



# Preferred Service Provider Process Guidance

This is a guide on how to buy community services using the Preferred Service Provider process as described in the Delivering Community Services in Partnership (DCSP) Policy.

The guide will take you through the steps State agencies must follow when buying community services using the Preferred Service Provider provisions in the [DCSP Policy](#). There may be other steps your agency requires you to follow so you should also check your agency's internal procurement delegations, processes and procedures.

## Achieve Value for Money

Value for money is the central procurement principle from which all other procurement policies and decisions flow. It is reflected in the [Western Australian Procurement Rule A1 – Achieve Value for Money](#). All purchases, regardless of value, must represent value for money.

Achieving value for money is more than simply choosing the lowest price; it also requires consideration of:

- Government, social, economic and environmental priorities
- Cost
- Other non-cost factors

For further information on the Government's social, economic and environmental priorities, see the [Western Australian Social Procurement Framework](#).

For further information on cost and non-cost factors see the [Achieve Value for Money Guideline](#).

Risk is an important non-cost factor, which must be considered. Refer to [Western Australian Procurement Rule C2.6 – Manage Risk](#).

For a discussion about risk see the [Manage Risk Guideline](#). The Department of Treasury and Finance's [Community Services Risk Workbook](#) is a useful resource to help you define your risks.

Your agency is also likely to have its own risk framework.

## Act Ethically – With Integrity and Accountability

Ensuring all procurement is conducted with integrity and accountability is a key procurement rule objective and is reflected in the [Western Australian Procurement Rules Section B: Act Ethically – With Integrity and Accountability](#).

State agency employees must apply the highest levels of ethical behaviour in all areas of their work. This is particularly important in procurement, as it involves spending public money and is subject to high levels of public scrutiny.

Ethical behaviour includes being transparent and accountable by:

- Declaring any conflicts of interest
- Treating all suppliers equally
- Keeping adequate records

For further information on acting ethically, including managing conflicts of interest and record keeping, please see the [Act Ethically – with Integrity and Accountability Guideline](#). You may also find the Department of Treasury and Finance's [Declaration of Interest and Confidentiality](#) form useful.

Acting ethically also includes identifying and preventing procurement fraud and corruption. You can find information on identifying and preventing procurement fraud and corruption at [Preventing Procurement Fraud](#).

## Procurement Planning

Under the Preferred Service Provider provisions of the DCSP Policy and [Western Australian Procurement Rule C4.2\(1\) \(c\) – Exceptions to Procurement Methods](#), you may with the appropriate approvals, exercise the option of retaining an existing service provider through a restricted process. All other procurement rules and processes that correspond with the value of the procurement must still be followed.

### **Step 1: Review the service agreement and determine Preferred Service Provider status**

To determine whether the existing services are still required and the existing service provider is suitable to be granted Preferred Service Provider status, you must conduct a service review.

To ensure appropriate probity and accountability you must ensure the review is transparent and the service provider is involved in the service review.

The [Community Services Preferred Service Provider Review and Assessment Report](#) template can be used to document the service review and status recommendation. The service review assesses the service provider's performance against the Preferred Service Provider criteria:

- continuing to meet the identified need;
- meeting the agreed service specifications, outcomes, quality standards and contractual requirements;
- operating efficiently and effectively; and

- actively engaged in continuously improving services, being responsive to service user and State agency needs and offering innovative solutions to provide the best possible service to the community.

As part of the service review, you should have identified and documented proposed updates to the service agreement in collaboration with the provider. This may include considering changes to the service specifications, quality standards, service agreement requirements and price of the service. Refer to section 2 of the [Preferred Service Provider Review and Assessment Report](#) template.

If the service review determines the service provider is a Preferred Service Provider and the State party approves this method, the Preferred Service Provider provisions allow you to either:

- Enter into a new service agreement by issuing a [Community Services Request for Preferred Service Provider](#) for a formal response; or
- Vary the existing service agreement to extend the service agreement term.

You should work closely with the Preferred Service Provider to establish a new service agreement or extend the service agreement term. This means you can collaboratively develop the service agreement requirements and, in the case of establishing a new service agreement, work with the Preferred Service Provider to complete the offer.

If Preferred Service Provider status is not granted, depending on the intentions for the service agreement (e.g. it may be retendered through an open advertisement or may cease and not be renewed), the service provider must be given at least three months' notice.

## **Step 2: Develop the next service agreement requirements**

This step is applicable whether you are entering into a new service agreement or varying your existing service agreement.

To ensure the service agreement will support sustainable service delivery and ongoing service provider viability, you should review and update the existing service agreement requirements in collaboration with your Preferred Service Provider. The consultation process should be documented and include details of meetings held, correspondence exchanged and the agreed updates and changes.

Any updates should represent value for money.

## **Entering into a new Service Agreement**

A new service agreement is to be entered into by conducting a restricted procurement process as allowed under the Preferred Service Provider provisions of the DCSP Policy and [Western Australian Procurement Rule C4.2 \(1\)\(c\)](#). All other procurement rules and processes that correspond with the value of your procurement must still be followed.

## **Step 1: Finalise and agree on the service agreement service and management requirements**

As per your consultation with the Preferred Service Provider, document, finalise and agree on the new service specifications, quality standards, service agreement requirements and sustainability of service delivery requirements for inclusion in the [Community Services Request for Preferred Service Provider](#) template.

## **Step 2: Secure the appropriate approvals**

Before you continue, ensure you have the budget and approval to proceed. Your agency must have financial and procurement delegations that outline the authority to act on behalf of the agency in a procurement process; and to expend public funds. It is good practice to ensure that the people exercising these functions for any one procurement process are different. For further information refer to the budget and approval section of the [Develop Business Case Guideline](#).

At this point, anyone who will be involved in the procurement process, including decision makers, should complete and sign a [Declaration of Confidentiality and Interest form](#). The obligation to declare conflicts of interest should be managed throughout the procurement process. Refer to the [Act Ethically – With Integrity and Accountability Guideline](#) for more information.

## **Step 3: Develop a Procurement Plan and submit for review (only for procurements with a total estimated value of \$5 million and above)**

[Western Australian Procurement Rule C3 – Develop a Procurement Plan](#) requires you to develop a procurement plan for purchases with a total estimated value of \$5 million and above and for the plan to undergo appropriate assurance and review.

To develop a procurement plan, use the [Community Services Procurement Plan](#) template.

You are required to submit your procurement plan to the [Community Services Procurement Review Committee \(CSPRC\)](#) for review.

Western Australian Procurement Rule C3 also contains an exemption from the requirement to submit your plan to the CSPRC. You can use the [Request for Exemption from Submission to Relevant Review Committee](#) template to request an exemption.

## **Step 4: Develop your Request and gain approval to release**

Develop your Request using the [Community Services Request for Preferred Service Provider](#) template. Add the agreed service specifications, quality standards, service agreement requirements and sustainability of service delivery requirements to the Request.

Prior to sending the Request to your Preferred Service Provider, consult your agency's delegation and authorisation register and seek the approval of the appropriate authorised officer to release the Request.

## **Step 5: Send the Request to your Preferred Service Provider**

Once you have drafted the Request document, share it with your Preferred Service Provider and invite them to respond with an offer. You can work with the Preferred Service Provider to respond to the Request with an offer.

It is recommended that you use Tenders WA to issue the Request, however you are not obliged to do so.

You should allow sufficient time for your Preferred Service Provider to respond to your Request. A minimum of 14 days is a good guide but consider providing a longer period, particularly around holiday periods or if the Request is complex.

## **Step 6: Evaluate the offer received**

At the evaluation and award steps, ensure anyone who is involved, including decision makers, has completed and signed a community services [Declaration of Interest and Confidentiality](#) form or, if they have already completed a form earlier in the procurement process that they reaffirm, in writing, their declaration to ensure no undeclared conflicts (whether actual, potential or perceived) have arisen as a result of the submission of the offer.

In order to evaluate the offer, you will need to establish an evaluation panel of three or more appropriately skilled and knowledgeable people. The evaluation panel members evaluate the offer in accordance with the selection process and criteria included in the Request. The [Evaluation of Offers Guideline](#) provides more information on evaluation panels. See also the [Western Australian Procurement Rule D5 – Evaluation of Offers](#).

Use the [Community Services Evaluation Handbook](#) template to assist you with the evaluation. The evaluation handbook provides a format and methodology for rating the offer according to the qualitative criteria. The evaluation handbook should have been prepared and the evaluation methodology agreed to by the evaluation panel before the issue of the Request.

[Western Australian Procurement Rule D7 – Prepare Evaluation Reports](#) requires you to complete an evaluation report. Use the [Community Services Evaluation Report for Preferred Service Provider](#) template. Your evaluation report must demonstrate the Preferred Service Provider's response represents value for money and is sustainable. The [Evaluation of Offers Guideline](#) provides more information on preparing evaluation reports.

## **Step 7: Submit Evaluation Report for review (Only for procurements valued at \$5 million and above)**

Where the procurement value is \$5 million and above, the evaluation report is to undergo the appropriate assurance and review as required under [Western Australian Procurement Rule D7](#). In the community services space, evaluation reports are reviewed by the CSPRC.

[Western Australian Procurement Rule D7](#) also contains an exemption from the requirement to submit your report to the CSPRC. You can use the [Request for Exemption from Submission to Relevant Review Committee](#) template to request an exemption.

### **Step 8: Award the service agreement**

The evaluation panel makes a recommendation to the accountable authority, who then awards a service agreement by sending an award of contract letter. Use the [Community Services Award of Contract for Request Process Letter](#) template to award your service agreement.

You must also publish the service agreement (contract) award details on Tenders WA, unless an authorised exemption allows otherwise. Such an exemption must be recorded on your agency's exemption register. For information on the award details required to be published and the exemption requirement, refer to [Western Australian Procurement Rules D8.1 and D8.2](#).

## **Varying the Existing Service Agreement**

Varying the existing service agreement to extend the term under the DCSP Policy Preferred Service Provider provisions must be conducted in accordance with [Western Australian Procurement Rule E2 - Apply Rigor to Contract Variations](#). This means the variation must be approved by an authorised officer and submitted to the [CSPRC](#) where the value of the variation is \$5 million and over.

Varying the existing service agreement to extend the term must be completed before the existing service agreement term expires.

### **Step 1: Finalise and agree on the variation details**

As per your consultation with the Preferred Service Provider, document, finalise and agree on all the changes and updates including the extension term (variation details) that will be varied in the service agreement. The agreement with the Preferred Service Provider must include, as applicable, confirmation that the variation details are sustainable and represent value for money.

The variation details must be clearly articulated.

### **Step 2: Submit the variation for approval and, if applicable, CSPRC review**

Complete the [Community Services Preferred Service Provider Variation Approval](#) template with the variation details (variation) agreed with the Preferred Service Provider ready for approval by your authorised officer.

If the value of the variation is \$5 million or more, the completed variation approval template is to be submitted to the CSPRC for review (endorsement) before it is submitted to your authorised officer for approval.

Submit your completed and, if required, reviewed (endorsed) variation approval document to your authorised officer for approval.

### **Step 3: Issue a variation letter to the Preferred Service Provider**

Once the variation is approved by your authorised officer, a [Preferred Service Provider Variation letter](#) is to be issued to the Preferred Service Provider detailing the agreed variation changes. This variation letter forms part of the extended service agreement.

### **Step 4: Record the variation details**

As required under [Western Australian Procurement Rule E2 - Apply Rigor to Contract Variations](#), if the existing service agreement has a service agreement management plan, the plan is to be updated with the agreed variation changes. You must also ensure your agency's contract register is updated with the variation details in accordance with [Western Australian Procurement Rule F5 – Establish and Maintain a Contract Register](#).

Further, [Western Australian Procurement Rule E3.1 - Publish Updated Contract Management Information on Tenders WA](#) stipulates that variations and actual service agreement (contract) expenditure is to be published on [Tenders WA](#) on an annual basis. [Western Australian Procurement Rule E3.2 – Exemption from Publishing Expenditure Update](#) allows for an exemption from this requirement.

## **Frequently Asked Questions**

### **When is a new service agreement or a variation appropriate?**

Extending an existing service agreement via a Preferred Service Provider contract variation is generally lower in administrative burden for the service provider as well as the State agency. It achieves most of the benefits achieved by entering into a new Preferred Service Provider service agreement, and both options are considered acceptable practice.

Entering into a new service agreement via a Preferred Service Provider request instead of extending the current service agreement via a Preferred Service Provider contract variation may be preferable when:

- The service provider has limited experience in responding to requests and welcomes the opportunity to develop its tendering capability in a non-competitive environment;
- The changes to service agreement details are extensive and it would be simpler to represent them as a new set of contract documents (including the request and offer) rather than listing all the agreed changes as a variation; or
- The service agreement is historical and key contract documentation such as the contract conditions, request, offer, letter of acceptance and any previous variations may have been lost over time, making effective service agreement management more difficult for both parties.

Crucially, whichever process is used, the service provider must have the ability to negotiate all service agreement details including a sustainable price.

## **Is there a limit on how many times a service agreement can be renewed or extended via the Preferred Service Provider process?**

No, there is no rule on how many times, or for how long, a service agreement can be extended either by the Preferred Service Provider request process or contract variation.

Instead, each time the expiry date of a service agreement is approaching, the State agency must engage in appropriate needs analysis, market research and stakeholder engagement, before considering which approach to market may be most suitable to address the identified need and achieve positive outcomes for the community.

## **If a community services service agreement is awarded to a for-profit supplier, can it be extended under the Preferred Service Provider provision of the DCSP Policy?**

No, the Preferred Service Provider provision only applies to members of the not-for-profit community services sector.

## **Managing the service agreement**

Whether you have varied your existing service agreement or formed a new service agreement, you must ensure there is effective ongoing management of the service agreement to oversee the delivery of the service agreement requirements. Adequate resources should be devoted to contract management.

There are several [contract management guidelines](#) available to assist you in managing your service agreement. There are also community services [contract management templates](#) available to support you in undertaking the most common contract management tasks including developing a service agreement management plan or processing variations. Information on contract management training is available at [Training for the Community Services Sector](#).

Where your new service agreement is valued at \$5 million and above, a service agreement management plan must be developed. Refer to [Western Australian Procurement Rule E1 - Develop a Contract or Project Management Plan](#) for more information. Use the [Community Services Service Agreement Management Plan](#) template to develop your plan. Rule E1 also contains an exemption to this requirement.

Again, whether you have varied your existing service agreement or formed a new service agreement, variations required during the term of the service agreement must be conducted in accordance with [Western Australian Procurement Rule E2 - Apply Rigor to Contract Variations](#). This means that any variation (even where a variation does not affect the price; or reduces the price) must be approved by an authorised officer and is to be recorded in the service agreement management plan (if applicable) or another means for recording variations. You must also ensure the variation details are documented in your agency's contract register in accordance with [Western Australian Procurement Rule F5 – Establish and Maintain a Contract Register](#).



Also, [Western Australian Procurement Rule E3.1 - Publish Updated Contract Management Information](#) on Tenders WA requires variations and actual service agreement (contract) expenditure to be published on Tenders WA. [Western Australian Procurement Rule E3.2 - Exemption from Publishing Expenditure](#) allows for an exemption from this requirement.

Finally, service agreements should be reviewed in readiness for a new tendering process or transition to a new service provider. The [Contract Review and Transition Guideline](#) provides more information on this process.