

Annex 4B.2

Model Contract for a Collection Service Agreement Between a Public Authority and Small Private Enterprise

This Annex is a reproduction of “Annex 2: Model Contract” of R. Pfammatter and R. Schertenleib (1996). Non-Governmental Refuse Collection in Low-Income Urban Areas; Lessons Learned from Selected Schemes in Asia, Africa and Latin America. Department of Water and Sanitation in Developing Countries (SANDEC), Swiss Federal Institute for Environmental Science and Technology (EAWAG), Dübendorf. SANDEC Report No1/96.

This *Annex* reproduces a model contract between a local government and an MSE for a collection service based on a written agreement. The contract outlines tasks and duties of both the service providing company and the municipality. The MSE offers waste collection services and possibly also transfer to a landfill within a specific boundary, covering around 50,000 inhabitants.

In a contractual agreement between public authorities and small private enterprises, all relevant elements of the service to be delivered have to be defined and agreed upon. The contract should address especially the following aspects:

- **Exact definition the area to be served** (e.g. street names)
- **Description of the type of service** (e.g. collection of domestic refuse, street cleansing, transport to a landfill)
- **Frequency of the service** (e.g. twice a week)
- **Duration of the contract** (e.g. three years, annually renewable)
- **Contractual payment** (including depreciation)
- **Conditions relating to overdue payment** (e.g. cost increase due to bank charges)
- **Conditions for inadequate service delivery** (e.g. payment reduction, cancelling of contract)
- **Sub-contracting restrictive/conditions**
- **Establishment of a supervisory committee** (e.g. consisting of representatives of each party involved)
- **Legal aspects and conditions**

The following agreement may serve as a model for similar contracts. It is based on the existing contractual agreement between the Municipality of Cajamarca (Peru) and "Limdovesa", a small private enterprise contracted to collect domestic refuse of about 50 % of the urban-marginal population and to transport the collected waste to the municipal landfill:

Contractual Agreement with the Public Cleansing Services

A contractual agreement with the Public Cleansing Services, which includes the following terms and conditions, is concluded between the Provincial Municipality of [] with registered office in [], represented by the Municipal Director Mr/Mrs [], duly identified by ID No. hereafter referred to as THE MUNICIPALITY, and the Microenterprise [] with registered office in [], represented by Mr/Mrs [], identified by ID No. [], hereafter referred to as THE MICRO-ENTERPRISE:

Art. 1: Legal Basis

The Municipality signs an agreement with the Micro-Enterprise in accordance with the duties, responsibilities and restrictions as stipulated by the Municipalities Law No. [], the Budget Law for the Public Sector No. 1 [], including the corresponding standards. If the requirements do not meet the limits and conditions foreseen by the aforementioned standards, the decisions will be taken in accordance with the latter.

Art. 2: Purpose

Based on the municipal resolution and by unanimous vote of the ruling parties, the establishes; "[] a [] % participation of the Micro-Enterprise in the Public Cleansing Service subject to the scope and conditions imposed by the Law[]".

Art. 3: Service to be delivered

As described in the enclosed Annex 1 (detailed *description of service to be delivered and service area*), which forms part of the present agreement, the competent Municipal authorities have defined the scope of duties of the Domestic Waste Collection and Transport Services to be provided by the Micro-Enterprise. The service is contracted to work according to the "Clean Zone" system (including cleansing of streets if necessary) at a collection frequency of twice a week. The total population to be covered by the Micro-Enterprise amounts to max. [] inhabitants. If the difference between the estimated and the actual population varies more than [] %, the parties will decide on the increase or decrease of the total amount agreed upon in Article 6.

Art. 4: The Micro-Enterprise

The structure of the Micro-Enterprise was decided upon with the support of the Municipality through the Neighbouring Councils which guaranteed the presentation of eligible candidates for the micro-enterprise. The selection of candidates was carried out by an Evaluation Committee composed of the Mr/Mrs [] representing the Mayor of the Province, five neighbouring mayors, the head of the

Environmental Sanitation Unit of the Municipal Province, the Deputy Director of the Basic Sanitation Area of Health, and a representative of the consulting NGO []. Annex II contains the documentation on the call for candidates and the selected micro-contractors.

Art. 5: Term of the Agreement

Without prejudice to what has been established in Art. 9, the present agreement is valid for [] years and can be renewed annually. Both parties agree to carry out a joint evaluation of the service at the end of the first year.

Art. 6: Contractual Payment

Both parties agree to a monthly payment for the rendered service amounting to US\$ [], this amount does not include taxes. This sum will be increased due to depreciation every month by [] % up to max. [] % annually.

Art. 7: Payment Conditions

The rendered public cleansing services, as stipulated in Art. 3, will be paid by the Municipality to the Micro-Enterprise not later than on the fifth day of every month and at the end of one month service. The said payment will otherwise be increased by extra charges comprising payments of interests and negative bank interests.

Art. 8: Sub-Contracting

The Micro-Enterprise may not hand over or transfer totally or partially its contractual agreement to third parties, nor restructure, associate or subcontract the service in order to delegate its responsibility. In terms of costs, it may also not contract third party services payable by the Municipality contract third party services payable by the Municipality.

Art. 9: Cancellation of the Agreement

The present agreement can only be cancelled by the Municipality if a non-performance of the contracted service is established in accordance with Art. 3 of the present agreement and bearing a notary authentication of half and one member of the Supervisory Neighbourhood Council of the Public Cleansing Service foreseen in Art. 10 of the present agreement of all the Neighbourhood Councils serviced by the Micro-Enterprise.

Art. 10: Quality Control

The "Supervisory Neighbourhood Committees of the Public Cleansing Service", which will have to be set up in each Neighbourhood Council where the Micro-Enterprise operates, is the Control Entity of the Public Cleansing Service operating within the radius of the

Micro-Enterprise as established in Art. 3 of the present agreement. These Supervisory Neighbourhood Committees will be composed of: the Director of Ecology, Environment and Settlement of the Provincial Council or his representative, the Neighbourhood Mayor and the President of the Board of Directors of the Micro-Enterprise. In the event of any non-performance other than Acts of God, the Micro-Enterprise is liable for the solving of the said problem as quickly as possible. In the event of repeated non fulfilment (more than three times), the Municipality is authorised to deduct [] % from the last monthly payment. Repeated non-fulfilment will be registered, certified and signed by the Neighbourhood Mayor in the area of jurisdiction of the unfulfilled service.

Art. 11: Renewal Terms

At the end of the contractual agreement of three years, both parties will evaluate the possibility of concluding a new contract or terminating it.

Art. 12: Miscellaneous

Since the parties fall under the jurisdiction of the judges and courts of the Municipality, the undersigned have to indicate their registered office at the beginning of the present agreement.

12.1 Fulfilment and execution of the present agreement is only valid if written notification is sent to the mentioned registered office.

12.2 Should a registered office of one of the parties involved change address, it will only be legally valid with regard to the other if the new address is located in the same city and attested by a notary. Meanwhile, notification forwarded to the registered office indicated in the present agreement remains in force.

12.3 All those aspects which have not been taken into consideration in the present agreement will be solved jointly between the contracting parties.

The contracting parties hereby declare that in honour of the present contractual agreement with the Public Cleansing Services they are not aware of any contributory negligence which would nullify or cancel it. The agreement is signed in good faith here in the Municipality of [].

Date: []/ []/ []

**Mr/Mrs []
Municipal Director**

**Mr/Mrs []
The Micro-Enterprise**