



Government of **Western Australia**
Department of **Finance**
Government Procurement

COMMUNITY SERVICES CONTRACT MANAGEMENT PRACTICE GUIDE

**A Guide to Managing Service Agreements under the
*Delivering Community Services in Partnership Policy***

December 2013

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Section 1 Introduction

Purpose of this Guide

The Community Services Contract Management Practice Guide (this Guide) is a practical tool for Public Authorities involved with the management of service agreements for the provision of community services in Western Australia. Due to the unique nature of community services procurement in Western Australia, it incorporates and addresses the various requirements of the [Delivering Community Services in Partnership \(DCSP\) Policy](#).

This Guide is for general use by Public Authorities who procure community services under the *DCSP Policy* framework and does not apply to procurement processes undertaken in the commercial 'for-profit' environment. While the title of this Guide refers to 'Contract Management', all contracts developed under the *DCSP Policy* framework are known as service agreements, and for this reason the term 'service agreement' is used throughout the document.

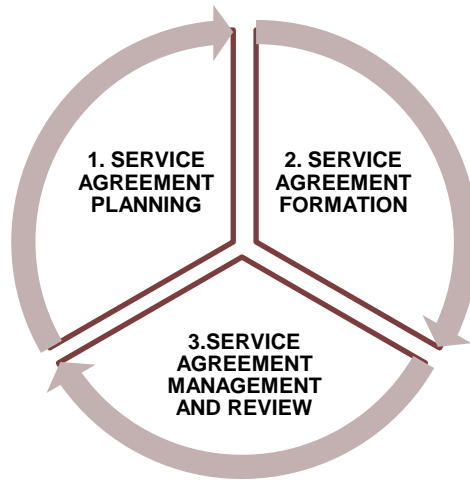
Service agreement management is an important part of community services procurement as the obligations of the parties and the commitments made need to be managed in accordance with the partnership principles and behaviours that underpin the *DCSP Policy*. Unique community services outcomes may present specialised service agreement needs which differ from the general processes outlined in this Guide, and for this reason, Public Authorities are encouraged to adapt and apply the processes that will best achieve their community services outcomes. If circumstances arise that are not addressed in this Guide, further advice and guidance is available from the Department of Finance, Government Procurement, [Funding and Contracting Services](#) (FaCS) Directorate or the [Contract Management Advisory Service](#).

To obtain greater contextual understanding, this Guide can be read in conjunction with the [Community Services Contract Management Plan Template](#), and your Public Authority's own procurement policies, guidelines and service agreement management workbooks. For more information about procurement planning or development, please refer to the [Community Services Procurement Practice Guide](#).

Structure of this Guide

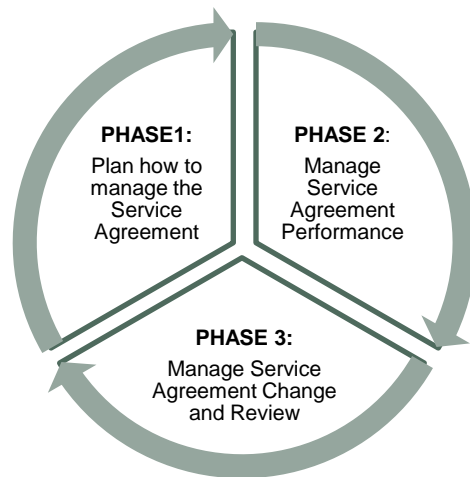
Formal service agreement management takes place as part of the three stage procurement cycle illustrated in Figure 1.

Figure 1: Three stage procurement cycle



The formal service agreement management process itself can be broken down into three phases, illustrated in Figure 2.

Figure 2: Three phases of service agreement management



This Guide will assist Public Authority service agreement managers to:

- understand the aim of service agreement management;
- understand the key tasks required for effective service agreement management;
- understand and implement the key actions associated with each phase of the service agreement management cycle;
- understand the State Government’s procurement policies and service agreement requirements; and
- understand the role of a service agreement manager.

Section 2 State Government Policies

What State Government Policies are Relevant to Service Agreement Management?

The *DCSP Policy* and *State Supply Commission* (SSC) policies guide the principles, behaviours and arrangements fundamental to the procurement of community services in Western Australia. The SSC delegates its purchasing authority to each Public Authority under the jurisdiction of the *State Supply Commission Act 1991* (WA) (the Act). Under the Act, the authority to enter into a service agreement resides with the Public Authority's 'Accountable Authority'. The 'Accountable Authority' is the officer ultimately responsible for procurement, and is usually the Director General, Chief Executive Officer or their delegate. It is important to be aware of who the 'Accountable Authority' for community services procurement is, as they are ultimately responsible for ensuring its success.

Service agreement managers should be aware of the difference between a Public Authority's financial delegation and procurement delegation matrices. A procurement delegation matrix includes officers who are able to act on behalf of the Public Authority for procurement processes up to a pre-determined monetary value. A financial delegation matrix differs as it outlines officers responsible for the expenditure of Public Authority funds. Financial and procurement delegations often differ, so it is important to be aware of the appropriate officer who has the authority to commence and approve procurement processes.

Public Authorities must also understand and comply with the requirements of both the *DCSP Policy* and SSC policies when undertaking any community services procurement activity. The SSC policies of particular relevance include the *Value for Money* policy, the *Probity and Accountability* policy, the *Open and Effective Competition* policy and the *Procurement Planning and Contract Management* policy.

When undertaking activities associated with the three phase service agreement management cycle, Public Authorities are required to:

- utilise the standardised community services templates and conditions developed in accordance with the *DCSP Policy*;
- comply with the procurement processes and requirements detailed in this Guide;
- where possible, roll multiple service agreements between a single service provider and Public Authority into a consolidated Master Agreement; and
- apply indexation to all service agreements in accordance with the *Non-Government Human Services Sector Indexation Policy* (November 2008).

What are the Key Elements of Service Agreements?

A basic understanding of contract law in Western Australia will assist service agreement managers to understand the need for consistency and care when exercising their responsibilities.

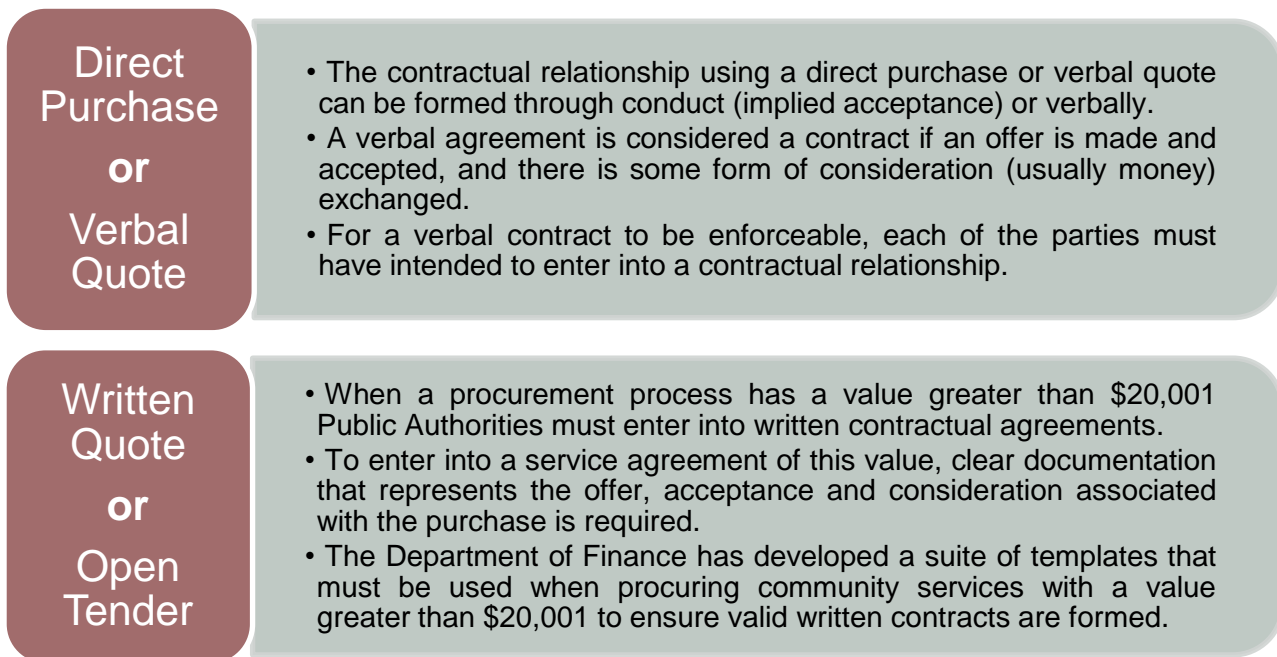
A service agreement is a legally binding contract. It details the legal rights and obligations relating to an agreement that are enforceable by law. It is important to be aware of the various contractual mechanisms to ensure Public Authorities do not inadvertently enter into or vary service agreements. Using the standardised community services procurement templates and following established processes is likely to prevent this from occurring.

The SSC *Open and Effective Competition* policy sets out the procurement thresholds that Public Authorities must comply with. Table 1 lists each procurement threshold, and Figure 3 outlines the different contractual relationships formed under each threshold.

Table 1: State Supply Commission procurement thresholds

Monetary Threshold	Minimum Requirements
Below \$5,001	Direct Purchase
\$5,001 - \$20,000	Verbal Quotes (2-5)
\$20,001 - \$150,000*	Written Quotes (2-5)
Above \$150,000*	Open Tender

Figure 3: Contractual relationships of each threshold



If you have any queries about the SSC procurement thresholds or the content of your service agreement, please contact [FaCS](#). If you require legal advice, please contact the [State Solicitors Office](#).

Section 3 What is Service Agreement Management?

What is the Aim of Service Agreement Management?

The aim of service agreement management is to promote sustainable procurement practice, ensure the desired community outcomes are achieved and reduce any unnecessary administrative burden placed on the service provider. It is also important to ensure all parties meet their obligations under the service agreement.

To effectively manage a service agreement a collaborative relationship with the service provider is essential. The service agreement manager is responsible for ensuring key performance indicators (KPIs) are met, regularly monitoring service delivery and the achievement of the desired community outcomes. Due to the length of many service agreements, a consistent, informed and proactive approach to service agreement management should be undertaken. This assists Public Authorities to anticipate future service agreement requirements, identify avenues for continuous improvement, balance costs against risk, and respond quickly to changing circumstances.

Is Service Agreement Management the same as Service Agreement Administration?

It is important to understand the difference between service agreement administration and service agreement management. Service agreement administration is an integral element of service agreement management and encompasses various activities that may need to be completed on a day-to-day basis, such as maintaining and developing key documents, monitoring the disclosure requirements and key dates.

However these administrative tasks are not all that is required to effectively manage each aspect of the service agreement. To uphold the partnership principles and behaviours of the *DCSP Policy*, all elements of service agreement management should be implemented by Public Authorities, not just those related to the administration of the service agreement. Table 2 gives a brief outline of the types of activities that are considered service agreement management and service agreement administration.

Table 2: Service agreement management and service agreement administration activities

Service Agreement Management	Service Agreement Administration
<ul style="list-style-type: none"> • Relationship Management • Maintaining Probity and Accountability standards • Identifying and involving stakeholders • Managing service provider performance • Managing service agreement variations and extension options 	<ul style="list-style-type: none"> • Maintaining key service agreement documents • Checking and paying invoices • Monitoring the disclosure requirements of the service agreement • Monitoring key dates • Updating the details of the service provider's key personnel

What Key Skills and Experience Should Service Agreement Managers Have?

The key skills and experience that service agreement managers need in order to effectively manage a service agreement are outlined in Table 3. It is important to build capacity within the team

undertaking service agreement management to ensure they have an appropriate a range of skills and experience.

Table 3: Key skills and experience for service agreement managers

Interpersonal and Interrelationship	<ul style="list-style-type: none"> • Undertake tasks in a motivated and professional manner. • Develop collaborative relationships in order to understand the service provider’s mission and work ethics. • Communicate effectively with the service provider through various mediums.
Subject matter / sector knowledge	<ul style="list-style-type: none"> • Develop a comprehensive understanding of all service agreement documentation, the <u>General Provisions for the Purchase of Community Services by Public Authorities</u>, applicable procurement policies, and any other relevant legislative requirements. • Objectively assess the services provided to determine whether service delivery standards have been met.
Project management	<ul style="list-style-type: none"> • Plan, schedule, organise and manage tasks and consult with all stakeholders. • Utilise the relevant skills of team members to achieve the objectives of service agreement management.
Performance management	<ul style="list-style-type: none"> • Provide both positive and constructive feedback to the service provider. • Explain the Public Authority’s position and relate that to the service provider’s operational environment when dealing with issues of underperformance.
Problem solving	<ul style="list-style-type: none"> • Encourage service provider innovation and a co-operative approach to solving problems and exploring opportunities. • Manage any evolving and changing circumstances associated with the service agreement.
Negotiation	<ul style="list-style-type: none"> • Maintain an appropriate level of sector knowledge to be able to develop mutually acceptable agreements. • Negotiation skills to effectively manage and resolve any issues that may arise.

Section 4 Service Agreement Management Plans

What is a Service Agreement Management Plan?

In accordance with the SSC's *Procurement Planning and Contract Management* policy, a service agreement management plan must be developed where the total value of the procurement is greater than \$5 million. However, irrespective of the size or duration of the service agreement, a service agreement management plan is a useful tool to assist Public Authorities with managing risk, service provider performance and service agreement administration tasks. It is also helpful for monitoring the achievement of community outcomes, and ensuring value for money is realised.

The Department of Finance has developed a *Community Services Contract Management Plan* template for Public Authority use. This template provides a clear outline about how the service agreement will be managed from award to completion, the obligations of the relevant parties, the services to be performed and the conditions under which the agreement will operate.

Practice Tip

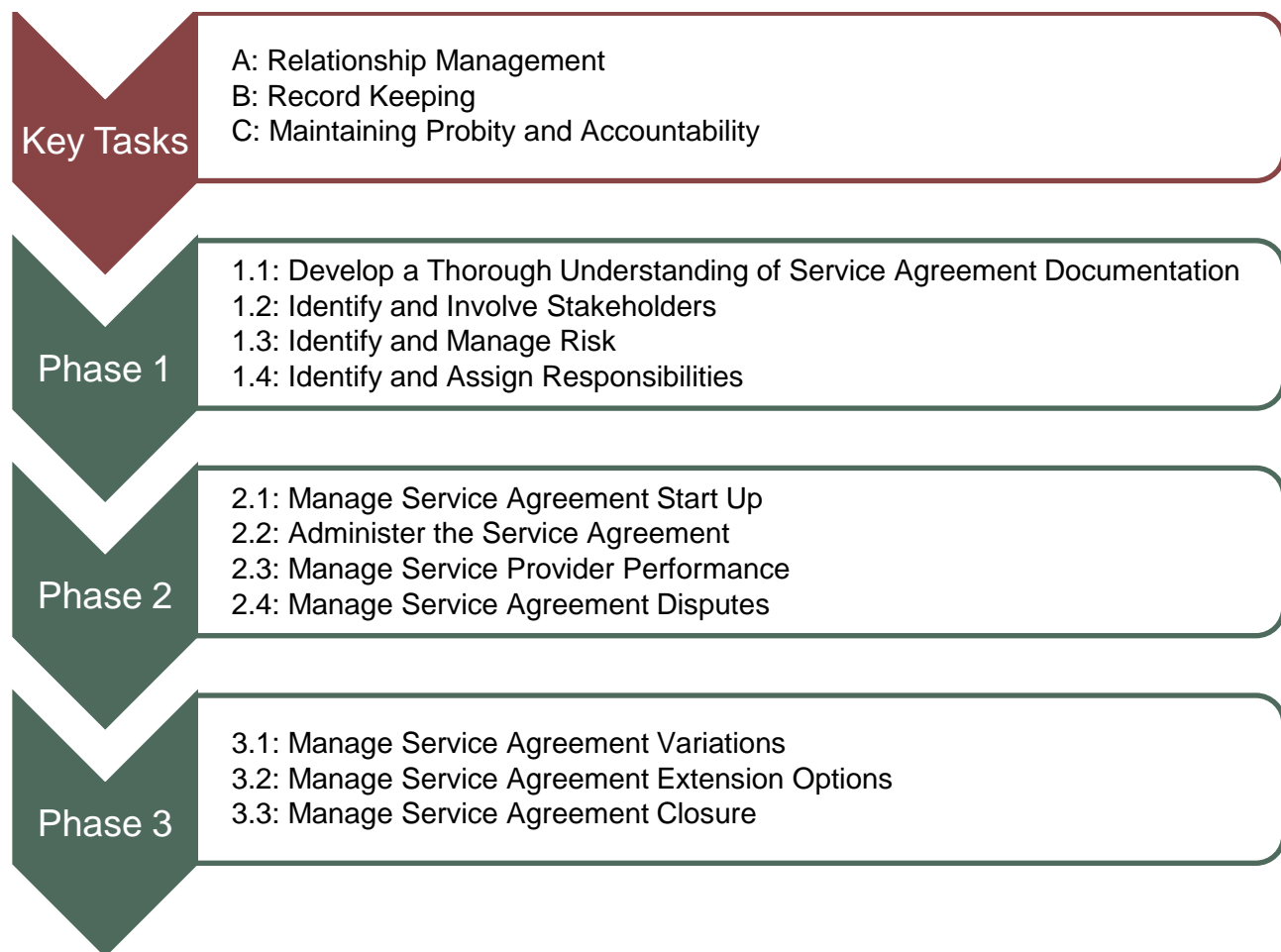
Much of the work required to develop the service agreement management plan can be done throughout the procurement development. It is highly recommended that the service agreement manager be actively involved in the initial stages of the procurement process.

Section 5 The Three Phase Service Agreement Management Cycle

Figure 5 illustrates the practical 'best practice' elements associated with each phase of the service agreement management cycle:

- Phase 1: Plan how to manage the service agreement.
- Phase 2: Manager service agreement performance.
- Phase 3: Manage service agreement change and review.

Figure 5: Three phases of service agreement management



As illustrated above, the service agreement manager is responsible for three key tasks throughout the life of the service agreement to effectively accomplish all three phases of the service agreement management cycle. These tasks are important to keep in mind as progress is made through each phase of the service agreement management cycle to ensure a comprehensive approach to managing service agreements is achieved.

Key Tasks

A. *Relationship Management*

Building and maintaining excellent working relationships with service providers underpins the overall success of service agreement management. Having a collaborative relationship with the service provider is also a key ingredient to ensure the desired community outcomes are achieved.

Factors including the complexity of the service agreement, its duration and the culture of the parties involved will influence the relationship that develops. Typically, relationships will begin to form during the early stages of the procurement cycle, and are built upon throughout the life of the service agreement. In circumstances where the service agreement manager has not had any involvement in the procurement process, an effort should be made to ensure they are aware of any issues that arose, and work towards establishing a collaborative working relationship with all stakeholders.

The aim of relationship management is to keep the channels of communication between the parties open, constructive, non-adversarial and based on mutual understanding. Establishing an ongoing dialogue with the service provider around its service objectives and strategies, service performance, risks and emerging issues will help the service agreement manager to gain a greater insight into their broader operating environment and culture of the service provider. It may also provide the service agreement manager with increased confidence and expertise to deal with emerging issues and risks.

“The aim of relationship management is to keep the channels of communication open, constructive, non adversarial and based on mutual respect and trust.”

Maintaining a relationship with the service provider does not mean that issues of non-compliance or under-performance cannot be discussed and acted upon. In fact, a positive relationship should assist with the effective management of service provider performance, particularly when circumstances of under-performance arise. If the channels of communication are open and working effectively, there is a greater likelihood that such issues can be discussed and resolved in a manner that is consistent with the partnership principles and behaviours of the *DCSP Policy*.

As this is an integral component of service agreement management, it is best practice for Public Authorities to adopt a structured approach to managing their relationship with service providers. A structured approach may consist of:

- developing clear roles and responsibilities for those involved with managing the service agreement that set out the appropriate channels of communication;
- holding informal and frequent discussions with the service provider and relevant Public Authority staff; and
- undertaking formal meetings at pre-determined intervals with staff from both the Public Authority and the service provider to discuss the innovative service strategies and the progress towards the achievement of community outcomes. It is important to take minutes during these meetings as any key outcomes, tasks or actions should always be documented.

Overall, it is particularly important to listen to the service provider, identify any issues, address them promptly and maintain open and effective communication channels.

B. Record Keeping

Having a systematic approach to record keeping from the beginning of a procurement process and throughout the service agreement management cycle is extremely important. Not only is adequate record keeping a requirement under the *State Records Act 2000 (WA)*, it can also assist the Public Authority to:

- build a useable knowledge base;
- provide auditable evidence of conduct and decision making;
- help to manage risks; and
- meet the requirements of the SSC *Probity and Accountability* policy.

All processes and decisions that relate to the management of the service agreement should be open and transparent. This means that all information related to the meetings or conversations with the service provider, any agreed actions and approved changes must be documented and filed. These records are invaluable for handovers, reports, problem solving, dispute resolution, reviews, and audits, as well as for planning any subsequent service agreements. It is also important to treat documents with care to ensure an appropriate level of confidentiality is maintained.

Each Public Authority has their own systems and procedures in place that assist service agreement managers to maintain adequate record keeping standards. Often this includes software systems designed specifically to record information that will assist with service agreement management. It is important to have a thorough understanding of these systems, and to ensure they are kept up-to-date as the service agreement progresses.

For example, Table 4 lists some of the key documents related to service agreement management that should always be appropriately filed. While this list is not exhaustive, it can be used as a handy starting point.

Table 4: Record keeping: essential service agreement documentation

<ul style="list-style-type: none"> • The Service Agreement: <ul style="list-style-type: none"> ○ The signed Award Letter from the Public Authority to the service provider. ○ The service provider's offer or tender submission. ○ Documentation regarding clarifications or negotiations undertaken. ○ The Public Authority Request document. ○ Any addenda documentation. ○ The <i>General Provisions for the Purchase of Community Services by Public Authorities</i>. ○ The <i>Process Terms and Conditions</i>.
<ul style="list-style-type: none"> • The Procurement Plan and Community Services Contract Management Plan (if prepared).
<ul style="list-style-type: none"> • Any transition-in or service start-up plans developed.
<ul style="list-style-type: none"> • Any risk assessments or issues registers developed.
<ul style="list-style-type: none"> • Any briefing notes or correspondence (including emails) relating to the service agreement including critical advice, reviewed documents, service provider information and/or requests and any methodologies employed to reduce the administrative burden of the NFP organisation.
<ul style="list-style-type: none"> • Evidence of disclosure requirements such as insurance certificates or licences required.
<ul style="list-style-type: none"> • Records of any disputes and related discussions and negotiations.

C. *Probity and Accountability*

In accordance with the SSC *Probity and Accountability* policy, both sectors involved in procurement activities have a responsibility to behave ethically at all times. Ethical behaviour supports openness and accountability in procurement processes and gives service providers the confidence to participate in Government tender processes. Ethical behaviour can also result in a reduction in the costs associated with managing risks such as fraud, theft and corruption and can build confidence in public administration.

Managing ethical issues will often involve a number of potentially conflicting factors such as:

- the need to uphold the standards set out in the *Public Sector Management Act 1994 (WA)* and your Public Authority's Code of Conduct;
- the need to achieve the community outcomes;
- the need to maintain a positive partnership with the service provider; and
- whether a potential, perceived or actual conflict of interest exists.

Once the procurement activity enters the service agreement management phase, the risk of unethical behaviour still exists, however, it is often harder to detect which can make issues difficult to address. Service agreement managers should ensure they are aware of their ethical responsibilities, and strive to maintain the highest standards of probity and accountability throughout the life of the service agreement.

Practice Tip

One of the best ways to deal with unethical behaviour is to require all offers of gifts or benefits, no matter how big or small, to be disclosed to a nominated superior.

It is also a good practice to keep an up-to-date gift register for each service agreement.

For more information head to the [Integrity Co-ordinating Group Website](#).

PHASE 1 – Plan How to Manage the Service Agreement

1.1 Develop a Thorough Understanding of Service Agreement Documentation

All service agreement managers should have a thorough understanding about the operation and performance of the service agreements under their responsibility. This means the first step of the service agreement management process is to develop a good understanding of the hierarchy of documentation that forms each service agreement, as illustrated in Figure 6.

Figure 6: Hierarchy of service agreement documentation



As seen above, the *General Provisions* form the standard terms and conditions of the service agreement. The Request document and any associated addenda then outline the specific details of the service agreement, and in the case of any inconsistencies, takes precedence over the *General Provisions*.

The Offer is submitted by the service provider outlines many important elements of the service agreement such as the service delivery model, price and any KPIs associated with the service agreement. Finally, the Award Letter issued by the Public Authority forms the acceptance of the service provider's offer and takes precedence over all other documentation.

A thorough understanding of each of these documents will allow service agreement managers to:

- have a clear understanding of the scope, outcomes and KPIs associated with the service agreement;
- be informed about any crucial timeframes, particularly the service agreement end-date and the availability of extension options;
- identify any issues promptly and address them appropriately; and
- effectively monitor the achievement of community outcomes.

1.2 Identify and Involve Stakeholders

The *DCSP Policy* partnership principles and behaviours underpin the nature of the relationship between Public Authorities and service providers in the delivery of community services. As openness and transparency are paramount, it is important to identify and involve all relevant stakeholders.

Stakeholders are defined as any party that has a legitimate interest in the service agreement. For example, stakeholders can include:

- service-users;
- senior employees of the Public Authority; and
- other organisations, such as those that provide complimentary services.

Once all relevant stakeholders are identified, undertaking a detailed stakeholder analysis can be of great benefit. A stakeholder analysis helps to identify the influence and interest of each stakeholder, in order to develop a communication strategy that will keep all parties informed about the progress of the service agreement.

Practice Tip

Where possible, involve the service provider in the stakeholder analysis. This can:

- illustrate the Public Authority's willingness to consult on significant issues;
- allow the service provider the opportunity to provide input into the interests of certain stakeholders; and
- allow the service provider to influence the communication strategy.

1.3 Identify and Manage Risks

All service agreements have an element of risk, so it is important to identify those risks and actively manage them throughout the life of the service agreement. A risk is an uncertain event that could impact on the achievement of community outcomes associated with the service agreement. As service agreements can often be complex and high value, any identified risks need to be actively managed. The risk management process involves identifying potential risks and their associated impact on the service agreement, and developing strategies to mitigate or eliminate them.

An initial risk assessment often takes place during the planning stage of the procurement process. This assessment can be a useful starting point for the identification of risks, but should always be reviewed and updated to reflect any changes to circumstances that occur throughout the life of the service agreement. To assist with the identification process, Table 5 contains some of the typical sources and examples of risk that could be relevant when managing service agreements.

Table 5: Sources and examples of risk

Sources of Risk	Examples of Risk
Public Authority management	<ul style="list-style-type: none"> • Lack of sufficiently skilled and experienced staff to effectively manage the service agreement. • Lack of recognition of the importance of service agreement management. • Failure to actively monitor service provider performance, address issues or monitor the achievement of the community outcome.
Service provider performance	<ul style="list-style-type: none"> • Failure to provide the required services or achieve the desired community outcome. • Failure to comply with the service agreement terms and conditions (for example, inadequate insurance levels). • Fraud or unethical conduct by the service provider.
Changes in circumstances or requirements	<ul style="list-style-type: none"> • Service provider or Public Authority not prepared to accommodate changes to the service agreement. • Changes in circumstance are not managed in a collaborative and timely manner. • Service agreement variations are not conducted in accordance with Public Authority policies and procedures.
Stakeholder relationships	<ul style="list-style-type: none"> • A collaborative approach to decision-making is not undertaken. • Stakeholders are not informed about issues related to the service agreement. • Conflicting stakeholder expectations.

1.3.1 Risk Register

Once the risks associated with the service agreement are identified, a Risk Register can be developed to ensure they are adequately managed. Where moderate and significant risks are recognised, the Risk Register should clearly outline the risk mitigation strategies available for the Public Authority to implement. Once agreed upon, these strategies should be incorporated into the service agreement management plan.

Wherever possible, the Risk Register should be periodically updated to reflect any emerging risks, to ensure risk mitigation strategies are reconsidered as required. The [Community Services Risk Workbook](#) provides guidance on developing a Risk Register for service agreements. Where further information is required, Public Authorities should contact [RiskCover](#).

1.3.2 Issue Register

If a risk eventuates and it requires the application of a mitigation strategy, it then becomes an “issue”. Developing an Issue Register will help to manage and address any identified issues, and can also be used to document actions taken to address and resolve them. In addition, an Issue Register:

- provides Public Authorities and stakeholders with a documented framework from which the status of issues can be reported;
- facilitates communication of issues to key stakeholders; and

- provides a mechanism for seeking and acting on feedback regarding identified issues to encourage the involvement of key stakeholders.

1.4 Identify and Assign Responsibilities

As service agreement management involves a number of processes and procedures, identifying and assigning responsibility for each aspect is crucial. Once the previous steps have been undertaken, a thorough list of service agreement tasks and responsibility for each can be developed. As many stakeholders can often be involved in different tasks, communicating their level of involvement or responsibility upfront can assist the management of expectations. Table 6 provides a brief example of the breakdown of responsibilities across each service agreement management phase.

Table 6: Key actions and responsibility matrix

Action or Step	Who is responsible?	Who else may be involved?
Phase 1:		
Review and update risk assessments and registers	Service agreement manager	<ul style="list-style-type: none"> • Public Authority senior management
Ensure all parties understand the service agreement	Service agreement manager	<ul style="list-style-type: none"> • Service provider • Public Authority senior management • End users
Phase 2:		
Service delivery	Service provider	
Keeping stakeholders informed about the service agreement	Service agreement manager	<ul style="list-style-type: none"> • Service provider • Public Authority senior management • End users
Service agreement administration	Service agreement manager	<ul style="list-style-type: none"> • Service provider
Resolving issues or problems	Service agreement manager and service provider	<ul style="list-style-type: none"> • Public Authority senior management
Phase 3:		
Implement service agreement variations	Service agreement manager	<ul style="list-style-type: none"> • Service provider • Public Authority senior management
Conduct a service agreement review	Service agreement manager	<ul style="list-style-type: none"> • Service provider

PHASE 2 –Manage Service Agreement Performance

2.1 *Manage Service Agreement Start-Up*

When managing service agreement start-up, it is important for the service agreement manager to be familiar with the service agreement documentation, the desired community outcomes and the relationship that has been formed with the service provider during the earlier stages of the procurement cycle.

Service agreement start-up occurs when the procurement development team hand over all relevant documentation, information and knowledge they have regarding the service agreement to the service agreement manager. It is then the responsibility of the service agreement manager to verify and resolve any issues that might otherwise impact adversely on the implementation of the service agreement or the relationship with the service provider.

Practice Tip

It is best practice to involve the service agreement manager at the beginning of the procurement process to ensure they have background knowledge of the service agreement.

2.1.1 *Delegations*

To implement and manage the service agreement, the service agreement manager should make sure that the appropriate procurement delegations and authorisations are in place in accordance with the Public Authority's delegation schedule. Service agreement managers can ensure that the correct delegations are in place by:

- identifying the source of the authority and the relevant delegations within the Public Authority;
- determining the scope of the authority required to effectively manage the service agreement;
- identifying the roles and responsibilities of service agreement management staff; and
- understanding the process used to vary the procurement delegation schedule if circumstances change.

2.1.2 *Initial Service Agreement Management Meeting*

After the award of a service agreement, the service agreement manager should convene an initial meeting with the service provider and other appropriate stakeholders. The purpose of this meeting is to establish communication between the parties and to ensure there is a clear and mutual understanding of the responsibilities and obligations as prescribed in the service agreement. An effective service agreement start up meeting should involve:

- discussions about outputs and outcomes including the responsibilities of the parties;
- clarifying the critical dates, milestones and timeframes of the service agreement;
- preparing a schedule of service agreement management meetings;
- confirming invoicing and payment processes;
- clarifying reporting requirements; and

- mutually developing a methodology for monitoring service provider performance providing feedback.

Holding an initial service agreement start up meeting will allow the service agreement manager to determine whether there are any issues to be resolved. Where possible any issues identified at the start up meeting should be addressed prior to the service provider commencing the delivery of services.

2.1.3 Manage Unresolved Issues

Any unresolved issues regarding elements of the service agreement should be addressed during the service agreement start-up. If not dealt with upfront, these issues may lead to problems over the life of the service agreement.

A detailed review of the service agreement with the service provider and appropriate stakeholders at the service agreement start up meeting may also identify issues that require clarification or elaboration in the service agreement. In some cases this may require a variation of the service agreement. Service agreement variations are discussed in further detail under Section 3.1.1 of this Guide.

In situations where there are issues that have not been resolved, the service agreement manager should identify and place them in the Issue Register. The type of information that should be recorded includes:

- any arrangements made by the parties during the negotiation process;
- aspects of the service agreement that require further development in the future; and
- aspects of the service agreement that are subject to another process, for example, subject to conditions of licences or third party planning or approvals.

2.1.4 Manage the Transition Phase

The service agreement manager will need to manage a transition phase to the new service agreement. The transition phase is discussed in detail under Section 3.4.3 of this Guide.

2.2 Administer the Service Agreement

Service agreement administration is essential for effective service agreement management and overlaps with service provider monitoring and performance assessment. Service agreement administration encompasses the day-to-day tasks that should be completed by the service agreement manager, including:

- maintaining accurate records relating to the service agreement;
- maintaining contact details of the parties involved in the service agreement;
- scheduling regular service agreement management meetings;
- making payments; and
- establishing and updating service agreement documentation.

2.2.1 Record Keeping

As discussed above, record keeping during the service agreement management phase will enable Public Authorities to build an accurate information base, manage risk and provide auditable evidence of events and decisions that have occurred.

Service agreement management activities should be carefully recorded in order to ensure transparency and accountability in decision making. Records of communications, meetings, reviews and any resulting actions provide context and can be used for resolving issues that may arise over the term of the service agreement.

2.2.2 Contact Details

Regular communication with the service provider and stakeholders is critical for managing a service agreement. Maintaining up-to-date contact details for the service provider's key personnel and stakeholders will enable ease of communication between parties, particularly over long-term service agreements. Once the service agreement manager is notified of any changes to key personnel, it is important to update the relevant contact details as soon as possible.

2.2.3 Meetings

Following the initial service agreement start-up meeting, regular meetings should be held between the parties to review service agreement performance and to address any issues that have arisen during the term. Meeting regularly with the service provider and appropriate stakeholders will assist with identifying and mitigating risks, managing relationships and monitoring the extent to which the service agreement outputs and outcomes have been achieved.

A schedule of meetings should be established at the service agreement start-up meeting and set out a time, place and purpose of the meeting. The schedule can be aligned with key dates and milestones of the service agreement and should include any planned performance reviews or other key activities.

2.2.4 Payments

When making payments to the service provider, the service agreement manager should adhere to the payment schedule set out in the service agreement. It is best practice to clarify with the service provider when and how payments should be made at the service agreement start-up meeting. Service agreement managers should ensure an accurate invoice or statement of expenditure is received from the service provider prior to making any payments.

It is important to avoid late payments as this can impact on the service delivery schedule and negatively affect end-users and the Public Authority's relationship with the service provider. It is also important to remember that late payments can be subject to interest charges under Clause 3.15 of the *General Provisions*.

Practice Tip

When making a payment to a service provider, ensure that the invoice does not accidentally refer to any terms and conditions, clauses or disclaimers that differ from those governing the service agreement, as paying that invoice may incorporate those terms into the service agreement itself.

2.2.5 Service Agreement Documentation

As discussed in Phase 1 - Section 1.1, service agreement managers should become familiar with all documents relating to the service agreement and the related procurement process during service

agreement start-up. Reviewing service agreement documentation will ensure the service agreement manager has a thorough understanding of the service agreement outcomes and the obligations of the service provider.

Practice Tip

The *General Provisions for the Purchase of Community Services by Public Authorities* are updated from time-to-time. Refer to the front page of the Request document to ensure that you are reviewing the correct version of the *General Provisions* associated with the service agreement.

2.3 Manage Service Provider Performance

Performance management should be undertaken over the life of the service agreement to ensure that the desired outcomes are being achieved. Performance management should ensure that service agreement outputs and outcomes are met on time and within budget and should not distract from the service provider delivering service agreement outputs.

Performance management involves:

- the collection of data related to the performance of the service agreement;
- assessment of how effectively the service agreement is meeting service-user requirements and achieving the desired community outcomes; and
- taking appropriate action to address under performance.

Service agreement managers should utilise reports provided by the service provider to effectively monitor the performance of the service agreement. All reporting requirements and any KPIs should be outlined in the service agreement document and confirmed with the service provider at the service agreement start-up meeting.

2.3.1 Monitoring and Reporting

Service agreement managers should develop a performance monitoring strategy for each service agreement. Monitoring focuses on collecting information to provide evidence that progress is being made in line with agreed timeframes and towards achieving the service agreement outputs and outcomes.

The performance monitoring strategy should encompass:

- specific outputs and services being provided on time to the specified quality;
- service user satisfaction;
- performance against service agreement requirements and KPIs; and
- meeting minutes, discussions and records collected over the service agreement term.

Revisions to monitoring and reporting requirements should be made where the data collected does not provide adequate information to assess performance, performance measures have not been

fully developed or where the requirements are deemed unsuitable to the particular service agreement.

2.3.2 Assessment

Performance assessment is undertaken on the basis of information collected during the monitoring process. During this process service agreement managers should identify whether the services being delivered are achieving the desired community outcomes and if any issues need to be addressed to improve the service provider's performance.

Performance assessment reports should be a balanced account of performance achieved and identify any shortcomings.

Practice Tip

Service agreement managers should meet regularly with the service provider to discuss their performance and encourage feedback and problem solving.

2.3.3 Providing Feedback

The central element to effective performance assessment is the ability for the service agreement manager to provide open and honest feedback to the service provider about their performance. Providing constructive feedback to service providers ensures quality in service provision and should always focus on improving the way services meet the desired community outcomes. If any under-performance issues are identified during performance assessment they should be addressed promptly with the service provider.

2.3.4 Addressing Under-Performance

Although most service agreements usually encounter minimal performance issues during their term, service agreement managers are best placed to be aware of how to address these issues should they occur. Under-performance occurs when there is significant non-compliance with any aspect of the service agreement terms and conditions and failure to deliver agreed outputs to specified quality and timeframes.

Monitoring performance through agreed methods that allow timely and ongoing feedback, particularly in relation to timeframes and outputs will enable the service agreement manager to identify and address issues before they become more serious. Many performance issues can be avoided by maintaining a professional and constructive relationship with the service provider. Any perceived under-performance issues should be documented and communicated to the service provider as soon as possible to ensure that there is sufficient opportunity to address the performance concerns during the period of the service agreement.

Formal actions addressing under-performance issues should only be taken after the appropriate internal approvals have been received, and feedback should be provided through methods agreed to at the service agreement start-up meeting. Any actions addressing under-performance issues should be clearly identified, recorded and addressed by all parties.

2.4 *Manage Service Agreement Disputes*

With every service agreement, there is always the potential for disputes to occur at some point. As a general rule, a disagreement becomes a dispute when it is not possible for the parties to resolve the disagreement without resorting to a formal dispute resolution mechanism.

Most disagreements and disputes arise when the parties to a service agreement cannot agree on issues related to the interpretation of the service agreement provisions, outputs and performance standards. It is the role of the service agreement manager to ensure that any possibility of an actual dispute arising is recognised and dealt with as early as possible to avoid any impact on the delivery of services and to reduce expenses to both parties.

Practice Tip

Under Clause 27.7 of the *General Provisions for the Purchase of Community Services*, both parties to a service agreement are obligated to use 'reasonable efforts to resolve by negotiation any problem that arises between them under the service agreement.'

The different types of dispute resolution are discussed in Table 7 below and should be utilised in the order in which they appear.

Table 7: Dispute Resolution Processes

Negotiation	Holding negotiations between the service provider and the Public Authority are the most common approach to resolving disagreements and disputes. Negotiations should be used to bring about an outcome that satisfies both parties involved without one side feeling unduly pressured into accepting a particular solution.
Mediation	If negotiations fail to bring about a mutually acceptable solution, it may be necessary to involve a mediator. Mediation requires the involvement of a neutral third party to help the parties to a service agreement resolve the dispute. A mediator should be utilised once negotiation options have been exhausted and before any formal dispute resolution processes are explored.
Arbitration	Arbitration is the process by which a dispute between parties to a service agreement is resolved by an impartial arbitrator whose decision will be final and binding. Arbitration may not bring about an outcome that satisfies both parties and can be logistically challenging as difficulties can arise regarding the selection of an agreed arbitrator, and there are often uncertain appeal rights and the lack of legal precedent followed.
Litigation	Litigation is the process of seeking to resolve a dispute through the courts. Litigation should be a service agreement manager's last resort when seeking to resolve disputes as it can be an expensive and time consuming process for the parties involved.

PHASE 3 – Manage Service Agreement Change and Review

3.1 *Manage Service Agreement Variation*

During the service agreement term, it may become necessary to make changes to the service agreement. When seeking to change a service agreement, service agreement managers should consider the full impact of making the change including the effect on the intended community services outcomes, transfer of risk, contract creep and the importance of adhering to formal service agreement variation processes.

3.1.1 *Variation Process*

To avoid exposing Public Authorities to undue risk, service agreement managers should ensure that any proposed changes to a service agreement are managed in accordance with formal procedures as follows:

- a written record is made of any potential need for the variation;
- the full implications of change are considered including before making any amendments to the service agreement or the service agreement price;
- those involved have the authority to negotiate changes;
- each step of the action taken is recorded, with any changes incorporated in the service agreement by a formal variation to the original; and
- stakeholders are informed of the changes.

Variations should not be used to mask poor performance or serious underlying problems and should be assessed to ensure that they do not breach legislation or contradict SSC policies or the *DCSP Policy*.

Risk Transfer

Service agreement managers should be aware that making multiple changes to a service agreement over a period of time may shift the overall allocation of risk or transfer particular risks to the Public Authority. Service agreement managers should undertake a risk analysis and update the service agreement risk register when considering making changes to a service agreement to ensure the Public Authority is not exposed to any unintended effects.

The [Community Services Risk Workbook](#) provides guidance on developing a Risk Register for service agreements. Public Authorities should be aware of RiskCover notification requirements, which are set out in Clause 8 of the RiskCover Fund Guidelines. Where further information is required, Public Authorities should contact their [RiskCover](#) client service manger.

Contract Creep

In addition to carefully considering risk, service agreement managers must ensure that variations do not substantially change the intended service agreement outcomes or parts of the original service agreement. If it is found that changing a service agreement will significantly alter the original scope, it may be necessary to undertake another procurement process.

3.2 *Manage Service Agreement Extension Options*

During the term of the service agreement the service agreement manger will be required to make a decision about exercising any extension options that may be contained in the service agreement. Under Clause 3.2 (a) of the *General Provisions for the Purchase of Community Services*, 'The State Party has the option or options to extend the Term for the period or periods (as applicable) specified

in the Service Agreement.’ Extension options will vary between different service agreements and are detailed at the front of the Request document and confirmed in the Award letter.

When exercising an extension option, service agreement managers must notify the service provider in writing within the agreed notice period specified in the service agreement. The decision to extend a service agreement should be made based on the performance of the service provider over the term, the effectiveness of the service agreement and whether any desired improvements can be negotiated.

Practice Tip

Clause 3.2 (b) (ii) of the *General Provisions for the Purchase of Community Services* states that if no extension notice period is specified in the service agreement then the Public Authority must inform the service provider of their intent at least 20 business days before the expiry of the term.

3.3 Closing a Service Agreement

The most common reason for closing a service agreement is when the term of the service agreement has ended and all obligations have been met by the service provider. Service agreement managers should plan a service agreement exit strategy well in advance of the service agreement expiry date. This will allow for a comprehensive review of the service agreement and service providers performance, consideration of procurement options and development of transition strategies if needed.

3.3.1 Review Service Provider Performance

Prior to the close of any service agreement or as part of the transition to a Preferred Service Provider (PSP) arrangement or new procurement process, it is best practice to undertake an evaluation of the overall performance of the service provider and the service agreement. Service agreement reviews should be undertaken with sufficient time for the Public Authority to re-tender if required, prior to the expiry of the existing service agreement. Some of the key aspects that a service agreement review should cover include:

- whether the service agreement outputs have been delivered;
- the level of compliance with the *General Provisions for the Purchase of Community Services* and quality requirements;
- comment from key stakeholders (including service users) on the impact of the service agreement meeting the identified community need or outcome and satisfaction with delivery of the service;
- the service provider’s experience of working with the Public Authority; and
- lessons learnt over the term of the service agreement.

The outcome of this review should establish a clear understanding of future requirements and the procurement options available to the Public Authority. Relevant findings of the review should be discussed with the service provider.

3.3.2 *Finalising Administrative Requirements*

When closing a service agreement, there are a number of final administrative duties that should be undertaken by the service agreement manager. These actions include:

- finalising any outstanding discussions, including disputes;
- documenting lessons learnt;
- completing record keeping responsibilities;
- facilitating the return of any Public Authority property;
- reporting to senior staff and stakeholders; and
- checking and finalising any transition arrangements.

3.3.3 *Managing the Transition*

Transition refers to the changeover from one service provider to another or from one service agreement to another. A transition period may involve undertaking a new procurement process for an existing service, negotiating a PSP process with an existing service provider or closing the service agreement indefinitely.

New Procurement Process

Tender processes will often need to be conducted for a new service provider in parallel with the continued provision of services by the incumbent service provider. During this process, the Public Authority must ensure that any actual and perceived bias in the treatment of respondents, especially the incumbent service provider, is avoided.

Service agreement managers must ensure the highest standards of probity are adhered to when an incumbent service provider is submitting an offer for a re-tendered service agreement. All communication with the incumbent service provider regarding the new procurement process should be provided to all other potential respondents and recorded accordingly. Any briefings that are scheduled for the new procurement process should be conducted by the Public Authority without involvement or assistance from the incumbent service provider.

Service Provider Handovers

Managing the handover from an outgoing service provider to a new service provider requires careful relationship management on the part of the service agreement manager. Steps should be taken to maintain an amicable and professional relationship with both service providers whilst maximising the transfer of information and knowledge to the new service provider.

This may involve:

- arranging formal and informal discussions between the parties;
- arranging for the new service provider to access procedural documents and processes prepared and used by the outgoing service provider;
- facilitating the transfer of custody and/or ownership of assets and service agreement materials to the new service provider; and

- arranging discussions between the new service provider and stakeholders, particularly Public Authority senior management and end-users so the new service provider can obtain a first-hand view of requirements and expectations.¹

Preferred Service Provider Process

Public Authorities may, at their discretion, exercise the option of retaining an existing service provider through a restricted process. The existing service provider will then be known as a PSP.

When engaging an existing service provider in a PSP process and transitioning between service agreements, service agreement managers should adhere to the requirements of the PSP process as well as the provisions of this Guide.

¹ Australian National Audit Office, *Developing and Managing Contracts: Better Practice Guide*, February 2012. Available from: <http://www.anao.gov.au>.

Glossary of Terms

The following glossary covers the defined terms appearing in the Community Services Contract Management Practice Guide.

Accountable Authority means the officer responsible for purchasing undertaken by a Public Authority. This is usually the Public Authority's Director General, Chief Executive Officer or their delegate.

Act means the *State Supply Commission Act 1991 (WA)*.

Contract Management Plan means a plan containing all the pertinent information about how the contract is to be managed and which identifies and addresses all relevant issues through the life of the contract.

Community Services mean those services of a nature intended to address physical or social disadvantage and/or that promote the health and wellbeing of individuals, families and communities. Examples of Community Services include: services which contribute to the building of capacity within the community to respond positively to an identified need; services required to address disadvantage for which a collaborative approach is required with the community; services that encourage the involvement of volunteers, increased business or community support or the personal empowerment of recipients of the service; or services which contribute to the ability of people to live and participate in the community.

Community Services Contract Management Plan Template means a template that provides a framework for service agreement management activities and records key elements of the service agreement.

Delivering Community Services in Partnership (DCSP) Policy means the *DCSP Policy* effective from 01 July 2011 and which replaces the 2002 *Funding and Purchasing Community Services Policy*. The *DCSP Policy* was developed by the Partnership Forum based on recommendations 13 to 15 from the Economic Audit Committee Report published in October 2009.

FaCS means the Funding and Contracting Services Directorate, Government Procurement, Department of Finance.

Guide means this Community Services Contract Management Practice Guide.

Issues Register means the process by which potential issues that may affect a service agreement are identified and a mitigation strategy addressing them is developed.

Not-For-Profit means an organisation that does not operate for the profit, personal gain or other benefit of particular people.

Offer means the Part D – Response Form section in the Request as completed by a Respondent.

Preferred Service Provider means a service provider who has been engaged via exemption from an open tender process.

Price means the total price of a procurement for the total period of the contract, including extensions and GST.

Procurement means the entire process for obtaining all classes of resources (human, material, facilities and services). It can include planning, design, standards determination, specification writing, preparation of quotation and tender documentation, selection of service providers, financing, contract administration, disposals and other related functions.

Public Authority means:

- a department of the Public Service of the State established or deemed to have been established under the *Public Sector Management Act 1994 (WA)*; or
- an agency, authority or instrumentality of the Crown in right of the State.

Risk Register means a risk management tool by which potential risks to a service agreement are identified and recorded along with the likelihood that they will occur, their consequences and how best to manage them during the service agreement term.

Request means any request by Finance or other government agencies for the submission of tenders, offers, proposals, expressions of interest or other like submissions capable of resulting, with or without further negotiation, in a service agreement and includes any Request for Quote or open tender process.

Respondent means a service provider who has or intends to submit an Offer to a Public Authority.

Service Agreement means a legally binding agreement between the contracting Public Authority and the Service Provider for the provision of community services.

Service Provider means a Respondent whose offer has been accepted by the Accountable Authority with or without modification.

Service User means a person or persons that utilise the services provided by a service agreement.

State Supply Commission policies or SSC policies means the supply policies issued under and in accordance with section 28 of the *State Supply Commission Act 1991*. The State Supply Commission's policies provide a framework for procurement that reflects best practice principles and arrangements. Public Authorities must ensure that these policy requirements are used for procuring goods and services.

Tenders WA means the WA Tendering System (www.tenders.wa.gov.au) providing direct access to Government contracting information, including early tender advice to suppliers, advertising of tenders, electronic tender lodgement and award of Government contracts valued at \$20,000 and above

Variation means the process by which a service agreement may be changed or altered.

Verbal quotation means a verbal process of inviting offers to supply goods and/or services involving a limited number of potential service providers.

Written quotation means a written process of inviting bids to supply services involving simple documentation and a limited number of potential service providers.

References

Australian National Audit Office (www.anao.gov.au) provides information on managing contracts in their guide *Developing and Managing Contracts: Better Practice Guide*, February 2012.

Department of Finance website (www.finance.wa.gov.au) provides a central information source for all community service policies, templates, publications, events and training programs.

DCSP Policy for dedicated information specific to the *DCSP Policy* please refer to the [FaCS website](#).

State Supply Commission provides information on government goods and services procurement policy. Visit the [SSC website](#) for more information.

Tenders WA is the mechanism by which Public Authorities advertise all requests exceeding \$150,000 (incl. GST) and awarded contracts with a value greater than \$20,000 (incl. GST). For more information visit the [TendersWA website](#).

General Enquiries related to community services procurement or the *DCSP Policy* can be obtained by [contacting FaCS](#).

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