traditionally, the water and sanitation services are considered a social space for discussion between men, even though who confronts the problem of poor quality water and sanitation services at home are the women. The use of the gender

equity approach is of particular relevance for the change process, because it contributes to a fast discussion of the issue at home.

#### *The benefits*

The benefits of the adequate application of the gender equity approach are:

- The messages will be communicated in and through women networks in a simple and comprehensive language understood by women.
- The time of the different phases of the change process will be shorter.
- It will avoid the politization of the issue through miss information.
- It will avoid the arrival of distorted messages to the homes or being distorted at home.
- It allows greater transparency in all the phases of the change process.
- Both men and women will defend the new management model, if they are well informed and conscious of their rights and duties.



### 2.3. The communications as instruments for the change

The start of a change process has its origin in the conviction and the viability of an idea. It is originated by the political will of who makes the decisions. In this case, it is of concern of the municipality, as a development agent, to assume the leadership of the change. Because of this, it is the responsibility of the municipality to evaluate:

- 1° The quality and coverage of service that is offered to the population.
- 2° Its incidence in the life of the community and the local development.
- 3° The level of subsidy that is allocated to the service.
- 4° The real possibility that the Municipality can deliver the service in optimum conditions.

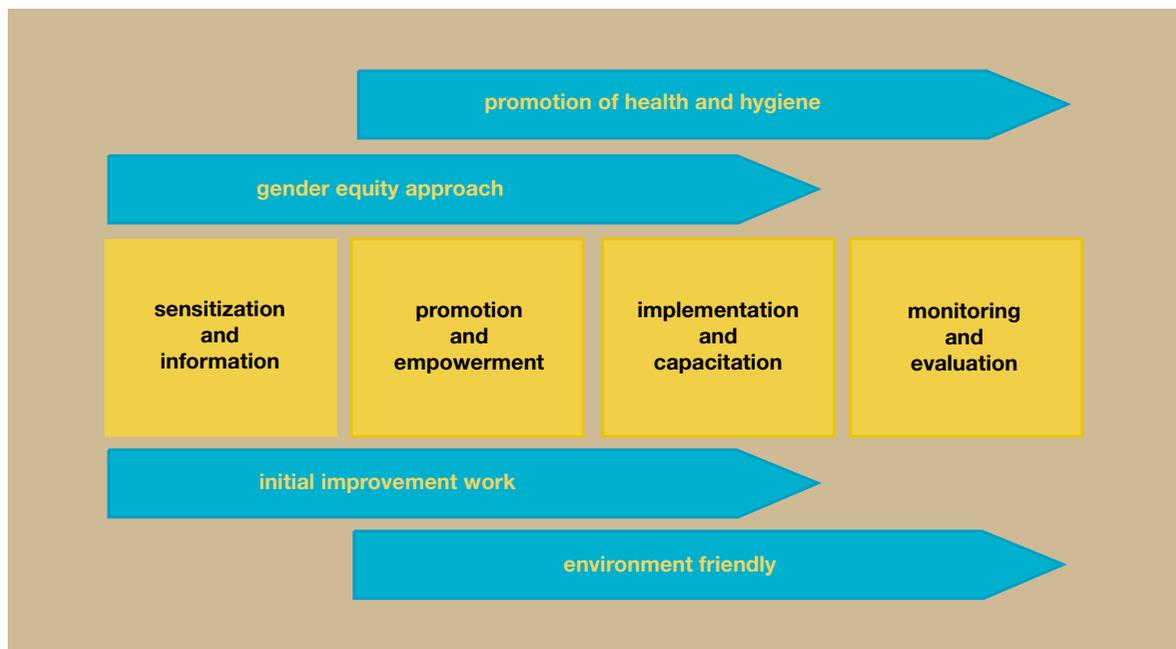
Once the decision to change the management model is made, the second step is to design a plan of communication for the population with the objective of sensitizing and informing the citizens of the locality of the need for a change in the services and its benefits.

For the execution of this plan, the municipality should create a Communication Commission with the participation of the municipality and users of the service, constituting a space of communication among both and establishing shared strategies of adequate diffusion.

### 2.4. The intervention strategy

#### *The project cycle*

The basic cycle of the change of the management model process with participatory approach has its components in three phases, cross themes and an additional phase of monitoring and evaluation of the behavior of the new model as the one shown in the following graphic.





The objectives and milestones of each phase are shown in the following table.

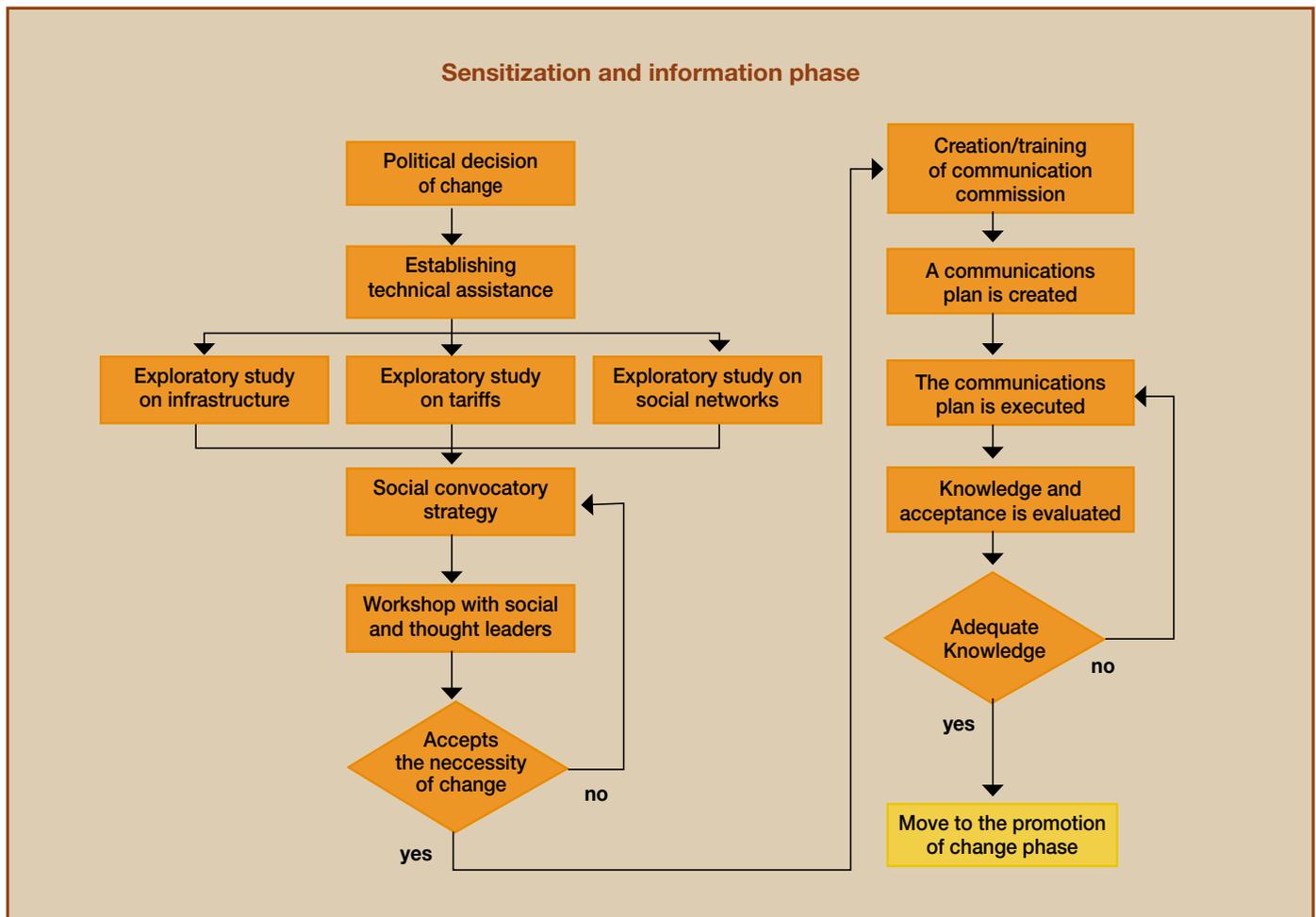
Phase	Objective	Milestone
<b>Sensitizing and informing</b>	Sensitizing the population on the problem of the water and sanitation services, on the concepts of quality of the service and its cost, and to informing the population about the project.	<ul style="list-style-type: none"> <li>• Diagnosis of perceptions, networks and media.</li> <li>• Commitment of leaders with the change.</li> <li>• Formation of the Communication Commission.</li> <li>• Elaboration and execution of the Plan of Communication.</li> <li>• Measurement of the level of information-acceptance of the change process.</li> </ul>
<b>Promotion of change and empowerment</b>	Informed involvement, organized actions of the population to decide to change the management model of the services.	<ul style="list-style-type: none"> <li>• Technical-social studies and services development plan (pre-investment study).</li> <li>• Approval by authorities and leaders of the new model of management that will be submitted to consultation.</li> <li>• Adjustment and execution of the Plan of Communication.</li> <li>• Civil consultancy and decision making.</li> </ul>
<b>Implementation and capacity building</b>	Formal and institutional constitution of the selected new management model with three actors in place: municipality, CBS and SO.	<ul style="list-style-type: none"> <li>• Approval of four municipal ordinances.</li> <li>• Constitution of the CBS.</li> <li>• Creation of the Special Municipal Committee (SMC).</li> <li>• Prospect and promotion of SO.</li> <li>• Transfer of services to the SO.</li> </ul>

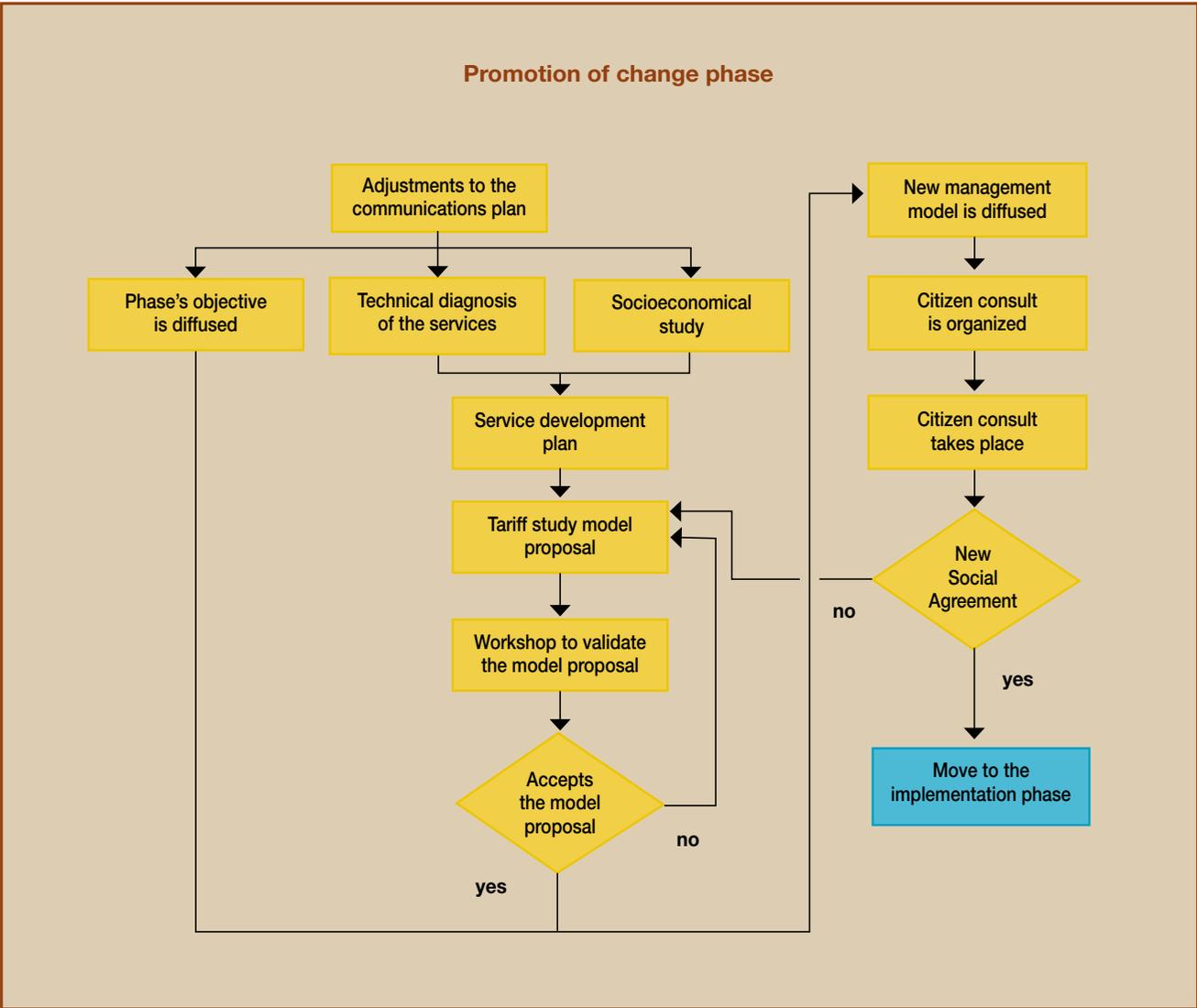


## 2.5. Planning the change process

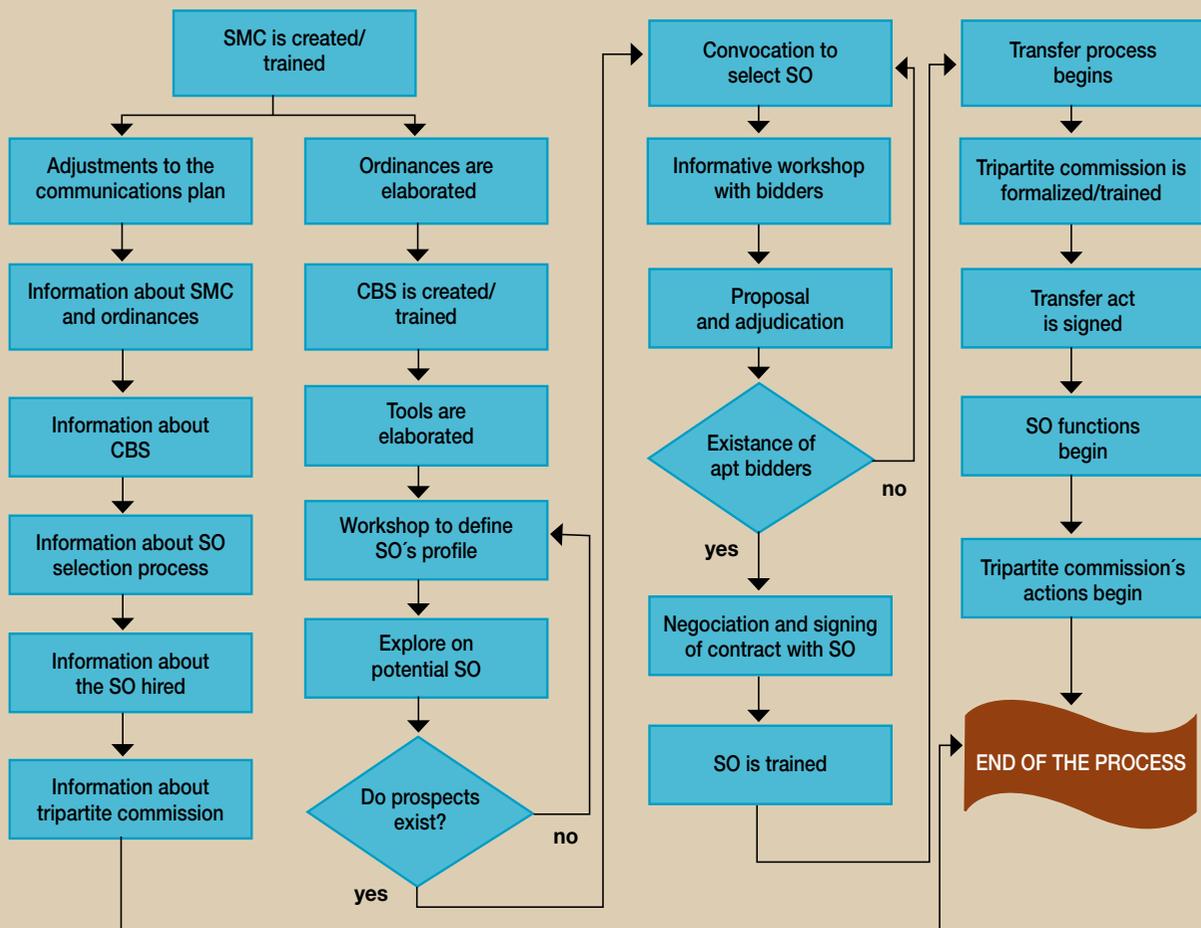
### Flow chart of the change process

In the following graphics the flow chart of the different stages of the change process is presented. In the flow charts the opportunity of intervention of each new actor can be seen.





### Change implementation phase



## 2.6. Elements to be considered during the planning

### *Explore before deciding to change*

Before the municipal authority decides upon the change, quick exploratory studies should be done to determine the status of the infrastructure and its immediate investment needs; to make a first approximation of the full cost recovery tariff and the possibility of its assumption by the users; and to determine the level of subsidies the municipality is giving to the services.

If the demand of investments to put the systems in an operating status overpasses the financial possibilities of the municipality, additional explorations should be made to determine the available non-refundable sources existing in the country (National or Regional Government, NGO, international cooperation, etc.).

If the full cost recovery of the tariff is above the payment capacity of the population, additional explorations should be made to determine possible ways for the municipality to subsidize the operations, such as assuming the cost of electricity, some of the personnel payments or certain other supplies.

The experience of the studies carried out in the framework of the STPP<sup>2</sup> showed that in most cases the population had full cost recovery tariffs payment capacity. Never the less, in most cases a temporary subsidy to operations from the municipality was established, in order to make gradual increases in the current tariffs before reaching full cost recovery levels. This was done because in several cases the tariffs had to be increased from 100% to 300%, because the current tariffs were just symbolic and did not reflect the real cost of the service delivery.

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<sup>2</sup> Small Towns Pilot Project carried out in Peru by WSP under the leadership of the Nacional Government and the financial support of CIDA, between 2003 and 2007.

### *Timing of infrastructure investment*

A topic that generates discussion in the sector is whether it is convenient for the SO to have opinion on the works that will be executed in the locality.

It should be considered that two moments of investment will exist. The first one will be to take the systems to a minimum operating status, and the second one to reach its optimum level.

The investment to reach the minimum operating status will not include opinion of the SO, due to the fact that the works should have already been executed or under way, when the SO is hired. Awaiting for the hiring of the SO to execute the works would dilate unnecessarily the start of operations, which is risky considering that the locality is in middle of a social process that generates expectations.

On the contrary, it will be convenient to include the opinion of the SO to carry out the final studies of the expansions of the systems to reach an optimum state of the services.

### *Local legal mainframe*

In the planning of the change process, it should be considered when the local legal framework will be established. This framework will consist on the municipal ordinances that will regulate the water and sanitation services delivery in the locality: Though all the ordinances should be promulgated before initiating the SO promotion process, there are some that should be put forth before others (i.e. the ordinance of the CBS).

## 3. Community participation and commitment

### 3.1. The communication as tool for local development

Open and participatory communication in the establishment of the new model of management is of great importance because it is an instrument that would be used to promote continuously the encounter with others: would be of use to mobilize the authorities toward their population and the neighbors toward their peers, creating spaces in which community and authorities would come to an agreement on the bases of the development of their locality, would facilitate the sharing of responsibilities and inform of concrete actions to be implemented.

In this framework we should not understand communication as synonym of diffusion or transfer of information. The main task of the communication is not the socialization of information, but to be a tool for the construction of a common vision of local development.



One of the most frequent fears in the work of participatory communication is the possibility of the existence of conflicts. The communication does not signify absence of conflict. The spaces of communication imply the existence of conflicts and the challenge to learn to administer the conflict, and to learn how to arrive at agreements contributing to the conformation of a social base that supports the action in favor of the development.

The municipality should include the promotion of participation as an inherent practice and the citizens should seek to participate whether in an individual or collective way. Both movements imply the development of communication competences such as: dialogue, reaching consensus, reporting results and open participation.

### 3.2. The communications strategy

The strategies used should respond to the objectives presented according to the phase of development. Three are of special interest:

- **The Advocacy:** directed to the municipal authorities with the objective to place the theme of water and sanitation in the local political discussion, seeking the involvement in the project of elected officials and municipal staff.
- **The Information:** directed to the local opinion leaders and authorities to receive detailed information of the project and assume the compromise to disseminate it in their groups of influence.
- **The harmonization:** as the opening of relational spaces among the actors of the process seeking that the management of the change process be a work assumed by all.

## 4. Planning the development of the services

### 4.1. The assessments and studies

The studies have as objective to generate information to give to the population in a simple way, information about the status of the services and the response capacity of the local actors to produce a change process. By doing this, the municipality will break the vicious circle of disinformation and the taboo to the access of negative results of the administration; furthermore, it will allow full access to information in order to make the decision of change based on technical and real data.

The change of the management model will have a great significance in the life of the community; not only will it give rise to important changes in the coverage and quality of the services, but in determining the tariffs to pay as well. It is because of these reasons that the decision to change and to adopt a new management model should be with the informed participation of the community.

So that the decision adopted be internalized and assumed by the Community, the process should be done in an orderly and sequential way, presenting key questions in each phase of the process, such as:

- In what situation is the service found at present and what capacity and disposition of payment does the population consider acceptable to pay for better service quality?
- What quality options are there for the locality and what are the investments and operating costs implied in each option?
- What tariffs would correspond to be charged under the different options of quality and different models of management and how viable is the capacity of payment of the population?

Seeking answers to these questions demands the elaboration of assessments and studies of different kinds, that will serve as data material and instruments for future planning. The basic assessments and studies that should be performed are:

- Legal and institutional status of the services
- Socioeconomic status of the services
- Status of the infrastructure
- Status of the service delivery
- Assessment of the financial situation of the services

### 4.2. The services development plan

A services development plan, will be elaborated and implemented on the basis of the assessments and studies. This plan will allow building a long-term development vision, identifying the investments required and the actions that should be executed to reach the established levels of quality.

The development plan establishes a projection of the growth and expansion of the services, for a specific period of time (i.e. 10 years). In its elaboration the following issues will be dealt with:

- Quality and cover of the services.
- Projection and decision of the demand.
- Programming of the investments required.
- Projection of the operating costs.
- Analysis of the tariffs and subsidie options.

### 4.3. The management model

According to our definition of management model, diverse models of management exist. These are differentiated among themselves by the actors that participate in the water and sanitation services delivery and the roles that these assume in relation to the service. The basic roles assumed by the actors that define a management model are the following:

- Who is the owner of the infrastructure?
- Who fixes the quality and price of the service?
- Who delivers the service?
- Who supervises the quality of the service?

- Who oversees the service delivery?
- Who does the investments?

In the municipal traditional model, the municipality assumes all the roles and the community is a passive actor in the process. In the new model of management, other actors enter to aid the municipality and assume partly or shared these roles.

**The election of a new management model**

The process for the election of the new model of management should be done in an orderly and sequential way, in order to guarantee the solidity and legitimacy of the agreement.

The election of the new model of management –that will be presented afterwards for consultation to the population– is an interactive exercise between the consultants with the municipal authorities and leaders of the community. The modeling should be carried out in sequential workshops.

At the end of the workshops, the authorities and leaders should have made a decision on all of the issues indicated in the following table, to be taken to the community for consultation.

Issue	Decision to make
<b>SO</b>	<ul style="list-style-type: none"> <li>o Private (commercial or communitarian)</li> <li>o Mixed (municipality with commercial or communitarian partner)</li> <li>o Origin (local, regional or national preference)</li> </ul>
<b>Contract</b>	<ul style="list-style-type: none"> <li>o Risks to be taken by the SO (O&amp;M, commercial, investments, etc.)</li> <li>o Term of the contract</li> </ul>
<b>Price and quality</b>	<ul style="list-style-type: none"> <li>o Service quality (continuity, pressure, modality, etc.)</li> <li>o Price associated to desired quality</li> <li>o Way of payment (flat tariff, increasing by blocks, etc.)</li> </ul>
<b>CBS</b>	<ul style="list-style-type: none"> <li>o Way to organize it</li> <li>o Responsibilities and attributions</li> </ul>

## 5. Incorporation of the specialized operator

### 5.1. The Special Municipal Committee (SMC)

To start the process of incorporation of a SO, the Municipal Council approves the delegation of the services delivery to a third party, and the creation of a Special Municipal Committee (SMC) to carry out the process.

In the promotion process of a SO, there exist several critical factors of success:

- That the scheme proposed by the SO makes sense considering the local conditions.
- That there are no unnecessary barriers to the access of the potential SO.
- That there are clear rules that regulate the contract with the Municipality.
- That there will be transparency in the process of selection and contracting of the SO.

The Municipal Council places its confidence on the SMC to conduct the promotion process, and delegates on it its responsibility of reaching a successful agreement.

#### *Purpose and conformation of the SMC*

With the aim of facilitating the learning and application of norms and procedures in respect to private investment promotion, the Peruvian norms enforces the creation of a Special Municipal Committee (SMC) that will take care of all the process of recruitment, promotion, selection and contracting of the SO, and will act as a counterpart to consultants or advisors that the Municipality hires for this purpose.

Although the SMC will assume an administrative role, experience has shown that the incorporation of people who do not belong to the Municipality into the SMC (users of the local service), has contributed to give transparency to the process of selecting the SO.



Observing this good practice, it is recommended that the SMC consists of 3 to 5 members, including opinion leaders of the locality who are committed to the change process, being advisable to have gender equity in the selection. The other 2 to 3 members should be high ranking municipal officers, in order to facilitate access to the administrative system of the Municipality.

#### *Training of the SMC*

The consultants, advisors and municipal officers involved in the process should prepare the members of the SMC in the following topics:

- Legislation in matter of promotion of private investment
- Legislation in matter of water and sanitation services
- Principles and basic concepts on the participation of the private sector
- Contesting, administrating and evaluating technical and economic proposals process
- Communications
- Accountability

## 5.2. The municipal ordinances

The purpose of the municipal ordinances is to implement the new social agreement, being the Municipality the legal responsible of the services of its jurisdiction. By the emission of four basic ordinances, the Municipality institutionalizes the civil participation through the Community Board of Supervision (CBS) of Public Utilities of the Locality, establishing the duties and rights of the users and of the Specialized Operator, formalizing the tariffs and service quality agreed by the community, and establishes a procedure for the observation of claims in defense of the users' rights.

The promulgation of the four basic ordinances is fundamental in order to promote the participation of private investment in the water and sanitation services of the locality, as it establishes the rules by which the Specialized Operator should deliver service.

## 5.3. The tender documents of the process

According to the legal norms in force in matter of promotion of private investment in Peru, the tender documents of the processes of promotion are the ones that regulate all the procedures to select and contract the SO. With the exception of the norms that regulate the concessions, the legislation establishes basically that the SMC should promote free competition.

It is important that the tender documents make sense to the local uses and costumes of the community and that they do not set barriers to the access of the bidders, and that these documents establish objective criteria of qualification and competence.

After correcting some barriers of access that were detected in the first documents, the tender documents of the processes used in the STPP had the following structure:



1. General dispositions
2. Requirements of the bidders
3. Selection criteria
4. Requirements to sign the contract
5. Procedure rules of the process
6. Obligations of the winner after signing the contract
7. Calendar

## 5.4. The services delivery delegation contract

### *Type of contract*

Considering that a great variety of contracts exist (concession, leasing, management, services, BOT, etc.), with subtle differences in some cases and marked in others, and whose denomination generates confusion in the population making the communication process difficult, it is advisable to use a generic denomination of the contract between the municipality and the SO. Calling it "contract of delegation of the water and sanitation services delivery" is a flexible and comprehensive denomination that allows transferring different risks to the SO according to the reality and needs of the services.

### *Legal basis of the contract*

In Peru, the delegation contract is governed by the dispositions of the Civil Code, the Law of Bases of the Decentralization, the Organic Law of Municipalities, the Framework Law for Promotion of the Decentralized Investment, the General Law of the Water and Sanitation Services, and their bylaws.

Article 179° of the bylaws of the General Law of Water and Sanitation Services, establishes the minimum content of the contracts celebrated by the municipality and a SO.

## 5.5. The promotion process

Upon promoting that the municipalities in the small towns replace the model of direct service by a model of delegated services, it is important to take into account the existence or not of an offering of SO in the country, since their non existence implies a need to develop this market.

The objective that is pursued with the promotion of SO is to interest the local or regional businessmen, professional and technicians to respond to the invitation of the municipality to delegate the water and sanitation services delivery to the SO.

For the SO promotion process, multiple factors exist to consider, but the fundamental thing is to bear in mind that for a successful Public-Private-Social Partnership, a strong political commitment is necessary, so that all the process develops considering a commercial orientation of the service, as well as the search of equilibrium between users and SO with justice and equity.

It is important that the SMC understands that there are many diverse interests in the topic, and that each actor has its own agenda:

- **Government:** to improve the infrastructure and quality of service to a reasonable cost.
- **Investors:** to optimize and to maximize benefits to the smaller risk and in the smaller time limit.

- **SO:** to maximize its benefits assuming the smaller contractual risks.
- **Financial sector:** to minimize risks, maximizing benefits while diversify its investments.
- **Users and consumers:** to supervise they get the best service for the smallest price.

### *The profile of the specialized operator*

The profile of the SO that was initially diagramed in the STPP, considering that no previous experience existed in Peru, was:

Never the less, the results were interesting, because in the majority of the cases the SO corresponded to the profile foreseen for the segment from 10.001 to 20.000 inhabitants. The reason was that they were also interested in smaller scale operations where a nearby potential small town could exist; and also because the local entrepreneurs could have enough resources to undertake a bigger operation than was originally thought.

### *The prospect for SO*

Having defined an initial profile for the SO, in accordance to the new management model design, the next step is to look for potential bidders that would satisfy this profile. To do so, the following steps should be taken:

- 1° Identify the candidates that could satisfy the profile.
- 2° Carry out information meetings with the potential candidates.
- 3° Request expressions of interest of the potential candidates.
- 4° Carry out working meetings with those that have expressed interest to know their perception of the risk and their demands to participate.

### *The criteria and exigencies for the selection of the SO*

In general, every private investment process will have inefficiencies. The key for the market to correct the inefficiencies of the process is to generate competence.

## Specialized Operator Profile

### Segment: 2.001 to 10.000 habitants

- Professionals or technicians of the sector
- User cooperatives
- Local merchants
- NGO

### Segment: 10.001 to 20.000 habitants

- Professionals or technicians of the sector
- Local businessmen
- Consultant companies

### Segment: 20.001 to 30.000 habitants

- Professionals or technicians of the sector
- Consultant companies
- Construction companies
- Local and regional businessmen

### ***The criteria and procedures of selection***

To establish the criteria of selection the following question should be formulated: What is wanted of the people that will be selected to compose the SO that the municipality will hire?

The following factors can be used as selection criteria:

- Experience in delivering public services or in some activity linked to the chain of value of the service (personal and institutional).



- Financial capacity to cover the demand of working capital and some short time credits.
- Moral reliability.
- Of local or regional origin, as it may have been decided.

After verifying the compliance of the criteria by the bidders the following question is put forth: Having two or more bidders satisfies the criteria of selection, to who should we give the contract?

Tested different options that varied sensitively in their degree of complexity and subjectivity, it was concluded that the best factor of competence to award the contract would be the percentage of the billing or collection that the bidder offers to contribute to the Investment Fund. This factor is easy to calculate by the potential bidders, as well as transparent and simple to calculate.

### ***The case of the tariffs and investments as factors of competence***

The theories on the participation of the private sector in public services advise that the better factors of competence are: the



smaller tariffs and/or the bigger investment commitment. In the case of the small towns of the STPP, where the tariffs were established previously with scarce historic information, where the billing is based on the micro metering, where the potential bidders do not have the necessary technical capacity to do their own tariff and price calculation, and where it costs a great communication effort so that the population accepts the new tariffs, it was considered unpractical to use the tariffs as competence factor.

Regarding the investments, given the profile of the potential SO, its low financial capacity and its low knowledge on the business of water and sanitation services, it was considered that the investments that the SO could carry out would have a marginal importance regarding the needs of investment, motive by which this factor of competence was rejected.

### ***The promotion of specialized operators***

#### ***The promotion of SO***

Having the profile of the SO that it is looked for and the tender documents, the SMC should proceed to identify, locate and get in contact with the potential bidders.

Enforcing the practice of promotion that the STPP recommends in the recruitment of potential SO, this should be done amongst professionals or technicians that in some way would have been linked to the provision of water and sanitation services, or linked to its supply chain, and to give sufficient time for them to interest local entrepreneurs for the needed investments.

In all the groups that presented themselves as bidders in the STPP processes, there was always one person that came from:

- Municipal area of water and sanitation services.
- Municipally owned water and sanitation enterprises of middle size localities.

- Sub-contractors of the municipal enterprises.
- Water and Sanitation Associations that attend the rural services.

Eventually, to be able to generate greater competence, it could be the SMC who in a transparent way facilitates spaces of encounter between technicians and investors so that they associate and present as bidders.

In a process of this type, particularly in the localities of the rank from 2,000 to 5,000 inhabitants, special care should be given to the fact that potential bidders have all the concepts clear and that they understand all the available information that would allow them to analyze their continuance in time as SO.

#### ***The SO selection process***

From the call for proposals to the date of reception it is recommended to carry out three meetings with the potential bidders, to provide the pertinent information of the project and its objectives, the information on financial and technical projections of the service and of the potential market, besides personalized advice on the adequate presentation of the required documentation.

- ***First meeting:*** To be carried out in the first three days of the call for proposals, and has as purpose to interest to the objective public to buy the tender documents.
- ***Second meeting:*** It should be carried out three days before the closing time for answering questions in regards to the content of the tender documents.
- ***Third meeting:*** It should be carried out three days before the proposed presentation date. The purpose of the meeting is to offer technical assistance to fill in the forms of the proposals to give the bidders confidence that their proposals will not be disqualified because of formal issues.

## 6. Capacity building

One of the main challenges that the change of the management model has is to achieve the sustainability of the services. From the economic, social and institutional point of view, it is the full adoption of the actors of their new roles, and the development of new skills of technical, entrepreneurial and social management. This would allow them to reach superior levels of performance in the management of the services and implies a substantial rupture with the traditional municipal model.

For such effect the change of the management model should go articulated strategically with a capacity building process in a progressive but intensive way for the three actors involved. Its purpose is not to transmit or fixate new knowledge, skills or techniques, but must go beyond that in order to change attitudes that promote new patterns of conduct, rational and predictable; consequently, incorporating a shared vision of the development of the services in the locality.



# 7. Sustainability of the new model

## 7.1. The future challenges

Until the quality and coverage of the services is not in adequate conditions, and it has not passed the test of time (maintaining adequate standard of efficiency and quality), the new management model will be in risk of being reverted by the following local administration. The risks that the new management model could face until its stabilization are the following:

- The short time expectations: Generation of high expectations that in the short time will not be able to be satisfied, which generates a climate of tension that weakens the political support to the new management model.
- The traditional political influence: Inclusion in the municipal electoral agenda of the issue of the new model in an adverse way. This can be done by Mayors with lack of leadership or weak base organizations support. Mayors with political ideology against private participation or propose that water should not be charged for. Mayors that do not know the sector laws and sustainability concepts.
- Institutional weakness of the local government: Delay in obtaining resources for the execution of investments due to little transparency in the selection process of the SO that generate doubts on their legitimacy. This can be seen in new Mayors that are not residents of the locality and do not know the social process behind the change of management model, or that come from the rural areas of the municipality.
- Weakness of the specialized operator: Little response capacity of the SO due to a deficient training or inadequate calculation of tariffs that do not keep the economic and financial equilibrium of the service.

All these risks can be prevented from the start with a well conducted change process, with the adequate technical distance and backed-up with consistent and stable sector policies, fully communicated to the new local authorities.

## 7.2. The stability assurances

The assurance for the stability of the new management model during the life span of the contract with the SO has 3 dimensions (social, economic and legal) that should be foreseen in the contract.

### *Social assurances*

In the contract with the SO, a clause should be included that specifies that any fundamental change in the contract (time limit, reaches, goals, tariffs, etc.), should be submitted to civil consultation or treated in public audience. Besides the contract should include the formal intervention of the Community Board of Supervision (CBS) in the mediation between municipality and SO, as a prior step to any process of arbitration or court among the parts.

### *Economic assurances*

The contract with the SO should include a clause where the unilateral resolution of the contract by the municipality, without existing causal for it, should generate in favor of the SO an



economic compensation. This clause should prevent new municipal authorities from impulsive actions, giving them time to analyze the situation of the services, the background and its possible implications.

### **Legal assurances**

The contract with the SO should include a clause that specifies the legal dispositions about the need of having the prior opinion of the National Sector Authorities before proceeding with the



resolution of a contract with a SO in small towns. Also, in the clause on arbitration, it would be advisable to establish a procedure of arbitration seeking the intervention of the the Regional Sector Authorities, to be able to include referees with knowledge of water and sanitation services.

### **7.3. The role of the tripartite commission (TC)**

In order for the new management model to work, it is not enough to have the 3 actors (municipality, SO and CBS) together and linked by the contract between the municipality and the SO. They should have a mechanism to dialogue and coordinate that is institutionalized. This entity should be the Tripartite Commission (TC), formalized by the municipality, in order for them to deal with the every day issues of the water and sanitation services of the locality, and generate proposals to be taken into account by the municipality, the users of the service and the shareholders of the SO. In some level, the decisions of the TC should be binding, so that the problems of the water and sanitation services can be quickly dealt with. It will be the responsibility of the municipality to determine which functions of the administration of the contract could be given to this entity.



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at Lima/Peru in May, 2008  
bbv-nael@terra.com.pe  
bbvnael@gmail.com





**Programa de Agua y Saneamiento  
Región América Latina y el Caribe**

Oficina Banco Mundial, Lima.  
Alvarez Calderón N° 185,  
San Isidro, Lima 27, Perú

Teléfono: (511) 615-0685

Fax: (511) 615-0689

E-mail: [wspac@worldbank.org](mailto:wspac@worldbank.org)

Sitio Web: <http://www.wsp.org>