



Developments on Temporary Hiring in the Public Sector 2015-2016: Working Paper

November 2016

Introduction:

In line with its position and recommendations concerning rationalization and austerity in government expenditures, the Coalition for Integrity and Accountability-AMAN's conducted a diagnostic study in the past few years to examine the issue of temporary hiring in the public sector, whether in appointing regular employees or consultants and advisors.¹ AMAN also prepared a second research paper entitled "Integrity and Transparency in Temporary Contracts of Experts and Consultants".² Conclusions and recommendations reached by both reports indicated to a set of problems and gaps concerning the issue exemplified by the following:

1. Lack of clarity in the legal reference for contracting consultants and experts.
2. Weakness in funders' monitoring and control mechanisms in the area of appointments.
3. The absence of a reference body to regulate the contracting processes.
4. Decision makers and centers of responsibilities' weakness in abiding by laws, decisions, and systems governing the issue of contracts.
5. The weakness of the principles of transparency and accountability mechanisms in contract-based operations in line with the mechanism used.
6. Existing gaps in the area of regulating contracts provided opportunities for maneuvering laws and legislations governing the civil service sector.
7. The issue of contracts is a source of waste of public funds and a breach of the principle of social justice and equality.

AMAN suggested a number of recommendations to address the abovementioned problems, most importantly is the need to develop a legal governing environment (i.e., proper laws and legislations). It also suggested defining reference institutions in consistence with powers granted and specific competencies; and to grant the General Personnel Council (GPC) the authority over contracts including contracting experts and consultants.

Based on the above, AMAN prepared this paper to review and examine the multi-dimensions of temporary contracts including developments that may have occurred. It also wanted to learn about the destiny of the recommendations reached in the past by observing and conducting an in-depth analysis of the developments that have taken place in this regard during 2015 and 2016. And mainly to determine the extent of commitment by the relevant parties, each according to competence and powers granted, in addressing challenges whether legal, institutional, and or procedural gaps. In addition, AMAN through this research paper sought to learn about the extent by which these recommendations were taken seriously through implementation, and if transparency, oversight, accountability, and social justices constituted the bases for implantation.

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Objectives

This paper aims to document developments/changes taking place on temporary hiring mechanisms in appointing regular employees, consultants and or experts in the public sector.

Methodology:

This paper relied on an investigative type of methodology, in reviewing and updating the diagnostic results and recommendations previously reached by recording developments and changes occurring that are relevant to the paper. And also to define achievements, challenges and gaps that still exist, as well as new occurrences, development opportunities and potentials available. The methodology is based on:

1. Recording and collecting information related to the study from its various and documented sources.
2. Reviewing and updating diagnostic results of the current status in terms of progress and achievements, as well as gaps and challenges.
3. Examining and analyzing the extent of commitment by the various parties in utilizing recommendations stated in AMAN's previous reports in this regard, as well as their impact on the established hiring mechanisms.
4. Discussing and analyzing collected information that describes the current situation.
5. Formulating conclusions based on the analysis.
6. Putting forth recommendations that address problems and gaps and at the same time instill positive findings.

Contents of this paper:

Introduction and methodology; objectives; tools;

Legal framework governing the established mechanism for hiring operations;

Analysis of the diagnostic results in terms of developments and achievements, as well as existing problems and gaps;

Results and Recommendations

I: Legal framework governing temporary contracts; and developments witnessed

The Civil Service Law No. 4 of 1998, amended to become Law No. 4 of 2015 and its regulations included some provisions pertaining to those appointed in the public sector through special contracts. Article 27 of the mentioned law stipulates: “it is permissible to hold a permanent position on temporary basis in cases described in this law. In cases such as these, the same provisions which apply to permanent positions are also applied in this case taking into consideration the terms of the contract concluded with him/her.”

Article 28 stated that: “the Council of Ministers, based on recommendations by the GPC is obliged to put a system for hiring local and international experts, as well as for those who are hired for temporary or seasonal jobs.”

In addition, article 29 stated that: “the GPC must issue regulations that define procedures, control mechanisms, as well as sample contracts that would be concluded with those appointed, in accordance with the two articles mentioned above.”

Therefore, the Civil Service Law referred conditions of temporary employment as well as mechanism, procedures, and forms or sample contracts for hiring experts and consultants to the system and regulations; while assigning to the GPC the task of its preparation and obtaining approval and issuance from the Council of Ministers.

In 2005, the Council of Ministers issued its decision No (335) of 2005, concerning the system for hiring experts, temporary jobs employees, and emergency, or seasonal workers. Article 3 of the system stated that:

1. Experts with rare competencies and expertise are hired through contracts with conditions that this qualification/specialization is not found within the government department, providing that he/she are not older than 60 years of age .
2. It is permissible to hire experts that are 60 years of age or older for specific jobs, in return for a set amount of money, providing that the contract duration does not exceed the two year period.
3. Each position must have a term of reference that defines duties, responsibilities, and work conditions.

Article 4 of this system stated that: “it is not permissible to assign to experts any task that requires issuing decisions or practicing executive authority.”

Article 5 stated that: “it is the duty of a government department that wishes to hire an expert to submit all data and qualifications of the nominee to the GPC; in addition to the amount of the monthly award intended to be paid. It is also forbidden to sign a contract with an expert without approval from the GPC.”

Article 7 of the system addressed incidental or seasonal positions by stating that:

1. Appointment is permissible for emergency or seasonal positions through temporary contracts.

2. Work is considered incidental and temporary if it is not part of the government department's usual work, or due to an unusual increase in work load; and is limited to a specific period of time.
3. Work is considered seasonal if it relates to a specific job and for a specific period of time that ends by the end of that period during the same year.

Article 9 of the procedural contractual system concerning temporary contracts stipulates the following:

1. The head of the government department in coordination with the GPC issues decisions to hire experts, employees, workers for incidental or seasonal employment, and appointments for permanent positions on a temporary basis. He/she is also authorized to conclude contracts with the above-hired individual using the official form for that purpose.
2. The contract is valid for one year beginning on the first day of work, with the possibility of renewal for a maximum of an additional year.
3. The government department must confirm certificates and documents submitted by the expert after approval and verification from the competent parties.

In 2012, decision No. (03/10/14/m.w./s.f) was issued by the Council of Ministers on approval and classification of contracts concluded with experts. The Decision identified parties authorized for approval of contracts based on financial ceilings. For example, the competent minister is authorized to sign contracts that do not exceed 1500 dollars. And contracts ranging in value between 1501-4000 dollars require the signature of the prime minister, where the Council of Ministers would be the competent party to approve contracts that are above 4000 dollars. This decision was amended by the Council of Ministers Decision No. (3./27/14/m.w./s.f) of 2012 granting the prime minister full power on behalf of the Council of Ministers in approving contracts that are worth more than 4000 dollars.

And in 2014, the Council of Ministers issued Decision No. (/16/27/06/m.w./r.h) putting a stop to contracting retired civil servants. This decision was prompted by the phenomenon of hiring retired civil servants through contracts for a period of two years; a problem that needed to be addressed through a Council of Ministers decision.

It is to be noted that despite issuance of the Council of Ministers Decision No. (335) of 2005, on temporary, incidental and seasonal appointments, as well as on hiring experts and consultants, in addition to other decisions relative to the issue, many of the problems had not been addressed in that regard such as: determining and defining experts or consultants by adopting specific criteria and standards for selection; defining reasons for hiring experts in particular in order to use these set measures as standards of control for such exceptional cases. Role of each government party involved in each stage of the process also needs to be defined, especially the role of the GPC. In addition, it is vital that the principles of transparency and equal opportunity are practiced by ensuring that the post has been announced through media means, competitions are carried out, interviews conducted, and a term of reference is prepared and clear. Finally, to address the issue of

contracts concluded by funders for experts who work on projects implemented by government institutions.

Developments in legislations governing employment on temporary contracts 2015-2016

During 2015 and 2016, few decisions were issued by the Council of Ministers, these are:

- Decision No. (11/108/17/m.w./r.h) of 2016 which regulate the basis of appointing a director for the minister's office. This was one of the positions where one gets hired under a temporary contract and ends appointed in a permanent position. The decision stipulated that any civil servant employee can be commissioned by decision from the minister to assume the position of general director of the minister's office and with the same degree, providing that an adjustment in salary is made to become congruent with the new position, conditional that the this difference in salary is stopped as soon as the reason for granting it is no longer valid.
- Decision No. (05/84/17/ m.w./r.h), which governs approvals or renewals of secondments and leaves without pay. This decision addressed these two issues since these two methods constituted methods by which public employees took advantage of to take on an expert or a consultant's contract by an international funder.

Legal Provisions on temporary contracts in the Decision by Law of the Public Budget for the fiscal years 2015 and 2016³

The decision by law on the public budget fiscal years 2015 and 2016, in its article 13, paragraph 5 stated that it is permissible to occupy a permanent position under temporary contract in accordance with provision of the Civil Service Law and its regulations. However, it needs to be carried out through a work contract in exchange for a salary that does not exceed the equal amount allocated for the permanent job vacancy, providing that there is a real need for hiring. Similarly, article 6 of the abovementioned decision limited salaries for experts to a maximum of 4000 dollars conditional that funds are allocated for that purpose and with a financial statement confirmed by the general director of the public budget. IN addition, the article stated that it is only permissible if the expertise required is unavailable among public sector employees. Article 9 considered that employees and workers who are appointed by temporary contracts to work on specific projects that their contracts end automatically at the end of the project or if the project's funds have run out whichever comes first.

³ The Ministry of Finance, Decision by Law No.----of 2015 on the 2015 and 2016 public budget

Provisions relating to contracts in the draft decision by law on the amended Civil Service Law⁴

The draft decision by law of the amended Civil Service Law includes a set of new legal provisions that address the issue of temporary, experts and consultants' contracts in the public sector. Articles in the draft addressed some of the gaps mentioned earlier in this report in relations to a legal reference concerning the issue of contracts. At the same time, some texts in the Draft showed regress in the area of regulating the process of appointments by temporary contracts, hence providing opportunities for old problems to resurface anew. Following is a summary these texts:

- Paragraph 2 of Article 2, states that the law applies to employees working in government departments under temporary contracts and are on the state treasury pay roll through allocated funds listed under their departments, unless the concluded contracts state otherwise.
- Article 13, paragraph b indicated that it is permissible for government departments to hire a public sector employees on a temporary contracts through secondment or if he or she has obtained a leave without pay, all after coordinating with the GPC; providing that the law's regulations specify the details of the situation and its procedure.
- Article 13, paragraph C indicated that it is permissible for government departments to appoint experts or employees to take on temporary, incidental, or seasonal jobs through contracts, providing that the law's regulations specify the details of the procedure. However, the text also stipulated that it is important to take into consideration, while recruiting for these jobs, conditions such as announcements for the job vacancies, competitions, TOR preparation, classification of positions related to the job vacancy, and funds allocated for that purpose in the public budget; providing that the law's regulations specify the details of the situation and its procedure.
- Article 13, paragraph D indicated that it is permissible for government departments, whose competence has been approved by the Council of Ministers, to appoint replacements for employees that are legally unable to be at work (i.e., absent due to circumstances beyond their control) and who remain on the pay roll receiving full or part of their salaries during their leave; providing that the law's regulations specify the details of the situation and its procedure.
- Article 22 of the Draft Decision addressed appointments of the Prime Minister's staff including advisors other than legal advisors through temporary contracts only, noting that it is not admissible to appoint them to permanent jobs; conditional that their contracts are terminated at the end of the minister's or head of non-ministerial institution's term of service, regardless of reasons. This is conditional that details of the job description, and all that relate to salaries, rewards, leaves, privileges, rights, duties, and conditions for termination of contracts is governed by the executive regulations.
- Article 23 stated that it is permissible to occupy the position of the head of non-ministerial institution through a temporary contract for a period not exceeding 4 years; taking into account conditions for assuming this position, ensuring that the executive regulations govern all aspects of the assuming the job such as: contractual mechanisms, rights, privileges, salary, rewards,

reimbursements for travel and other work activities, duties and commitments required of the one being contracted.

- Article 67 allowed secondments of employees to work on projects that are implemented by or in the interest of a government department, and is financed by funders providing that the employee seconded is not assigned tasks that are related to the relevant department.

Accordingly, the proposed Draft Decision on civil service points to some trends related to temporary hiring that are not stated in the current Civil Service Law. These trends are exemplified by the adoption of the principle of temporary contracts for hiring staff in offices of the prime minister and ministers including personal advisors; where contracts of all those connected to the prime minister and ministers are terminated with the end of the minister or prime minister term in office, and for any reason. This legal text intends to end temporary appointments that turn into permanent positions providing that all obligations contained in this area are met. Similarly, this applies to appointing heads of public non-ministerial institutions, where the Draft Decision indicates to the possibility of assuming such positions through temporary contracts for a maximum of four years. All of the above is intended to codify this aspect and reduce waste of public funds, if the appropriate criterion determining financial rights and privileges of these positions is put in place. Moreover, the new Draft Decision by law allows for secondment (i.e., borrowing) of employees to work on projects financed by funders and implemented by government institutions. This will provide control and clear standards in this area as an alternative to circumventing the law by some individuals.

Status of the appointment process of temporary contracts

Hiring Experts and consultants

Data received from the GPC indicates that the number of experts and consultants' contracts financed by the public treasury in 2016 reached 77 contracts. Financial ceilings for these contracts ranged from \$1501-\$4000 per month. In addition, there were 59 other contracts that were financed by outside funders, two of which exceeded the \$4000 dollar limit. This means that there is an increase in the number of these contracts from 42 contracts in 2013, to 77, in 2016.

| No. of employees /Experts' hired through temporary contracts with salaries ranging from \$1501-\$4000 and from \$4001 and above | | |
|--|---------------|------------------|
| Ministry | \$1501-\$4000 | \$4001 and above |
| Financed by the public budget via MoF | | |
| The Palestinian National Fund- Apartheid Wall and colonization | 2 | 0 |
| The West Bank Water Department | 1 | 0 |
| The Prime Minister Office | 8 | 0 |
| Ministry of Health | 6 | 0 |
| Ministry of Women's Affairs | 1 | 0 |
| External Funding | | |
| Shari'a Courts (Islamic) | 1 | 0 |
| Land Authority | 0 | 1 |
| Energy and Natural Resources Authority | 3 | 0 |
| The Palestinian Water Authority | 38 | 0 |
| Ministry of Higher Education | 15 | 1 |
| Total | 75 | 2 |

Source: The General Personnel Council, General Administration for Appointments, Ramallah, 2016

Information received from some official institutions indicated that there are experts and consultants' contracts that are not included in the GPC's data. In this regard, Mr. Rami Odeh, Supervisor of Administrative Affairs at the General Prosecution (GP), stated that there are four contracts borne by projects financed by external funders in the GP.⁵ What Mr. Odeh means is that there are contracts concluded by institutions or funders that are not registered at the GPC, which indicates that government departments do not always provide the GPC with full information related to temporary contracts.

⁵ Interview with Mr. Rami Odeh, Supervisor of Administrative Affairs at the General Prosecution.

Temporary, incidental and seasonal contracts

The number of temporary contracts/appointments for the period of 2013-2015 seems to be relatively stable, according to data received from the GPC. In that regard, the number of contracts for 2013 was 1990, while in 2014, it slightly declined to 1748 contract, going back up to reach 1956 contract in 2015*. Most of these contracts represented appointments at the MoH with 193 contracts; while the Ministry of Awqaf had 120; the Higher Council for Youth and Sports had 146, and the Ministry of Social Affairs (MoSF) with 98 contracts.⁶

Appointments through temporary contracts for 2013-2015

| Year | New contracts | Renewed contracts | Terminated contracts | total |
|------|---------------|-------------------|----------------------|-------|
| 2013 | 509 | 1481 | - | 1990 |
| 2014 | 606 | 1582 | 404 | 1748 |
| 2015 | 208 | 1748 | | 1956 |

Source: The General Personnel Council's annual report, 2013-2015, p. 99.

According to government departments' formation table for 206-2018 positions, the departments' needs for temporary hiring were estimated at approximately 1515 contracts/appointments divided over three years, in addition to 376 contracts for day labors. This indicates that the issue of contracts has not been addressed despite decisions issued by the Council of Ministers on rationalization in this area (mentioned earlier); or decisions related to granting priority to employees appointed by temporary contracts for jobs that come up and permanent positions that are in-line with the formation table.

In 2015 and 2016, several decisions were issued by the Council of Ministers that aimed at rationalization of temporary contracts some of which are listed below:

- Decision No. (17/68/17/m.w/r.h) of 2015 calling for the reduction of 15% of job allocations for government departments that were neither filled nor assigned to the Ministry of Education, with the exclusion of the Ministry of Health from this decision.
- Decision No. (04/115/17/m.w/r.h) of 2016 calling for the reduction of 50% from jobs and contracts/appointments allocated for 2016, that have not been occupied and are illustrated in the formation table in its second term 206-2018, in all government departments with the exception of the MoE and MoH.

*the 2015 adopted formation table indicated that the no. of temporary contracts for 2015 reached 1776, according to the MoF.

⁶ The General Personnel Council, annual report 2013-2015, p. 105. Also look: Nasr Abdl-Akareem, report on areas of rationalization in government spending, AMAN. Ramallah 2015, p.32.

Temporary contracts procedures; extent of adherence in implementation:

The GPC adopted a number of procedures that aim at enhancing the principles of transparency and integrity in hiring through temporary contracts in terms of commitment to advertizing for job vacancies, and conducting competitions, and interviews for example. Procedures also required the commitment to terms of references. And to limit wasta, and nepotism practices, as procedures prohibited appointing first degree relatives within the same department stated under the item “contracts” in the budget.⁷

In compliance with the Council of Ministers Decision No. 45 of 2005 on the executive regulations for the Civil Service Law, the MoF in coordination with the GPC and interested government departments is currently studying the yearly needs of government departments in terms of jobs, including temporary positions. It is also considering allocation of funds for these jobs before including them in the formation table, after the budget is approved and within a period not exceeding three months.⁸

Limitations in the application of temporary contract appointments and day-laborers contracts:⁹

- The need to adhere to updating temporary positions under the two items of temporary contracts and day-laborers’ jobs, in consistence with the justified needs approved and ratified in the job formation table. And to also avoid appointing by any means or for any purpose outside the formation table, noting that it is inadmissible to appoint on any account other than that allocated for salaries and wages in the public budget.
- The need to refrain from hiring on temporary contracts those jobs that are considered permanent.
- It is important to coordinate with the GPC before appointing temporary contract employees to permanent positions, noting that it is mandatory that they be in-line with the government department’s needs as well as recommendations of the Higher Committee for Job Formation Table.
- It is important that appointments of temporary contracts are limited to day-laborers and service-jobs only.

In the framework of monitoring and control over temporary contracts hiring operations, Mr. Jaffal Jaffal , General Director of Legal Affairs at the State Audit and Administrative Control Bureau (SAACB), referred to compliance of public institutions to the provisions of the regulations governing hiring on temporary contracts by saying that control is applied on the appointment process in terms of advertising job vacancies and requirements needed. He added that it control is also exercised on compliance of the advertisement’s conditions with the term of reference for the job, in addition to the nomination process, competition, and tests conducted in this regard. Jaffal said that the SAACB is aware of and had addressed the Council of Ministers concerning secondments, and leaves without

⁷ The General Personnel Council’ annual report 2013-2015 p. 105.

⁸ The General Personnel Council, formation table for jobs in the government departments in 2015, pages.13-14

⁹ Same source.

pay, used at times to circumvent the law in hiring consultants and or experts. It was based on this that the Council of Ministers issued the Decision No. (50/84/17/m.w/r.h.) of 2016, which regulates approvals of requests for granting or renewal of secondments and leaves without pay.¹⁰

The 2015 SAACB report points out a number of legal violations and encroachments related to temporary contracts, some of which are listed below:

- Violation of article 27 of the Civil Service Law No. 4 of 1998 and its amendments, represented by the appointment of a number of employees in the various ministries through temporary contracts. Noting that the majority of the concluded contracts do not comply with provisions governing contracts for occupying temporary, incidental, or seasonal posts, hence violating the Council of Ministers' Decision No. 355 of 2005 in terms of the purpose temporary contracts were established, which in essence not only it does not concern hiring experts it also not included under incidental, temporary or seasonal hiring.
- Seconding (lending) government employees to work on projects that are funded by donors and implemented by government departments and public institutions.
- Absence of terms of reference for some jobs granted under an expert's contract, that stipulates duties, responsibilities, and work conditions required for the job.
- Some ministries have renewed temporary contracts for more than two years, which is in violation of the Council of Ministers' Decision no. 355 of 2005.
- Amounts paid for the same job title differ from one ministry to another although contracted under temporary hiring. This is due to or in addition to the absence of specific and approved criteria for determining the value of these contracts.
- Some ministries and public institutions have continued to pay salaries for some employees on temporary contracts even after they have died, since no measures were taken to settle their affairs.
- Some contracts were concluded post expiration date of the designated work period (i.e., dates for starting and ending the job period precede the date of preparing and approving the contract). On the other hand, some contracts were concluded before financial allocations are secured in the public budget.
- The existence of employees (hired on temporary basis) who are on the MoF pay roll without a concluded contract as specified by provisions of the Council of Ministers' Decision No. 355, of 2005.
- Some ministries have yet to furnish the GPC with their yearly needs of experts, incidental, and seasonal job employees within the deadlines stipulated in Decision No. 355 of 2005.
- Lack of commitment by some ministries and public institutions to submit to the GPC all data, conditions, and expertise desired in potential experts nominated for certain positions.

¹⁰ Interview with Mr Jaffal jaffal, General Director of Legal Affairs at SAACB, on September 8, 2016.

Problems related to temporary contracts

Despite the issuance of decisions by the Council of Ministers to address gaps and problems related to temporary contracts/appointments, some legal and practical problems remain unresolved such as those related to appointing general directors to ministers' offices or regulating procedures for approval of secondments and leaves without pay. This is due to the facts that until to date, no comprehensive decisions have been issued that fully address these issues; the most prominent problems that can be highlighted in this regard are:

- **Neglecting to address the regulating aspect which differentiates between experts' contracts, on the one hand, and contracts for seasonal and incidental jobs on the other hand, in addition to employees appointed in permanent positions under temporary contracts, from a third aspect.**¹¹

Existing legal provisions do not clearly differentiate between contracts procedures for "experts" and those hired for seasonal or incidental jobs, or employees working in permanent positions under temporary contracts. Experts, as defined by article 3 of the system are those individuals that possess rare expertise and specializations that are not found in any government institution, and hired under a contract that is limited to no more than two years. On the other hand, the same article specified that seasonal and incidental workers are those appointed for an emergency situation such as a replacement for a permanent employee who is on a long leave as pregnancy leaves for example, where the employment period is limited until the employee on leave returns.

In that regard, it is vital that the appointment mechanisms for the three classifications mentioned be different from one another. For instance, strict measures need to be taken in regard to experts' appointments in terms of announcing the job vacancy and detailing qualifications needed in the "expert". While seasonal and incidental jobs such as hiring a substitute teacher or a concierge for example require quick appointments at times, hence measures need to be flexible without infringing on the values of integrity, principles of transparency and systems of accountability.

- **Continuing to apply the policy of appointing permanent employees under temporary contracts**

Gaps in system No. (355) of 2005 are presently being exploited by hiring experts under temporary contracts in government/public positions listed in the job formation table as permanent positions, which is a violation of the Civil Service law in this regard. The law only dealt with two types of appointments; the first category dealt with the experts, and the second was related to those who carry out temporary and incidental jobs. Therefore, the system was issued to compensate for the missing provision in the law mentioned.

¹¹ Factual Paper on Temporary Contracts, AMAN 2016.

In practice, often an employee who was hired on temporary basis remains in his/her job for many years, which becomes obvious that he/she was not hired for a temporary job, but rather for a permanent position listed on the official formation table. This illustrates pure manipulation of the system. In this regard, the Council of Ministers had issued a decision years ago, which is renewed every year, stating that upon availability of a permanent positions priority is to be given to individuals working under temporary contracts. This priority is conditional, according to article (1) of the Decision, which emphasized that such employees' qualifications must be in line with conditions required for the available public positions and the official job formation table. Article (2) of the same Decision stipulated that competition must remain internal, hence denying the average citizen from his right to compete for these positions. This constitutes a clear violation of the principle of competition and equal opportunity.

- **Employees' salaries working under temporary contracts are still high when compared to their counterparts' salaries in the civil service:**

It is plainly clear that employees working under temporary contracts are paid much higher salaries than their counterparts in the civil service. This prompted many of the civil service employees to seek approvals for a secondment or leave without pay in order to be contracted on temporary basis. And despite article 10 of the experts' employment system, which emphasized the inadmissibility of granting a local expert, who previously worked in the government sector, more money than he/she earned in his/her previous job including privileges and financial rewards, this provision only applies to employees who previously worked in the government sector. Moreover, the Council of Ministers' Decision issued in 2012 concerning ratification of mechanisms for contracting experts defined official parties for approving contracts in addition to stating that approval must be in consistence with financial ceilings exceeding four thousand dollars a month, hence allowing for those hired under those contracts to be paid four thousand dollars or more.

- **Hiring retired employees**

Despite issuance of the Council of Ministers' Decision No (/16/27/06 m.w./r.h) concerning putting a stop to hiring retired civil service employees, some cases of such hiring were carried out, hence violating this decision. This violation is exemplified by the hiring of some employees under temporary contracts who were previously granted early retirement, which implies that their referral to retirement was with the aim of rehiring them under temporary contracts. Moreover, this is further confirmed considering the privileges enjoyed by these employees, which exceeds privileges enjoyed by employees who hold permanent positions. This demonstrates the collusion between official parties to serve certain people.

- **Failure to comply with many of the procedural provisions included in the system of hiring experts:**

Lack of compliance to procedural provisions included in the system of hiring experts is exemplified by the following: 1.the inadmissibility to entrust to the expert any competencies related to decision making or to exercise executive powers; 2. the issue of appointing experts without a job description that specifies duties, responsibilities, and work conditions; 3. Lack of

commitment to obtaining approval of the GPC in appointing experts; 4. The issue relating to government departments not submitting their yearly needs list in terms of local and or international experts, and workers to carry out seasonal and incidental jobs.

- **Increase in the number of temporary contracts**

Despite the Council of Ministers issuance of a number of decisions concerning the following: rationalization in temporary contracts; to focus these appointments in the area of services; to give priority of permanent positions to individuals working on temporary contracts, the various government departments until today continue to appoint by temporary contracts and day-labor hiring to meet their needs, same as before. In addition, it is worth noting that the GPC also had developed numerous controls during the last period to regulate temporary contracts as well.

- **Lack of clarity in data concerning temporary contracts**

Despite data available at the GPC, ambiguity surrounds the size of temporary contracts, indicated by the inconsistencies of the numbers given regarding this phenomenon. In addition, hiring experts and consultants is carried out without involvement or consultations with the competent parties whether in terms of procedures, salaries, official privileges, or duties and responsibilities; it is the donor who is in control of all these aspects.

Recommendations:

- It is important to put in place comprehensive legislations to address all issues related to temporary appointments whether incidental, seasonal, or day-laborer jobs; or contracts for hiring local or international experts and consultants. This applies to identifying needs, required qualifications, hiring procedures, rights, duties, or reference bodies etc. in order to be free of the texts and provisions issued in the framework of laws and regulations by the Council of Ministers, hence closing gaps and other troublesome issues contained in them.
- To clearly distinguish between legal provisions governing contracts for appointing experts and consultants and those for hiring workers in incidental and seasonal jobs by addressing legal gaps in this area, since these gaps have often been used for overriding provisions of the Civil Service Law or circumventing it.
- To develop clear and specific standards for temporary hiring and contracts, as well as specific ready to use forms/models for documents such as (contracts and terms of reference) to include conditions, commitments, rights, and privileges for each appointment. This is especially needed in order to prevent disparity between these appointments whether in terms of work duties and or salaries; and to ensure strict application.
- To stop the policy of appointing employees on temporary contracts in permanent positions on grounds that it represents one of the major methods to circumvent the Civil Service Law in recruitment. It also an encroachment on the principles of transparency, integrity, and equal opportunity in occupying public positions.

- Competent parties (MoF, GPC, SAACB) need to tighten control on procedures related to temporary contracts in order to ensure compliance with the adopted standards and conditions. It is also important to stop abuses indicated in the SAACB report in this regard.
- Commitment by all parties to provide the SAACB with the specific data concerning temporary contracts in order to determine the precise size of this phenomenon; and to develop policies and plans to address existing gaps.

**Annex: Temporary and day-laborers contracts as recorded in the government departments'
formation table of 2015 and 2016-2018**

| No. | Institution | Contracts according to the formation table 2015 | Day-laborer's Contracts according to the formation table 2015 | Actual contracts in 2015 | Contracts according to the formation table 2016-2018 |
|------------|---|--|--|---------------------------------|---|
| 1 | Ministry of Education | 120 | 20 | - | 1124 |
| 2 | Ministry of Health | 150 | 50 | 350 | 50 |
| 3 | Ministry of Information and Media | 1 | 0 | 4 | 0 |
| 4 | Ministry of Culture | - | - | 10 | 1 |
| 5 | Ministry of Women's Affairs | 4 | 0 | 3 | 3 |
| 6 | Ministry of Tourism and Antiquities | 8 | 0 | 16 | 3 |
| 7 | Ministry of Agriculture/Agricultural Credit Corporation | 0 | 0 | 7 | 14 |
| 8 | Ministry of National Economy | 0 | 0 | 18 | 2 |
| 9 | Ministry of Public Works and Housing | 5 | 25 | 8 | 15 |
| 10 | Ministry of Local Government | 4 | 2 | 13 | 0 |
| 11 | Ministry of Interior | 0 | 3 | 25 | 0 |
| 12 | Ministry of Social Affairs | 0 | 0 | 50 | 4 |
| 13 | Ministry of Labor | 12 | 1 | 35 | 9 |
| 14 | Ministry of Communications and Information Technology | 13 | 0 | 22 | 1 |
| 15 | Ministry of Finance and Planning | 17 | 5 | 20 | 40 |
| 16 | Ministry of Foreign Affairs | 13 | 10 | 0 | 2 |
| 17 | Ministry of Transport and Transportation | 8 | 8 | 1 | 15 |
| 18 | Ministry of Justice/ Palest. Judicial Institute | 15 | 7 | 21 | 17 |
| 19 | Ministry of Awqaf and Religious Affairs | 0 | 9 | 112 | 10 |
| 20 | Ministry of Jerusalem Affairs | 2 | 0 | 9 | 2 |
| 21 | President's Bureau/Office | 14 | 0 | 22 | 8 |
| 22 | Prime Minister's Office | 10 | 0 | 42 | 10 |
| 23 | General Secretariat of the Council of Ministers | 4 | 0 | 3 | |
| 24 | General Personnel Council | 5 | 10 | 24 | 30 |
| 25 | Political Prisoners Commission | 7 | 3 | 7 | 2 |
| 26 | House of Fatwa (Islamic) | 1 | 2 | 2 | 1 |
| 27 | Water Authority/Water Department | 7 | 11 | 80 | 7 |

| No. | Institution | Contracts according to the formation table 2015 | Day-laborer's Contracts according to the formation table 2015 | Actual contracts in 2015 | Contracts according to the formation table 2016-2018 |
|-----|--|---|---|--------------------------|--|
| 28 | Civil Society Organizations Commission | 10 | 1 | 10 | - |
| 29 | Environment Quality Control | 4 | 0 | 12 | 2 |
| 30 | Energy and Natural Resources Authority | 0 | 1 | 0 | 1 |
| 31 | Investment Promotion Agency | 1 | 0 | 1 | 1 |
| 32 | Industrial Property Authority | 1 | 0 | 8 | 0 |
| 33 | Palestine Standards Institution | 15 | 3 | 5 | 0 |
| 34 | Wafa News and Information Agency | 9 | 0 | 11 | 7 |
| 35 | Palestinian Central Bureau of Statistics (PCBS) | 0 | 0 | 3 | 2 |
| 36 | State Audit and Administrative Control Bureau | 10 | 0 | 1 | 0 |
| 37 | General Authority of Civil Affairs | 7 | 0 | 9 | 4 |
| 38 | Abdullah Al-Hourani Center for Studies and Documentation | 1 | 0 | 0 | 0 |
| 39 | National Committee for Refugee Camps, West Bank | 1 | 2 | 0 | 0 |
| 40 | Fatwa and Legislations Bureau (Islamic) | 5 | 3 | 9 | 3 |
| 41 | Shari'a Courts (Islamic) | 0 | 0 | 41 | 4 |
| 42 | Judicial Authority | 10 | 20 | 119 | 21 |
| 43 | Prosecution | 2 | 1 | 0 | 7 |
| 44 | Land Authority | 10 | 10 | 65 | 1 |
| 45 | Palestinian Broadcasting Corporation | 16 | 0 | 0 | 20 |
| 46 | Colonization and Wall Resistance Commission | 5 | 3 | 16 | 7 |
| 47 | Higher Council for Youth and Sports | 37 | 6 | 99 | 53 |
| 48 | Border and Passage General Department | 0 | 0 | 135 | 5 |
| 49 | Families of Martyrs and Wounded Institution | 2 | 3 | 10 | 2 |
| 50 | PLO Departments | 3 | 0 | 28 | 2 |
| 51 | Department of Refugees Affairs | 0 | 2 | 1 | 3 |
| 52 | Secretariat of the Executive Committee/National Council | 1 | 0 | 0 | 0 |
| 53 | National Commission for Education, Culture, and Science | 2 | 5 | 0 | 3 |

| No. | Institution | Contracts according to the formation table 2015 | Day-laborer's Contracts according to the formation table 2015 | Actual contracts in 2015 | Contracts according to the formation table 2016-2018 |
|------------|--|--|--|---------------------------------|---|
| 54 | The Higher Presidential Committee for Churches Affairs | 1 | 0 | 7 | 0 |
| 55 | Risk Resilience Fund | 20 | 12 | 26 | 12 |
| 56 | Directorates | 0 | 0 | 37 | 16 |
| 57 | Higher Council for Procurement policy | 0 | 0 | 0 | 5 |
| | Total | 595 | 228 | 1776 | 1551 |

Source: The General Personnel Council, government departments' job formation table for 2015, formation table, 1st round- 2013-2015; government departments' job formation table-2nd round, 2016-2018.



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2015-2016

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This paper was prepared within the project “Towards Supportive Financial Policies for Development”



