



# TRAINING MANUAL 4

## Private Sector Participation

### Module 4-8: Contract Monitoring

Prepared by the International Consortium  
GTZ-ERM-GKW



These Training Tools are part of the

**Training Manual for ISWM:  
Private Sector Participation for Waste Management Services**

This Training Manual has been prepared in support of capacity development of waste management service delivery through Private Sector Participation (PSP),

The Training Manual contains 4 courses:

1. Private Sector Participation - General Approach and Framework Requirements (one module)
2. Private Sector Participation - Choice of the appropriate contract model (four modules)
3. Private Sector Participation - Contract preparation and procurement (three modules)
4. Private Sector Participation - Contract monitoring (one module)

This particular module **4-4 “Contract Monitoring”** addresses the need to specify the requirements of contract monitoring in contract clauses (e.g. Level of Services, Performance Indicators, and obligations of both contract parties) and, the required effort to execute the Contract Monitoring.



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- I. Introduction
- II. Problems of Contract Execution
- III. Levels of Service
- IV. Compliance with National Standards
- V. Examples for Performance Measuring
- VI. Contract Monitoring Unit
- VII. Contract Monitoring Plan
- VIII. Conclusion
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## I. Introduction

### Contract clauses concerning monitoring as:

- Levels of Service (LoS)
- Procedures for changes of services
- Definition of the rights and obligations of the CMU
- Performance Indicators (PI)
- Penalties and Incentives
- Early termination

### Executing the Contract Monitoring

- Contact Monitoring Plan
- Anti corruption measures

### Initiation of the Contract Monitoring Unit (CMU)

- Placement of the CMU within the overall administration structure
- Funding of the CMU

## Introduction

The initial contract monitoring starts with the draft of the contract clauses. Many different clauses concern the monitoring even only indirectly. For example the clause for early termination due to contractor failure needs defined (monitored) circumstances to execute an effective early termination without compensation to the private contractor.

This contract drafting includes on the one hand a precise specification of requirements (Level of Service) and mechanisms to measure specific performance (Performance Indicators), and sanctions in case of particular non-fulfilment or incentives in case of fulfilment. In the case of general non-compliance with the Level of services and the required performance, the conditions for the early termination also need to be defined. In addition, in many cases the levels of service may need to be adjusted during the contract duration. The particular clauses relating to Contract Monitoring should reflect their interdependence to provide a well balanced Monitoring Regime within the contract. Most of the mentioned issues are addressed in the TM PSP 4-3.1 on critical contract issues.

Based on such well balanced Contract Monitoring Regime (CMR) a strong **Contract Monitoring Unit (CMU)** needs to be initiated. The CMU should be equipped with experienced public sector contracts managers which could execute the monitoring of the performance as well as changes to the required LoS, and adoption / modification of the tariff in accordance with the contract clauses. The placement within the overall administration structure and the funding has to be decided and initiated resp. implemented.

The subsequent executing of the Contract Monitoring needs a reasonable Contract Monitoring Plan and also anti corruption measures.

## II. Problems of contract execution

Caused by the local authority:

- Delayed payment
- Request for additional services without payment

Caused by the private contractor:

- doesn't act accountable,
- show poor performance or
- 'ran away' from their contracts.

Caused by the CMU

- Untrained contract managers
- Excessive application of penalties

A fair and co-operative approach applied by both contract parties would be more successful than an excessive application of penalties.



### Introduction / Problems of contract execution

Even if the contract clauses concerning the Contract Monitoring Regime are well balanced, the contract execution could still fail.

Several examples have been identified in the region in which performance monitoring and contract management were not adequately established.

The problems could be caused by each partner: the local authority, the private contractor or even the Contract Monitoring Unit

The problems range from

- delayed payment or others neglect of contractual requirements by the local authority
- requests for additional services without additional payment by the local authority

There have also been several examples in which contractors

- doesn't act accountable,
- show poor performance or
- 'ran away' from their contracts.

Problems with Contract Monitoring Unit (CMU) due to

- untrained contract managers,
- excessive application of penalties (e.g. in case that the funding of the CMU is based on the "earned" penalties.)

The experience from the Region emphasises that a fair and co-operative approach applied by both contract parties seems to be much more successful. Problems with regard to performance need to be identified and solved in a pro-active manner instead of relying just on the application of penalties

### III. Levels of Services (LoS)

The LoS and the Performance Indicators (PI) should cover the following items:

- Environmental issues
- Health and safety matters
- Technical performance
- Customer satisfaction
- Financial aspects
- Economic / efficiency aspects
- Required reporting



#### Levels of Service (LoS)

The Levels of Service described in the terms of contract and the requested performance standards and monitoring should cover the the following items:

- Environment
- Health and safety
- Technical performance
- Customer satisfaction
- Financial aspects
- Economic / efficiency aspects
- Required reporting

as described in the following slides

The definition of the future Level of Services (LoS) shall be as precise as possible.

NOTE: the compliance or non- compliance with the requested LoS will be in every case an issue of discussion during the execution of the contract.

The requested reporting level depends on the level of monitoring processed by the Contract Monitoring Unit (CMU) itself. In cases where the CMU will operate the customer compliant centre by itself and will have several district inspectors, the required reporting levels will be low. The reporting level needs to be enhanced in cases where the private contractor will operate the customer compliant centre and inspectors of the CMU will only carry out periodic “spot inspections”.

If substantial information is available the description of the actual situation and services provided (LoS, Performance Indicators) compared with the requested services can enhance the quality of the tender documents and demonstrate the need for a transitional period for the private contractor.

Many of the PI need some reporting system (e.g. documentation of complaints, quality assessment system, accounting system) which is rarely completely implemented by the public service provider. In view of this it is rarely possible to describe the actual performance of the services with PI. In some cases, (where there is sufficient time) implementing a reporting system before execution of the tendering process is highly recommended.

## IV: Compliance with National Standards

In many countries the required performance of

- design and operation of landfill and leakage treatment covered by operation permits,
- health and safety obligations
- financial obligations

are defined and monitored by (different) national or regional bodies.

In the case that such bodies do not provide sufficient support to define the adequate level of standard, it is necessary to define this level for the special items of the contract.

See some examples at the following slides.

### Compliance with National Standard

In case that existing (national) bodies do monitor several aspects as e.g. compliance with :

- environmental health and safety obligations or
- financial obligations (payment of taxes, regular payment of workers, payment of insurances)

it is not necessary to implement parallel responsibilities for a local Contract Monitoring Unit to monitor the same issues but to implement the right of the CMU to receive reports or complaints against the private partner directly from the responsible monitoring or regulatory body.

## V: Examples for Environmental Performance a) for Solid Waste Landfill

Item to be Measured:	Measured by:
Construction of landfill base according to design and permit	Supervision, inspection report during construction
Construction of landfill cell according to design and permit	
Control of landfill gas	Report of the private contractor and "spot test" inspection of the CMU and evaluation of compliant register
Leachate treatment and discharge	
Drainage of surface water	
Windblown litter, dust, noise	

### Examples for Environmental Performance a) for Solid Waste Landfill

The slides shows some examples / issues which should be addressed as environmental performance for solid waste landfill.

Construction of landfill base according to design and permit means e.g.:

- compaction of base soils at optimum moisture
- Slope of base soils
- Placement and sealing of impermeable liners
- Placement and slope of leachate collection system

Construction of landfill cell according to design and permit means e.g.:

- Regular delineation of working face boundaries
- Survey of coordinates and elevation of cell construction including slope of working face
- Continuous on-site availability of design drawings and operation and Maintenance manual
- Closure of cell when final design elevation is reached
- Respect of maximum angle for side slopes
- Respect for minimum requirement for base slopes

The environmental performance of the constructions needs an evaluation of the CMU which could execute this e.g. by independent permanent or partial supervision and inspection reports during the construction. The procedure of reporting, dispute and dispute resolution should be defined in the terms of contract.

To ensure the environmental performance of the operation a reporting scheme, spot test by inspections of the CMU and evaluation of compliant register is needed.



## V: Examples for Environmental Performance b) for Solid Waste Landfill



Poor environmental performance



### Examples of Environmental Performance b) for Solid Waste Landfill

The slides shows poor environmental performance of the solid waste landfills:  
uncontrolled dumping



## V: Examples for Environmental Performance c) for Solid Waste Collection



Item to be Measured:	Measured by:
exhaust emission control of vehicles	Report of the private contractor and "spot test" inspection of the CMU
sump tank control of leakage from waste in vehicles	
Washing of vehicles	
Regular disposal of fuel and other wastes from vehicles	

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### Examples for Environmental Performance c) for Waste Collection

The slides shows some examples / issues which could be mentioned as environmental performance for waste collection.

The environmental performance in the sector of waste collection should be reported regularly to the CMU and should be verified by spot test inspections.

The items like cleanliness and absence of clandestine dumping could be addressed as technical performance (see below).

## V: Examples of Health and Safety Performance

Item to be Measured:	Measured by:
Use of gloves, boots, uniforms and respiratory masks	Report of private contractor and spot check by inspector
Tools on vehicle to load loose waste	
Control over size and weight of lifted loads by employee	
Number and description of accidents	
Provision of vaccinations	
Annual medicinal checks	
Additional measures according health and safety plan ....	

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### Examples of Health and Safety Performance

If the adequate use of gloves, boots uniforms etc. is not defined by national or international standards or the terms of contract do not refer to national or international standards, the requirements for health and safety performance should be clearly defined in the LoS and the terms of contract. The local inspector should not be allowed to define the adequate standard because this will lead definitively to corruption.

The operator is obliged to establish a Register of Health and safety aspects which contains information as described above

## V: Examples for Technical Performance

Item to be Measured:	Measured by:
Frequency, quality of waste collection and (or) street cleaning	Inspection report, compliant register
Quantities, composition and origin of recycled waste / material for sale	Report of private entity, spot check by inspector
Quantities, composition and origin of dumped waste	
Absence of clandestine dumping	Inspection report, compliant register
Technical standard of vehicles, landfill measuring and documentation and other technical installation (in compliance with national / international standard, if available)	

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### Examples for Technical Performance

The frequency / quality of waste collection has to be in compliance with the required level of services. To monitor this item the private entity has to develop and deliver a plan to meet the requested level of services (how many workers and how many cars will drive which route on which day). Additional definition of LoS as sampling of waste out of drains and street cleaning could be helpful to avoid discussions who will be responsible for this wastes / litter. Washing of communal containers and cleanliness around communal containers could be an other additional task of the private entity.

The quantities and quality of the dumped waste is a major item of the contract monitoring. E.g. Dumped waste cannot be disposed of at the landfill because the origin of the waste has to be ensured and declared.

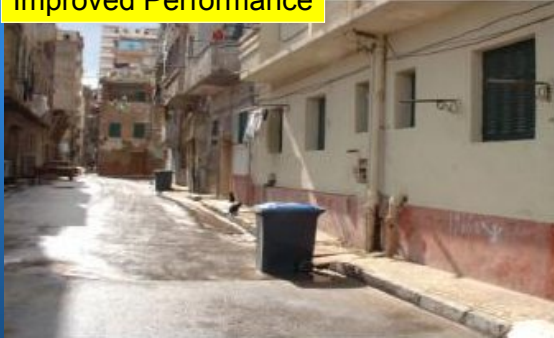
It should be guaranteed that the origin is declared correctly. In the case of a proved failure a penalty is charged and in circumstances of repeated failure an early termination of contract could be served. In case of payment due to the quantity of waste this item is even more sensitive.

Due to this in many cases the worker who control the input to the landfill site were employees of the local authority or the Contract Monitoring Unit.



## V: Pictures: Technical Performance

Improved Performance



Poor Performance



### **Pictures: Technical Performance**

The pictures shows the same street before the implementation of PSP (poor performance) and after the implementation (improved performance)



## V: Examples for Customer Satisfaction Performance

Item to be Measured:	Measured by:
Customer Centre / Complaint register	operated <u>or</u> supervised by CMU
Reaction time on complaints	Report, spot check, compliant register
Complaints on cleanliness of zone as improperly placed waste bins, damage of waste bins, uncollected wastes	
Poor appearance of collection vehicles and collection crew	
Rude behaviour by collectors	
Willingness to pay and cooperate	Evaluation

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### Examples for Customer Satisfaction Performance



## V: Examples for Financial Performance

Item to be Measured:	Measured by:
Adequate accident liability coverage (insurance)	Report, spot check, evaluation by independent accountant
Payment of government property, income, VAT and cooperate taxes, etc. as required	
Regular payment of fair wages and benefits to workers	

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### Examples for Financial Performance

## V: Examples for Efficiency Indicators

Item to be Measured:	Measured by:
Number of workers in service	Report, spot check, evaluation by independent accountant
Waste quantity per worker each shift	
Absenteeism of workers	
Number of vehicles in service	
Waste quantity per vehicles each shift	
Vehicle downtime	
Waste collection costs per capita due to a) financing b) operating	
Waste disposal cost per capita due to a) financing b) operating	

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### Examples for Efficiency Indicators

The monitoring of efficiency indicators enables the implementation of national (or international) system of bench marking systems. Bench marking is a method to identify the local performance of the particular local service compared to other service in other regions. Thus it is possible to identify fields of poor performance and possibilities to enhance the local overall performance.

Such systems with defined indicators in detail are available for water and waste water services and under development for waste collection and waste disposal services.

## VI: Goals and Objectives of the (CMU)

- contractors compliance with terms of contract
- prompt and fair dispute resolution
- fair negotiation of changes concerning LoS and service fees
- judicious assessment of penalties / ensuring payment of service fees
- improving public awareness

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### Goals and Objectives of the CMU

Before considering organisational structure alternatives, those responsible for developing and implementing the CMU need to be in full agreement as to the organisation's goals and objectives. As e.g.:

- Ensuring that the contractor complies with all contract terms, service specifications and minimum technical requirements
- Achieving prompt and fair resolution of any problems during performance of the contract service
- Having the ability to make modifications or negotiate the Level of Services (LoS), cost and / or schedule changes
- Ensuring judicious assessment of penalties and payment of accurate service fees.
- Attaining high quality service performance in compliance with contract terms to cultivate long term customer financial support
- Improving the public's understanding of their responsibility for solid waste management through public outreach and monitoring compliance with rules and regulations.



## VI: Implementation of a Contract Monitoring Unit (CMU)

### Review (national) legislation - which authority is authorised to :



- manage the collection of waste and the waste management.
- licence solid waste service contracts.
- monitor particular aspects of the compliance with national law (e.g. environmental, health and safety)
- monitor solid waste service Contractors

### Implementation of a Contract Monitoring Unit (CMU)

In many countries the national law authorises the local administrative authorities to manage the collection of solid waste. Due to this legislation the local authority is the owner of the rights and the obligation to provide these services in compliance with national requirements.

The right to licence solid waste service contracts has to be defined as well. In some cases the local authorities are licensed, in other cases only national bodies have the right to licence such contracts.

Typically some environmental aspects and also some health and safety aspects of entities are monitored by national / regional bodies independent of the solid waste aspects (e.g. trade supervisory centre).

Some national laws authorise national bodies, others authorise the local authorities and some don't even address this issue.

#### Example Egypt:

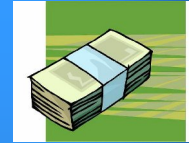
*Article 39 of the Executive Regulations (Prime Ministers Decree No. 388/1995) for Environmental Law (Law Number 4/1994) authorises the local administrative authorities to manage the collection of solid waste.*

*The Public Cleaning Law (Law Number 38/1967, Article 6) of Egypt and its implementing Executive Regulation ( Minister of Housing and Utilities Decree No. 134/1968, Article 9) authorise local councils to license solid waste services contractors and disseminate and enforce conditions governing their activities. Article 8 of this decree assigns the local authority with oversight for contractor performance.*

It is also possible to implement a national body for the monitoring of PSP contracts in the sector of waste or even a body for the monitoring of different sectors as energy, water, telecommunication, rail transport or others.

In case of a national strategy to enhance the participation of the private sector in solid waste management it could be useful to implement a national body which could also ensure a more or less general standard contract (standard conditions) and a similar Contract Monitoring Regime. Such an approach will strengthen the position of not experienced local authorities.

## VI: Funding of the Contract Monitoring Unit (CMU)



- waste collection fee
- budget of the local authority funded by taxes.
- other (national) Government Budget
- ~~• income out off penalties~~

### Funding of the Contract Monitoring Unit (CMU)

The commitment to implementation and ongoing operation of a CMU brings with it the necessity to identify an adequate and sustainable source of funding. As an indispensable element of private sector provision of services, monitoring is one of the inherent costs and should be funded through the same cost recovery mechanism selected for funding of contractor services.

Monitoring costs will represent a minority, but not insignificant share of total service costs, and thus should be estimated and included in any preliminary estimates of the total privatisation costs resp. total waste management service costs.

The waste collection fee seems to be the most appropriate source of funding, because this funding is in compliance with the polluter pays principle.

In many cases the waste collection fee is only partially accepted by the inhabitant (due to experience of poor performance in recent years) or a considerable number of poor inhabitants are not able to pay the fees (social welfare systems are not established). In these cases additional sources as local or national budget may be needed.

The experience demonstrates that the income out of penalties should not be used for the funding of the Contract Monitoring Unit. The objective of the CMU is to execute the contract in such a manner that the provided services and payment to the private company are fairly balanced. In the case that penalties are needed to pay the employees of the CMU this will lead to excessive using of penalties, teasing the private Contractor, creating unfair conditions, permanent disputes and poor performance of services.

## VI: Placement of the CMU in the Overall Administrative Structure

- CMU integrated into an existing administrative organisation

- CMU entirely new and separate unit

### **Placement of the CMU in the overall administrative Structure**

The CMU may be integrated into an existing administrative organisation relating to solid waste management or established as an entirely new and separate unit. The decision as to the preferred option should take into account the following:

- The compatibility of the goals and objectives of the existing and new organisations
- The qualifications and experience of staff in the existing organisation
- The availability and type of existing funding mechanisms
- The past performance of the existing organisation.

If the CMU is integrated into an existing administration, every effort should be made to ensure autonomy of the CMU. In cases where the autonomy is not ensured, decisions (possibly driven by short term political interests) could destroy the fair conduction of the terms of contract and lead finally to early contract termination.

## VII: Contract Monitoring Plan (CMP)

### CMP defines

- how the LoS will be monitored in the field
- the flow of all documents through the CMU
- the deliverables of
  - each CMU employee
  - of the private contractor
- The information to be provided
  - by the contractor to the administration
  - by the administration to the contractor

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### Contract Monitoring Plan (CMP)

The CMP is the document by which the CMU conducts its business. The CMP should provide detailed guidance on how each person in the CMU performs his or her respective daily activities. It should also describe all chains of command and the flow of all documents. Detailed procedures for each type of administrative and monitoring activity should be provided in the CMP and in field procedure manuals attached as Appendices. Because the CMP must be specific to the contract being monitored, it cannot be fully developed until the contractor has been selected and has submitted a Draft Work Plan.

The introduction section of the CMP should identify broad tasks that the administration and the contractor are expected to perform under the contract. There are four sections:

- Scope of the Monitoring Plan
- Purpose and Structure of the Document
- Basis for Contract Monitoring Unit
- Statement of Monitoring Independence and Accountability

## VIII: Conclusion

Well elaborated Contract Monitoring Regime, established in the terms of the contract enables fair conduction of the PSP

An independent Contract Monitoring Unit is needed to continuously monitor the performance of the provided Level of Services as well as to conduct changes in the LoS or the service fee in compliance with the terms of contract

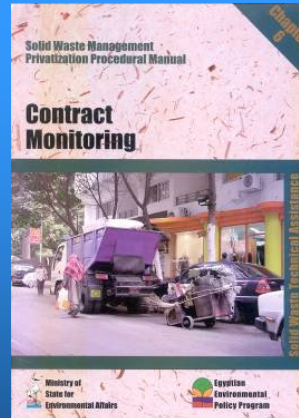
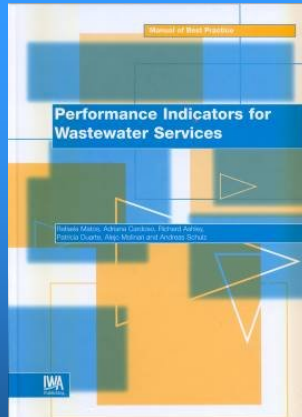
To ensure an efficient Contract Monitoring Unit it is necessary to establish funding of the CMU independent of the income out of penalties and to establish a Contract Monitoring Plan

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### Conclusion



## IX: Additional Sources of Information (2)



### Additional Sources of Information (2)

**R. Matos, A. Cardoso, R. Ashley, P. Duarte, A. Molinari, A. Schulz: Performance Indicators for Wastewater Services, Manual of Best Practice, - Appendix 2, Section G -, IWA Publishing, London 2003, ISBN 1 900222 90 6,**

This Manual provides a set of 52 financial performance indicators (originally set up for waste water projects) and all necessary definitions are documented in this Manual of Best Practice, (see Appendix 2 Section G). The particular PI may be adopted for the needs of waste contracts.

**Egyptian Environmental Policy Program: Solid Waste Management Privatisation Procedural Manual, Ministry of State for Environmental Affairs, Egyptian Environmental Policy Program, funded by USAID.**

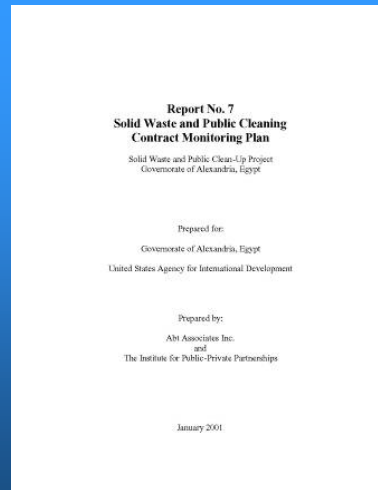
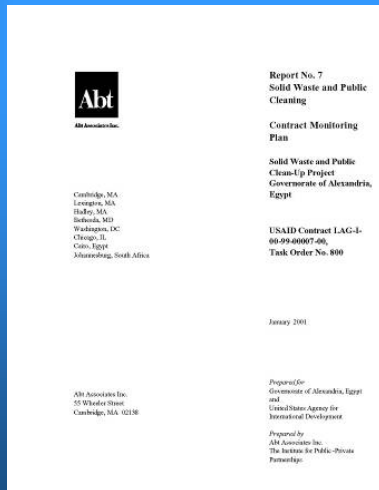
**Comprehensive tool for Private Sector Participation with 8 Chapters:**

1. Introduction to Solid Waste Privatisation
2. Solid Waste Management Planning
3. Solid Waste Financial Management
4. Contractor Pre-Qualification
5. Tendering and Contracting
- 6. Contract Monitoring**
7. Public Awareness and Communication
8. Residential and Commercial Waste Collection

The particular tool **6. Contract Monitoring** provides a step by step approach for contract monitoring with special regard to the development of the contract monitoring unit



## IX: Additional Sources of Information (3)



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### Additional Sources of Information (3)

#### Report No. 7 Solid Waste and Public Cleaning: Contract Monitoring Plan

Prepared for: Governorate of Alexandria, Egypt / United States Agency for International Development , Prepared by: Abt Associates Inc. and The Institute for Public-Private Partnerships, January 2001

#### The Report covers the following items:

- Introduction
- The Basis for Monitoring
- The Scope of the Monitoring Plan
- General Monitoring Guidelines
- Maintaining Monitor Independence and Accountability
- Contract Monitoring Organizational Structure
- Contract Management – GOA Level
- Program Administrator
- Legal Staff
- Accounting Staff
- Public Awareness and Communications Team (PACT)
- Project Engineer's Office
- Monitoring Fixed Facilities
- Monitoring – Local Level Services
- Assignment of Monitors
- Complaints and Fines Coordination
- The Basis and Scope of Monitoring Activities
- Management of Local Service Monitors
- Appendix A – Sanitary Landfill Monitoring Plan
- Appendix B – Monitoring Plan for Rehabilitation and Operation of Composting Facilities
- Appendix C – Medical Waste Treatment Center Monitoring Plan
- Appendix D – Waste Collection, Sweeping and Public Cleaning Service Monitoring Plan
- Appendix E – Medical Waste Collection Monitoring Plan
- Appendix F – Industrial Waste Collection Monitoring Plan