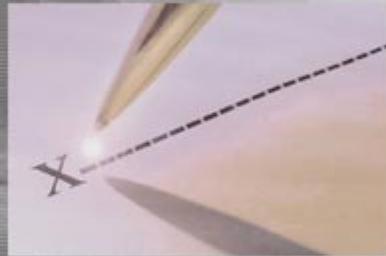


Competitive Contracting Manual



General Administration
Your essential operations partner

Washington State Department of General Administration

Linda Villegas Bremer, *Director*

Bill Joplin, *Assistant Director, State Purchasing and Material Control*

210 11th Ave SW, Room 201 GA Bldg

PO Box 41017

Olympia, WA 98504-1017

Phone: (360) 902-7400

www.ga.wa.gov



STATE OF WASHINGTON
DEPARTMENT OF GENERAL ADMINISTRATION
200 General Administration Building, P.O. Box 41000 • Olympia, Washington 98504-1000
(360) 902-7300 • TDD (360) 664-3799

May 2005

Competitive contracting is an important component of Washington's Personnel Service Reform Act. Congratulations to the team that lifted Washington's competitive contracting off the ground and put the program steps in place.

I'm proud of this outstanding publication and the training program that supports its expert use. Thank you for this shining example of collaboration and hard work.

A handwritten signature in cursive script that reads "Linda Villegas Bremer".

Linda Villegas Bremer
Director
Department of General Administration

Table of Contents

Preface	vii
Glossary	xiii
CHAPTER 1	
Identifying and Screening Possible Services	1
<i>Section 1</i> - About this chapter	1
<i>Section 2</i> - Identifying possible services for competitive contracting	6
CHAPTER 2	
Definition of Business Requirements	11
<i>Section 1</i> - About this chapter	11
<i>Section 2</i> - Definition of the service	14
<i>Section 3</i> - Business requirements analysis	21
<i>Section 4</i> - Performance Work Statements (PWS)	31
<i>Section 5</i> - Quality Assurance Plan (QAP)	36
CHAPTER 3	
Cost of Government Services Guide	39
<i>Section 1</i> - About this chapter	39
<i>Section 2</i> - Presentation of the evaluation model	41
<i>Section 3</i> - Defining the service and its direct costs	45
<i>Section 4</i> - Defining indirect costs	51
<i>Section 5</i> - Cost allocation methods	54
<i>Section 6</i> - Calculating the costs of competitive contracting	57
<i>Section 7</i> - Resources	62
APPENDICES	64
APPENDIX A: Evaluation Model (Schedules A, B, C-1, and C-2)	65
APPENDIX B: Chart of Allowable Costs	69
APPENDIX C: Chart of Allowable Costs	72

CHAPTER 4	
Risk Assessment	75
<i>Section 1 - About this chapter</i>	75
<i>Section 2 - Establish the context</i>	76
<i>Section 3 - Identifying risks</i>	81
<i>Section 4 - Evaluating and prioritizing risks</i>	85
<i>Section 5 - Treat the Risks</i>	90
<i>Section 6 - Risk Management Plan</i>	92
<i>Section 7 - Continuous monitoring, control, and review of risk</i>	94
<i>Section 8 - Additional resources</i>	95
CHAPTER 5	
Alternatives Phase	97
<i>Section 1 - About this chapter</i>	97
<i>Section 2 - Competitive contracting alternatives response</i>	103
<i>Section 3 - Agency response to competitive contracting alternative</i>	105
CHAPTER 6	
Solicitation & Award	111
<i>Section 1 - About this chapter</i>	111
<i>Section 2 - Solicitation content</i>	112
CHAPTER 7	
Contract Management & Monitoring	121
<i>Section 1 - Introduction</i>	121
<i>Section 2 - The contract management team</i>	122
<i>Section 3 - Verification, monitoring, and accepting performance</i>	124
<i>Section 4 - Modifying the contract</i>	127
<i>Section 5 - Dispute resolution</i>	128
<i>Section 6 - Incentives and terminations</i>	129
CHAPTER 8	
Checklist/Agency Readiness	131
<i>Section 1 - About this chapter</i>	131
<i>Section 2 - Pre-notification activities</i>	132

<i>Section 3</i> - Potentially displaced employee notification and alternatives phase	134
<i>Section 4</i> - Solicitation and award	135
<i>Section 5</i> - Transition	136
CHAPTER 9	
Transition Planning	137
<i>Section 1</i> - About this chapter	137
<i>Section 2</i> - EBU award transition	138
<i>Section 3</i> - Private service provider award	140
Schedule A	
Performance Work Statement (PWS) Outline	142
1. Background	
2. Scope	
3. Tasks to be performed	
4. Deliverables	
5. Business requirements	
6. Performance verification	
7. References	
8. Attachments	
Schedule B	
Quality Assurance Plan (QAP) Outline	142
1. Introduction	
2. Statement of objective	
3. Roles & responsibilities	
4. Verification methods	
5. Corrective action process	
6. Provider quality control plan	

Table of Figures

Figure 1	The Competitive Contracting Process and Manual	ix
Figure 2	Competitive Contracting Decision Matrix	x
Figure 3	Agency Service Activity Inventory	6
Figure 4	Competitive Market Analysis (hypothetical data)	7
Figure 5	Competitive Contracting Prioritization Graph (Cost savings example)	9
Figure 6	Competitive Contracting Prioritization Graph (Value example)	9
Figure 7	Business Requirements (developing a PWS & QAP)	12
Figure 8	Work Analysis Diagram	23
Figure 9	Performance Measures, Standards, and AQL	26
Figure 10	Hypothetical Incentive Example	27
Figure 11	Business Requirements Summary	30
Figure 12	Service Scope Statement	34
Figure 13	Service Task Requirements	34
Figure 14	Service Outcome or Deliverable	34
Figure 15	QAP Statement of Objective	36
Figure 16	Tax Comparison Example	59
Figure 17	SWOT Analysis Model	77
Figure 18	The Value Chain	79
Figure 19	SWOT Matrix	81
Figure 20	Risk Rating Matrix	85
Figure 21	Risk Management Dashboard	86
Figure 22	Risk Summary Dashboard	87
Figure 23	Qualitative Risk Analysis Method	88
Figure 24	Level of Risk	88
Figure 25	Risk Consequences	88
Figure 26	Competitive Contracting Process	99
Figure 27	Private Bidder and EBU Bid Evaluation	115
Figure 28	Cost & Non-cost Evaluation Criteria: Private Bidder	116
Figure 29	Cost and Non-cost Evaluation Criteria: EBU	117
Figure 30	Service Provider Scorecard	125
Figure 31	Service Provider Performance Trending: Example	126
Figure 32	Service Provider Performance Trending: Example	126

Preface Washington State Competitive Contracting Manual

Why guidance and not rule?

Given the varied nature of the services being performed by state agencies, the Department of General Administration (GA) has developed this guidance manual as a companion to the competitive contracting rules. A guidance manual provides agencies with flexibility and discretion to manage competitive contracting to suit their specific missions, objectives, and situations.

Who should use this manual?

This manual is intended for agency senior to mid-level employees and managers who are familiar with the following:

- RCW 41.06.142 & WAC 236-51 (Enabling statute and rules)
- RCW 41.80 and the state's collective bargaining agreements
- State purchasing authorities and their role in the state's acquisition of goods and services
- Data analysis and data driven decision making
- Project management and control
- Finance and costing
- Strategic planning and operations
- Budgeting
- Contracting
- Quality assurance and control

The manual is not intended to require nor create expertise in these areas

How is the manual organized?

The manual is organized to follow the competitive contracting process outlined in *WAC 236-51 Competitive Contracting*. It provides examples and illustrations that assist the reader in digesting the material quickly. **GA's Competitive Contracting Website** provides standard templates consistent with responsibilities outlined in WAC 236-51-300. The use of this manual and accompanying templates are intended to:

- Provide a strategic process that is aligned with the state's budget and priorities of government, collective bargaining, civil service rules and guidance, as well as procurement and human resource processes and systems
- Provide a "cost of government services" methodology to support an agency's assessment of service delivery costs
- Reduce variation in the competitive contracting process
- Conserve agency resources by eliminating the need for each agency to start from scratch

In addition, the use of this manual indirectly supports the following competitive contracting program goals:

- A fair and consistently applied set of rules and processes that are easily understood by all stakeholders
- A competitive and informed employee and vendor community
- The development of competitive skills and attitudes within an agency that promote efficiency and cost effectiveness regardless of whether or not a service is competitively contracted
- An increased “free market” approach within government operations, not just in external contracting
- The encouragement of process improvements that result in cost savings and efficiencies in the delivery of government services

How does the manual map to the competitive contracting process?

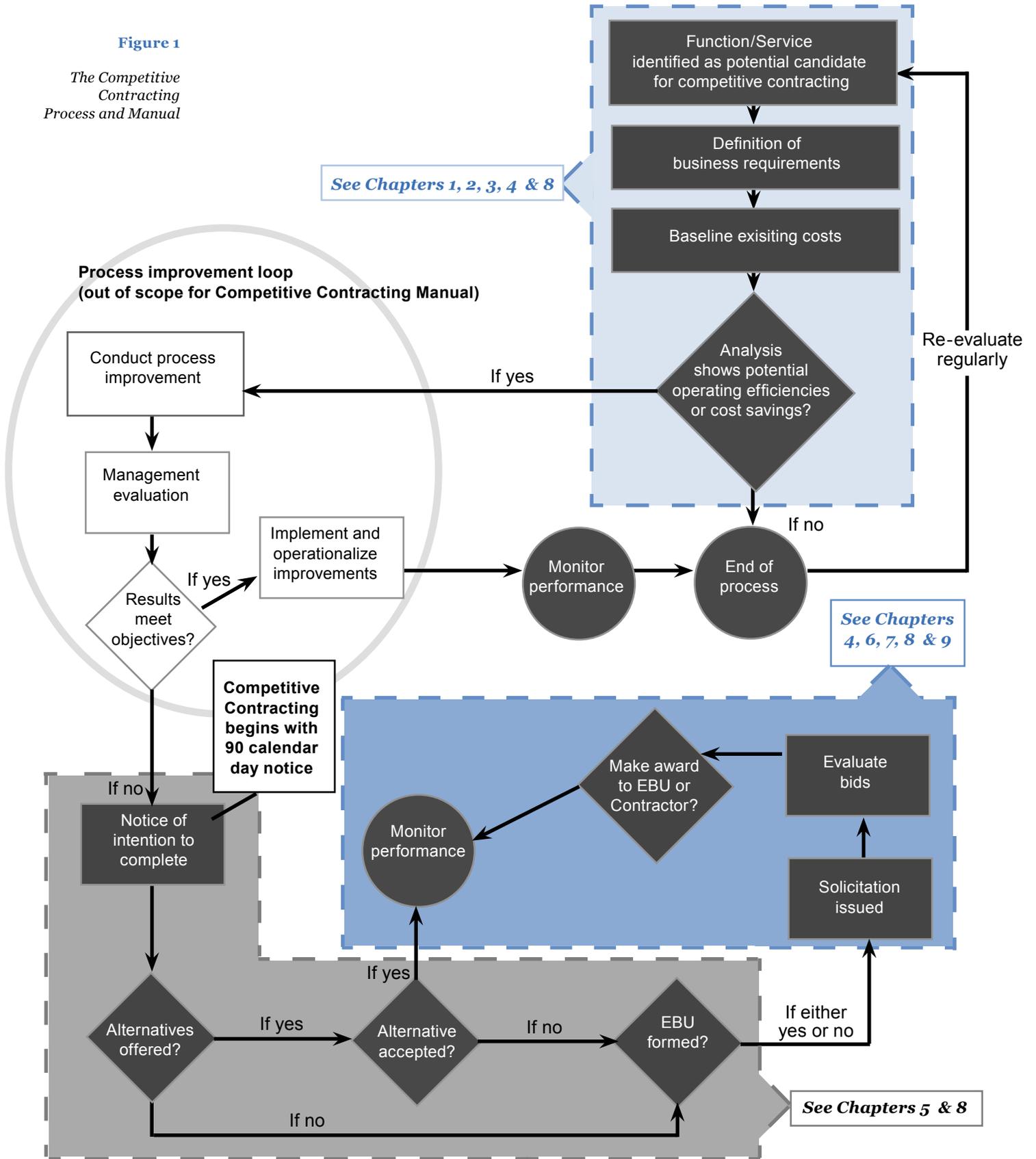
The manual’s nine chapters closely follow the competitive contracting process flow. Figure 1 illustrates this relationship and is provided to help the users of this manual understand the context of each chapter. As one can see in *Figure 1*, a number of chapters apply across the entire process.

Once an agency has determined that a service has been customarily and historically provided by state employees, how does it know if the provisions of WAC 236-51-005 and WAC 236-51-006 apply?

In *Figure 2*, a decision matrix is provided to aid in determining the degree to which the competitive contracting process will be applied. Guidance in making the initial determination as to whether a service has been customarily and historically provided by state employees is outside the scope of this manual. The rationale here is that prior to RCW 41.06.142 being in effect, agencies made this same determination when deciding whether or not to contract services.

Figure 1

The Competitive Contracting Process and Manual



Competitive Contracting Decision Matrix

Step 1: Determine if the competitive contracting process applies		yes or no
1. Is the Employee(s) position or work listed as exempted in RCW 41.06.070?	If yes, cc does not apply If no, proceed to question 2	
2. Is the service being considered... (see below) (reference RCW 41-06-142 (3))		
2.1. Expressly mandated by the legislature?	If yes, cc does not apply If no, proceed to question 2.2	
2.2. Authorized by law prior to July 1, 2005?	If yes, cc does not apply If no, proceed to question 3	
3. Does the solicitation qualify as an emergency purchase as defined in WAC 236-51-005 (2)?	If yes, cc does not apply If no, proceed to step 2, question 4	
Step 2: If applicable, fulfill the agency’s obligations under collective bargaining prior to embarking on an analysis of the present service delivery model and any opportunity available via competitive contracting		yes or no
4. Is all or part of the service being considered for competitive contracting being performed by a bargaining unit?	If yes, proceed to 4.1 If no, proceed to 4.2	
4.1. The agency shall: <ul style="list-style-type: none"> • Contact its liaison at the LRO; • Notify the bargaining unit’s exclusive representative that it is considering competitive contracting as an option to achieve cost savings or efficiency improvements • Respond as required by law to any requests for information or bargaining • Conduct analysis. 		
4.2. The agency shall: <ul style="list-style-type: none"> • Contact its liaison at the LRO • Evaluate and determine if a decision to competitively contract may have an effect on work that involves bargaining unit employees. If yes, proceed to the next bullet. If no, proceed to step 3. • Respond as required by law to any requests for information or bargaining • Conduct analysis. 		

Figure 2

Step 3: Determine if employees will be displaced		yes or no
5. As a result of a competitive contracting award, will the position or work...		
5.1. Be eliminated and result in an employee being laid-off?	If yes, proceed to step 4 If no, proceed to question 5.2	
5.2. Be eliminated and result in an employee being assigned to a different classification?	If yes, proceed to step 4 If no, proceed to question 5.3	
5.3. Not result in an employee's displacement (layoff or re-classification) but bargaining unit employee(s) are involved with the work?	<p>If yes, the agency shall:</p> <ul style="list-style-type: none"> • Contact its liaison at the LRO • Notify any applicable employee organization(s) that it is contracting as an option to achieve cost savings or efficiency improvements and therefore, as a result, may have an affect on work being performed by the bargaining unit • Respond as required by law to any requests for information or bargaining • Solicit bids as described in WAC 236-51-006 <p>If no, the agency solicits bids as described in WAC 236-51-006</p>	
Step 4: Conduct the competitive contracting solicitation according to applicable laws, rules, and the guidance outlined in this manual		

Where can readers provide feedback on this manual?

Agencies and employees using this manual are encouraged to provide GA with input, feedback, and lessons learned in order to assist in the ongoing development of best practices throughout state government. Suggestions and feedback related to this manual may be submitted to:

Assistant Director, Office of State Procurement

210 11th Ave SW, Room 201 GA Bldg

PO Box 41017

Olympia, WA 98504-1017

Phone: (360) 902-7400, Fax: 360-586-4944,
or email at pcamail@ga.wa.gov

Additional resources that agencies and employees may consider include, but are not limited to:

- Competitive Contracting Consulting Services (GA Contract 31703)
- General Administration, Office of State Procurement
- Department of Information Services
- Labor Relations Office (LRO), Office of Financial Management
- DIS Management and Oversight of Strategic Technologies Division
- Agency Contract Administration
- Department of Personnel
- Office of Financial Management

Glossary

Accrual basis of accounting	The basis of accounting whereby revenues are recognized when earned and measurable regardless of when collected; expenses are recorded on a matching basis when incurred. All proprietary and fiduciary funds use the accrual basis of accounting.
Activity	An activity is something an organization does to accomplish its goals and objectives. An activity consumes resources and produces a product(s), service(s), or outcome(s).
Affinity diagram	A creative process, used with or by a group, to gather and organize ideas, opinions, issues, etc.
Agency	Every state agency, office, board, commission, department, state institution, or state institution of higher education, which includes all state universities, regional universities, The Evergreen State College, and community and technical colleges.
Allocation	The process of assigning a cost to one or more service units in reasonable and realistic proportion to the benefit provided or other equitable relationship.
Alternatives phase	The period of time in the competitive contracting process referred to in RCW 41.06.142 (4) (a).
Avoidable indirect costs	Those indirect costs that are directly attributable to a service and would be reduced or eliminated if the service were not performed within state service.
Bargaining unit	The group of employees in positions determined by the Public Employment Relations Commission (PERC) to constitute a unit represented by an employee organization (labor union) and appropriate for bargaining purposes.
Capital assets	Assets that meet the state's capitalization policy such as land, buildings, leasehold improvements, vehicles, machinery, equipment, infrastructure, and all other tangible or intangible assets that are used in state operations, cost at least \$5,000, and that have initial useful lives extending beyond one year (Capital assets do not include limited resources such as minerals or timber.)
Collective bargaining	The performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times and to bargain in good faith in an effort to reach agreement with respect to the subjects of bargaining specified under RCW 41.80.020. The obligation to bargain does not compel either party to agree to a proposal or to make a concession, except as otherwise provided.

Competitive contracting	The process by which classified state employees compete with businesses, individuals, nonprofit organizations, or other entities for contracts to provide service to the agency.
Concurrent engineering	A systematic approach to the integrated, concurrent design of services and their related processes. This approach is intended to cause developers of services, from the outset, to consider all elements of the service's life cycle when creating requirements; from concept through end of life.
Customer engagement strategy	The holistic approach toward managing the full scope of a relationship with a customer. This approach differs from traditional marketing strategies in that it anticipates and plans for every interaction with a customer starting from the first transaction onward with the purpose of attracting, capturing, servicing, and maintaining customers.
Depreciation	The portion of the cost of a capital asset representing the expiration in the useful life of the capital asset attributable to usage wear and tear, deterioration, action of the physical elements, inadequacy, and obsolescence which is charged off during a particular period. In accounting for depreciation, the cost of a capital asset, less any salvage value, is prorated over the estimated useful life of such an asset. (Land is not depreciated because it does not have a limited useful life.)
Direct costs	<p>Those costs that are consumed or expended for the exclusive benefit of a service and thus are totally (100 percent) chargeable to the service. These costs are directly traceable and are usually charged directly to the service.</p> <p>Note: For competitive contracting, RCW 41.06.142 identifies these direct costs that relate to the performance of a service as: employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the service.</p>
Displaced employee	As defined in WAC 236-51-010 (11) a classified employee whose position or work would be eliminated, resulting in the employee being laid off or assigned to a different job classification, as a result of an award via the competitive contracting process.
Employee Business Unit (EBU)	A group of state employees who perform services to be competitively contracted and who submit a bid for the performance of those services.
Employee organization	Any organization, union, or association in which employees participate and that exists for the purpose, in whole or in part, of collective bargaining with an agency.
Evaluation model	The standard required framework for costing of a state-performed service and then comparison to the best alternative source.
Exclusive bargaining representative	Any employee organization that has been certified under RCW 41.80 as the representative of the employees in an appropriate bargaining unit.
Fixed costs	Those costs that do not change over a given period, despite changes in service, production, or other cost drivers.

Full Time Equivalent (FTE)	One full calendar year of paid employment (the equivalent of 2,088 paid hours), including callback, overtime, and replacement help while an employee takes compensatory time and all paid leave.
Fully allocated costs	Those costs associated with a service including the cost of employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the service, such as avoidable indirect costs.
Indirect overhead costs or indirect costs	The term indirect overhead cost is used in competitive contracting to refer to the cost of items that benefit more than one service. In this guide, the simpler term "indirect cost" is used interchangeably. Indirect costs include the various administrative and support activities provided to a service by other sections of the agency. These costs are generally assigned to a service through cost allocation. Examples of indirect costs can include personnel and fiscal services and the director's office.
Labor Relations Office (LRO)	The LRO manages the collective bargaining process with union-represented state employees on behalf of the Governor, as established in the Personnel System Reform Act (PSRA) of 2002. The Labor Relations Office (LRO) is a unit in the Office of Financial Management.
Modified accrual basis of accounting	The basis of accounting under which expenditures, whether paid or unpaid, are formally recognized when incurred against the account, but revenues are recognized only when they become both measurable and available to finance expenditures of the current accounting period. All governmental funds use the modified accrual basis of accounting.
Multi-voting	A way to select the most important items from a brainstormed list with limited discussion and difficulty. It is accomplished by a series of voting rounds, usually 2 or 3, which cut the list of items in half with each vote. It usually occurs after a brainstorming session in which many items have been identified.
Net present value	The sum of dollars to be paid (or received) over a number of years, restated to their cash value today. The net present value of a contract equals the total of net cash paid (or received) in each year, discounted (or converted into today's dollars) using the cost of capital (i.e. interest rate). This technique is one tool that may be utilized to assist management in evaluating the relative cost of contract proposals.
Performance-based contracting	A performance-based acquisition that describes and communicates measurable outcomes rather than a direct performance process (i.e. it instructs service providers on what needs to be done not how it needs to be done). Service requirements are defined in terms of performance objectives, and a service provider is allowed the latitude to determine how to meet those objectives.
Performance Work Statement (PWS)	As defined in WAC 236-51-010 (20) a statement of the technical, functional and performance characteristics or requirements of the work to be performed. The statement identifies essential functions to be performed, determines performance factors, including the location of the work, the units of work, the quantity of work units, and the quality and timeliness of the work units.

Personnel Systems Reform Act of 2002 (PSRA)

Legislation passed in 2002 that contains three major elements: reform of the state civil service classification system, full scope collective bargaining for public employees and competitive contracting for services including services that have been customarily and historically provided by employees in the classified service.

Priorities in Government (POG)

An approach that helps guide budget decisions by producing a results-based prioritization of state activities (see <http://www.ofm.wa.gov/budget/pog/default.htm>).

Pro-forma depreciation

The pro-forma depreciation amount is equal to the depreciation that would have applied to the capital asset had the agency utilized the Accrual Basis of Accounting, rather than expensing the full cost of the asset when purchased (per the Modified Accrual Basis of Accounting).

Quality Assurance Plan (QAP)

As defined in WAC 236-51-010 (22) a plan by which an agency will monitor a contract awardee's performance to ensure that the standards of the performance work statement are met within the costs, quality of service, delivery, and other standards of the contract.

Request For Proposal (RFP)

Any type of bid request documentation. Is synonymous with Request for Quote (RFQ) and Invitation to Bid (IFB).

Responsible bidder

A person (or entity) that has the capability in all respects to perform in full the contract requirements and meets the elements of responsibility as defined in RCW 43.19.1911(9).

Responsive bidder

A person (or entity) whose bid conforms in all material respects to the terms and conditions, specifications, and other requirements of a solicitation.

Root cause analysis

The process of finding and eliminating the cause of a problem, which would prevent the problem from returning. Root cause analysis employs a number of techniques for problem identification.

Evaluation summary Schedule A

The Evaluation Summary form that provides summary cost information from Schedules B, C-1, and C-2, as well as other key information needed to complete the Evaluation Model.

Evaluation summary Schedule B

The Contracting Cost Comparison form that identifies the full cost of competitive contracting including the private service provider's price(s), contract administration costs, transition costs, and other costs. It compares these total costs to the EBU's bid and the cost of keeping the current service delivery approach.

Evaluation summary Schedule C-1

The Current Service Delivery Cost Projection form that projects the direct, indirect, and other related costs of the current service delivery approach.

Evaluation summary Schedule C-2

The EBU Bid Cost Project form projects the direct, indirect, transition, and other costs related to service delivery by an EBU.

Unavoidable indirect costs

Those indirect costs that would not be increased or reduced whether the service were performed by the agency or not. These costs usually support the entire organization, are not directly attributable to specific services, and tend to not be affected by fluctuations in service levels. These costs will not be included in the Evaluation Model.

Value

The value of a service is the ratio of its performance results to its costs:

$$\text{Value} = \frac{\text{Results}}{\text{Cost}}$$

Results are defined by the performance standards to which the work is done; costs are determined using guidance outlined in this manual (see Chapter 3). A bid’s “value proposition” is the particular set of proposed results and costs contained in the bid. In general, a higher value of service is gained by decreasing costs while keeping the level of results the same, or by increasing the level of results while keeping costs the same (assuming that the increase in results provides benefits to the purchaser) (see Chapter 2 for a more detailed discussion of value).

Value chain analysis

See value engineering...

Value engineering

An organized effort directed at analyzing the functions of systems, equipment, facilities, services, and supplies for the purpose of achieving the essential functions at the lowest life-cycle cost consistent with required performance, reliability, quality, and safety.

Variable costs

Those costs that change in direct proportion to changes in a cost driver.

Work Breakdown Structure (WBS)

In the context of competitive contracting, a WBS is an exhaustive, hierarchical (from general to specific) breakdown of the meaningful task levels and linking those tasks to form a logical flow of activities. It is the output that results from a Work Analysis (see section 2.3.2).

Chapter 1 Identifying and Screening Possible Services

Chapter 1, Section 1

About this chapter

1.1.1 Why competitive contracting?

The statute, RCW 41.06.142, enacted as part of the Personnel Systems Reform Act (PSRA) of 2002 allows any agency to purchase services, including services that have been customarily and historically provided by state employees. The agency may contract with individuals, nonprofit organizations, businesses, employee business units (EBUs), or other entities. The agency's decision to competitively contract a specific service will likely stem from one of these driving factors:

1. The agency has applied re-engineering and continuous improvement to the service but has not been able to deliver required levels of performance commensurate with the agency's investment of resources and funding.
2. The agency's need to acquire access to skills, competencies, expertise, and innovative technologies that the agency itself cannot sustain.
3. The need to leverage capacities and economies of scale, which are not available within the agency, but are available from suppliers who are capitalized and specialized in providing the same service to others.
4. Re-allocation and redeployment of the agency's limited resources towards focused mission related services that support the state's priorities of government.
5. Direction from the Governor or Legislature.

1.1.2 Preliminary considerations

Leadership commitment

It is absolutely vital that the effort to compete a service be properly staffed, funded, and supported by agency senior management. Efforts to engage in competitive contracting may be opposed by constituencies, both from inside and outside of the agency. Proactive and on-going communication by the agency with employees, customers, other agencies, etc. at all phases is critical to the success of any competitive contracting effort. Ultimately the results of a competitive contracting solicitation and award are the responsibility of the agency director.

Consider all factors

In identifying a candidate service for consideration, the agency's sole criteria should not be on the amount budgeted or the size of potential savings. Other factors should be weighed, like: risk, the amount of effort and investment already expended to improve the service, staff readiness, and the level of integration the services has with other services (both within and across agencies).

Likelihood of improper or failed performance by the service provider

Potential service disruption resulting from improper or failed performance is an important factor in determining initial candidates for competition, especially for

services that have high visibility and impact to the public. Guidance for assessing risk is included in this manual and should be used to properly quantify and qualify any such risk (see Chapter 4). Additionally, the agency should begin competitive contracting on a scale equal to its experience with the process so as to increase the likelihood of success.

Degree of integration with other services

Services that are primarily stand-alone, and have budgets that are specific to that service, are typically easier to competitively contract than ones that are integrated with other state government operations. Integrated services require more analysis and coordination.

Readiness of employees to participate

The agency needs to consider the readiness of their employees to participate in this effort. Not only to offer alternatives and submit bids, but also to evaluate bids, prepare a cost analysis, determine a competitive market, etc.

Collective bargaining agreements

If a bargaining unit may be involved, the agency should work closely with its liaison at the LRO to ensure it is in compliance with any obligations required under one or more collective bargaining agreements and applicable labor laws.

1.1.3 Key components of this chapter

This chapter introduces the process for identifying, screening and prioritizing services for competitive contracting. The basic steps involved in this process include:

- **Reviewing activities** - In this step the agency focuses on reviewing existing activities currently being performed. This review involves an examination of services for their performance, staffing, capital requirements, mission, etc.
- **Breaking down activities into discrete services** - In this step, the activities are examined further to determine which specific services are available in the marketplace and what potential for efficiency gains or savings exist.
- **Prioritizing services for competitive contracting** - The agency's competitive contracting effort may have limited resources; therefore, one rationale for prioritization involves singling out those services that represent the best return on the agency's investment.

Other considerations may include:

- The number of competitors (at least 2) per the requirements of WAC 236-51-100. (More competitors = more competition = greater potential for savings with less risk)
- Market strength and stability
- Potential financial impact
- Ease of implementation
- Risk

- **Pre-competition assessment** - These activities involve collecting service volume, cost, and marketplace data.

1.1.4 An overview of contracting authorities

The agency should review the following section to understand the interrelationship among the state's contracting authorities:

The Legislature grants authority for the procurement of services within the state via a number of statutes. Furthermore, certain agencies with procurement authority develop additional rules, policies and procedures for the specific types of contracts over which they have authority. In the past, the nature of the services (or products) being procured have determined the applicable laws and rules to be applied.

However, competitive contracting laws and rules set forth in chapter 41.06 RCW and chapter 236-51 WAC have added new requirements to be carefully considered prior to contracting for services. Competitive contracting laws and rules apply to solicitations for all types of services customarily and historically provided by state employees, except (1) as described in RCW 41.06.142(3) and 41.06.070; (2) in the case of emergency purchases as described in WAC 236-51-005; and (3) if state employees will not be displaced.

The state's purchasing authority for services is organized into seven major categories

- **Personal Service Contracts** - Chapter 39.29 RCW
- **Client Service Contracts** - Chapter 39.29 RCW
- **Information Technology Equipment and Services** - Chapter 43.105 RCW
- **Goods and Purchased Services** - Chapter 43.19 RCW
- **Public Works (including Engineering and Architecture)** - Chapters 28B.10.350, 39.04, 39.80 and 43.19 RCW
- **Highway Design and Construction** - Chapters 39.80 and 47.28 RCW
- **Printing Services** - Chapter 43.78 RCW.

The information below covers contracts issued pursuant to two of the above service categories: Chapter 39.29 RCW (personal service/client service) and Chapter 43.105 RCW (Information Technology). For all other types of contracts referenced above, consult the appropriate agency with authority over the particular type of service contract.

Personal and client service contracts

The legal authority for personal and client service contracts is contained in Chapter 39.29 RCW. Regulations for implementation are set forth in Chapter 15 of the Office of Financial Management (OFM) State Administrative and Accounting Manual, which is found at the following website: <http://www.ofm.wa.gov/policy/15.htm>

Personal services are professional or technical services provided by a consultant (contractor) to accomplish a specific study, project, task or other work statement.

If the conditions of competitive contracting apply to personal services being proposed for purchase, then the competitive contracting bid, complaint, and appeal process is used. If the personal service contract resulting from the competitive contracting process is awarded to the contractor (not the Employee Business Unit / EBU), the contract is subject to filing with and/or reporting to OFM just as all other personal service contracts awarded under the competitive solicitation requirements of Chapter 39.29 RCW. In this example, the competitive contracting bid process is used to award the contract, then, if the contract is not awarded to the EBU, the personal service filing and contract management requirements apply.

A further significant change is that the categories of personal service contracts exempt from competition and filing under RCW 39.29.040 are NOT exempt from competitive contracting under RCW 41.06.142. Therefore, if the types of exempt services are those customarily and historically provided by state employees, and employees would be displaced, they are subject to the competitive contracting bid process for award. Contracts exempt under RCW 39.29.040 are: client services; architectural engineering contracts; services for a standard fee; intergovernmental agreements; contracts for services where the fee is established by tariff set by the Utilities and Transportation Commission or other public entity; contracts of less than \$5,000 with the contractor within a fiscal year; collaborative research contracts; contracts for expert witness services; contracts for bank supervision awarded by the Department of Financial Institutions; and interpreter services/interpreter broker services awarded for clients of the Department of Social and Health Services. Contracts designated by OFM as exempt are also included under this change.

Information technology contracts

Chapter 43.105 RCW defines specific authorities and responsibilities for the Information Services Board (ISB), the Department of Information Services (DIS), and the heads of individual agencies.

The ISB has the power and duty to develop standards governing the acquisition and disposition of equipment, proprietary software and purchased services, licensing of radio spectrum, and confidentiality of computerized data. It also has the power and duty to purchase, lease, and rent or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent or otherwise acquire, dispose of, and maintain equipment, proprietary software and purchased services.

Agencies and institutions of state government are expressly prohibited from acquiring or disposing of equipment, proprietary software, and purchased services without such delegation of authority. See <http://dis.wa.gov/portfolio/> for the documents referenced in this section. For the latest information regarding competitive acquisition of IT goods and services, see Appendix A of the IT Investment Standards also located at the above web site.

Some IT purchases require ISB or DIS approval. Such approval must be obtained prior to release of any solicitation and prior to conducting the acquisition.

ISB approval is required under one or more of the following circumstances

- The investment is placed under ISB oversight by legislative proviso
- The ISB places the investment under its oversight
- The investment was rated oversight level 3 or is part of a project that was rated oversight level 3, per the oversight matrix in the ISB IT Investment Standards
- ISB approval may be required if the investment cost exceeds the agency director's delegated authority.

DIS approval is required under one or more of the following circumstances

- The investment cost is more than the agency director's delegated authority
- The acquisition process to be used is a technology assessment
- The investment was rated oversight level 2 or is part of a project that was rated oversight level 2, per the oversight matrix in the ISB IT Investment Standards
- The investment is exempted from delegated authority, even if the investment cost is within the agency director's delegated authority. The ISB Investment Policy lists the types of IT investments that are exempted from delegated authority

State agency competitive contracting acquisitions for IT-related services are subject to the to the Information Technology Investment Policy and all other requirements arising under chapter 43.105 RCW. For guidance on vendor complaints concerning IT purchases, refer to section 6.2.1 of this manual *Complaints Relating to IT Technology Solicitations* and the *Information Services Board's IT Investment Standards*. Once the procedures described there have been exhausted, appeals are governed by RCW 41.06.142 and chapter 236-51 WAC.

Specific questions regarding compliance and requests for assistance should be directed to your agency's DIS Senior Technology Management Consultant. A list of agency consultant assignments is available online at: <http://dis.wa.gov/portfolio/201S.htm#appendixE>

When state employees would not be displaced by an award of a contract

Competitive contracting requirements also apply even when employees are not being displaced. When services that have customarily and historically been provided by state employees are being contracted and state employees are NOT being displaced, agencies will comply with the applicable procurement law for the type of service. But prior to conducting the competitive process, agencies must also ensure that:

- The invitation for bid or request for proposals contains measurable standards for the performance of the contract
- The department, agency, or institution of higher education has established a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards

- The department, agency, or institution of higher education has determined the contract results in savings or efficiency improvements. The contracting agency must consider the consequences and potential mitigation of improper or failed performance.

Chapter 1, Section 2

Identifying possible services for competitive contracting

The tasks discussed below describe a comprehensive process for identifying possible services for competition. It is not necessary to complete all of the tasks in the identification and screening process outlined in this chapter prior to initiating competitions. At a minimum though, agencies are encouraged to identify potential services for competitive contracting as early as possible to allow ample time for re-engineering or process improvements to be performed (if not done so already) prior to any decision to compete a service.

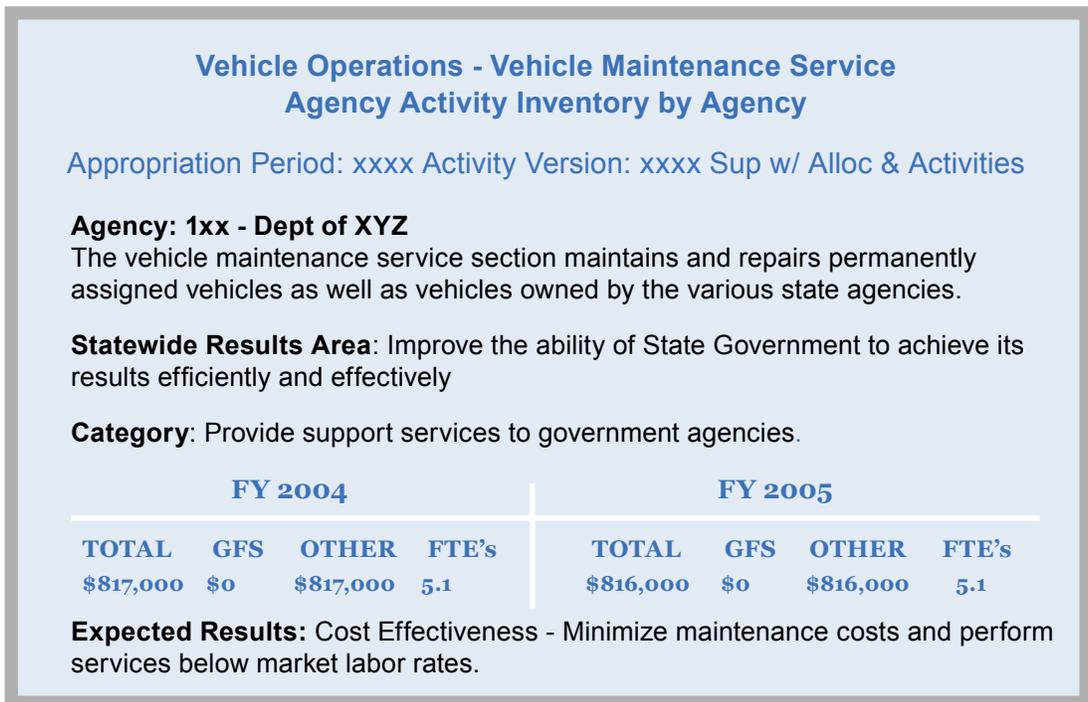
1.2.1 Reviewing activities

An agency’s strategic plan, activity inventory, business plans, and/or budget are the primary sources for the agency’s review of activities currently being performed. Figure 3 is a hypothetical activity inventory for a Vehicle Maintenance Service which will be used to illustrate how just such a review would take place.

Note: *The example is for illustration only and does not represent any current or future plans, intent, or policy.*

Vehicle Operations - Vehicle Maintenance Service

Figure 3
Agency Service Activity Inventory



1.2.2 Breaking down activities into discrete services

In the next step of identifying potential services, the agency should examine each activity in detail to determine if possible services for competitive contracting are imbedded within. This unbundling of an activity will help simplify the analysis later on, particularly in the determination of a competitive market. In *Figure 4*, the Vehicle Maintenance Activity has been unbundled. Once unbundled, a simple test can be applied to each service to determine if it is a likely candidate for competitive contracting. It is referred to as a “yellow pages test”. If a service can be found on a standard yellow pages listing, then it is a likely candidate for consideration.

Note: WAC 236-51-100 gives responsibility for the determination of a competitive market to the agency. Figure 4 of this manual introduces one method to help agencies make this determination (also see section 1.2.4). Agencies are required to describe to potentially displaced employees their determination of this competitive market in the notification described in WAC 236-51-200. WAC 236-51-710 (3) (b) allows displaced or potentially displaced employees to appeal an agency’s determination of a competitive market.

Activity: Vehicle Maintenance

Figure 4

Competitive Market Analysis (hypothetical data)

Service	FTE's	Budget	# of Local Providers	Candidate
Maintenance scheduling	.1	\$8,000	3	Yes
Parts procurement	.5	\$40,000	3	Yes
Purchased parts	n/a	\$48,000	n/a	Purchased goods
Sub-functions percentage of preventative maintenance service				
Preventative maintenance	2.0	\$320,000	See below	Yes
Tune-ups		10%	31	Yes
Lube, oil, & filter change		80%	18	Yes
Safety inspection		5%	18	Yes
Emission testing		5%	10	Yes
Sub-functions percentage of corrective maintenance service				
Corrective maintenance	2.5	\$400,000	See below	Yes
Brakes		45%	49	Yes
Suspension & drive train component replacement		5%	19	Yes
Engine diagnostic analysis		5%	10	Yes
Electrical repairs		5%	17	Yes
Tire mounting & balance		40%	39	Yes
Total	5.1	\$816,000		

1.2.3 Prioritize services for competitive contracting

Scope

Once a service has been identified as a potential candidate, the following questions should be asked:

- Is the service being performed support of the agency's mission, goals, and the state's priorities of government?

If the answer to the first bulleted item is no:

Why is the service being performed at all?

If the answer to the first bulleted item is yes:

- Is the agency the best provider?
- Are considerable investments in capital or labor required to sustain performance or efficiencies?
- Do other government entities utilize a different model for delivery or performance of the service?

This is by no means a complete list, but it provides a starting point for agencies to consider - **what** it is they do, **how** well they are doing it, **who** should be doing it, or **why** it should be done at all.

Number of competitors

For Figure 4, a survey of the marketplace was conducted to identify the number of service providers for each service. This helps to prioritize likely candidates and eliminate others. In the vehicle maintenance example the entire activity and all services are candidates for competitive contracting.

Potential financial impact

The more of a savings potential, the greater a priority it should be to consider the service for competitive contracting. The agency should go beyond direct costs and also determine the impact to agency overhead as a result (see Chapter 3).

Value creation

Competitive contracting opportunities may each generate varying amounts of value based on results versus costs (see 2.1.3).

Ease of implementation

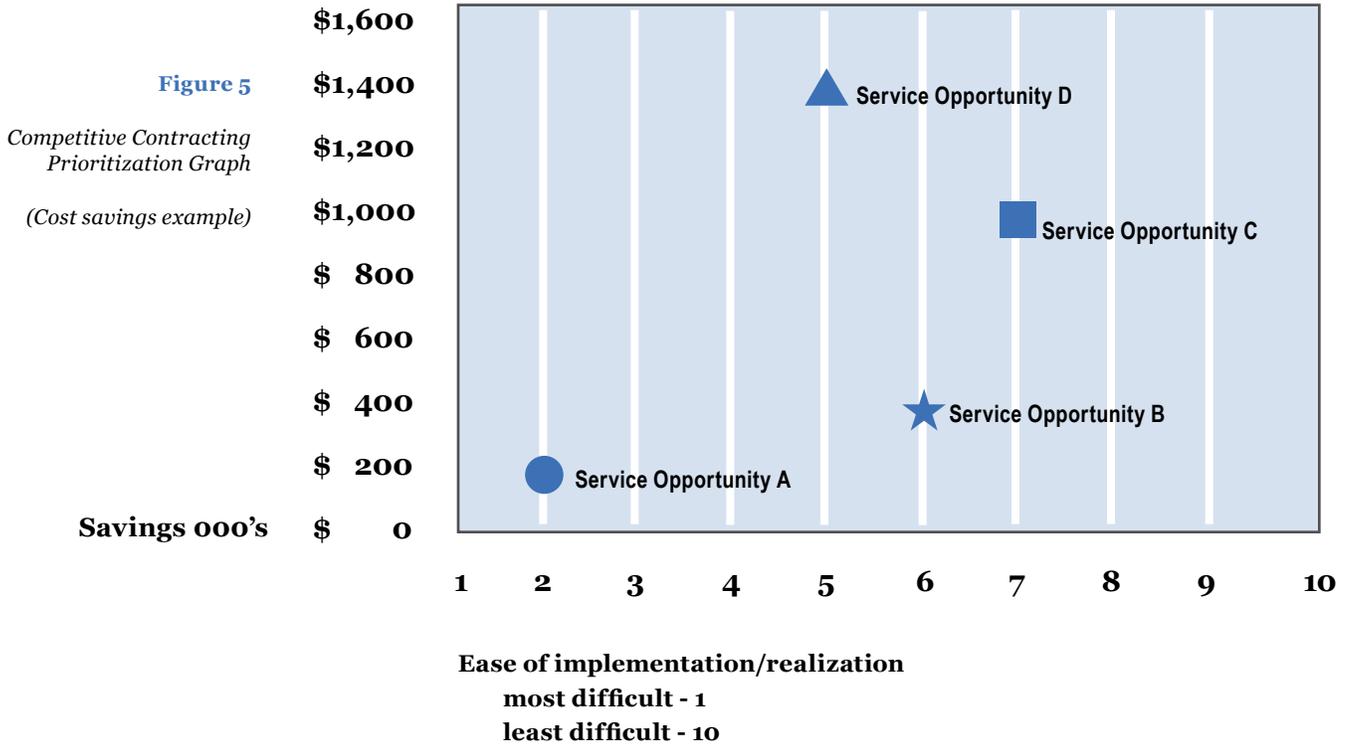
The level of effort required by the agency should also be used to prioritize the number of competitive contracting opportunities. For instance, the number of employees potentially displaced, capital assets to disposition, employee readiness, etc.

Risk

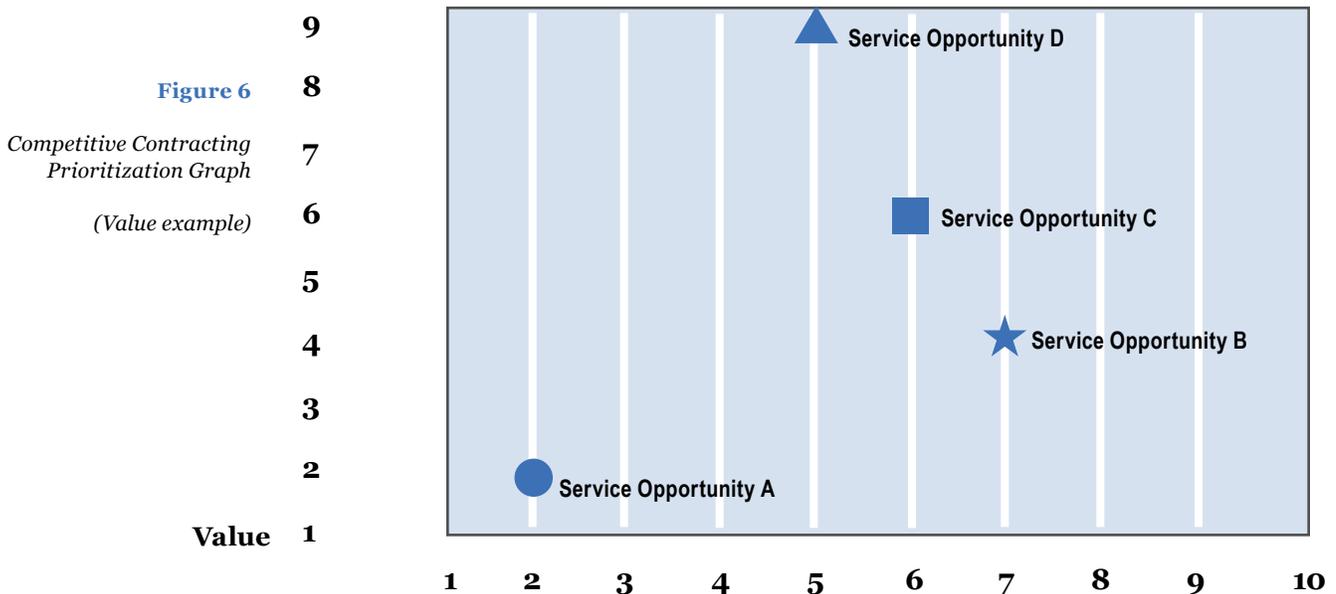
The agency should employ risk assessment techniques at this stage in the competitive contracting process so the agency can evaluate different opportunities relative to risk (see Chapter 4).

Figures 5 and 6 can be a useful tool for agencies to prioritize services for competitive contracting based on either cost savings or value creation (left axis) when compared to the relative effort required to make it happen. In each case, Service Opportunity “D” would be the best one to pursue.

Competitive Contracting Prioritization Graph



Competitive Contracting Prioritization Graph



1.2.4 Pre-competition assessment

After the agency has prioritized and decided which competitive contracting opportunities to pursue, additional analysis may be necessary to prepare for the definition of business requirements (see Chapter 2). This section lists several methods that can be employed at this stage to facilitate this assessment.

Market analysis

The agency may have no knowledge of the market for this particular service; it must educate itself before it can embark on a competitive contracting solicitation. The agency can assign the task of a market analysis to their internal procurement/contracting group, hire GA's Office of State Procurement (OSP), or contract with a consultant. Here are some considerations when conducting a market analysis:

- Is the scope of the services or activities under consideration grouped properly for market consideration?
- Is the market capable of providing the services under consideration?
- How are services, such as those being considered, typically costed and billed by service providers (e.g. activity-based or unit priced, etc.)?
- What are the typical risks or concerns associated with the service being considered as viewed by the service provider community?
- What issues would limit or improve the market's ability and willingness to respond to a solicitation? and
- What additional issues might have to be considered prior to a decision to compete a service under consideration?

Peer benchmarking

Other government entities or private enterprises may have competitive market experience with the identified service. Peer benchmarking is simply studying the experience of others to determine realistic expectations for success along with the likelihood for failure. Peer benchmarking can be initiated by the agency or facilitated by a consultant. GA's Office of State Procurement's Professional Services Solutions Team has a number of external competitive contracting consultants under contract with just such experience (see <http://www.ga.wa.gov/PCA/Ps2/>).

Activity based costing (ABC)

Activity Based Costing is a method for attributing indirect costs based on the activities that drive cost. This approach is in contrast to traditional accounting methods which pool and arbitrarily allocates indirect costs. Agencies can employ ABC analysis to understand the relationship between the service and cost drivers to more accurately develop an understanding of the cost for the current service.

Volume analysis

The agency may need to evaluate the volume of the service so as to properly represent it to potential bidders. A comparison of historical numbers may be enough; however additional consideration may include what the future growth outlook is and/or to what the service's current market share is compared to its competitors.

Chapter 2 Definition of Business Requirements

Chapter 2, Section 1

About this chapter

2.1.1 The purpose of this chapter

Developing the Performance Work Statement (PWS) and Quality Assurance Plan (QAP)

The purpose of this chapter is to outline the process for agencies to develop the key documents required for a competitive contracting solicitation (see WAC 236-51-305). They are the Performance Work Statement and the Quality Assurance Plan.

Performance Work Statement (PWS) - Definition from WAC 236-51-010 (20) “a statement of the technical, functional and performance characteristics or requirements of the work to be performed. The statement identifies essential services to be performed, determines performance factors, including the location of the work, the units of work, the quantity of work units, and the quality and timeliness of the work units.” It is the results and outcomes being sought.

Quality Assurance Plan (QAP) - Definition from WAC 236-51-010 (22) “a plan by which an agency will monitor a contract awardee’s performance to ensure that the standards of the performance work statement are met within the costs, quality of service, delivery, and other standards of the contract.”

Both documents may require multiple revisions as input is received by both stakeholders and potential service providers. A provision for change control and review of materials is therefore recommended along with adherence to the requirements of WAC 236-51-310 and WAC 236-51-320 covering changes to solicitation documents.

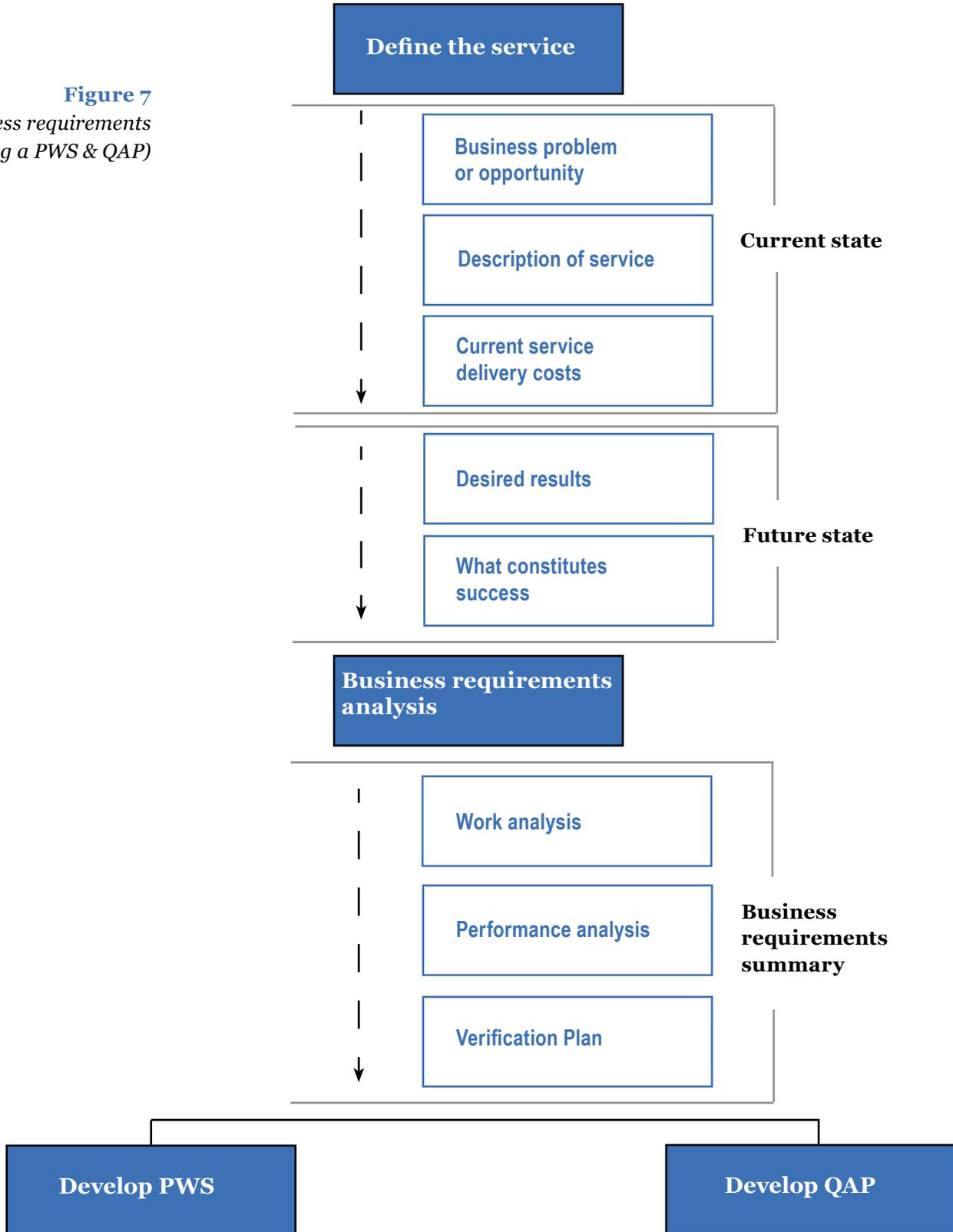
This chapter will not include techniques, methods, policy, or direction on how to develop and sustain continuous improvement and service delivery quality programs. Most agencies have established quality and performance management programs in response to Executive Order 97-03. Therefore, this chapter will focus on the development of business requirements in preparation for a competitive contracting solicitation.

2.1.2 How is this chapter organized?

This chapter is organized as follows (refer to Figure 7):

- Introducing the concept of value
- Defining the service (where it is today, *current state*, and where it needs to go, *future state*)
- Performing a business requirements analysis
- Creating the PWS and the QAP

Figure 7
Business requirements
(developing a PWS & QAP)



2.1.3 Overview of value**Where in the competitive contracting process does value play a role?**

The concept of value can be an important tool for different parties in the competitive contracting process:

- Agency decision-makers can use the concept to judge current services, employees' service alternatives, or formal bids presented by service providers.
- Employees and service providers can use it to define and describe the proposals or bids they give to agencies.
- Agencies can use it to assess the outcomes of competitive contracting, and to communicate with stakeholders about the utility and cost of services the agency provides or purchases.

As such, the concept of value is useful at different stages of the competitive contracting environment:

- In the development of business requirements
- The awarding of a contract
- Post award, as services are being performed

Success can be defined in terms of value

One way to define success in the competitive contracting process is the extent to which:

1. The solicitation results in bids that can be judged on their likely value to the agency, clients, and taxpayers
2. The selected bid represents the best likely value to the agency, clients, and taxpayers.

The value concept

What is meant by the term value? In simple terms, “value” means the results achieved for the money paid. Value does not solely refer to a set of performance results. Nor does it solely mean the lowest cost for a service without regard to the standards by which the work is done. Rather, value is a combination of the work results for the cost paid. It can be shown as a ratio in the following way:

$$\text{Value} = \frac{\text{Results}}{\text{Cost}}$$

How is value increased? One way is to decrease costs while keeping the level (or quality) of results the same. Another way is to increase the level of results while keeping costs the same assuming, of course, that the increase in results provides benefit to the customer.

The voice of the customer

Any discussion about value cannot happen without input from the customer. Regardless of the level of results provided relative to cost, if the outcome is of no value to the customer the service will fail. Agencies may wish to refer to outside sources for information on methods of assessing the customer's concept of value, including Concurrent and Value Engineering techniques, surveys, questionnaires, and focus groups.

Chapter 2, Section 2

Definition of the service

2.2.1 Statement of business problem or opportunity (current state)

A decision to solicit bids should be clearly linked to the agency's mission and performance objectives

The premise for the agency to consider competitive contracting is born from either a business problem or opportunity that has not been adequately addressed internally by other means such as re-engineering, continuous improvement, or modification of the service.

A business problem or opportunity statement should not be focused on activities to be performed or resources required. Instead, it should state the outcomes and results desired (*see 5.1.5 for an example statement*).

Agency strategic plan and WA State's Priorities of Government (POG)

In the case of Washington State, the strategic and biennium budget planning and review cycle are natural starting points. As part of budget preparation activities, the Office of Financial Management (OFM) requires agencies to develop a strategic plan along with descriptions of the key activities each agency performs and how each activity supports the statewide priorities. Regular review of the agency's performance relative to its strategic plan and budget are on-going operational activities that provide additional chances to identify business problems or opportunities for consideration for competitive contracting.

OFM's Strategic Planning and Performance Measures Guidelines:

<http://www.ofm.wa.gov/budget/instructions/operating.htm>

The Priorities of Government team reports set out a strategic direction for the state:

<http://www.ofm.wa.gov/budget/pog/default.htm>

Potentially displaced employee notification

Another reason an agency must clearly state the business problem or opportunity, is that it is a recommended element of an employee notification (see 5.1.5). WAC 236-51-110 specifies the minimum requirements of an employee notification.

Clearly identify the scope

Once the boundaries of a service under consideration for competition are defined, the agency needs to evaluate whether state employee positions within the service's scope

are exempt from competitive contracting. RCW 41.06.070 lists exemptions to competitive contracting. If any of these positions exist within the service being evaluated, then one of two things must happen. Either;

1. The agency restructures the service to exclude from it those positions that are exempt
2. If the exempt position(s) represent a significant part of the service delivery mechanism, exclude it from further consideration as a candidate for competitive contracting

2.2.2 Description of a service to be studied (current state)

Service under consideration for competitive contracting

There are a number of key pieces of information that should be gathered in order to adequately describe the service to be considered for competitive contracting. A description of the existing service being provided is useful not only for defining the boundaries of what is to be considered, but also to identify the basic focus of the performance analysis and development of the PWS and QAP. Section 2.2.4 contains elements of a service definition for hypothetical vehicle maintenance service section.

2.2.3 Calculating current service delivery costs (current state)

Identification of current service delivery costs

This chapter does not go into much detail on determining the service's current delivery costs (see Chapter 3). However, here is why it is important to know the current cost of service delivery:

- RCW 41.06.142 requires that the agency, as a condition to award, has to demonstrate either a cost savings or efficiency improvement as a result of making an award in a competitive contracting solicitation
- To be able to evaluate bidders' competing cost proposals
- To determine cost incentives as described in section 2.3.3

2.2.4 Elements of the service definition (current state)

Mission statement

The agency is required to have a mission statement in its strategic plan. The mission statement describes the agency's reason for existence in general terms that capture its unique purpose and functions. It typically describes the organization, what it does, why it does it, and for whom. How the service being considered for competitive contracting supports the agency's mission statement should be articulated in the service definition.

Support activities

Organizations or services that currently interact with or support the service under consideration should be identified and any potential impacts determined and evaluated. Risk assessment begins at this stage and continues throughout the competitive contracting process (see Chapter 4).

It is important to note that not all impacts may be negative. Competitive contracting may actually present other opportunities not originally considered by including upstream, downstream, and supporting services and organizations into the analysis. Value chain analysis and flow charts are very useful tools at this stage.

If it becomes apparent that the boundaries of the service to be competitively contracted should be expanded, the agency should consider expanding the scope of the study.

Customers

It is important when defining the service to identify all the customers of that service. If 'value' is determined by the customer of the service, then the agency must identify the recipients of the service in order to assess the value they place on the service. An agency may determine that there are several customer or stakeholder groups who place 'value' in the service, and it may be necessary to assess their needs separately.

Additional information that should be considered:

- Market share
- Competitors
- Customer engagement strategy
- Market opportunities

Results and services provided

The identification of the results that the service provides is important as a baseline input for use in developing the Performance Work Statement (PWS) which includes creating performance indicators and standards. It is also important at this point to identify the volume for each task result, or outcome provided by the candidate service.

Customer perception of quality and cost

Obtaining feedback from customers and other stakeholders on the value, quality, and cost of a service may require a customer survey or focus group. The information gained from such surveys or focus groups can be useful in comparing performance with "best in class" services in other similar organizations (also known as benchmarking). There are various approaches that can be used but that will not be covered in this manual.

FTEs, funding or revenue streams and summary budget data

Identifying the Full Time Equivalent (FTEs) and summary budget data associated with the service allows the relative magnitude of the service to be presented in order to determine the benefit potential of competitive contracting. A service with a small number of FTEs or a small budget may not yield the potential efficiency or cost savings for realizing a return on investment.

Funding or revenue sources are important to understand so that the agency can determine the variability, volatility, and risks associated with the service's income stream.

The following example is for illustration only

The example below illustrates the definition of a service as described in this subsection.

Note: The hypothetical example is for illustration only and does not represent any current or future plans, intent, or policy.



Agency Letterhead

(Hypothetical example for illustration only)

Service Definition for Washington State Department of XYZ Vehicle Operations - Vehicle Maintenance Service Section

The vehicle maintenance service section maintains the daily rental vehicles, some of which are permanently assigned; others of which are owned by other state agencies within the county.

(Indicators of Performance from Mission Statement)

The vehicle maintenance service section maintains the daily rental vehicles, some of which are permanently assigned; others of which are owned by other state agencies within the county.

Statewide Result Area: Improve the ability of state government to achieve its results efficiently and effectively.

Category: Provide support services to government agencies.

The primary indicators of performance:

- **Availability of vehicles (versus vehicle downtime)** - The standard of performance being used for vehicle availability is 82.5 percent (17.5 percent vehicle downtime). Vehicle downtime is defined as the time during which a vehicle is out of service because it is undergoing maintenance or repair, or awaiting parts.
- **Customer satisfaction** - The standard of performance being used for customer satisfaction is measured against industry standards.
- **Vehicle condition** - Vehicle condition is maintained according to fair wear and tear standards used in private industry.
- **Cost effectiveness** - Supply short-term vehicles to agencies at least 30 percent below contracted rental vehicle rates.

(Service to be Competed/ Results and services provided)

The work proposed under this competition involves providing managerial, administrative, supervisory, and direct and indirect (overhead) personnel to accomplish all vehicle maintenance and repair services for the Washington State Department of XYZ's Vehicle Operations. These services are provided for 1,350 vehicles assigned to agencies on a permanent basis for staff use. The vehicles are maintained, serviced, repaired, and replaced by the vehicle maintenance section on a fee for service basis. The facility is located in Olympia, WA.

(Hypothetical example for illustration only)

The Vehicle Maintenance Service Section in Olympia provides repair services for state owned vehicles to include, but not limited to:

- Tune ups
- Lube oil and filter changes
- Brake service
- Suspension and drive train component replacement
- Engine diagnostic analysis
- Tire mounting and balance
- Safety inspections
- Emissions testing
- Electrical repairs

(Other Activities that Support the Service)

In establishing the definition to be utilized in this analysis, the study team has reviewed the interaction between the Vehicle Maintenance Service Section and the following support services:

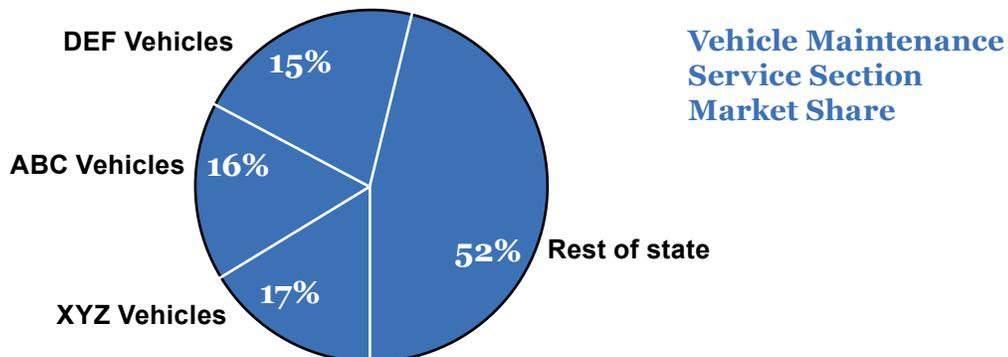
- Procurement
- Accounting & Finance
- Payroll

While these services all provide some degree of support to the Vehicle Maintenance Service Section, the level of effort was determined initially to be minimal and all of the support services were excluded from the boundaries of the competition.

(Customers)

The Vehicle Maintenance Service Section supports vehicle operations and a limited number of vehicles assigned to agencies all within the county. ABC and DEF Agency Fleets are larger and are maintained by their own respective maintenance staffs. The balance of state owned vehicles are maintained via state contracts with private sector providers. The Vehicle Maintenance Service Section’s share of the state’s fleet maintenance is 17%.

(Hypothetical example for illustration only)



(Customer Quality/Cost Perception)

A customer satisfaction survey was conducted three months ago to determine overall levels of satisfaction and identify customer concerns. Overall customer satisfaction was rated as average (Average of 2.5 out of a scale of 1-5). Vehicle downtime and vehicle availability were rated as below average (1.8 out of a scale of 1-5). Actual vehicle availability average over a 12 month rolling period was 60.3%. Specific customer concerns focused on vehicle availability on Monday mornings and maintenance problems with older vehicles, especially sedans.

Half of the 6 departments responding to the survey were of the opinion that the Vehicle Maintenance Service Section charges for routine maintenance, as well as for some repairs, appeared to be higher than would be incurred through private/dealer repair facilities.

(FTEs and Summary Budget Data)

Five full-time positions and one part-time staff position are currently authorized for the Vehicle Maintenance Service Section. All positions are currently filled.

The Vehicle Maintenance Service Section is staffed by three mechanics, an automotive parts specialist, and a maintenance coordinator.

The current budget for this service is \$572K in labor costs and \$246K in parts/material costs. The cost of vehicle purchases is not included as it is budgeted separately in the capital budget.

Source: Agency Activity Inventory by Agency; Appropriation Period: XXXX Activity Version: XXXX Sup w/ Allocation & Activities

FY 2004				FY 2005			
TOTAL	GFS	OTHER	FTE's	TOTAL	GFS	OTHER	FTE's
\$817,000	\$0	\$817,000	5.1	\$816,000	\$0	\$816,00	5.1

2.2.5 Defining desired results (future state)

Define desired result

Once a service has been defined, like the example provided in the previous pages, any desired outcomes should be identified. These desired outcomes quantify the results that address the business problem or opportunity statement.

- Is the **outcome** greater productivity and efficiency in vehicle preventative maintenance?
- Is the **outcome** shorter turnaround time on corrective maintenance?
- Is the **outcome** enhanced parts purchasing capability?

Or, as in the case of the vehicle maintenance service example in subsection 2.2.4;

- Is the **outcome** vehicle availability of at least 82.5%?

One way to determine the desired outcomes is through facilitated work sessions with program staff, customers and stakeholders. By removing the process from a paper review or examination of the status quo, greater innovation and insight are possible. Once aired, those thoughts need to be captured in the PWS. Industry benchmarks and best practices may also help in sharpening the focus on what the performance objectives for the candidate service should be.

Statement of objectives

Sometimes it is beneficial to develop a clear and succinct statement of objectives to assist in developing the desired results of a competitive contracting solicitation. For example: As a result of competitively contracting its vehicle maintenance, Department of XYZ expects to improve its vehicle operations in several ways:

- Improve vehicle availability by eliminating maintenance backlog caused by limited capacity
- Enhance cost effectiveness and competition by utilizing multiple sources
- Enhance environmental protection by contracting with providers who utilize the latest in waste management facilities and technologies
- Enhance cost effectiveness by prolonging the life of the state's motor fleet by utilizing the latest fleet maintenance technologies and methods
- Enhance cost effectiveness by implementing best practices across the entire state fleet of 8000 vehicles

2.2.6 Determining what constitutes success (future state)

A clear vision of success is necessary

Just as important as a clear vision of desired results is a clear vision of what will constitute success. There are two distinct questions that are posed in determining what constitutes success:

- Where does the agency want to go?
- How does it want to get there?

It is important to establish a clear target for success early on. This target will serve to focus the efforts of the team managing the competition, the service providers competing for the contract, and the agency throughout the contract performance period. Expanding on the hypothetical vehicle maintenance example once again a success target might be:

- As a result of an award, Department of XYZ expects vehicle availability to increase from a baseline 12 month rolling average of 60.3% to 85% within 1 year

Whatever the target, it is important that it be stated in such a manner that it can be easily measured. Qualitative targets are very difficult to measure objectively unless the associated standards of performance can be clearly defined.

Determine the baseline for measuring success

To measure success it is necessary to have a baseline against which future performance can be measured. This means the current performance level of the service must be determined as part of the defining the service. If baseline conditions are not defined, it will be difficult - if not impossible - to measure success in the future. The vehicle maintenance example uses the baseline percentage of 60.3%. Recall that this was the baseline performance stated in the Service Definition (see 2.2.2).

Necessity for a positive business relationship between the agency and the service provider

A positive relationship between the agency and service provider is essential in fulfilling a performance-based requirement. An agency's relationship with a service provider

should be one that promotes a strong and positive business alliance to achieve mutually beneficial goals (e.g. timely delivery and acceptance of high-quality services) through the use of efficient business practices and open communication.

Chapter 2, Section 3

Business requirements analysis

In order to maximize performance in competitive contracting, as well as encourage innovation and competition, performance-based strategies for the acquisition of services should be used whenever possible.

A key element in a performance-based acquisition strategy is the development of business requirements that define the desired outcomes and the performance objectives of an acquisition. These requirements are typically developed through a business requirements analysis encompassing the following elements:

- Conduct a work analysis
- Conduct a performance analysis
- Prepare a verification plan
- Prepare the business requirements summary

Each element of these elements will be discussed in detail later in this section. Before we do that though let's first go over the definition, key elements, objective, and benefits of a performance-based services acquisition.

2.3.1 Performance-based services acquisition

Definition and key elements of a performance-based acquisition

A performance-based acquisition describes and communicates measurable outcomes rather than a direct performance process (i.e. it instructs service providers on what needs to be done not how it needs to be done). Service requirements are defined in terms of performance objectives, and a service provider is allowed the latitude to determine how to meet those objectives.

To be considered performance-based, an acquisition should, at a minimum, include the following elements:

- A Performance Work Statement (PWS) that describes the requirement in terms of measurable outcomes rather than by means of prescriptive methods
- Measurable performance standards to determine whether performance outcomes have been met, and to define what is considered as acceptable performance
- Incentives that address how to manage performance that does not meet the contractual obligation and to motivate exceeding the expectations
- A Quality Assurance Plan (QAP) that describes how a service provider's performance will be measured and assessed against performance standards

Objectives of a performance-based acquisition

Since the primary focus is on the end result, a service provider can adjust operating procedures through the life of the contract as necessary without the burden of contract modifica-

tions, so long as the delivered outcome remains in accordance with the contract. If incentives are used, this can further motivate a service provider to deliver the best performance possible.

Competition and innovation can be maximized by encouraging innovation through the use of performance requirements that maximize opportunities for competitive alternatives. Additionally, allowing for maximum innovation may attract a greater number of bidders to a solicitation thus improving competition. It will also provide any potential service provider with greater latitude in submitting competitive proposals.

Benefits of a performance-based acquisition

A performance-based services acquisition has many benefits. They include:

- Focus on intended results, not on process (the what and not the how) allows flexibility in solutions to optimize service delivery (both efficiency and costs)
- Better value for the state and enhanced performance for customers
- Less performance risk for both the state and provider
- Enhanced service provider buy-in and shared interests
- Use of shared incentives to permit innovation in service delivery
- Quality control requirements are reduced and more meaningful

2.3.2 Conduct a work analysis

Purpose of the work analysis

The purpose of the work analysis is to define what future state the service needs to achieve in terms of results and outcomes.

Work analysis involves breaking the service down into meaningful task levels and linking those tasks to form a logical flow of activities. The key steps in the work analysis process include:

- Clearly identifying/defining the overall task, results, or outcomes required
- Breaking down a service or task into its parts and subparts
- Clearly identifying inputs needed to get the job done
- Identifying the relationship between the parts

The purpose of the work analysis is to create a Work Breakdown Structure (WBS) for the service being analyzed. The WBS provides a thoughtful and comprehensive approach to creating a clear and enforceable PWS. The WBS also provides a solid foundation for developing a QAP that tells the agency if a service is being furnished as specified, and assists in evaluating the use of incentives in a contract.

Typically a one-sentence requirement is written for each task or sub-task defined in the WBS. Grouping similar and related tasks and identifying their relationships provides a common sense approach to communicating with service providers via a PWS.

During the work analysis a decision also needs to be made as to which tasks will actually be competed and which will remain in-house. Failure to identify the primary tasks, results, or outcomes required in a solicitation will result in incomplete or ambiguous contractual requirements that may be difficult to enforce or lead to misinterpretation and inadequate performance.

Key elements of the work analysis process

The core of the work analysis process involves translating the preliminary service definition from Section 2 into specific tasks that must be performed. The focus should be on the work input and output aspects of determining the requirements, and all outputs should be described in results-oriented terms. **If mistakes are made at this point in the process, the remainder of the acquisition process may be compromised.**

A common approach to conducting a work analysis is to use a flow chart or swim lane diagram (so named because the flow chart is broken out in levels resembling swim lanes in a pool) to develop the WBS (See Figure 8). Using a diagram ensures that:

- All similar requirements are incorporated in the same part of the PWS
- Redundancies and/or contradictions in the final PWS are minimized
- All intended contract requirements are covered in the specification

Use of flow charts and swim lane diagrams

A typical diagram has three levels:

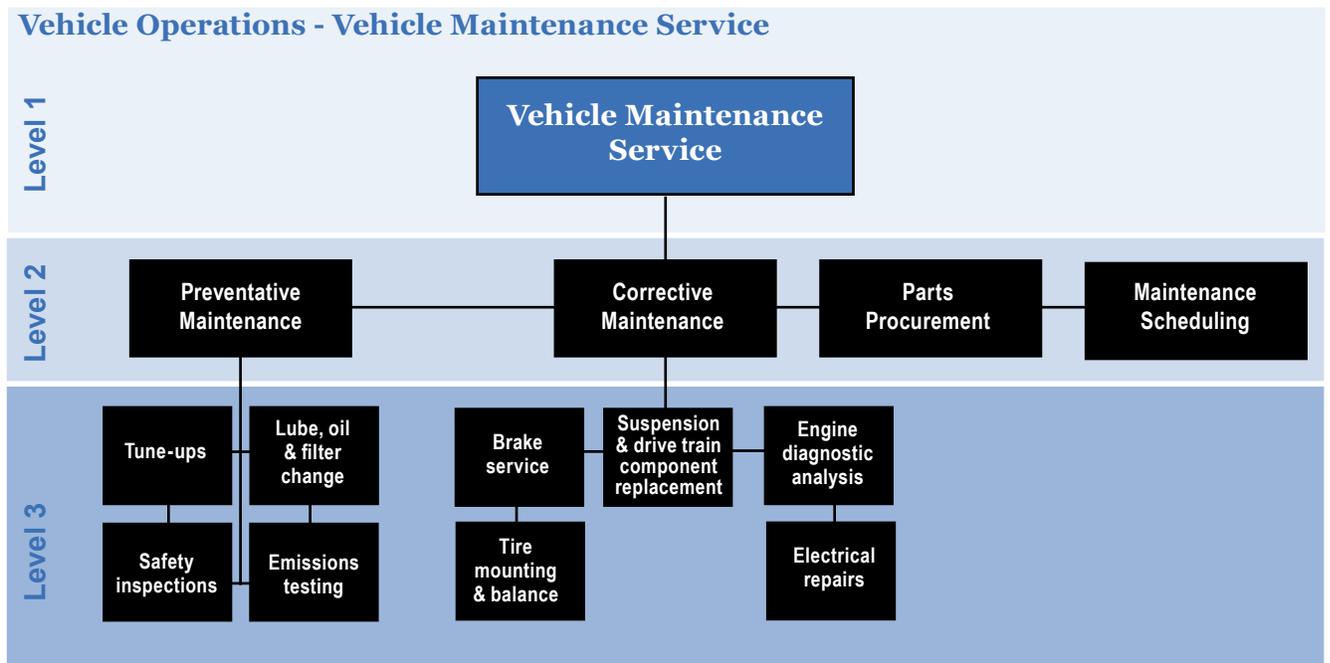
- Level one - Addresses a summary level of effort
- Level two - Addresses primary tasks, results, and outcomes
- Level three - Addresses sub-tasks

Figure 8 illustrates a work analysis for the Vehicle Maintenance example. A three-level diagram is sufficient for most analyses. However, additional levels may be added as necessary if a service is fairly complex with many inputs and outputs.

Each task and subtask should be clearly identified and, along with workload, facility, material, equipment and personnel analysis, an initial budget or direct cost for each element should be developed.

Figure 8

Work Analysis Diagram



2.3.3 Conduct a performance analysis

Purpose of the performance analysis

The performance analysis is a process that identifies how performance objectives should be measured and, therefore, what performance standards (e.g. timeliness or quality levels) are reasonable and appropriate for a particular performance objective. It also identifies necessary performance indicators and the standards by which contract performance will be measured. At a minimum, performance indicators and standards must be results-oriented.

Performance indicators defined

A performance indicator is an essential characteristic of acceptable performance and a feature of a task, result, or outcome that can be measured quantitatively (preferable) or qualitatively. In many cases, indicators that may be used to evaluate performance may already be in use by the agency. Care must be taken that indicators are realistic and can be measured numerically and repeatably. Examples of performance indicators from our hypothetical vehicle maintenance example include:

- Vehicle availability for vehicle operations (percentage of vehicles available to clients each Monday @ 8:00am)
- Vehicle longevity (expected over actual vehicle life span measured and reported quarterly)
- Vehicle breakdowns per hour of operation (number of breakdowns experienced by customers)
- Maintenance costs per hour of operation (how much maintenance costs customers).

Performance standards defined

A standard is something against which another thing can be measured. While the highest standards may often be desired by the agency, compromise is also often necessary in the interest of cost and efficiency. A standard should also be reasonable and measurable. Each standard that is selected should be necessary, but it should not be unduly burdensome, otherwise unnecessarily high service costs may result.

Standards may be published or they may consist of well-recognized industry or government standards. They can be found in agency operating procedures, policy manuals, by examination of records of past performance, or developed anew as part of the business requirements analysis. Sometimes it may be necessary to develop performance standards from scratch. If the standards are stated in terms of averages or medians, consideration should be given to whether there should also be a minimum standard for acceptable performance.

Examples of performance standards related to the performance indicators identified above include:

- Average (12 month rolling) of at least 82.5% vehicle availability (Source:National Association of Fleet Administrators(NAFA))
- Mean longevity of fleet versus NAFA standard 95.6% or better (average life of vehicles compared to the standard)
- One vehicle breakdown or less per 3000 hours of operation
- \$1.00 or less of direct maintenance costs per 1000 hours of operation.

Role of performance indicators and standards

A performance indicator and its associated standard allow contract managers to determine if a process is producing a quality result. Every task of a service should have at least one performance indicator and a reasonable standard of performance associated with it. When the standard is met, the service has been performed satisfactorily.

Properly developed performance indicators and standards should easily address the following performance objectives or expectations:

- **What:** Scheduled and unscheduled vehicle maintenance of the of Department of XYZ Vehicle Operations fleet
- **How Well:** Chosen service provider must, within one year, achieve the following results:
 - Average (12 month rolling) of at least 82.5% vehicle availability (Source: National Association of Fleet Administrators(NAFA))
 - Mean longevity of fleet versus NAFA standard 95.6% or better (average life of vehicles compared to the standard)
 - One vehicle breakdown or less per 3000 hours of operation
 - \$1.00 or less of direct maintenance costs per 1000 hours of operation
- **How Many:** Department of XYZ's fleet of 1,350 cars and light trucks; and
- **When:** At the discretion of the chosen service provider, provided that cost and quality performance standards above are met.

Develop acceptable quality levels (AQLs)

Once the indicators and standards have been identified, each task of a service, along with its associated indicator and standard, must be tied to a description of acceptable quality. This description of acceptable quality is referred to as the Acceptable Quality Level (AQL). The AQL is the degree to which the agency will allow the service provider's performance to vary from a standard.

For each performance standard identified during the performance analysis there should be an associated AQL. AQLs should be reviewed and agreed to by all parties in a solicitation. Developing an AQL is basically a two-step process.

1. The first step involves determining the extent to which performance variations, which can and will occur, will be permitted by the agency during contract performance
2. The second step involves setting procedures if the limit on the acceptable level of performance is exceeded or not met by the service provider.
 - a. Regular operational review and process for corrective action
 - b. Incentive or reward for better than expected performance
 - c. Consequences for non-performance
 - d. Flexibility for unforeseen events

Performance measures, standards, and AQL

The development of performance indicators, standards, and AQLs, can be organized using a format such as the one presented in *Figure 9* for a portion of an analysis for the Vehicle Maintenance service example.

Vehicle Maintenance Service performance measures, standards, and AQL		
Performance Measure	Performance Standard	Acceptable Quality Level
Vehicle availability	Average (12 month rolling) of at least 82.5 % vehicle availability (NAFA Standard) percentage of vehicles available to clients @ 8:00am	82.5% one year after award is minimum acceptable level of performance
Fleet longevity	Mean longevity of fleet versus NAFA standard 95.6% or better (Expected over actual vehicle lifespan reported quarterly)	+/- 2%
Vehicle breakdowns	1 vehicle breakdown or less per 3000 hours of operation Number of breakdowns experienced by customers	+/- 300 hours
Cost	\$1.00 or less of direct maintenance cost per 1000 hours of operation Maintenance costs per hours of operation	+/- 120 hours

Figure 9

Performance Measures, Standards, and AQL

Performance incentives

Determining appropriate contract performance incentives is the final element of the performance analysis. Incentives are not unique to performance-based contracting. Contracts, by their very nature, motivate successful performance, as service providers that do not perform satisfactorily generally do not get paid or are replaced. Increasingly contracts are incorporating specified incentives designed to encourage superior performance.

Considerations for incentives:

- They should conform to laws, rules, and policy
- They should be enforceable
- The agency has to have the willingness to enforce them
- They should be spelled out in the solicitation and agreed to as a condition for award
- They should be earned only when all service delivery requirements are being met
- They require continuous monitoring to ensure early warning of problems, and real-time root cause corrective action.

Types of Incentives

In general, positive and negative incentives may be applied to cost control, performance, schedule and/or quality elements of a contract.

- **Cost-based incentives** - are designed to compare the service provider's performance against cost performance measures and standards. For cost incentives to work, a solid, detailed internal cost estimate is required (see Chapter 3).
- **Performance incentives** - are used to focus the attention of a service provider on those aspects of the PWS that are most important to accomplishing the contracted service. Performance incentives can motivate the service provider to exceed expectations or protect the agency if performance levels are not met.
- **Delivery or schedule incentives** - focus on getting a service provider to exceed delivery or service level expectations and assign a penalty for not meeting the agreed upon requirements.
- **Quality incentives** - are designed to reward a service provider that exceeds quality requirements. Conversely, it also outlines the responsibilities of a service provider that does not meet quality expectations.

Incentive example

The level of incentive should relate directly to the level of value of the outcome. Therefore, determining the proper choice of cost, performance, schedule and/or management incentives is based on the value it provides to the agency. The incentive(s) can be monetary or non-monetary. However, they must represent a balance between its value versus its cost to the agency and the service provider. Positive incentives should reward quality performance, while negative incentives should reflect the cost to the agency of non-performance. Consider Figure 10:

Figure 10

*Hypothetical
Incentive
Example*

Performance measure: Fleet longevity

Performance standard: Mean longevity of fleet versus NAFA standard 95.6% or better. Expected over actual vehicle life span measured and reported quarterly

AQL: +/- 2%

Value of incentive: By increasing fleet longevity above the AQL of 97.6% the state saves \$100K in acquisition related expenses (the state does not have to buy new cars as often).

Incentive: The awardee will get 10% of any savings realized by the state for exceeding the AQL.

Incentives and the Employee Business Unit

The outcome sought by the agency when it decides to use performance-based contracting should be the same whether the award is made to an EBU or a private service provider. That outcome is successful performance of the contract. For the agency to use incentives in its contract with an EBU it must:

1. Clearly spell out the terms and conditions associated with the incentive beforehand
2. Conform to one or more rules and laws governing the use of incentives for state employees

3. Not conflict with the terms of any applicable collective bargaining agreement unless such conflict is resolved with the exclusive bargaining representative(s)

As described in the previous sections, incentives can be either **positive** or **negative**.

Positive EBU Incentives

An agency and the EBU may want the performance agreement to define what will happen to any cost savings that result from completing performance requirements for less cost or better efficiency than what was anticipated in the agreement. If the agency wishes to provide financial incentives for such cost savings, it must do so through the use of existing state policies. The specific policies that may be used in any particular circumstance will depend upon the source or sources of funds used by the agency to finance the EBU's work. For example, some dedicated fund sources may not allow monies to be used for incentives.

The existing state policies, and locations of further information about them, are:

- Savings Incentive Program
(see <http://www.ofm.wa.gov/budget/info/savings2001/contents.htm>)
- Teamwork Incentive Program
(see <http://www.secstate.wa.gov/productivityboard/>)

Note: EBU Incentives Confirmation - It is anticipated that WAC 357-43, Employee Business Units will be updated by DOP in 2005 to define an abbreviated performance management confirmation process agencies may complete so that they can provide additional incentives in agreements. Contact DOP for more details.

All provisions of these policies, including restrictions or exceptions, apply to their use in competitive contracting. For example, certain funds are excluded from use under the Savings Incentive Program, and these restrictions must be adhered to in any competitive contracting situation.

Agencies have flexibility in how they contemplate and use these incentive tools. The details about how the policies may be applied will depend upon the particular competitive contracting situation and the wishes of the agency's management within that situation.

Agencies should consider whether they want to treat all sources of savings equally for the purposes of incentives. For example, savings may be due to more efficient processes developed by the EBU, or to a "windfall" drop in price of a commodity used by the EBUs work. If these are not to be treated the same for purposes of incentives, it should be specified in the performance agreement.

Negative EBU Incentives

Negative incentives may include, but are not limited to:

- Loss or reduction in funding
- Layoff
- Termination of the contract and re-solicitation

For an EBU, the cost of their proposal represents a "**not-to-exceed**" level. Costs can and will fluctuate, but it is the responsibility of the EBU to account for and manage all its costs as part of its agreement with the agency. In some cases, costs may go up (i.e. fuel, materials, etc.) as a result of market conditions outside of the control of the EBU. In those cases, as would be the case with a private service provider, an amendment to the

contract may be warranted to pass through the increase or, if the increase cannot be supported by the agency, the EBU may need to take other action such as a layoff.

2.3.4 Prepare the verification plan

Objectives of a verification plan

This part of the business requirements analysis process focuses on the drafting methods that are used to evaluate whether the agency's standards have been met for each critical task identified. The verification plan answers three questions:

1. What outcomes or results from the tasks identified in the work analysis will be monitored?
2. What assessment methods or measurements are both appropriate and repeatable to conduct the monitoring?
3. How and when will monitoring actually be conducted and reviewed?

The verification plan will be the basis for the QAP which will be integrated with the PWS and included in the solicitation.

Verification methods

There are five main methods of verification employed in performance-based contracts:

1. **Random sampling** - a statistically-based method that assumes receipt of acceptable performance if a given percentage or number of scheduled assessments is found to be acceptable.
2. **Audits** - On site evaluation of a service provider's systems, process, and methods.
3. **One-hundred percent inspection** - is typically used only if stringent performance requirements are necessary, such as when health and safety considerations are critical. Often this method is too expensive or impractical.
4. **Periodic sampling** - is similar to random sampling, but is planned at specific intervals or dates. It may be appropriate for tasks that occur infrequently. For example, in a facility maintenance contract, periodic sampling may be used to provide surveillance for interior or exterior painting, which may occur only once or twice a year or only every few years.
5. **Customer feedback** - utilizes direct feedback from the actual users of the service. It should be used primarily to supplement other forms of evaluation and assessment, and it is especially useful for those areas that do not lend themselves to the more typical forms of assessment.

Determining the appropriate method

Determining the most appropriate assessment method to use should include the following considerations:

- What is the most cost effective and efficient way to assess results versus a standard?
- How critical is a particular task?
- How long or frequent should the assessment period be?
- What staffing and resources are available to conduct the performance assessments? Are there enough personnel to carry out the degree of evaluation being considered?
- Do the proposed evaluation methods represent a common commercial practice for the particular service being contracted?

- What industry standard is the service provider already required to comply to (i.e. ISO 9000:2001, Food and Drug Administration Quality System Requirements, State audits, etc)?
- What are the relative risks and implications of a measurement dispute with the service provider?

2.3.5 Finalizing the business requirements analysis

A summary of the business requirements analysis is prepared

The tasks (or results/outcomes), performance objectives, performance standards, and AQLs that have been developed through the business requirements analysis should be summarized for review and approval by the agency director. By approving the summary, the agency director allows the team to proceed with the development of the PWS and QAP.

Prior to solicitation, this summary may be used by the agency to facilitate Concurrent or Value Engineering efforts described in section 2.1.1. The intent is to develop as competitive a PWS as possible. Agencies may involve potentially displaced employees or potential bidders in providing technical assistance in developing a PWS provided that the assistance does not create an unfair advantage (see WAC 236-51-302). Additionally, development activities on a PWS do not constitute a decision by the agency director to competitively contract a service. The decision and resulting communication should be a separate event with the requirements provided in rule (see WAC 236-51-100 and WAC 236-51-110. An example (Level 2: preventative maintenance; vehicle availability) is provided in *Figure 11*.

Figure 11

Business Requirements Summary

Business Requirements Summary					
Task, result or outcome	Performance Measure	Performance Standard	AQL Method	Verification	Incentive
Level 1 Vehicle maintenance service	Vehicle availability	Average (12 mth rolling) 82.5% vehicle availability (NAFA Standard). % of vehicles available to clients each Monday @ 8 a.m.	82.5% minimal acceptable level	Weekly vehicle availability report: 100% inspection	One continuous year of availability over 90% the agency will grant a bonus payment of 3% of annual fee. One year of non-performance (below 82.5%) shall allow the agency to deduct 5% from annual fee. 18 months of non-performance will cause the agency to void contract and re-bid.
Level 2 Preventative maintenance	Vehicle availability	Perform level 3 preventative maintenance within NAFA standard time allotted	See below	Job reporting database: 100% Inspection	.
Level 3 Tune-ups	Time standard	NAFA Standard 1 hr.	+/- .1 hr.	Job reporting database: 100% inspection	
Lube, oil & filter	Time standard	NAFA Standard .5 hr.	+/- .1 hr.	Job reporting database: 100% inspection	
Safety inspections	Time standard	NAFA Standard .5 hr.	+/- .1 hr.	Job reporting database: 100% inspection	
Emission testing	Time standard	NAFA Standard .25 hr.	+/- .1 hr.	Job reporting database: 100% inspection	

*Chapter 2, Section 4***Performance Work Statements (PWS)****2.4.1 Overview**

Once completed, the PWS along with the QAP become part of the agency's solicitation. WAC 236-51-305 states that the following must be included in a solicitation. The bolded items represent what is covered by the creation of the PWS and QAP. The balance of the items listed will be covered later in this manual (chapter 6). While it does not appear to be a lot, the bolded items represent the bulk of the solicitation development effort:

1. Complete bidder instructions
2. Submittal requirements
3. **Performance work statement**
4. Cost and non-cost evaluation criteria
5. Name and address of the person designated to receive complaints and appeals
6. Agency's plan for publication and notice of award/intent to award
7. Contract requirements, which shall include, but are not limited to:
 - a. **State standards as provided in WAC 236-51-210**
 - b. **Compliance and adherence to a quality assurance plan**
 - c. **Measurable standards for the performance of the contract**
 - d. **Methods used to measure contract performance, costs, service delivery quality, and other contract standards**
 - e. Terms and conditions
 - f. Provisions requiring an entity other than an EBU to consider employment of state employees who may be displaced by the contract
 - g. Cancellation provisions for improper or failed performance
 - h. Complaint process
 - i. Appeal process

2.4.2 Writing the Performance Work Statement (PWS)**Key objectives**

The PWS is typically written at the same time as the QAP, since what is included in the PWS usually influences what is included in the QAP. Developing the QAP at the same time as the PWS will ensure that the tasks, outcomes, or results and procedures identified in the PWS are matched to a specific performance indicator.

The relationship between the PWS and QAP is mapped in the business requirements summary shown in *Figure 11*.

A key objective in writing the PWS is to express the desired outcomes in terms that are:

- Clear
- Simple
- Concise
- Results-oriented
- Measurable
- Enforceable

The PWS must state the contract requirements in a clear and unambiguous manner. Detailed procedures that dictate how the work should be accomplished should not be included. Instead, the PWS should be structured around the purpose of the work to be performed (i.e. what is to be accomplished) and identification of measurable outcomes or results. This is the essence of performance-based contracting.

2.4.3 Identifying state standards and information requirements

Identifying state standards

WAC 236-51-210 states; “If an agency intends to require the use of state standards it shall identify them in the solicitation document. State standards may include, but are not limited to: Financial, accounting, audit, payroll, human resources, procurement, record retention, or other systems, methods, infrastructure, or practices. Agencies shall use technology standards established by the Washington State Department of Information Services, Information Services Board.”

This part of the performance work statement (PWS) preparation process requires agencies to identify and list in the solicitation document the required statewide policies, standards and procedures that the apparent successful bidder must comply with in its performance of the contract. If an agency intends to require the use of agency internal policies, standards or procedure, it shall identify and list them in the solicitation document.

Agencies and the apparent successful bidder, including EBUs, must comply with required statewide policies and standards. Once identified these state standards become part of the business requirements section of the PWS.

Statewide policies and standards include, but are not limited to:

- ISB policies and standards
- State Administrative and Accounting Manual;
- Material grades and specifications; and
- State accounting, payroll, and human resource management systems.

Determining information requirements

As work on a PWS is finalized, any information requirements needed by the agency should also be identified. Remember, information collection and reporting will add costs. Required information collection and reporting must be directly tied to the performance objectives of the contract, otherwise it just becomes an unnecessary added expense. Consider the information requirements, if any, for each stakeholder, outside auditors, grantors, and public records requestors, etc.

The PWS team should ask itself a number of key questions when deciding what information requirements to include in a contract:

- What information is really needed?
- Which tasks produce that information?
- What should the service provider research, investigate, observe and record?
- What analysis and/or synthesis of the data are required?
- What should the service provider report?
- What should be the submission timelines for reporting?
- What should be the format of the report?
- Who should the service provider report to?

All information requirements should be listed directly in the PWS, with each requirement cross-referenced to the appropriate requirement statement.

2.4.4 Components of a Performance Work Statement (PWS)

Although the elements of a PWS can vary depending on the objective, complexity, size and nature of the work to be performed, there are certain basic sections that should be included in a PWS. They are:

- Background
- Scope
- Tasks to be performed
- Deliverables
- Business requirements (including state standards as described in section 2.4.3 above)
- Performance verification
- Transition provision
- References
- Attachments

Note: *As with any solicitation documents, the agency is advised to develop and adhere to a method for managing changes and revisions so as to ensure compliance to WAC 236-51-310 and WAC 236-51-320.*

Background - This section of a PWS should provide a general description of the service being solicited and briefly discuss the overall objective of the competition. It should also discuss how the competition relates to previous, ongoing and future competitions, if any. If applicable, the discussion should also include any known difficulties or constraints. The discussion should provide sufficient information to enable a potential bidder to understand how the service fits into the broader agency operating environment.

Scope - The scope statement provides the basic boundary conditions for potential bidders. The focus of the “Scope” section is to present the overall picture in concise form. Broad, non-technical terms should be used and the actions to be performed by the service provider, as well as the results expected, should be summarized.

One approach is to state the overall scope of the service to be performed, followed by subparagraphs stating individual tasks and sub-tasks. Again, consider the vehicle maintenance example and *Figure 12*:

Figure 12 **Vehicle Maintenance Service:** The work proposed under this solicitation involves providing preventative maintenance and repair for Department of XYZ's Vehicle Operations. These services are presently provided for 1,350 vehicles assigned to the Department of XYZ Vehicle Operations and are located in the city of Olympia. This service provides equipment, repair parts, materials, supplies and tools to maintain Department of XYZ's owned as well as agency leased vehicles.

Service Scope Statement

Tasks to be performed - In this section the agency goes back to the work analysis (see 2.3.2). Each relevant level task is identified and described. Consider *Figure 13*:

Figure 13 **Level 3:** Tune-ups - Each vehicle is to receive an annual maintenance adjustment of the following systems as recommended by the vehicles manufacturer:

Service Task Requirements

- Ignition** - Points, plugs, and condenser replacement and setting of all gaps.
- Fuel** - EFI Vehicles: Filter replacement and injector clean.
Carbureted Vehicles: Filter replacement, Choke & idle adjustment.

Deliverables - This section expands on each task and specifies the outcome or tangible end result that is expected from each task, result, or outcome identified previously. The result can be a tangible such as a report or an intangible real result such as a decrease in equipment failure rates at the end of some time period. For *Figure 14*:

Figure 14 **Level 2:** Preventative maintenance - Quarterly the EBU or service provider will supply to the agency a report of actual times spent for each preventative maintenance level 3 tasks. In addition, the service provider will supply preventative maintenance cost records to the agency. The purpose of this data in each case will be to determine if the service provider has met the performance requirements specified in its contract with the agency.

Service Outcome or Deliverable

Business requirements - The business requirements section is the heart of the PWS. It draws the majority of its information from the business requirements summary (see 2.3.5 for an example). This section describes to the service provider what is needed as clearly, precisely, and completely as possible. In drafting this section the following general principles apply:

- **Performance requirements** - for each listed task and expressed as an outcome or result. This allows the service provider to devise and propose various approaches to satisfy the requirements

- **Performance standards** - specifications, industry or government standards, and/or AQLs relative to the performance requirements above
- **State-furnished** - data, material, tools or facilities in performing specific tasks, these items should be identified and the time frame for providing them established
- **State standards** - See section 2.4.3

Sometimes established performance requirements may not be available. For example, the agency may be in the process of revising standards that may affect the frequency for maintaining items; or data management system may not be able to provide required data until new reports are programmed. In such cases, if the required data is critical to defining a task requirement, the PWS either should not be completed until the required data is available, or an estimate should be provided with a condition that the estimate represents an assumption or estimate. However, it should be recognized that assumptions and estimates might have a significant impact on pricing and scheduling.

Performance verification - In this part, the agency describes to potential bidders what progress reporting, operational reviews, escalation paths, and meetings are required by the agency in monitoring their performance and results.

Transition provision - An agency should carefully consider what would be required to transition from one service provider to another in the event of cancellation or re-solicitation and award. What an agency may include in the solicitation performance work statement is language that outlines these expectations to bidders. Any transition requirement/provision should specify clearly what is expected of all parties and what happens if those expectations are not met. Agencies should employ the collective contracting experience of DIS, OSP, and OFM, as well as their own agency counsel, to assist in this effort. For most solicitations though, the standard language that exists within the state's different terms and conditions templates are sufficient. Regardless of the approach, the decision should be made in the context of the risks being faced and the relative cost to mitigate those risks. The use of bonuses, performance bonds, and withholding of payments to compel performance from the service provider should be used only when weighed against this context.

References - Here the agency provides any links or sources required by potential bidders to perform the service.

Attachments - This section is used for the inclusion of special information that does not easily fit into the other sections of the PWS. It typically contains items such as workload data, listings of state-furnished equipment, discussion of facilities, and any other relevant background or supplemental data necessary to clarify the business requirements.

PWS review considerations

Ultimately the agency's director is responsible for the content of any PWS and the resulting solicitation. That is why at the start of any competitive contracting project, the agency competitive contracting team should identify how and when reviews will be conducted and who will make decisions. The following should be considered in any PWS document review:

- Will service providers be able to prepare a sound technical proposal from the contents of the PWS?
- Does the PWS create undue constraint on the ability of some potential bidders from submitting a competitive proposal?
- Are tasks, results, or outcomes clearly stated so that an awardee of a contract will know what to do, when it is required, and whether it is being done correctly?

- Are the tasks, results, and outcomes realistic and performable?
- Will a service provider be able to prepare an accurate cost proposal?
- Are performance standards clearly identified in such a way that all parties can agree that tasks, results, and outcomes are being performed as specified?
- When other documents are referenced, are they available, properly described, and cited?
- Have the appropriate agency and industry standards been researched and referenced?
- Have any data requirements been separately specified in a data requirements section?
- Have extraneous data requirements been eliminated?

Chapter 2, Section 5

Quality Assurance Plan (QAP)

2.5.1 General objectives of the QAP

A Quality Assurance Plan (QAP) describes how the state will evaluate and assess a service provider's performance. It is intended to be a "dynamic" document that should be revised or modified as circumstances warrant. The general objectives of performance assessment include the following:

- Detail how and when the agency will survey, test, sample evaluate and document a service provider's performance in accordance with the PWS.
- Focus on the quality, timeliness, etc. of the tasks to be delivered by the service provider, and not on the steps required or procedures used to provide the service.
- Identify and prioritize performance measures, standards, and indicators identified in the performance analysis (see section 2.3.3).

2.5.2 Components of a Quality Assurance Plan (QAP)

Introduction section

This should be a brief statement that identifies the overall contract to be evaluated, the overall purpose of the QAP document, how the QAP is organized, and how the QAP should be used in assessing a service provider's performance.

Statement of objective section

This section should describe the general goals of the QAP. For example see *Figure 15*:

Figure 15
*QAP Statement
of Objective*

QAP statement of objective: The objective of this plan is to ensure that the overall quality of the vehicle maintenance service is consistent with the performance requirements outlined in the business requirements section of the PWS. The following elements are deemed to be important when assessing performance under this plan:

1. **Results** - Maintenance performed on vehicles has to be effective and cost efficient. This result will need to be demonstrated by the service provider

and a review will be conducted by the agency to evaluate performance to results.

2. **Standards of performance** - The standards listed in the performance requirements and outlined in the business requirements section of the PWS represent a starting point. They will be reviewed quarterly to evaluate their continued applicability or to determine whether new or better standards are required.
 3. **Service provider compliance** - As a condition for award, compliance to this plan and the elements of the PWS are mandatory. As part of the quarterly review, the agency and the service provider will review results and determine agreed upon action plans to address non-conformance to the performance requirements. Failure to perform to these requirements is cause for cancellation.
 4. **Root-cause analysis and corrective action** - As a condition for award, a service provider agrees to participate in analyzing and correcting non-conformances.
 5. **Incentives** - The performance requirements in the business requirements section of the PWS outlines specific incentives created to motivate a service provider to exceed the requirements specified.
-

Roles and Responsibilities section

This section should identify the key personnel involved and their roles in administering the contract. After award, the agency may need to modify this section based on who is awarded the contract and once specific escalation paths are known.

Verification methods section

Here the agency describes how adherence to the performance requirements will be verified (see 2.3.4).

Corrective action

The method and response expectations the agency has should be identified here. A number of agencies employ corrective action procedures and methods today; these can be applied here also. Customer complaint procedures should also be identified here.

Provider quality control plan

The agency can add a requirement that a service provider develop and submit a quality control plan as part of their solicitation. This requirement should allow each bidder to develop their own plan in response to the requirements of the PWS and the QAP.

Chapter 3 Cost of Government Services Guide

Chapter 3, Section 1

About this chapter

3.1.1 What is the purpose of this chapter?

A guide to calculating the cost of government services

RCW 41.06.142 permits agencies to purchase services from the source they find to be the most cost effective and efficient. Key to making this determination is the ability to make an accurate and fair comparison of the current costs to provide the service within the agency against the proposed costs of employee business units (EBUs) and / or with outside contractors. This chapter provides guidelines and schedules for calculating the cost of government services for competitive contracting evaluations.

The underlying authority for this chapter is found in RCW 41.06.142, RCW 43.19 and WAC 236-51.

Note: The Competitive Contracting Evaluation Model is an Excel ® workbook available on-line containing the four worksheets referenced in this chapter. A screen shot example can be found in Appendix A of this chapter. The worksheets are: Schedule A - Evaluation Summary, Schedule B - Contracting Cost Comparison, Schedule C-1 Current Service Delivery, and Schedule C-2 Employee Business Unit Bid.

This chapter assumes some knowledge of state accounting and budgeting practices

Individuals developing the cost of government service analysis are the intended audience for this guide. This guide assumes that the person conducting the analysis has some familiarity with state accounting and budgeting terms and practices.

This guide can be used for different purposes. While this guide is written with a focus on the development of cost information an EBU needs to provide for the competitive contracting Evaluation Model (see Section 3.2.1), agencies may also find it useful in thinking through the potential benefits of competitive contracting a service in the first place. The same steps to service definition and cost identification could be used for both analyses.

3.1.2 What are the initial steps of the process?

Where in the competitive contracting process does the cost of government service guide play a role? *(highlighted in italics)*

Prior to notification and solicitation the agency:

- Identifies and defines a candidate service for competitive contracting (see chapter 1)
- *Conducts a cost of government service analysis to determine the current service delivery costs(Schedule C-1) that will be used by the agency to compare with proposals submitted by bidders responding to the competitive contracting solicitation (see chapter 3)*
- Conducts a business requirements analysis (see chapter 2)
- Develops a Performance Work Statement (PWS) and Quality Assurance Plan (QAP) (see chapter 2)

- *Verifies that preliminary requirements outline by RCW 41.06.142 have been met (Schedule A (first half))*
- Provides notice to potentially displaced employees that within 90 calendar days (or greater) it plans to issue a competitive contracting solicitation (see chapter 5)

Post notification and solicitation

- If potentially displaced employee alternatives are rejected or none are offered within 60 calendar days, the agency proceeds with its solicitation (see chapter 5)
- Potentially displaced employees decide to form one or more EBUs to compete as a bidder in the solicitation (see chapter 5)
- *An EBU prepares its cost proposal (Schedule C-2) (see chapter 3)*
- *The agency then compares the results from the cost of government service analysis (current state) against proposals submitted by bidders to help determine award (Schedules A (second half) & B) (see chapter 3)*

Note: *For the purposes of brevity, the list above does not reflect additional requirements that apply to potentially displaced employees in a bargaining unit. For the purposes of this illustration though, the role of the cost of government services guide is the same regardless.*

3.1.3 What are the preliminary requirements?

Schedule A, Section I: Preliminary Requirements Checklist

RCW 41.06.142 outlines certain requirements in the process for competitive contracting. Section I of the Evaluation Summary form (Schedule A) asks the agency to confirm that these preliminary requirements were completed. They are provided in the schedule as an additional tool for agencies to use. More comprehensive guidance on how to identify and evaluate candidate services, develop business requirements, and assess readiness can be found in Chapters 1, 2, 4, and 8 respectively.

The Preliminary Requirements Checklist on Schedule A conveniently documents that the preliminary criteria were met. If the answer to any of the questions except “B” (which relates to agency management criteria) is “no”, then the agency can not proceed with competitive contracting.

Important note: *Agencies must ensure that any staff assisting the EBU in developing Schedule C-2 (i.e. their bid) cannot be involved in the procurement process (see WAC 236-51-302 and WAC 236-51-410). Agencies should retain documentation of the following, at a minimum, in accordance with their record retention schedules:*

- *All required notifications - content and dates*
- *Employee alternatives received and dates received*
- *Evaluation of alternatives*

3.1.4 Defining the service

To achieve a fair and successful outcome through competitive contracting, it is critical for the agency to carefully define the service scope, volume, and performance requirements via a Performance Work Statement (PWS) and Quality Assurance Plan (QAP) (see Chap-

ter 2). When the agency decides to competitively contract a service, it will create solicitation documents consistent with the requirements of WAC 236-51-305. In this chapter we will refer to solicitation documents in the collective as the Invitation for Bid (IFB) or Requests for Proposal (RFP).

3.1.5 Identifying costs

The agency must then identify their costs to provide the specific level of service outlined in the RFP. Cost requirements are outlined in WAC 236-51-215. The projected department costs may be based on its existing costs (where available) and its estimated costs based on re-engineering results or budget estimates for services not currently provided by state staff.

RCW 41.06.142 requires the state to use the “avoidable cost” method for cost comparison, where a contractor bid or external cost estimate is compared to the internal costs the state would not incur if the service was contracted. These avoidable costs include all direct costs, as well as any portions of indirect overhead or short-term fixed costs that can be eliminated over the life of a service contract. Using avoidable costs ensures that a decision to outsource does not result in an increase in the overall cost of providing a service, as the state will incur certain costs (“unavoidable”) even if the service is contracted. Within this chapter:

Section 3.3: Offers guidance on identifying the direct costs of services.

Section 3.4: Discusses indirect overhead costs.

Section 3.5: Provides information on cost allocation approaches.

3.1.6 Determining an agency’s costs associated with competitive contracting

The last component of the analysis is adjusting external contractor costs by the amount of one-time transition, ongoing contract administration, and other costs that would be newly incurred if the service were awarded to an outside contractor.

Section 3.6: Provides guidance on calculating these adjustments.

Chapter 3, Section 2

Presentation of the Evaluation Model

3.2.1 Preparing the Evaluation Model

Introduction

The Evaluation Model is the standard required framework for costing of a state-performed service and then comparison to the best alternative source. The overall goal of competitive contracting is to ensure that services are provided at the best value to taxpayers.

The Evaluation Model schedules (Appendix A) primarily focus on cost identification and comparison within the competitive contracting process. Cost is only part of the value equation, which also factors in service quality and the effectiveness of results. Management will make their decision based on the service value of the viable proposals (see 2.1.3). Although the comparison of quality and results is also critical to the decision process, the method of documenting that portion of the competitive contracting process is left to the discretion of each agency. This manual provides agencies with guidance in evaluating cost and non-cost factors (see chapter 6).

It is also recognized that each agency may wish to tailor the model's format to match their standard practices and this model should be adapted to the specific circumstances of each service evaluation as required. For maximum efficiency, it is recommended that the model be adapted to incorporate existing reports and sources of data whenever practical.

The Evaluation Model is designed for use in the formal bidding process between EBUs and outside contractors. However, portions of the model may also be useful in the preliminary investigation stages to simply identify the cost of a service before testing the market for viable alternatives. Use of rough estimates may be appropriate in those preliminary stages. In the bidding process, it is important that the EBU bid cost is accurate and complete. However, it must be recognized that the EBU bid is a projection of future costs, which involves estimates.

While the agency may provide resources to assist to the EBU in the bidding process, the EBU determines its bid price. The EBU proposal may involve new processes for providing the service that cost less than previous methods. The agency will independently evaluate all proposals, including the EBU's.

In addition to the other chapters of the Competitive Contracting Manual, refer to the following for further guidance on the competitive contracting process and completing the Evaluation Model:

- RCW 41.06.142
- WAC 236-51
- Resources identified in section 3.7
- WAC 357-43
- Agency or state's collective bargaining agreement.

The agency may contract with the Department of General Administration to assist with all aspects of the competitive contracting process. In addition, to help state agencies determine if competitive contracting should be an option, the Department of General Administration's Office of State Procurement (OSP) has created a "convenience contract" of pre-qualified providers able to provide consulting services. These providers can assist agencies with:

- Identifying services that could be considered for competitive contracting
- Assessments of current and future data collection associated with a service
- Developing performance standards and related information
- Determining how the agency's current service matches up with the competitive market in terms of costs and overall efficiency
- Determining baseline costs for a service
- Analysis of an agency's strengths and weaknesses in providing a service that could be identified for competitive contracting
- Risk assessments and transition planning
- Developing preliminary competition and completion schedules

- Project management and technical writing
- Facilitation of stakeholders and focus groups related to competition for a service
- Presentation of reports and results

3.2.2 General instructions for completing the Evaluation Model

Description of the Evaluation Model

The Evaluation Model shall be used by agencies and EBUs to demonstrate compliance with the requirements outlined in WAC 236-51-215 and WAC 236-51-306 (reference WAC 236-51-300):

Schedule A: Evaluation Summary - This form provides summary cost information from Schedules B, C-1, and C-2, as well as other key information needed to complete the Evaluation Model.

Schedule B: Contracting Cost Comparison - This form identifies the full cost of competitive contracting including the contractor price(s), contract administration costs, transition costs, and other costs. It compares these total costs to the EBU's bid and the cost of keeping the current service delivery approach. Where there are significant variations in the timing of costs between the bidders and/or internal costs, management may wish to utilize the net present value technique to restate the bids to today's dollars for comparison.

Schedule C-1: Current Service Delivery Cost Projection - This form projects the direct, indirect, and other related costs of the current service delivery approach. Several revisions of this form may be completed prior to a solicitation; particularly if there have been any process improvements or employee alternatives implemented. The most current service delivery cost projection should be made available to potentially displaced employees upon notification and then to all bidders who request it.

Schedule C-2: EBU Bid Cost Projection (Proposed) - This form projects the direct, indirect, transition, and other costs related to service delivery by an EBU. The form along with all drafts and supporting schedules is considered a confidential bid document to be held confidential in accordance with WAC 236-51-405.

How to complete the Evaluation Model

The Evaluation Model is in order from summary level down to detail sheets. Generally, the cells for data input are identified with a blue font. Cells which are linked to other pages or that are calculated by formula are in a violet (or black) font.

The general information would be typed onto the first two sections of Schedule A first. Then the cost information developed on relevant supporting detail schedules would also be summarized on Schedule A. The agency may have existing reports that it may wish to incorporate as supporting schedules. While today's service costs are a good starting point, future changes to business processes/environments would have an impact on costs of service delivery. Therefore, historic data will likely need to be adjusted for expected price changes, business process re-engineering, etc.

Using the Evaluation Model schedules provides the benefit of a consistent format, which will make review and approval more consistent and efficient.

1. Schedule A - Evaluation Summary

Schedule A is an executive summary, so any comments and descriptions should be high level and brief. This form documents the facts, the process steps taken, the financial reviews performed, and the final decision made by management.

Complete the blue sections. This document is not to be finalized and approved until the competitive contracting bidding process is complete in compliance with all rules and procedures.

2. Schedule B - Contracting Cost Comparison

Schedule B summarizes the financial impact of the competing bids for performing the service in-house (current service delivery) versus through the EBU versus obtaining the service from the most responsive outside contractor. The current service delivery and the EBU bid price are supported by Schedules C-1 and C-2 respectively.

At the top of each column, enter the fiscal year and number of months during that year that the contract will be in effect.

Change cost categories if necessary to fit the service in question.

Enter the cost information on this sheet or where desirable on any linked supporting schedules.

3. Schedule C-1 - Current Service Delivery Cost Projection

Schedule C-1 provides a summary of all projected direct and indirect costs of the current service delivery approach. This schedule can be used for initial cost analysis using the most recent actual costs as well as during the re-engineering process for cost analysis purposes. For comparison with contractual / EBU projections, the final re-engineered service delivery approach should be used.

The first two cost columns on Schedules C-1 and C-2 are to identify the most recent year of actual service delivery costs and to show the difference between those costs and the projected cost of service delivery in the first year of the proposed contract period. These may be used at the agency's option for management analysis of the reasonableness of the projections. If used, major differences should be explained in supporting documentation.

4. Schedule C-2 - EBU Bid - Cost Projection (Proposed)

Schedule C-2 provides a summary of all projected direct, indirect, and other costs for the EBU to deliver the service in question. Both contractual and estimated cost changes are included over the contract term as applicable.

While schedules C-1 and C-2 present projected (or forecast) fully allocated future costs, they will often be based on historic costs.

Documentation, review, and approval:

- The data included in each schedule is subject to thorough review. Therefore, all data sources should be well documented. Mainstream accounting system or audited data is preferred where available. It may be advisable to document reasons for key assumptions. Records should be retained at least as long as is required for bid documents.
- Each agency is to determine the appropriate process for review and approval.

*Chapter 3, Section 3***Defining the service and its direct costs****3.3.1 Defining the service****Why is defining the service so important?**

A precise service definition is necessary for accurate cost analyses and comparison with other service provider's cost proposals. In preparing the cost proposal, the agency will need to answer a number of questions. How many employees are needed to provide the service? What kinds of supplies and equipment are used? What portion of an agency's central services is used to support this service? Before these questions can be answered, the agency will need a very good understanding of the service, what is included and what is excluded from the description (see Chapter 2).

When the agency decides to competitively contract a service, it will write an RFP or solicitation. The RFP will include a very detailed definition of the service, including the service's scope, volume, and service/performance requirements. The proposed contract term is also identified in the RFP. If the agency has not yet prepared an RFP, then other information sources will be utilized where the RFP or proposed contract are mentioned in this section.

Review the RFP carefully to identify proposal parameters

The first step in the response process is to carefully read the RFP for this service. The service and level of service as described in the RFP should be carefully analyzed. It is critical that the agency's, the EBU's, and the contractor's costs include the same assumptions for service levels and performance measures as indicated in the RFP. This will allow for an accurate comparison of costs using essentially equivalent quality and service levels. There are several particular questions the agency should seek to answer in reading the RFP definition of the work.

What is the service definition in the RFP? - What type of work is described in the RFP? What specific services are mentioned? Is anything explicitly excluded from the RFP?

What is the term of the contract per the RFP? - What is the term of the contract including extensions? When is the anticipated start date? Does the level of service requested vary through the duration of the contract?

What service specifications does the RFP require? - What are the service levels and performance criteria being specified by the RFP? How is this volume expressed (e.g., number of permits issued, number of meals served, etc.)? This data should be expressed in a manner that is consistent with how the market defines the volume data for the service. Is this similar to the way measurable output of the service is described in the agency?

Any other key decision factors noted? - Are there any other conditions or descriptions of the service identified in the RFP?

Prepare a service description that explicitly defines the agency staff and costs that will be included

After understanding the scope of the service that the agency intends to purchase, it is time to define the portion of the agency or the service unit that will be compared to external vendors. The service unit may be a portion of a division, the entire division, an entire department or a portion of one or more departments. There are several components to this description that should be included in the Evaluation Model. These will be noted in Section II of Schedule A (see Appendix A of this chapter).

Schedule A, Section IIA: Summary description of the scope and nature of the service

Prepare a brief description of the nature and scope of the service to be provided. These questions may be helpful to determine the key features of the service in preparing the description.

- What work will be performed? What will the agency receive?
- What is the purpose of the work? Who will receive it or benefit from it?
- What agencies or parts of agencies will be involved in providing the work?
- What work typically performed by these units would not be included in this service? Will work new to the unit be provided? What is the scope of this service?
- Where will the service be performed - in one location or at various locations across the state? Do these various locations have different costs of operation?
- What overall levels of service results, in terms of measurable performance standards, are important in determining the value propositions of the eventual bids?

Schedule A, Section IIB: Identify the term of the contract and anticipated start date

Identify the term of the contract in years or months and the anticipated start date. The time period over which cost data is developed and compared should match the term of the contract to be awarded. This will ensure that the service provider decision will be based on the true cost of service over the term of the contract.

Where there are long-term contracts with annual renewal options, the entire potential life of the contract should be used. This approach establishes a base contract cost assuming no options to renew are exercised, and then costs for each renewal option year are added to this base. This revised cost including both the base years and the option years will be the costs used to compare service providers.

Schedule A, Section IIC: Describe the expected volume of the service

Describe the expected volume of service in two components. First, describe the units of service to be provided (e.g., hours, units produced, units serviced, or completed). This expression of units should be consistent with the units expressed in the RFP. Next, describe the volume of service in those units to be provided over the term of the contract.

How does the agency estimate the expected volume of service? - If the agency currently tracks service volumes in the same units identified in the RFP, review the historical records to determine the baseline level of service provided. If the baseline amount is different than the RFP-requested level of service, consider what work unit, process, or resource changes may be necessary to meet the requested level of service.

If the agency has not tracked service levels in the manner specified in the RFP, a study may need to be set up to collect sample data to develop an estimated service level baseline. Agencies are encouraged to contact their financial office or quality coordinator for assistance in setting up such a study.

Schedule A, Section IID: Identify the key measurable performance standards

Identify any proposed key measurable performance standards. Some examples of performance standards might include turnaround times, tolerances, error rates, etc. Be sure to address any performance standards identified in the RFP. Other standards may be identified as well. This set of performance standards, to which the work will be done, makes up the minimum set of 'results' for use in evaluating bids' value propositions.

Schedule A, Section IIE: Describe any other key decision factors considered-

Note any other key elements of the service description that will help the reviewers evaluate the cost of service. Any specific elements identified in the RFP should be noted.

3.3.2 Identifying FTEs**Schedule A, Section IIIA: What is an FTE?**

A Full Time Equivalent is defined as one full year of paid employment (the equivalent of 2,088 paid hours), including callback, overtime, and replacement help while an employee takes compensatory time, and all paid leave. FTEs can be expressed in terms of annual or monthly increments. To compute staff years, divide the total number of paid hours by 2,088. To compute staff months, divide the number of hours paid by 174. Remember, paid hours include productive hours as well as paid time off such as annual leave, sick leave, holidays, and paid military leave.

Identify the number of FTEs to be utilized in providing this service

Refer to the service definition and its description of the type and level of service to be provided. Identify the number of staff positions, the job classifications of those positions and the staffing levels required throughout the year and throughout the day to perform this service. With this information, calculate the annual FTEs required and record this in Section IIIA of Schedule A.

When the proposed level of service and service delivery approach is the same as that which the agency currently provides, and the staff is fully utilized in providing the service, the agency should be able to use personnel and payroll records to confirm the number of FTEs required.

What if the proposal includes a different service level than is currently provided to the agency?

There may be cases however, where the service level requested in the RFP is more or less than the service level currently provided. In this case, the agency may need to analyze the difference in service level requirements to determine whether a different staffing pattern is needed. In other cases, the agency may decide to re-engineer its service delivery for the proposed service and may need to estimate revised staffing needs. Agencies are encouraged to consult their financial offices, personnel managers, quality coordinators, or other applicable staff for assistance with these analyses.

If the number of estimated FTEs to deliver the service will be different than the number of FTEs currently providing this service, please also note the latter in Section IIIA of Schedule A.

What if only a portion of a person's or unit's time is devoted to this service?

In many cases, the entire work of a specific service unit will be covered in the scope of a service. In some instances only a portion of a person's time may be devoted to this service. In other cases, only a portion of a unit's services will be covered by the RFP. In these cases, the agency will need to estimate the portion of time staff spends on this particular service. If the

staff already keeps timesheets, these can be used to estimate the FTEs currently used to provide the service.

If this kind of information is not already available, the agency will need to conduct some kind of time tracking or sampling to estimate the portion of staff time spent on the service. Because this study will probably take place over a relatively short period of time, it will be important to adjust this sample time data for any significant seasonal workload variances over the year. Agencies are encouraged to consult their financial offices for assistance with these analyses.

3.3.3 Identifying direct costs

Schedules C-1 & C-2: What is a direct cost?

Direct costs are those that are consumed or expended for the exclusive benefit of a service and thus are totally (100 percent) chargeable to the service. These costs are directly traceable to the service and are usually charged directly to the service. Usually these costs include staffing, services, supplies, and equipment costs (see WAC 236-51-215 (1)).

(For any direct service delivery costs that are treated by an agency as indirect costs, see 3.4.1).

Identify direct costs by year in the Service Cost Projection Schedules

In Cost Projection Schedules C-1 and C-2, record the direct costs for the service by year for the term of the contract.

Note: On Schedules C-1 and C-2 the agency may change the detailed cost categories listed within each of these four categories to better fit their operations or managerial accounting practices.

The direct costs are divided into four categories:

Schedules C-1 & C-2, Lines 1-5

Salaries and Benefits - This includes all direct personnel salary and benefit costs. (Benefits will be prorated, or allocated on a reasonable basis, for staff that does not devote their full time to the service.)¹

Schedules C-1 & C-2, Lines 6-17

Direct Goods & Services - Include costs for direct goods and services.

Schedules C-1 & C-2, Lines 18-27

Other direct costs - Any other ongoing direct costs.

Schedules C-1 & C-2, Lines 32-35

Other costs - Includes insurance, one-time or start-up, and transition costs.

Use actual costs for the cost proposal when possible

Whenever possible, use actual costs from accounting, allotment, or budget records as the basis for the direct costs. In most cases, the current actual direct costs of service should be used as the starting point with adjustments made to reflect any proposed changes from the current service in service level, service delivery, or performance stan-

¹An agency may wish to tailor their Evaluation Model (ref. Schedule A) with account code references for each cost category. If so, Chapter 75, Uniform Chart of Accounts, of the State Administrative & Accounting Manual (SAAM) may be a useful resource. Web link for this section on object & sub object codes: <http://www.ofm.wa.gov/policy/75.70.htm>

dards. If there are significant fluctuations in costs from year-to-year, which are not related to service volume, additional analysis of those costs over multiple years may be helpful in creating reasonable cost projections.

Use these guidelines when estimating direct costs is necessary

In those cases where the proposed service is different in level, quality, or approach from current practice, the agency will need to make some estimates in determining direct costs. Use these guidelines when developing estimates. Document methods used to develop estimates and also retain supporting schedules (e.g. source data and calculations).

Use the Salary Projection System to estimate staffing costs

The OFM Salary Projection System (or higher education equivalent) will enable the user to establish staffing models in order to develop accurate staffing cost. Contact the agency budget office for access and assistance.

Use standard costs when available

Many agencies develop standard costs, for example, standards for the supplies, equipment, and services typically used by an employee that they use in estimating costs for budget decision packages or fiscal notes. Agencies should rely on those accepted standard costing practices when appropriate.

Consider cost surveys to identify new cost elements

The development of an estimated budget may require surveying providers of similar services, supplies, and start-up costs, particularly if these are new cost elements to the agency. The survey results should be modified as needed to reflect any differences in how the agency plans to provide the service from those surveyed.

Use staffing analyses or sampling methods to estimate portion of shared direct costs

As mentioned in the FTE section, some services proposed for competitive contracting may only be one component of a work unit's work. In these cases, the agency will need to estimate the cost of the portion of staff and resource used for this service. Staff time estimates can be used to determine the portion of direct staff costs attributable to the service. In many cases, the staff time percentage may be an appropriate allocation basis for allocating the other direct costs to the service. If certain supplies and services are used for this service in a ratio much different than the staffing ratio, the agency should perform a use study to better estimate the portion resources consumed for this service.

Should inflation be included?

Schedules C-1, Lines 39-43 & C-2, Lines 38-42

Schedules B, Lines 29-35

Use inflation factors based on economic forecasts of the Implicit Price Deflator (IPD) for personal consumption, as measured by the U.S. Department of Commerce. The IPD is used because it is considered more representative of the general mix of goods and services purchased by the state than other indicators available. The other primary inflation index, the Consumer Price Index (CPI), may not adequately allow for the effects of technology and quality changes. In certain cases, medical costs, for example, a special inflation rate may be utilized when justified (see 3.7). On Schedules C-1, lines 39-43 and C-2, lines 38 to 42 may be used for inflation factors or estimated/scheduled cost increases, or they may be documented and calculated in other ways. Likewise lines 29 to 35 on Schedule B may be used for this purpose.

For payroll costs, when available, use contractual increases instead of inflation factors.

3.3.4 Equipment and capital costs

Equipment costs need to be included

Schedules C-1 & C-2, Line 8

Schedules C-1 & C-2, Lines 20-22

RCW 41.06.142 requires that the cost of equipment used by an EBU be included in its bid because it is part of the cost of providing the service just like any other direct cost. However, because capital equipment has a useful life that may cover all or a portion of the contract term, these costs need to be treated differently than the costs of supplies.

An asset plan may be useful in reviewing the estimated life cycle, operating costs and timing of replacement purchases. The asset plan, for example, would assess the risk of equipment failure as its use approaches (or exceeds) its estimated useful life (chapter 4 discusses risk assessments in greater detail). The asset plan will also estimate repair costs, which would typically increase the longer the asset is used. An asset plan may also evaluate the costs and benefits of acquiring new equipment, which may be more efficient to operate.

This section provides guidance on how to determine the fair portion of equipment costs to include in the cost of the service. The approaches for proprietary fund activities and governmental fund activities differ.

Equipment costing approach for proprietary fund services

State proprietary funds, which operate similarly to private sector business, utilize accrual accounting. As applied to capital equipment, that means that the cost of equipment is spread over the period of its useful life through depreciation and is thus matched to the revenues generated by the service. The equipment cost would include depreciation, equipment maintenance, and repair costs incurred during the term of the service under evaluation or bid.

Equipment (Capital Asset) costing approach for governmental fund services

The accounting records for state governmental funds, which represent the majority of state operations, are maintained using the generally accepted approach for governmental funds - the modified accrual basis of accounting and the current financial resources measurement focus. Using this approach, the cost of equipment is treated as expenditure in the year the equipment is purchased rather than being depreciated over its useful life.

To conform to the PSRA of 2002 requirements, a competitive contracting evaluation or EBU bid must spread the cost of equipment over its useful life. Accordingly, the expenditures for the capital assets related to the service delivery as recorded in the governmental fund's accounting records must be removed and replaced with depreciation expense - the proportionate cost of the capital asset utilized in each service period. Pro-forma depreciation must conform to state policies for capital asset depreciation (see the State Administrative and Accounting Manual (SAAM) Section 30.20; web link: <http://www.ofm.wa.gov/policy/30.20.htm>).

Charge a “usage fee” as an alternative approach

Practical alternatives to calculating pro-forma depreciation could include “charging” a reasonable usage (rental) fee, which would approximate the actual cost of the asset over its useful life. Again, the equipment cost would include all depreciation, use fees, equipment maintenance, and repair costs incurred during the term of the service under evaluation or bid.

Note: All adjustments and charges described above would be for competitive contracting purposes only and would not result in adjustments to the state accounting records.

3.3.5 Other costs - Includes insurance, one-time or start-up, and transition costs

How to treat one-time or start-up costs

Schedules C-1, Lines 32-36 & C-2, Lines 32-35

Significant start-up costs that provide benefits over the life of the contract and beyond need to be addressed to ensure consistent treatment. Under this guide, initial investments should be expensed in the year the costs are incurred.

Normally the current service cost on Schedule C-1 would not have start-up costs. An exception might occur due to process reengineering changes, possibly made during the employee alternatives phase.

Chapter 3, Section 4

Defining indirect costs

3.4.1 Defining indirect costs

Defining indirect costs of the state service (whether performed by an EBU or regular agency staff)

Schedules C-1, Lines 29-30 & C-2, Lines 29-31

The treatment of indirect costs can greatly affect the outcome of the analysis and should be dealt with in a consistent and logical manner. Indirect costs are those linked to services, but cannot be practically or economically assigned directly. Indirect costs that typically support the entire agency or state government should be considered and evaluated to determine which components are directly attributable to specific services and are avoidable (as defined below).

The Office of Financial Management identifies statewide indirect costs (see Section 50.20 of the SAAM). These costs are incurred by service type agencies in support of other agencies and are not billed to the benefiting agencies. These include statewide administrative and support costs which are allowable under federal cost circulars.

Each agency is also billed directly for certain statewide services, such as those provided by the State Auditor, the Department of General Administration, the Office of Financial Management, and the Department of Personnel. While these statewide costs are billed directly to agencies, they are normally considered indirect costs to the various services provided by the agency.

Within the agency, indirect costs are incurred at the agency level for employees providing administrative, supervisory, and support services to some or all of its service units. Some examples are the director's office, human resources, accounting and budget, library and media services, counseling, financial aid, facilities maintenance, and security.

Within an agency, indirect costs may also be incurred within a division that supports multiple services and that cannot be allocated directly to the various services. Typical costs include: (1) employees providing administrative, supervisory, and support services, and (2) related services, supplies, and other charges provided to multiple services within the division.

Note: If an entire operating program is the service unit under review, indirect costs do not include operating program overhead costs incurred within that unit. These fully dedicated overhead costs are considered direct costs and are

included as such when determining the cost of a given service. Examples of dedicated service overhead include employees providing administrative, supervisory and support services, supplies, and other charges directly supporting the service.

How does an agency establish indirect costs?

There are a number of means to capture indirect costs related to the service being analyzed or bid. Since methods can range from simple to complex, an agency should use the simplest method that provides enough information to adequately project indirect costs.

Some large agencies have federally approved indirect cost plans developed in accordance with federal cost circulars. If an agency has a federally approved indirect cost allocation plan, it may use the plan as a starting place to quantify indirect costs. In using this method, an adjustment will be required for any and all elements that are not directly attributable to the particular service. One reason for starting with a federal cost plan is because federal requirements mandate fair and equitable treatment of costs.

Alternatively, the agency may develop its own indirect cost rate by analyzing and identifying its pool of indirect costs in comparison to direct program expenditures. This may be a fairly complex and difficult process for some agencies. If the detailed list approach is used, the chart of allowable costs from **OMB Circular A-87** for state government or **OMB Circular A-21** for higher education (Appendices B and C) may be used as a checklist for potential costs to be considered in developing the cost projections.

One of the difficulties in defining indirect costs is that each situation may be different. For example, in many agencies, information technology (IT) costs may have direct and indirect components, but if the service under review is an IT unit itself, most of the IT costs will be direct, but there may be other services (such as human resources) that may have an indirect IT component.

Defining avoidable and unavoidable indirect costs

Avoidable and unavoidable indirect costs as envisioned in this statute can be defined as follows:

Avoidable indirect costs

Those indirect costs that would be reduced or eliminated if a service currently provided by agency staff were to be provided by an outside contractor. These costs can include a portion of indirect costs that can be eliminated over the life of the service contract. Avoidable indirect costs are, by their indirect nature, more difficult to identify than direct costs. In some circumstances, it will be clear that some costs included in an agency's indirect cost pool can or will be reduced or eliminated as a result of competitive contracting a service formerly performed in-house.

Unavoidable indirect costs

Those indirect costs that the agency incurs regardless of whether a service is provided by the agency or by an outside contractor. These costs can include a portion of indirect costs at the statewide, agency, or division level, because these costs may not be eliminated as a result of competitive contracting. Unavoidable indirect costs support the entire agency or state government, are not directly attributable to specific programs, and are not affected by typical fluctuations in service levels.

Determining avoidable and unavoidable indirect costs

Once indirect costs are identified, the next step is to determine which portions of those costs are avoidable and unavoidable. RCW 41.06.142 states that "An employee business

unit's bid must include the fully allocated costs of the service..." but exclude state indirect costs "...unless those costs can be attributed directly to the service in question and would not exist if that service were not performed in state service." In other words within competitive contracting; only indirect costs that are avoidable are included in the cost of state service, whether performed by regular agency staff or an EBU (see WAC 236-51-215).

The one exception to including only avoidable indirect costs would be for any direct costs of service delivery, which the agency allocates as if they were indirect costs. For example, the agency may house several service delivery programs within one building that all use significant amounts of electricity, which is a direct cost in the delivery of those services. However the agency may allocate electricity costs in an indirect cost rate because separate electricity meters are not available to facilitate direct charges to each service. The law states that the service cost "must include the fully allocated costs of the service, including the cost of the **employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the service**" (RCW 41.06.142 (4) (e); emphasis added). If any of these direct service delivery costs are treated as indirect, then they must be included in the service cost, whether avoidable or not. For example, rent for the direct service delivery facility is also part of the "space" direct costs and, even if it is allocated to the service within an indirect cost allocation, it must be included in service costs even if it is not considered avoidable. However, any such costs that can not be avoided (or utilized for another purpose), whether for a period of time or permanently, will be added to the cost of competitive contracting on Schedule B.

Identifying avoidable and unavoidable indirect costs

To identify avoidable and unavoidable indirect costs, it may be helpful to begin by asking the question, "Will contracting this service currently accomplished by agency staff actually increase or decrease the indirect costs of the agency?" For example, if a given service is contracted with an outside contractor will it result in the elimination or acquisition of indirect support service costs, such as some of their telephones, electronic data processing programming, utilities, leases, or mail station? Any amount of indirect costs that would be eliminated will be the avoidable indirect costs identified in Schedules C-1 and C-2.

As a general rule, the larger the service under evaluation, in proportion to the agency's total service activity, the greater the percentage of the agency level indirect costs that would generally be classified as avoidable. The agency level indirect costs that can be attributed directly to the service and are avoidable would be included on Schedules C-1 and C-2. It is recommended that the agency's financial office be consulted before classifying such costs as avoidable.

If multiple services end up being contracted out, management would continue its normal practice of reevaluating the appropriate levels of indirect support for their agency. Supplemental reductions would be made where in the aggregate the changes have reduced the indirect support needs beyond what was identified in the separate analyses.

In some instances, avoidable and unavoidable indirect costs may shift over the life of the contract or time period for cost comparison analysis. For instance, an unavoidable cost may be incurred in the first year, but as a result of planned efficiency and effectiveness, a portion or all of this unavoidable cost may become avoidable in the second year. One example might be a plan to switch from transactional invoicing to weekly summary billings for services, which would reduce some costs such as the state's accounts receivable systems charges (that are in part based on invoice volume). Factors to consider in identifying these time-delayed avoidable costs include:

- Employee training and relocation
- Purchase/sale of assets

- Property leases’
- Inflation
- Contract and grant cancellation/expiration

These temporarily unavoidable indirect costs should be classified under Other Costs on Cost Projection Schedules C-1 and C-2.

Except for the required detail cost category for “Contract Administration, Monitoring, and QA” (line 31) on Schedule C-2, the agency may change the detailed cost categories listed within the indirect and other cost categories to better fit their operations or managerial accounting practices.

For purposes of initial agency analysis or comparing competitive contracting bids, the costs of the service within the agency should include fully allocated indirect costs, and then show a separate line for reduction of those indirect costs not directly attributable to the service. (This is the suggested approach for use within an indirect cost supporting schedule, not necessarily directly on Schedules C-1 or C-2.)

Cost Projection Schedules C-1 and C-2 provide a reference number column for supporting schedules. Rationale should be provided for each indirect cost line item to discuss the breakdown between avoidable and unavoidable costs.

Chapter 3, Section 5

Cost allocation methods

3.5.1 Defining cost allocation

What is cost allocation?

Cost allocation is the process of assigning a cost to one or more services in reasonable and realistic proportion to the benefit provided or other equitable relationship.

What purpose does cost allocation serve?

Cost allocation allows the agency to determine the true and total costs incurred in providing a service. Once the agency knows the full cost of a service, it can make better management decisions related to that service.

What types of costs should be allocated?

Some direct costs and all indirect costs should be allocated. A direct cost such as rent needs to be allocated when more than one service is covered by a single rent payment. Examples of indirect costs that should be allocated include costs associated with an agency’s human resources, fiscal, or information technology services.

Are there general guidelines for allocating costs?

General cost allocation guidelines that should be considered include:

- The cost allocation approach should be fair, equitable, and easy to understand.
- The cost allocation approach should be efficient to calculate and implement.
- The approach should allocate costs using bases that are reasonable surrogates for the cost drivers.

- Costs should be allocated to all services that are users of resources or recipients of internal services.

Do all agencies allocate the same costs?

Because of the diverse characteristics and accounting practices of state agencies, the types of costs that must be allocated vary from agency to agency. An agency that has only one service would be able to directly associate all of its costs with that one service; whereas, an agency that has multiple services must accumulate its common costs and then allocate them to the benefiting services.

Even agencies with multiple services can be organized quite differently. For example, one agency might decentralize its information services support by assigning technical support staff within the service, whereas another might maintain a central Help Desk service.

What costs are included in the fully allocated cost of a service?

All costs incurred by the agency must be spread to the agency's services either through a direct charge or an allocation. Once all costs are assigned to the agency's services, they can be separated between avoidable and unavoidable.

3.5.2 Cost allocation components

What are the components of cost allocation?

Cost allocation components include:

- **Allocable costs** - A cost is allocable to a particular service in accordance with the relative benefits received. The costs incurred are specifically for the service and can be distributed in reasonable proportion to the benefits received and are necessary to the overall operation of the agency/service.
- **Cost allocation base** - A systematic means of relating a given cost or cost pool with a cost objective. In general, any cost element or related factor associated with the agency's services can serve as a cost allocation method provided that it can readily be expressed in terms of dollars or other quantitative measures, and is common to the benefited services during the base period. The choice of the allocation method should be guided by the purpose to be served by the cost allocation and the necessary administrative costs and effort in the allocation (see 3.5.3).
- **Cost pool** - Any grouping of individual costs.
- **Cost objective** - Any service for which a separate measurement of costs is desired.
- **Cost allocation rate** - The ratio (expressed as a percentage) of the costs to be allocated to the direct cost allocation base.
- **Base period** - The period in which costs are incurred and accumulated for allocation to services. The base period should normally be the state's fiscal year.

3.5.3 Cost allocation methods

How are costs allocated?

When the agency has several services that benefit from its allocable costs in varying degrees, the agency must accumulate its allocable costs into separate cost pools. Each cost pool should then be allocated individually to benefiting services using an appropriate allocation method.

What are some common allocation methods?

Some common cost allocation methods and their descriptions are:

- **FTE** - Costs are allocated based on the number of FTEs involved.
- **Case/person counts** - Costs are allocated based on the population served (case/claims/clients/participants/average resident population/enrollment/student FTEs).
- **Square footage** - Costs are allocated based on the square footage occupied by the service.
- **Dollars disbursed** - Costs in one area are allocated based on dollars disbursed in another area.
- **Staff effort** - Costs are allocated based on hours worked or services performed by agency or contracted staff. This information is gathered in the form of random moment time samples, time sheets, day logs, time studies, etc., and is updated daily, monthly, quarterly, or annually.
- **Fixed rates / percentages** - Costs are allocated based on rates or percentages agreed upon by agency and an outside entity such as the federal funding unit(s) involved.
- **FTEs disbursed** - Costs in one area are allocated based on the FTEs disbursed in another area.
- **Grant awards** - Costs are allocated based on the grant awards.
- **Interim per diem rates** - Costs are allocated based on historical costs multiplied by the number of eligible resident days in an agency facility.
- **Pieces mailed** - Costs are allocated based on the type and number of pieces of mail distributed monthly.

Is an agency limited to using only one allocation method?

An agency should consider the cost allocation general guidelines. For some agencies, one cost pool and one allocation method will allow for both equitable and efficient distribution of costs. For other agencies, however, multiple cost pools and methods may be needed to satisfy the cost allocation general guidelines. Retain good documentation of the methods, sources, calculations, and results of cost allocations.

Example 1

An agency leases a 2,500 square foot facility to house 100 staff - 60 working in Service A and 40 in Service B. Services A and B are both consulting-type services and require fairly consistent workspace use. The lease is \$6,000 per month. The facility has 500 square feet of common areas (hallways, bathrooms, etc.). Staff for Service A occupies 1,200 square feet and staff for Service B occupies 800 square feet.

FTE method:

Service A: $60/100 \times \$6,000 = \$3,600$

Service B: $40/100 \times \$6,000 = \$2,400$

Square footage method:

Service A: $1,200/2,000 \times \$6,000 = \$3,600$

Service B: $800/2,000 \times \$6,000 = \$2,400$

In this instance, because number of staff per square foot is comparable between the services, allocating the rent to Services A and B on an FTE basis and on a square footage basis result in the same lease charge.

Example 2

An agency leases a 4,000 square foot facility to house 100 staff - 80 working in Service A and 20 in Service B. Service A is a consulting-type service and Service B is a sales service requiring space to display inventory items sold. The lease is \$9,000 per month. The facility has 1,000 square feet of common areas (hallways, bathrooms, etc.). Staff for Service A occupies 1,500 square feet and staff for Service B occupies 1,500 square feet.

FTE method:

Service A: $80/100 \times \$9,000 = \$7,200$

Service B: $20/100 \times \$9,000 = \$1,800$

Square footage method:

Service A: $1,500/3,000 \times \$9,000 = \$4,500$

Service B: $1,500/3,000 \times \$9,000 = \$4,500$

In this instance, because the number of staff per square foot is not comparable, allocating the rents to Services A and B on an FTE basis and on a square footage basis have very different outcomes. In order for the cost allocation to be equitable, the square footage method would be preferable.

Chapter 3, Section 6

Calculating the costs of competitive contracting

3.6.1 Costs of competitive contracting

Competitive contracting costs

Schedule B, Lines 3-26

Schedule C-1, Line 33

Schedule C-2, Lines 31-36

If a service is contracted out, costs may be incurred in several categories. In addition to contractor payments, there may be additional taxes, contract administration expenses, inflation costs, and costs to transition the service to the outside contractor. The cost of contracting can not include any costs that are related to the competitive contracting solicitation process. Cost adjustments are required when the state assumes risks, but requires contractors to insure those same risks. In some cases, there may be state revenue changes, which are part of the financial impact. The purpose of this section is to capture the total net cost to the state related to the option of competitive contracting a service (see WAC 236-51-306).

On Schedule B, the agency may change the detailed cost categories listed within the major cost category headings to better fit their operations or managerial accounting practices.

Although this section covers the costs of competitive contracting on Schedule B, many of these same cost components also will apply to EBU contracting costs on Schedule C-2. The only potential impact of Section 6 to current service delivery costs on Schedule C-1 would be if there is an adjustment(s) for the cost of state assumed risks as described in section 3.6.2.

3.6.2 Total outside contractor price

Contractor price

Schedule B, Line 4

The contractor price is the sum total of all payments to be made to the contractor. If the bid includes cost of living adjustments (COLAs), the same inflation assumptions should be made as were used in the internal cost estimate. (This does not mean that any inflation factors used must be identical, if the differences are reasonable.) Management judgment may be involved if there are contingent payments, such as performance bonuses. For the purpose of these calculations, it should be assumed that the contractor's performance would meet or exceed the RFP requirements.

Adjustment for costs related to the state's assumed risks

Schedule B, Line 5

Example: Required performance bonds not obtained by the state:

When a solicitation requires only non-EBU bidders to provide a performance bond, which it does not obtain, the agency shall exclude the cost from the non-EBU's bid price (see WAC 236-51-306 (5) (b)) and comment on required insurance in 3.6.4).

3.6.3 Sales (or other) tax on contractor services

Sales (or other) tax

Schedule B, Line 6

In some cases, the agency may be liable to pay incremental state/local taxes beyond paying the contractor's bid amount. The agency should check the tax codes (e.g. RCW 82.04.050) to determine whether sales tax (or any other tax) will be payable on the services performed if they are awarded to a contractor. A sales tax on the contractor's service would have a relatively small net impact to the state as a whole, which is caused by the local portion of sales tax paid. However, the tax liability may be significant to the agency's cost of operations if the service is contracted out. Because local tax rates vary, it may be important to determine the "place of sale" to calculate the taxes due. If federal funding is involved, the agency should verify that any tax is an allowable cost.

Any sales/use tax impact on goods being purchased for the service in question will not be impacted by whether the service is performed by an outside contractor or in-house. The agency will pay the tax on goods regardless. However, if the purchase of goods is part of the contractor's bid, the agency should determine whether their bid price for the goods does include the appropriate sales tax. If not, include that sales tax on goods here also.

The tax payments listed here would be deducted in the revenue changes section, to the extent that they are taxes not already being paid by the agency, because they increase state general fund revenue.

Examples of sales or other taxes

The following common examples are included for illustrative purposes only. Because tax rules can be complex, each situation should be evaluated separately based on its circumstances.

Examples of services subject to sales tax may include building maintenance, repair, construction, cleaning, painting, remodeling, equipment (including computer) repair and maintenance, landscape maintenance, laundry services, mailing services, and vehicle maintenance and repairs.

RCW 82.04.050 defines retail sales in the state of Washington.

Examples of specific exemptions from sales tax include janitorial services; building, maintaining or repairing of government roads (except for state roads); and certain personal services (e.g. attorneys, doctors, dentists, architects, engineers, and public accountants).

Examples of “other taxes” may include fuel tax, rental car tax, leasehold excise tax, or food and beverage tax. Under the terms of a contract, vendors may pass on their costs for personal or real property taxes to the state. Agencies may be required to collect leasehold excise tax on state real property used by non-government organizations (RCW Chapter 82.29A).

Example situation

Consider the table in *Figure 16*, for example, if a vehicle maintenance service section were under a competitive contracting evaluation. (For the Outside contractor column, it is assumed that the various agencies contract directly with the contractor, e.g. the Department of XYZ Vehicle Maintenance Service Section no longer exists.)

Figure 16
Tax Comparison Example

Vehicle Maintenance Service Section	Outside Contractor
No taxes charged to agencies.	Charges agencies the car rental tax on short-term rentals or retail sales tax on long-term.
Pays sales tax on parts / supplies.	Pays sales tax on parts / supplies.
Pays state taxes on fuel, but does not pay federal excise taxes (FET) on fuel or tires.	Pays state and FET taxes on fuel and pays FET on tires.
<i>Alternate Scenario - If the agency owns the vehicles and only contracts for fleet management and maintenance:</i>	
No tax is charged to agencies except for external maintenance labor and taxes on materials.	Retail sales tax is charged to the agency on all maintenance services.

3.6.4 Cost to agency for contract administration and support

Contract administration and support

Schedule B, Lines 7-16

Schedule C-2, Line 31

Who will be overseeing the contract/contractor to ensure service delivery? What are the costs associated with oversight?

Contract administration costs are incurred in administering a contract, whether it is with an EBU or a contractor. It includes the cost of reviewing compliance with the terms of the contract, resolving any performance deficiencies, processing payments, negotiating change orders, reporting, quality assurance, and performance monitoring of the closeout of contract operations. Under some circumstances the cost of contract administration may vary between the EBU and outside contractor scenarios (see Chapter 7 of this manual or Chapter 8 of the OFM Guide to Personal Services Contracting for more detailed guidance on contract management and monitoring link: <http://www.ofm.wa.gov/contracts/psc/psc8.doc>).

Note: *Contract administration and transition costs need to be added to the EBU proposal (C2), the same elements should apply as those related to a contractor's proposal.*

Examples of cost considerations

Some examples of cost considerations are as follows:

Possible additional monitoring if federal funds are involved

Consider whether there will be special monitoring requirements due to the involvement of federal funds.

Travel and transportation

Consider if there will be travel and transportation expenses associated with site visits to ensure that contract obligations are being met.

Personal service contracts

Consider the potential costs of competitive contracting some parts of contract monitoring (such as monitoring in remote regions).

Standby equipment/services

Consider the costs of maintaining a backup plan in the event the contractor fails to perform a vital service.

State furnished equipment / property

Consider whether the agency or the contractor will be supplying the equipment, space, or supplies.

Other costs, including those related to state assumed risks

Consider other costs for contract administration, such as:

- Liability insurance
- Cost of State Assumed Risks - For example, in the case of self insurance the agency must consider the cost of assumed risks where relevant to a bid evaluation. For example, if insurance is required of outside contractors, which the agency does not obtain, then the agency's current service cost (Schedule C-1) and the contract administration cost for the EBU (Schedule C-2) must include the estimated cost of such insurance premiums (e.g. casualty, liability and property insurance covering assets and/or liability risk) (see WAC 236-51-306 (5) (a))
- (See discussion on performance bonds in section 3.6.2)
- One-time costs (purchases for contract administration)
- Legal
- Audit (performance or financial)
- Possible amendments to the contract or change orders
- Processing of contractor invoices, cost of issuing payments
- Background checks, security clearances, and identification badges for contractors that may work with vulnerable citizens (unless the contractor is required to pay these costs)

3.6.5 Transition costs

Transition costs

Schedule B, Lines 17-23

Schedule C-2, Line 35

A conversion to competitive contracting may require an agency to incur costs that would not have occurred if the service were continued in-house.

The following costs should be considered when determining the total cost for competitive contracting:

Personnel costs

Will the contract cause reductions-in-force (RIF's) of current employees? What is the estimated financial impact (e.g. employee severance, re-location, re-training)?

Estimate the number of personnel impacted and the dollar value of the estimated payments that will be made for costs such as unemployment and fringe benefits (i.e. leave earned but not accrued).

Note: State agencies do not pay unemployment insurance premiums, but instead are invoiced by the Department of Employment Security for benefits actually paid out to former state employees. Proprietary and fiduciary funds recognize annual and sick leave expenses as it is earned. However, governmental funds do not record annual and sick leave expenditures until they are paid.

Disposition of assets

Will the contract result in the surplus of state equipment? Will the sale of assets result in a gain or loss? What are the costs involved with the transfer of assets?

Current lease/contract cancellation

Will the contract result in unoccupied leased facilities? Will there be a penalty fee for early termination of the current space or equipment lease?

Leased assets should be managed to minimize the transition costs to the state. If termination is not allowed, or lease / contract cannot be absorbed within the agency or alternative utilization is determined to not be cost effective, what would the cost be of letting natural expiration occur?

One-time and/or long-term costs

Are there any other transition costs, such as self-insurance or litigation costs?

Future costs eliminated (if not listed above)

Are there any other reductions or elimination of costs due to the transition, such as custodial or storage costs?

3.6.6 Increase or decrease in revenue

Revenue changes, if any

Schedule B, Lines 24-25

Schedule C1 , Line 36 & C-2, Line 37

Offsetting revenue is any new or enhanced revenue stream that will accrue to the agency, or the state, as a result of contracting for a service (e.g. an increase in tax revenue is an offsetting revenue that must be deducted from the total contract price) (see WAC 236-51-306 (4) (c)).

For example, if the contractor is more effective in billing and collecting fines, the agency's revenues may increase, thus reducing the net cost of services. Also, most outside contractors will pay incremental business and occupation (B&O) taxes or federal excise taxes (only the portion directly benefiting the state would be listed). If sales (or other) tax on the contracted services was listed as a cost, it must be added back here as a state revenue. However, if the state already pays a particular tax it would not be added here because it is not incremental revenue.

Normally the current service cost on Schedule C-1 would not have any revenue changes. An exception might occur due to process reengineering changes, possibly made during the employee alternatives phase.

Chapter 3, Section 7

Resources

3.7.1 Internet resources

Federal Office of Management and Budget (OMB) Circulars

1. A-21: Cost Principles for Educational Institutions
<http://www.whitehouse.gov/omb/circulars/a021/print/a021.html>
2. A-76: Performance of Commercial Activities
http://www.whitehouse.gov/omb/circulars/a076/a76_rev2003.pdf
3. A-87: Cost Principles for State, Local, and Indian Tribal Governments
<http://www.whitehouse.gov/omb/circulars/a087/print/a087-all.html>

Tax information from the Department of Revenue

1. Business Tax Guide 2002
http://dor.wa.gov/Docs/Pubs/ExciseTax/FilTaxReturn/CETR_MQ_Guide_02.pdf
2. Matrix of Major Taxes in Washington State
<http://dor.wa.gov/Docs/Pubs/ExciseTax/FilTaxReturn/MajorTaxes.htm>
3. Retail Sales Tax Brochure
http://dor.wa.gov/Docs/Pubs/ExciseTax/RetailSales_UseTax/RetailSales.pdf
4. Sales Tax Rates Address Lookup (GIS) Tool
http://gis.dor.wa.gov/lookups/gis_look_sales.asp
5. Use Tax Brochure
http://dor.wa.gov/Docs/Pubs/ExciseTax/RetailSales_UseTax/UseTax.pdf

Enabling legislation

1. Personnel System Reform Act of 2002 (Substitute House Bill 1268):
http://www.leg.wa.gov/pub/billinfo/2001-02/House/1250-1274/1268-s_pl.pdf
2. Civil Service Reform (Department of Personnel)
<http://hr.dop.wa.gov/hrreform/default.htm>
3. Revised Code of Washington (RCW) 41.06.142
<http://www.leg.wa.gov/RCW/index.cfm?fuseaction=section§ion=41.06.142>

3.7.2 Other resources

Competitive contracting support services

Any agency may contract with the Department of General Administration to perform a competitive contracting bidding process (see RCW 41.06.142 (4) (f)). The Department of General Administration has created a pre-qualified list of contractors, which can provide an agency with a full range of consulting services in support of a competitive contracting process.

<http://www.ga.wa.gov/competitivecontracting/documents/AssistingVendor.doc>

General guidance on conducting solicitations

See these general guidance documents and resources.

<http://www.ga.wa.gov/PCA/regulat.htm>

General guidance on IT-related contracting

See ISB policies, standards and guidelines and other resources.

<http://dis.wa.gov/portfolio/index.htm>

Information Services Board (ISB)

See ISB website for information about the Information Services Board (ISB)

<http://www.dis.wa.gov/isb/>

Statewide accounting policies and procedures

See the Office of Financial Management's web site for the State Administrative and Accounting Manual (SAAM) and other resources.

<http://www.ofm.wa.gov/accounting/policies.htm>

General inflation resources

Washington State Office of the Forecast Council: (See their Quarterly Economic and Revenue Forecast Publications for updates on the Consumer Price Index (CPI) and Implicit Price Deflator (IPD) among other economic measures and forecast information.)

<http://www.erfc.wa.gov/>

(For background information about the CPI and IPD and the differences between them, see report titled, An Examination of the Difference Between the CPI and the PCE Deflator, at

<http://stats.bls.gov/ore/pdf/eco20100.pdf>)

Certain cost categories may experience inflation that is higher or lower than these overall averages. For example, health care cost increases have been much higher than the CPI in the recent past. Where these special cost categories are a significant component of service costs, use of other inflation estimates may be advisable. Other cost categories are set by policy, regulation, or statute and may not be correlated with general inflation rates (e.g. state employee salary and benefit costs, travel reimbursement rates, state agency internal service fund costs such as attorney general, audit services, etc.) In these cases use known rate increases rather than general inflation estimates. The cost categories on the following list are suggested for the use of either known or estimated rate increases, rather than general inflation factors, where the difference would be significant.

State Code (Object/Sub)	Cost Category Description
A	Salaries And Wages
B	Employee Benefits
GA	In-State Subsistence and Lodging
GC	Private Automobile Mileage
GF	Out-of-State Subsistence and Lodging
GN	Motor Pool Services
EB	Communications
EK	Facilities and Services
EL	Data Processing Services
EM	Attorney General Services
EN	Personnel Services
EP	Insurance
ET	Audit Services
EV	Administrative Hearings Services
EW	Archives and Records Management Services
EX	OMWBE Services
S	Interagency Reimbursements
T	Intra-Agency Reimbursements

Chapter 3 COST OF GOVERNMENT SERVICES APPENDICES

APPENDIX A: Evaluation Model (Schedules A, B, C-1, and C-2)

The evaluation model is a stand alone Excel™ Spreadsheet. The following are links to the templates.

click on each template below for a downloadable Excel file

[Schedule A - Evaluation Summary](#)

[Schedule B - Contracting Cost Comparison](#)

[Schedule C 1 - Current Service Delivery](#)

[Schedule C 2 EBU Bid](#)

APPENDIX B **Chart of Allowable Costs: Federal Office of Management and Budget (OMB) Circular A-87**

Purpose: To identify allowable and unallowable costs under A-87 for analysis for potential adjustment to agency indirect cost rates under A-87 if agencies use those in developing costs for Competitive Contracting. For those agencies without a federally approved indirect cost plan, this list could be used to determine which things to include as indirect costs in agency / employee proposals.

A-87 Cost Item	Allowable Under A-87?	Include in WA State Model?	Comments
Accounting (cost of establishing & maintaining systems)	Yes	Yes	
Advertising and Public Relations Costs	Yes, limited	Yes	For hiring notices
Advisory Council	Yes	No	
Alcoholic Beverages	No	No	
Audit Services	Yes	Yes	
Automatic Electronic Data Processing	Yes	Yes	
Bad Debts	No, unless in fed regulations	No	
Bonding Costs	Yes	Yes	
Budgeting	Yes	Yes	
Communications (telephone, mail, messenger, etc.)	Yes	Yes	
Compensation for Personnel Services: Generally all remuneration (wages, salaries & fringe benefits)	Yes	Yes	
Fringe benefits (leave, employee insurance, pensions, unemployment benefit plans, etc.)	Yes	Yes	
Pension plan costs	Yes, may be limited	Yes	
Post-retirement health benefits	N/A	No	Retirees pay cost of own health insurance
Severance pay	Some	No	Yes for A-87, if associated with normal turnover. If abnormal or mass severance pay, considered on a case-by-case basis

A-87 Cost Item	Allowable Under A-87?	Include in WA State Model?	Comments
Support of salaries and wages	N/A	No	This is not a cost item, but a requirement related to payroll documentation standards.
Donated services	No	No	May be used to meet match. Considered in determination of indirect cost rate if material.
Contingencies	No	No	
Contributions and donations	No	No	
Defense and prosecution of criminal and civil proceedings, and claims:			
- Required in administration of federal programs	Yes	Yes	
- Prosecution against federal government	No	No	
Depreciation and use allowances	Yes, mostly	Yes	A-87 excludes cost of land in most cases, any costs of buildings or equipment borne or donated by the feds, any costs contributed by or for the governmental unit in satisfaction of a matching requirement
Disbursing service (Treasurer costs)	Yes	Yes	
Employee morale, health, and welfare costs	Yes	Yes, with parameters	
Entertainment	No	No	
Equipment and other capital expenditures	Yes	Yes	
Fines and penalties	No, generally	No	Except when incurred as a result of compliance with specific provisions of the federal award or written instructions by awarding agency
Fund raising and investment management costs	No	No	Except investment costs associated with pension or self-insurance funds
Gains and losses on disposition of depreciable property and other capital assets and substantial relocation of Federal programs	Yes	No	Generally treated as an adjustment to the appropriate asset cost grouping. Items were bought under "equipment" and then depreciated

A-87 Cost Item	Allowable Under A-87?	Include in WA State Model?	Comments
General government expenses (Governor, Legislature, Judiciary)	No	No	
Idle facilities and idle capacity	No	No	Except as necessary to meet fluctuations in workload, or now idle due to changes in program requirements. This exception provided only for a reasonable amount of time (e.g. one year)
Insurance and indemnification	Yes, mostly	Yes	
Interest	No, generally	No	A-87 allows financing costs non-construction, reconstruction, acquisition after 1980, and assets used in support of federal awards
Lobbying	No	No	
Maintenance, operations, and repairs	Yes	Yes	Unless prohibited by law
Materials and supplies	Yes	Yes	
Memberships, subscriptions and professional activities	Yes	Yes	If necessary for business at hand
Motor pools	Yes	Yes	
Pre-award costs	Yes	No	Only to the extent allowable if incurred after date of award and only with approval of awarding agency
Professional service costs	Yes	?	If supported by documented evidence
Proposal costs	Yes	No	
Publication and printing costs	Yes	Yes	
Rearrangements and alterations	Yes	Yes	
Re-conversion costs	Yes	No	
Rental costs	Yes, with some limits	Yes	
Taxes	Yes	Yes	Except for self-assessed taxes that disproportionately affect Federal programs
Training	Yes	Yes	When related to specific duties
Travel costs	Yes	Yes	As necessary
Under-recovery of costs under federal agreements	No	No	

APPENDIX C Chart of Allowable Costs: Federal Office of Management and Budget (OMB) Circular A-21

Purpose: To identify allowable and unallowable costs under A-21 for analysis for potential adjustment to agency indirect cost rates under A-21 if agencies use those in developing costs for Competitive Contracting.

A-87 Cost Item	Allowable Under A-87?	Adjust in WA State Model?	Comments
Advertising and Public Relations Cost	Yes, with limitations	Yes	Recruitment, procurement of goods, disposal of scrap and surplus
Alcoholic Beverages	No	No	
Alumni Activities	No	No	
Bad Debts	No	No	
Civil Defense Costs	Limited	No	Protection of life and property against enemy attack, no capital expenditures
Commencement and Convocation Costs	No	No	
Communication Costs	Yes	Yes	
Compensation for Personal Services	Yes	Yes	Salaries and wages, fringe benefits
Contingency Provisions	No	No	
Deans of Faculty and Graduate Schools	Yes	Yes	
Defense and Prosecution of Criminal, Civil Proceedings, Claims, Patent Infringements	Limited	No	
Depreciation and Use Allowance	Yes	Yes	
Donations and Contributions	No	No	
Employee Morale, Health and Welfare	Yes	Yes	
Entertainment Costs	No	No	
Equipment and Other Capital Expenditures	Yes	Yes	Except general-purpose buildings, land, equipment. Capital expenditures unallowable as F&A costs.
Executive Lobbying Costs	No	No	
Fines and Penalties	No	No	
Goods and Services for Personal Use	No	No	

A-87 Cost Item	Allowable Under A-87?	Adjust in WA State Model?	Comments
Housing and Personal Living Expenses	No	No	
Insurance and Indemnification	Yes	Yes	
Interest, Fund Raising, Investment Management Costs	Limited	Yes, interest	Interest for assets used in support of sponsored agreements
Labor Relations Costs	Yes	Yes	
Lobbying	No	No	
Losses on Other Sponsored Agreements, Contracts	No	No	
Maintenance and Repair Costs	Yes	Yes	
Material Costs	Yes	Yes	
Membership, Subscriptions, and Professional Activity Costs	Yes	Yes, if business related	Except civic or community memberships and country club or other social club memberships
Patent Costs	Yes	Yes	If required by sponsored agreement
Plant Security Costs	Yes	Yes	
Pre-agreement Costs	No	No	
Professional Services Costs	Yes	Yes	
Profits and Losses on Disposition on Plant Equipment	Limited	Yes	
Proposal Costs	Yes	Yes	
Rearrangement and Alteration Costs	Yes	Yes	
Re-conversion Costs	Yes	Yes	
Recruiting Costs	Yes	Yes	
Rental Costs of Buildings and Equipment	Yes	Yes	
Royalties and Other Costs for Use of Patents	Yes	Yes	
Sabbatical Leave Costs	Yes	No	
Scholarship and Student Aid Costs	Limited	No	
Selling and Marketing	No	No	
Severance Pay	Yes	No	

A-87 Cost Item	Allowable Under A-87?	Adjust in WA State Model?	Comments
Specialized Service Facilities	Yes	Yes	
Student Activity Costs	No	No	
Taxes	Yes	Yes	
Transportation Costs	Yes	Yes	
Travel Costs	Yes	Yes	
Termination Costs Applicable to Sponsored Agreements	Limited	No	
Trustees	Yes	Yes	Travel and subsistence costs

Chapter 4 Risk Assessment

Chapter 4, Section 1

About this chapter

4.1.1 Purpose of this chapter

What is risk?

Risk is an aspect of everyday life. Agencies evaluate and manage risk regularly when making budgetary decisions, hiring, and setting work priorities. Contracting for goods and services is no exception. The ultimate goal of competitive contracting is to deliver the best value for the public's dollar via a process that is fair and objective to all of those involved or affected.

Risk falls into two general categories:

Inherent - Resulting from the very nature of the service's objectives and scope; or

Acquired - Resulting from selected approaches, methods, techniques, and the relative skill set of those delivering the service.

Although the title of this chapter is Risk Assessment, its purpose goes beyond the mechanics of simply assessing risk. This chapter illustrates agencies' considerations and introduces methods, and techniques to identify, evaluate, mitigate, communicate, and manage inherent and acquired risks associated with the competitive contracting process.

There exist many sources of information and methods for risk management (see 4.7 for a list of additional resources). This chapter will not attempt to cover every possible method or technique but instead will act as the starting point for agencies in determining their approach towards risk within the competitive contracting context.

Note: *Agencies shall use the Information Services Board (ISB) IT Investment Standards (Appendix A - Severity & Risk Level Criteria and Oversight)*

<http://dis.wa.gov/portfolio/101S.htm#appendixA>

4.1.2 Key components of this chapter

Managing risks is an important part of the competitive contracting process

RCW 41.06.142 (e) states, ". . . The contracting agency must consider the consequences and potential mitigation of improper or failed performance by the contractor."

Managing risk is not a one-time event. It involves an on-going effort that is highly integrated not only at each decision point, but also as part of any on-going contract management and monitoring plan. It can be applied to individual situations or across the entire scope of a competitive contracting project.

This chapter is divided into the following sections:

- **Establish the Context** - Organizational goals, objectives, strategies, and stakeholders and how the competitive contracting proposition fits within this context
- **Identify the Risks** - Identifying and categorizing risks
- **Evaluate and Prioritize Risks** - Methods and approaches: rating, analysis, and prioritizing

- **Treat the Risks** - Mitigating the impact of risks
- **Risk Management Plan** - Controls and plan creation
- **Monitor and Control/Review** - Communicating the plan and incorporating it into the contract/performance agreement
- **Additional resources** - Links to other sources for managing operational risk

Chapter 4, Section 2

Establish the context

4.2.1 Identify the agency's operational environment

A risk assessment begins with the agency identifying its operational environment

To establish potential sources of risk, the agency must first develop the context. Recall from section 1.1.1 of this manual when we introduced the likely drivers for an agency to consider competitive contracting? They are:

1. The agency has applied re-engineering and continuous improvement to the service but has not been able to deliver required levels of performance commensurate with the agency's investment of resources and funding.
2. The agency's need to acquire access to skills, competencies, expertise, and innovative technologies that the agency itself cannot sustain.
3. The need to leverage capacities and economies of scale, which are not available within the agency, but are available from suppliers who are capitalized and specialized in providing the same service to others.
4. Re-allocation and redeployment of the agency's limited resources towards focused mission related services that support the state's priorities of government.
5. Direction from the Governor or Legislature.

Each of these driving factors stems from the operational environment facing the agency at a specific point in time.

When considering risk, the natural starting point for agencies is with the strategic plan that each agency is required to create and submit during the budget process. All of the elements required to determine the operational context are included in the strategic plan.

Note: OFM's 05-07 Biennium Budget Instructions describe the strategic plan requirements in detail, see:

<http://www.ofm.wa.gov/budget/instructions/05-07budinstpart1.pdf>

The operational environment is made up of both internal and external components:

Internal environment

- Are the overall goals, objectives, strategies, and activities of the agency still aligned with the Priorities of Government?

- How effective have existing strategies been in meeting the agency’s goals and objectives?
- How effective have services been in supporting the agency’s strategies?

External environment

- Are there changes in the authorizing environment?
- What are the competitive pressures affecting the agency?
- What is the economy doing?
- What is the demand outlook for specific service(s)?
(For example; are they up, down, or volatile?)

The next section will describe how a listing of the agency’s internal and external operating environments can be used to identify the agency’s strengths, weaknesses, opportunities, and threats. This becomes an important part of determining the overall risk facing the agency.

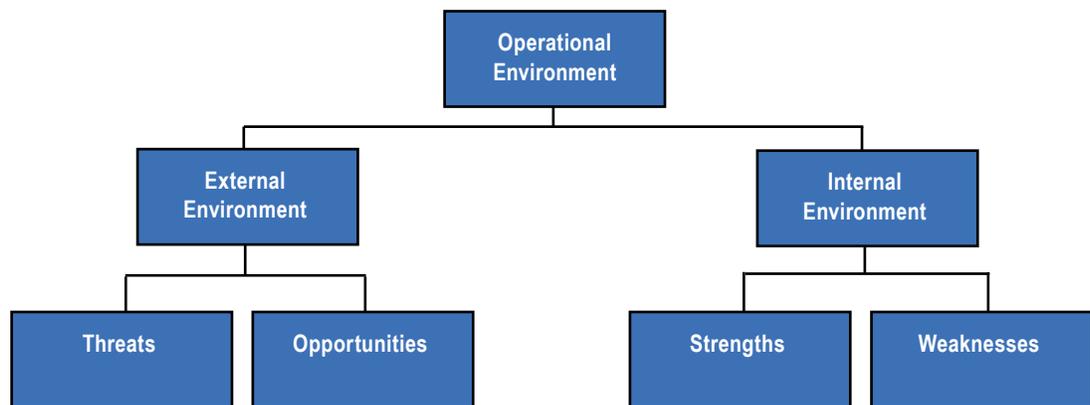
4.2.2 Identify strengths, weaknesses, opportunities and threats

SWOT Analysis

A standard method for analyzing strengths, weaknesses, opportunities, and threats is the SWOT technique. However, before the agency can use SWOT Analysis, they need to determine their operational environment as described in the previous section. SWOT Analysis helps the agency assess risk by considering their current situation relative to stated strategies, goals, and objectives. Consider *Figure 17*:

Figure 17

SWOT Analysis Model



Once the operational environment has been identified, the agency aligns strengths, weaknesses, threats, and opportunities as illustrated in Figure 17. To help illustrate this concept consider these examples. As shown in the Figure 17, strengths and weaknesses relate to the agency’s internal environment. First, consider an example of a weakness:

Example: An agency has always struggled with pegging demand for a specific service. A year ago it invested \$2M in additional capital infrastructure to support a forecasted increase in demand. Only half of that demand materialized and thus the agency has failed to realize its return on the \$2M investment. The weakness of the agency, in this example, is its inability to accurately forecast demand. Consequently, any future decisions based on its ability to forecast demand will be deemed risky and therefore will be met with less confidence and greater skepticism.

Other examples of weaknesses:

- Poor customer service
- Lack of necessary skill sets among employees and managers
- High turnover
- Outmoded systems and technologies

Next consider an example of a strength:

Example: The same agency has a very sound and solid track record in managing its suppliers and contractors. It has developed a sound contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards. It has incorporated this process into policy by requiring a quarterly review of the agency's major suppliers and corrective action plans for non-conformance.

Other examples of strengths:

- Standardized processes and methods
- Excellent internal communication
- Sound strategic planning and review cycle
- Highly evolved and effective performance measurements

Along with its strengths and weaknesses, the agency determines opportunities and threats. Opportunities and threats relate to the agency's external environment. Expanding on this scenario, here is an example of a threat:

Example: The agency's inability to accurately forecast demand has led to pressure from the Legislature and citizen's groups to consider private providers which are being used successfully by other states to deliver this same service.

Other examples of threats:

- Looming economic downturn and subsequent funding crunch
- Effective and determined lobbying to agency customers by the competition
- A tight labor market shrinks the availability of qualified employees

Finally, consider the example of an opportunity:

Example: The State of Montana contracted with a private provider to deliver the service in question three years ago. In Montana's case, the contractor provided a turnkey solution by acquiring the entire capital infrastructure from the state and hiring the displaced state employees.

Other examples of opportunities:

- Concerted effort by employees and managers of another agency has resulted in a breakthrough method of delivering a service in an efficient and innovative way while saving \$3M annually
- A new and emerging technology is becoming available that could substantially improve productivity

4.2.3 Identify relevant stakeholders

Stakeholders must be identified

Included in any discussion of risk in the competitive contracting process are the stakeholders to whom any decision or award would have an impact. Consider the example provided in *Figure 18*. The example illustrates a receiving function being performed by the central warehouse of a large institution. The stakeholders are identified throughout the value chain, starting with suppliers and providers that are delivering products to the customer who receives their order. By mapping the value chain, agencies will create a comprehensive profile of everyone that can be affected by the decision to competitively contract. In addition to helping identify potential threats, opportunities, strengths, and weaknesses around a particular course of action, the identification of all the stakeholders will facilitate project management and communication planning.

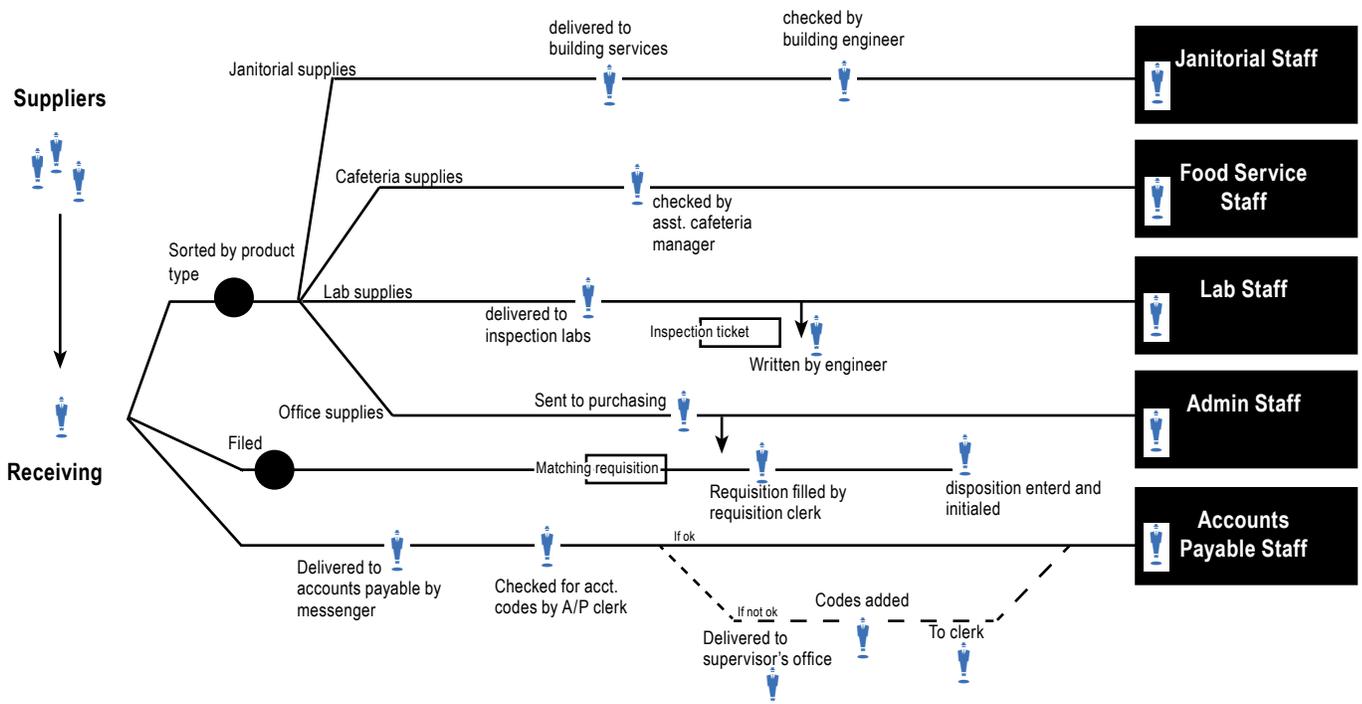
In the context of competitive contracting within the State of Washington who might be considered stakeholders?

- State employees
- Employee organizations
- Other agencies
- Citizens
- Lawmakers
- Local communities
- Suppliers
- Anyone who could be impacted by the decision to competitively contract

Figure 18

The Value Chain

The Value Chain - Receiving, Central Warehouse Services - Hospital Example



4.2.4 Establish a risk criteria

Harvesting the results of the SWOT Analysis and stakeholder work

Once the agency has completed its Strengths Weaknesses Opportunities and Threats (SWOT) Analysis, it can begin to determine its risk criteria. Fundamentally, the outcome of establishing risk criteria is to determine what level of risk (or risk threshold) the agency is prepared to assume and which person within the agency has the authority to decide to accept different levels of risk. This risk threshold will act as a show-stopper to the competitive contracting process until such time as a risk mitigation plan is developed or the risk is removed entirely. The risk threshold applies regardless of any potential savings or efficiency improvements that may result from awarding a contract. This risk threshold is also dynamic, and agencies will need to monitor and manage it throughout the project and beyond as part of ongoing contract administration.

Let's expand on the example from 4.2.2.

Example: All stakeholder input into the SWOT Model has been received. The agency has also reviewed its strategies goals and objectives against its assumptions around the decision to competitively contract.

Strength - Opportunity Criteria - Least risk; the opportunity plays to the strength of agency. This level of risk can be addressed by the project team.

Weakness - Opportunity Criteria - Agency's weaknesses create risk in realizing the opportunity. The project team would escalate this to an appropriate management level with its recommendations.

Strength - Threat Criteria - Least risk; the agency applies its strengths to address the threat. This level of risk can be addressed by the project team.

Weakness - Threat Criteria - Greatest risk; the agency's weaknesses are not adequate to address the threat. The project team would escalate this to an appropriate management level with its recommendations.

Now let's apply an example to a matrix:

Example: This is one approach that can be used to prioritize risk analysis and treatment. *Figure 19* illustrates the risk criteria discussed here and in the previous example.

Risk: If the decision is to award to a contractor, they may go out of business (Business Continuity).

Criteria: S-O. The plan to minimize and manage this risk is developed by the project team as a project deliverable.

Why:

- Based on our available opportunities there are a number of players in the market that provide the same service;
- Employees and managers have new methods and technologies available (may not result in award to a contractor);
- The agency's strength in standardization and documentation allows for contingencies like in-sourcing and switching to an alternate supplier; and
- The agency's strength in contract management and monitoring will proactively identify this possibility.

SWOT Matrix		
	Strengths	Weaknesses
	<ol style="list-style-type: none"> 1. Standardized processes and methods 2. Excellent internal communication 3. Sound strategic planning and review cycle 4. Highly evolved and effective performance measurements 5. Sound contact management monitoring process 	<ol style="list-style-type: none"> 1. Poor customer service 2. Lack of necessary skill sets among employees & managers 3. High turnover 4. Outmoded systems and technologies 5. Poor demand in forecasting
Opportunities	<ol style="list-style-type: none"> 1. Turnkey supplier solution 2. Breakthrough method by employees and managers 3. New & emerging technology to improve productivity 	S - O
Threats	<ol style="list-style-type: none"> 1. Looming economic downturn and subsequent funding crunch 2. Effective and determined lobbying to your customers by other providers 3. Economic upswing drives up the market for qualified employees 4. Pressure from Legislature & Citizens groups to consider private providers 	S - T

Risk

Figure 19

SWOT Matrix

Chapter 4, Section 3

Identifying risks

4.3.1 Why is risk identification so important?

Failure of the agency to identify all possible risks may have disastrous consequences. The competitive contracting decision is not an intuitive one. It should and must involve a systematic and comprehensive evaluation of the risks that are faced not only by the agency, but also by all of its stakeholders in the value chain as well. Two types of risk, inherent and acquired, were briefly discussed in the introductory section of this chapter. The remaining sections of this chapter discuss the risk assessment process from identification through mitigation.

4.3.2 Method of identifying risk

Risk identification begins at the start of any competitive contracting project. Many project risks identified at this stage can be quickly counteracted before they can have any significant effect.

Any cost benefit analysis must consider the estimated costs for the management of those risks. Those costs will need to be factored in to any contract administration and monitoring costs (see Section 3.6).

As the competitive contracting project progresses, a more detailed process is undertaken to confirm that all of the risks associated with the project have been identified. Re-examining risk assumptions should occur at any program reviews, major milestone or decision points, and whenever major changes are made to the project's objectives, scope, timing or structure.

There are a number of ways agencies can identify risks, they include, but are not limited to:

- Brainstorming sessions
- Surveys and questionnaires
- Experience/previous history
- Audits or physical inspection of existing service methods and potential service providers
- Flow charts
- Value chain analysis

Whatever method is used, the raw listing of identified risks should be presented to the entire stakeholder community for review and input. Further paring down to reach a final list of identified risks can be achieved by using either multi-voting or an affinity diagram (both are management tools used to organize information usually gathered during a brainstorming activity). There should be agreement between the agency and all stakeholders that the risks associated with the project have been identified and documented in sufficient detail to ensure that they will be clearly understood by all parties.

Here are a number of questions that can be used to facilitate the identification of risks. They are separated by the two types of project risks that may be encountered:

Inherent Risk - Results from the very nature of the project's objectives and scope.

1. **Project objectives**

- a) Is the project large?
- b) How important is the project to the operations and service delivery capability of the agency?
- c) Is the project highly complex?
- d) Does the project have a long time frame?

2. **Scope and approach**

- a) Is the project's scope and approach well-defined?
- b) Do all stakeholders agree that the scope and approach for the project is appropriate?
- c) Does the project have any potential environmental impact?
- d) Does the project require a significant ramp-up, transition period, or an extensive capital investment?

Acquired Risk - Results from selected approaches, methods, techniques, and the relative skill set of those involved in the project.

1. **Business impact**

- a) Will the project force changes in business processes?

- b) What other projects will be in progress at the same time?
 - c) Are changes in the organizational structure of the agency likely to be required?
 - d) Are other organizational changes likely to occur during the project?
- 2. Technology**
- a) Is well-proven technology proposed for the project or is a new and emerging technology to be used?
 - b) Does the project include a significant component of custom software development or major enhancements to packaged software?
 - c) What is the quality of the existing data and how complex will it be to convert it?
 - d) Is the project based on a single technology or does it rely on the integration of multiple technologies?
- 3. Project organization**
- a) Are the roles of all project participants clearly defined?
 - b) Will the staff assigned to the project be able to devote the required time to it?
 - c) To what extent is the project dependent on third parties?
 - d) Are the political and personal relationships within the project team and between the project team and the rest of the agency sound?
 - e) Will any project participants have conflicts of interest?
- 4. Experience, training and support**
- a) Does the project team have experience with the proposed technology?
 - b) Does the agency staff have experience with the solution?
 - c) Will the solution be well supported both internally and externally?

4.3.3 Sources of risk

The previous section identified methods to identify risk. Of equal value is a discussion of possible sources of risk in competitive contracting. Sources of risk include, but are not limited to:

- Commercial/legal relationships
- Custody of information including the duty to provide and to withhold access
- Financial/market activities
- Intellectual property
- Management activities and controls
- Natural events
- Occupational health and safety issues
- Personnel/human behavior
- Political/legal influences
- Property/assets
- Public/professional/product liability
- Security measures

- Socio-economic factors
- Technology/technical issues
- The activity itself/operational issues
- Business continuity

4.3.4 Categories of risk

Identified risks, regardless of their origin, can be grouped in similar categories. These include financial risks, technical risks, operational risks, legal/contractual risks and organizational risks. Here are a few examples in each category:

Financial risk

- Cost overruns
- Inability to adequately determine the “cost of doing business”
- Inability to identify or document cost savings
- Lack of an appropriate strategy for using or allocating cost savings
- Outlays to settle legal disputes
- Cost of service interruption
- Cost of poor service
- Repair/replacement costs

Technical risk

- Size of project as it impacts staffing considerations, contract duration, and number of government groups involved
- Project structure (risks stemming from)
- New systems required for implementation
- New or additional physical resource requirements
- User perceptions and willingness to participate
- Management commitment

Operational risk

- Inability to benefit from advances in technology or new operating environments
- Failure to achieve contractor “buy-in”
- Inadequate training for state employees
- Inability to identify and document operational efficiency enhancements

Legal/contractual risk

- Inability of a service provider to deliver services in a timely fashion
- Ambiguity in implementing rules and regulations

- Inadequate mechanism to deal with poor or non-performance
- Legal impediments
- Inadequate performance standards
- Financial reporting inadequacies

Organizational risk

- Loss of corporate knowledge by the agency
- Reduction of customer management control
- Resistance to change
- Impact on agency morale
- Deficiency in service delivery during any transition to a new provider

Chapter 4, Section 4

Evaluating and prioritizing risks

4.4.1 Risk rating

Once relevant risks are identified, they must be evaluated and ranked prior to determining how best to either mitigate or manage them. Many organizations use spreadsheets to list and manage all of the relevant facts, categories, and scoring schemes when documenting risk. This phase of risk assessment may benefit from bringing stakeholders and the project staff together in a workshop environment in order to get quicker buy-in as to how each identified risk weighs in comparison to the others.

Determining the likelihood

Determining the likelihood of occurrence may involve objective or subjective considerations.

There are two categories of methods used to determine risk levels, which are discussed below: qualitative and quantitative.

Establishing the impact

Wherever possible the impact of a specific risk occurring should be quantified in terms of cost, time, resources, etc. If it cannot be quantified, then a qualitative scale (such as low to high impact) may be used.

Calculating risk rating

Figure 20 is a matrix that illustrates the relationship between impact and likelihood:

Figure 20
Risk Rating Matrix

Risk Rating Matrix		
High Impact	Medium Risk Create risk management and mitigation plans	High Risk Create detailed and specific plans for management and mitigation or cancellation of project
Low Impact	Low Risk Accept or ignore the risk	Medium Risk Create risk management and mitigation plans
	Low Likelihood	High Likelihood

The team can expand on this and create a scoring and evaluation methodology for each category identified in the previous section (4.3.4). This also provides the team with a place for tracking actions, plans, and decisions.

For instance, consider *Figure 21*:

Category		Risk Management Dashboard			
	Risk	Likelihood	Impact	Risk Factor	Action
Organizational Risk	The contractor goes out of business	2	5	10	Develop business continuity plan
	Unable to enforce cancellation for non-performance	3	4	12	Strengthen contract language
	Weak performance standards	4	5		Evaluate composition of team and include more technical expertise in performance based contracting
Risk Rating = Sum of Risk Factors				42	
Category Risk Score = Sum of Risk Factors / Number of Risk Factors				14.00	

Figure 21

Risk Management Dashboard

Key

Likelihood

- 5 = Certain
- 4 = Likely
- 3 = Moderate
- 2 = Unlikely
- 1 = Never

Impacts

- 5 = Disastrous
- 4 = Major
- 3 = Moderate
- 2 = Minor
- 1 = None

-  17 - 25 High
-  9 - 16 Medium
-  1 - 8 Low

Furthermore, these categories can be summarized and tracked using the format displayed in *Figure 22*. Additionally, different risk categories can be weighted according to importance. This matrix provides an excellent template for project teams to communicate risk levels throughout the competitive contracting process.

4.4.2 Qualitative analysis

Qualitative analysis for scoring of identified risks will involve the subjective judgment and experiences of the team and the larger stakeholder community. Care should be taken to balance the tendency to be dismissive of risks that might be identified via qualitative approaches. Also, the agency needs to consider inherent biases that may be present in those providing their input.

Qualitative risk analysis is the approach that is most readily used in the public sector where issues of accountability and community impact are highly relevant but are gener-

Risk Summary Dashboard by Category

	Risk Rating by Category	Category Risk Score	Total Number of Identified Risks	Trend From Last Report	Risk Level
Financial Risk	5	5	1	=	5
Technical Risk	10	10	1	=	10
Operational Risk	1	1	1	=	1
Schedule Risk	10	10	1	=	3
Legal & Contractual	3	3	1	=	3
Organizational	3	3	1	↑	3
Total	32	5.33	6	↑	5.33
	Increasing Risk	Decreasing Risk	No change		Risk Level Legend
Trending Arrow Legend	↑	↓	=		17 - 25 High 9 - 16 Medium 1 - 8 Low

Figure 22

Risk Summary Dashboard

ally impossible or too expensive to quantify. Therefore, decisions are made primarily on the basis of management experience, judgment and intuition. Typical qualitative methods of analyzing risks include, but are not limited to:

- Qualitative mapping
- Brainstorming
- Structured interviews/questionnaires
- Benchmarking
- Networking with professional associations

An example of the qualitative mapping approach is presented in *Figure 23* .

The mapping approach in *Figure 23* can be used to describe the level of risk when using the Qualitative Method. The Qualitative Method identifies the varying levels of risk. These levels are described in *Figure 24* and may be modified to suit individual circumstances.

When qualitative methods are used to evaluate risks, it is important not to overstate consequences. In the case of the mapping approach illustrated in *Figure 23*, the following factors (*Figure 25*) are used to describe consequences. The consequences may be modified to suit individual circumstances.

Qualitative Risk Analysis

		Consequences				
		Negligible	Low	Medium	High	Extreme
Likelihood	Almost certain	Trivial	Major	High	Severe	Severe
	Likely	Trivial	Significant	Major	High	Severe
	Moderate	Trivial	Moderate	Significant	Major	High
	Unlikely	Trivial	Low	Moderate	Significant	Major
	Rare	Trivial	Trivial	Low	Moderate	Significant

Risk

Figure 23 Qualitative Risk Analysis Method

Level of Risk	
Severe	Must be managed via detailed plans reviewed and approved by senior management
High	Requires detailed research and planning
Major	Requires senior management and program level attention
Moderate	Requires management through specific monitoring or response procedures
Low	Can be managed by routine procedure
Trivial	Unlikely to require the specific application of resources, or can be managed through immediate resolution

Figure 24 Level of Risk

Consequences	
Extreme	The consequences would threaten the survival of not only the service, but also the organization, probably causing major problems for stakeholders and service delivery capabilities
High	The consequences would threaten the survival of continued effective operation of a service, and require top level administrative intervention
Medium	The consequences would not threaten the service, but would mean that it would be subject to significant review or changes in operating parameters
Low	The consequences would threaten the efficiency or effectiveness of some aspect of the service, but would be dealt with internally
Negligible	Any consequences are dealt with by routine operations

Figure 25 Risk Consequences

4.4.3 Quantitative analysis

Data driven decision making is always the preferred method to approach risk analysis. If available, this data can be used to quantify the likelihood of an occurrence and its consequences. Judgment, intuition and non-quantitative experience have typically been found to be less reliable—particularly in the determination of likelihood. Analysis and validation should be performed to test the effects of changes in assumptions and data wherever and whenever possible. Here are some possible techniques and methods that can be used to acquire and analyze quantitative data:

- Statistical and probability models
- Market trends and research
- Actuarial tables
- Network analysis
- Life cycle cost analysis
- Decision trees

4.4.4 Prioritizing risks

The scoring methods illustrated in the previous sections provide simple ways of prioritizing the identified risks. In the next sections we will show how the relative priority of each identified risk can be used by the team to determine an appropriate course of action to treat or eliminate each risk.

Defining a risk as acceptable does not imply that the risk is insignificant. The risk assessment should take into account the degree of control over each risk; the cost impact, benefits, and opportunities presented by the risks; and the importance of the service. In addition, the potential consequences borne by other stakeholders affected by the risk should be considered. It may even be appropriate to inform these stakeholders of such risks.

Reasons for determining a risk to be acceptable include:

- The likelihood and/or consequence of the risk being so low that specific treatment is inappropriate
- The risk being such that there is no treatment available
- The cost of treatment being so excessive compared to the benefit that acceptance is the only option

The risks not considered acceptable are those that should be treated. They should be prioritized for subsequent action as a component of the risk management plan.

Chapter 4, Section 5

Treat the risks

4.5.1 Available options

A combination of options may typically be used in treating risks. Each will be described in detail within this section

- Avoid the risk
- Reduce the risk
- Transfer the risk
- Insure the risk
- Accept the risk

4.5.2 Avoid the risk

Risk avoidance involves the decision not to proceed with the activity that would incur the risk, or choosing an alternative means of action that achieves the same outcome.

Choosing an alternative means of action is dependent on the team's ability to influence the factors around the risk. Recall the distinction between inherent and acquired risks. To avoid an inherent risk, the team would modify the scope and objective of its project. For acquired risks, it may involve bringing in a consultant that has a specific needed skill.

Risk management is not simply an exercise in risk avoidance. There are circumstances in which an agency should retain and manage the risk because it is in the best position to do so.

4.5.3 Reduce the risk

This involves the reduction of the likelihood or the consequences of risk, or both. The likelihood of risk events may be reduced through management controls, organizational arrangements or influence over the external environment. Examples include:

- Revision of procedures
- Quality assurance
- Testing
- Training
- Supervision
- Review
- Documented policy and procedures
- Environmental monitoring

The consequences of risk may be reduced by ensuring that strategies are in place to minimize any adverse consequences. This can typically be accomplished through contingency planning and contract conditions.

In *Figure 21*, there is a column labeled “Action”. The items in this column are examples of plans or contingencies to minimize the impact or reduce the probability of occurrence of an identified risk.

4.5.4 **Transfer the risk**

This involves shifting responsibility for a risk to another party. Risks may be transferred by contract, through administrative process, or by insurance. Risks may be transferred in full or shared by another party. As a general principle, risks should be allocated to the party that is best able to exercise effective control over those risks.

Other issues that should be considered before transferring risk include the need to ensure that:

- The agency only accepts the imposition of external risks, or the limitation of rights it may have against external parties, as a last resort
- Risks are not transferred unfairly to stakeholders who are in a poor position to accept them
- The agency’s standard practice is to have a contractor responsible for its negligence or malfeasance

The Office of Financial Management (OFM) has a manual called **Contracts: Transferring and Financing Risk** that describes in detail how to transfer risk when drafting a solicitation or contract (see <http://www.ofm.wa.gov/rmd/contrman/riskcont.doc>).

4.5.5 **Insure the risk**

This is a common practice and a form of risk transfer. Consideration should be given to alternatives, including self-insurance, at the level of the agency or the service depending on which level has the capacity to best manage the risk. Agencies are advised to consult OFM’s Risk Management Division or its own risk management policy regarding the appropriate level of insurance commensurate with the identified risks.

Note: *When evaluating bids, an agency should refer to Section 3.6.4 in the Cost of Government Services Guide in this manual and WAC 236-51-306 (5) for guidance in how to handle insurance and performance bond costs between an EBU and a private bidder.*

4.5.6 **Accept the risk**

Risks should be accepted in those circumstances where it is either impossible or too costly to avoid, reduce, or transfer the risk. When the agency retains risks, the decision and rationale should be carefully documented. The agency should monitor and develop contingency plans for retained risks.

It should be noted that even when risk treatment is implemented, risk is rarely eliminated entirely. Also, when risk treatment is prioritized, unacceptable risks may remain untreated during the implementation period. Such residual risk should be identified and a rationale provided for the retention of that level of risk.

Regardless of the method selected, the competitive contracting team needs to ensure that risk assumptions, plans, and actions are continuously communicated to agency management and the stakeholder community. The next section describes how the team does that via creations of a risk management plan.

Evaluating risk treatment options

Selection of the most appropriate treatment options usually involves balancing the cost of implementing each option against the benefits derived from it. The cost of treating risks should be commensurate with the benefits obtained. A cost-benefit analysis should be used to determine the total cost impact of the risks identified and the cost of options for managing those risks. In many cases, however, a risk reduction option may not be justifiable on the basis of cost alone. Other factors such as political or social costs/benefits may have to be considered.

Chapter 4, Section 6

Risk management plan

4.6.1 What is a risk management plan?

A risk management plan is an action plan for how the risks that have been identified are going to be managed. There is no set format for a risk management plan as long as it describes what is going to be done, who is going to do it, and when they are going to do it. The format is not important as long as the plan is logical and useable by those persons who are going to use it.

4.6.2 Identify risk indicators/controls

What specific variables will need to be tracked to continuously evaluate risk? In order to illustrate the concept of identifying a risk indicator or control, consider once again the example where the contractor may go out of business (4.4.1). A major risk indicator or control in this example may be financial stability. As part of a management plan the agency can track the contractor's credit rating or other financial ratios. Other risk indicators or controls may include:

- Economic leading indicators
- Stock market
- Employee and customer satisfaction surveys
- Quality data

4.6.3 Plan development process

There are certain elements that a risk management plan should contain. These include:

- A statement of the contract objectives and critical success factors
- An assessment of the adequacy of the objectives or targets
- A structure of how risks will be identified and analyzed
- A list of each category of identified risks showing the likelihood and consequence ratings of each risk
- A prioritized list of risks
- An action plan showing how the risks will be managed
- A statement about how the risks will be reviewed during the project

Most of these elements, focusing on risk identification, risk quantification, risk prioritization, and risk treatment, have already been discussed. Here the focus is on the action plan.

The required actions for any identified risks can be developed into an action plan with an example format as presented below.

XYZ Agency Service

Risks in the Contract Development Phase

Risk Description	Rating	Action(s) Required	Who	When
Failure to obtain necessary approvals	High	Identify approvals required	Project Manager	Prior to plan development.
		Include approvals on project plan	Technical Analyst	Prior to initial review.
		Notify approving parties in advance	Contract Specialist	Initial review.

Risks Prior to Contract Implementation

Risk Description	Rating	Action(s) Required	Who	When
Delay in planned implementation	High	Kick off meeting with awardee to review: <ul style="list-style-type: none"> Review transition plan Requirements Performance monitoring method. 	Project Manager Contract Manager Contract Specialist Awardee	4 weeks prior to contract start

Risks in the Contract Management Phase

Risk Description	Rating	Action(s) Required	Who	When
Late payment of contractor invoices	High	Ensure payment process is consistent with contract obligations	Contract Manager	Upon receipt of first invoice
		Monitor payment performance.	Contract Manager	Ongoing

Developing a risk management plan also involves asking the following questions:

- What is the agency trying to achieve?
- What could go wrong?
- How likely is it to happen, and if it does, how bad will it be?
- Is an exit strategy needed?

- Which risks need to be addressed? and
- What actions need to be taken?

The first question can be answered by listing the objectives and critical success factors for the service being considered for competition. These are the things that the risk management plan should address. Remaining questions could be dealt with in a matrix format similar to that presented below.

Risk Description	Likelihood	Consequence	Risk Rating	Action Who When
What could go wrong?	How likely is it to happen?	How bad would it be? (See 4.4.3)	Which risks need to be addressed? (See 4.4.1)	What actions need to be taken? (See 4.4.5)

Chapter 4, Section 7

Continuous Monitoring, Control, and Review of Risk

4.7.1 Overview

The risk monitoring process ensures that risk management plans are implemented, everyone meets their contractual obligations, and corrective action is taken where appropriate. A frequent breakdown that occurs results from agencies failing to create policy that requires regular review, corrective action, and accountability to manage the contractual relationship.

Several key questions need to be asked when considering the monitoring and review of risks:

- What process will be used to ensure that the actions in the action plan are implemented and new risks are addressed?
- What are the agency’s obligations under the contract and how is meeting them being assured?
- What are the service provider’s obligations under the contract and how is meeting them being assured?
- Do the performance indicators that have been developed address the key success elements?
- Are the assumptions, including those made in relation to technology and resources, still valid?
- Are the chosen risk treatments effective in minimizing risks?
- Is adequate management and accounting controls in place?
- Do the chosen risk treatments comply with legal requirements and organizational policies, including access and accountability?
- Are risks being borne unfairly by stakeholders and/or service providers?

There are three key things that should be done during the risk monitoring phase:

- Review the risk management plan
- Monitor contract performance
- Monitor contractual obligations

4.7.2 **Methods of review**

There are a number of ways agencies may provide for continuous review and scrutiny over risk management plans (see Chapter 7). These methods include, but are of course not limited to:

- **Internal auditing** - Agencies should insist on this as a requirement of key private providers (financial, quality, and business systems)
- **Operational reviews** - Agency senior management and key stakeholders review not only the operational results but also the current risk landscape
- **Customer & Employee Surveys** - The frequency and timing should be such as to provide early warning of problems
- **External Audit** - A third-party audit conducted by a risk management consultant or evaluator
- **IT Portfolio Management** - A primary tool to support IT decision-making

Chapter 4, Section 8

Additional resources

1. Project Risk Management Guideline; New South Wales Government - <http://www.oict.nsw.gov.au/content/2.3.24-Project-RM.asp>
2. Washington State Department of Information Services Board IT Investment Standards (Appendix A - Severity & Risk Level Criteria and Oversight) <http://dis.wa.gov/portfolio/101S.htm#appendixA>
3. Washington State Office of Financial Management; Operating Budget Instructions, Part 1; Guidelines for Strategic Plans and Performance Measures 2005-07 Biennium - <http://www.ofm.wa.gov/budget/instructions/05-07budinstpart1.pdf>
4. Washington State Office of Financial Management; Contracts: Transferring and Financing Risk - <http://www.ofm.wa.gov/rmd/contrman/riskcont.doc>
5. Department of Veteran Affairs; Information Technology Information Services Guide, Appendix I - <http://www.va.gov/oirm/ITplanning/AppendixH.pdf>
6. Washington State Office of Financial Management; Client Service Contracting Guide, Appendix A Risk Assessment Tools from State Agencies - <http://www.ofm.wa.gov/contracts/csg/appendixa.pdf>

Chapter 5 **Alternative Phase**

Chapter 5, Section 1

About this chapter

5.1.1 **Potentially displaced employees who are members of a bargaining unit**

In this chapter, the term potentially displaced employees is used to refer to bargaining unit employees and their exclusive bargaining representative, as well as, non-bargaining unit employees. Additional process requirements or considerations by agencies for complying with collective bargaining agreements are included throughout this chapter. It is highly recommended that agencies collaborate closely with their liaison at the LRO throughout the competitive contracting process to ensure compliance with the state's collective bargaining agreements and any applicable labor laws.

5.1.2 **Purpose of this chapter**

Guide agencies in notifying potentially displaced employees of its intent to pursue competitive contracting

This chapter provides guidance to agencies in:

- Making a determination as to whether state employees will be displaced
- If applicable, comply with the terms of one or more collective bargaining agreements
- Meeting the notification requirements of RCW 41.06.142 (4) (a) and WAC 236-51-110
- Notifying potentially displaced employees consistently and completely using a standardized template

Guide potentially displaced employees on how to prepare an alternative to competitive contracting

This chapter provides guidance to potentially displaced employees in:

- Meeting the deadline to provide an alternative (if they decide to provide one) within 60 calendar days of notification as defined in RCW 41.06.142 (4) (a)
- Evaluating the agency's notification
- Communicating alternatives to purchasing services by contract and by when
- Requesting agency resources, not offered in the agency's notification, to develop alternatives to purchasing services by contract pursuant to WAC 236-51-115
- Responding consistently and completely using a standardized template

Guide agencies on how to respond to an alternative to competitive contracting

This chapter provides guidance to agencies in:

- Responding to potentially displaced employee offered alternatives consistently, completely, and within the time frames specified using a standardized template and pursuant to WAC 236-51-120 and, if applicable, any collective bargaining agreements
- Signaling the end of the alternatives phase.

5.1.3 Agency determination of applicability

Prior to any notification, the agency must first determine if a competitive contracting award would displace state employees

WAC 236-51-010 (11) provides a definition of a displaced employee. In addition, WAC 236-51-005 specifies when the competitive contracting bidding process is not to be applied. This chapter only applies when state employees would be displaced as a result of an award via the competitive contracting process.

5.1.4 How does the alternatives phase start?

The alternatives phase starts with a formal notification

Prior to soliciting bids from contractors for services currently provided by state employees, an agency must notify all potentially displaced employees in accordance with the requirements of RCW 41.06.142(4)(a), WAC 236-51-110 and, if applicable, any collective bargaining agreements. An example of an employee notification and brief description of each element can be found later in this chapter (see 5.1.5).

What should the agency have done prior to notification

This chapter assumes that agencies have been actively:

- Gathering “best practices” and benchmark information
- Reviewing current levels of service with customers, employees, and potential contractors
- Collecting and evaluating data on workplace standards and processes, as well as, customer needs and expectations
- Redesigning work processes or modifying service delivery to increase efficiency and effectiveness where immediate gains can be achieved
- Identifying services where potentially greater savings and efficiencies can be achieved

This chapter does not address initial assessment or pre-notification activities.

Figure 26 is a visual reference of the competitive contracting process, including the alternatives phase described in this chapter.

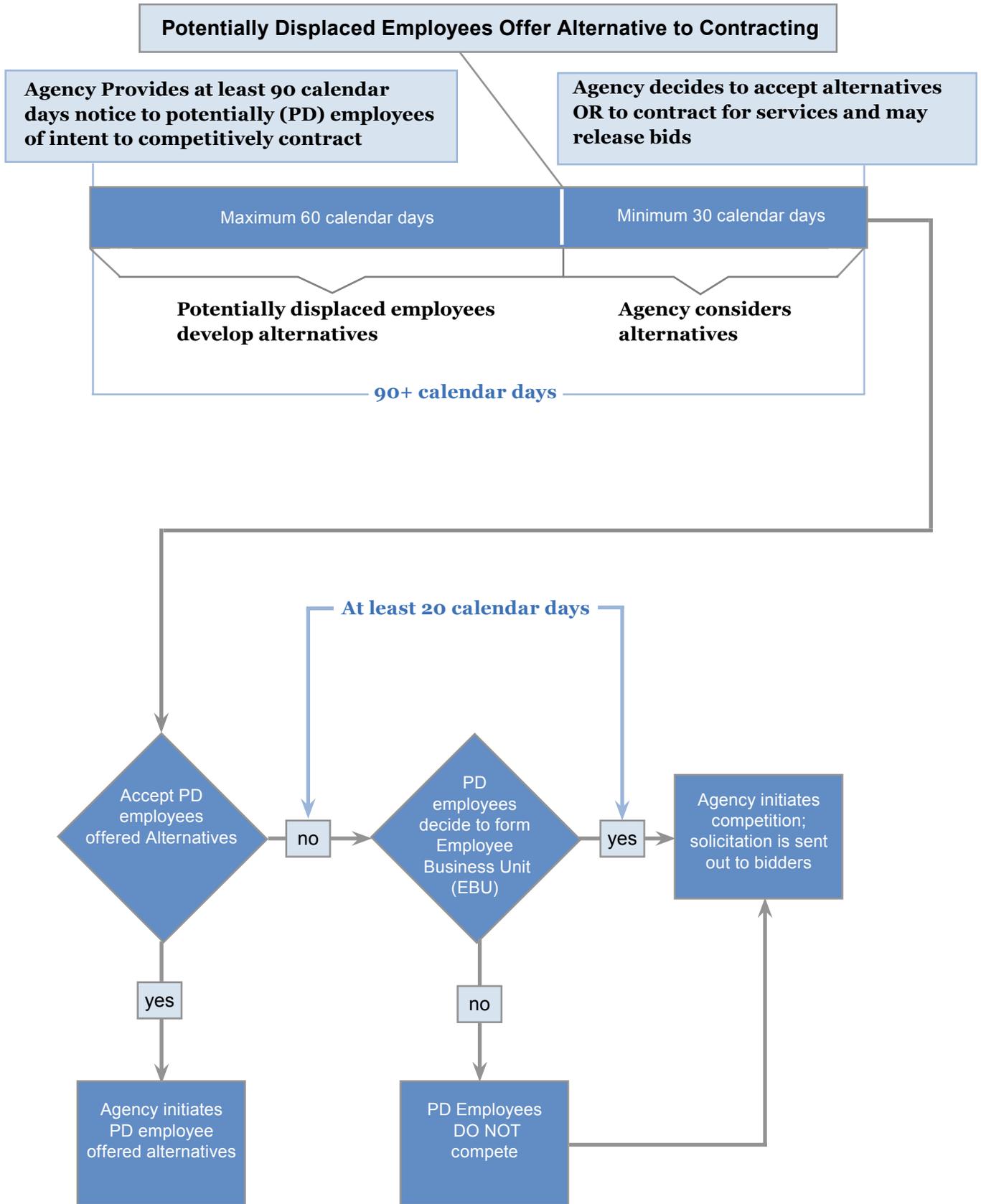


Figure 26

5.1.5 Preparing the notification

What's included in the notification?

The agency should include the following elements in their notice to potentially displaced employees. These include the minimum requirements outlined in WAC 236-51-110:

- **Description of the Specified Service.** Define the service being submitted for competitive contracting and provide details around the service and Performance Work Statement (PWS)
- **Problem, Objective, or Opportunity.** State the business problem, objective, or opportunity the competitive contracting effort is expected to address.

Efficiency Example

1. **Business problem** - Current data show customer service levels are at 50% for on-time processing of XYZ payments. The XYZ payment arriving on-time is critical for the customer to meet their own reimbursement timelines. As a result of focus groups with key customers and benchmarking of peer organizations that are “best in class”, the agency finds that service levels of 90% on-time processing is achievable and therefore the expectation. Efforts to improve the existing process have not met with the desired results.
2. **Objective** - Attain service levels of 90% on-time or better for processing of XYZ payments.
3. **Opportunity** - As a result of this improvement, the agency will enhance its service delivery to its customers.

Savings Example

1. **Business Problem** - The agency's maintenance operation is funded at \$12M per year. An analysis of its fully allocated costs reveals a number of areas where the agency is not competitive. Other state agencies throughout the country have already competitively contracted with a number of service providers to deliver the same service currently done by state employees with excellent results in both cost and quality. Efforts to reduce the cost of the existing service have not met with the desired results.
2. **Objective** - Save \$3-5M per year as a result of competitive solicitation and contracting for the agency's maintenance.
3. **Opportunity** - As a result of achieving the above savings, the agency expects not to have to cut its program of providing hot meals to seniors and vulnerable adults.
 - **Determination of a Competitive Market.** The agency outlines, in a brief statement, its determination and rationale that a competitive market exists (see WAC 236-51-100)
 - **Identification of Potentially Displaced Employees.** A listing of all potentially displaced employees (see 5.1.3). If potentially displaced employees

are part of a bargaining unit, then the exclusive bargaining representative is also identified and copied on any communication.

- **Potentially Displaced Employees May Offer Alternatives.** A statement that employees who would be laid off or assigned to a different job classification as a result of a competitive contracting award will have sixty calendar days from the date of notification to offer alternatives to competitive contracting as described in RCW 41.06.142(4)(a) and the agency contact to whom alternatives are submitted to. The date of notification, along with other dates and deadlines should be specified in the original notification per the template provided.

Note: *The agency’s acceptance of any terms of an alternative proposal submitted by potentially displaced employees represented by a bargaining unit that is in conflict with applicable collective bargaining agreement(s) is conditional upon resolution of such conflict with the appropriate exclusive bargaining representative(s).*

- **Who May Compete in the Competitive Solicitation?** Only potentially displaced employees may offer alternatives or form one or more EBUs for the purposes of bidding on a competitive contracting solicitation. A potentially displaced employee is an employee who would be laid off or assigned to a different job classification as a result of a competitive contracting award.
- **The Amount and Type of State Resources.** State Resources may be allocated by the agency to assist potentially displaced employees in developing alternatives within the time frame described. This includes, but is not limited to:
 - Specific agency staff assigned to potentially displaced employees for assistance in developing their alternative
 - Finance, Human Resources, and other contacts and consulting available
 - Private Contractor Consultants paid for by the agency
 - Space, Computers, Data, Administrative Support, etc.
- **Date and time of notification:** Consistent with the requirements in the law and WAC 236-51, the agency shall specify the deadline for providing alternatives and the date the agency plans to issue its solicitation. The date and time on the notification serves as the official start of the 90 plus calendar day “prior to requesting bids” notification period and the 60 calendar day “employees to offer alternatives” timeline referred to RCW 41.06.142 (4) (d). Figure 26 shows the timeline. WAC 236-51-010 (10) provides a definition for “day” which will be used to determine specific dates.
- **Template for Notification:** A template is provided as an example. It contains all of the required elements and agencies are encouraged to copy it exactly. Dates are provided as a reference only
(see <http://www.wa.gov/correspondence/exec/letter2.html> for specific executive correspondence guidelines).



Agency Letterhead

November 14, 2005 (insert applicable date)

TO: State Employee, Title **(include Exclusive Bargaining Representative if applicable)**

FROM: Jane Smith, Director

SUBJECT: **Notice of Intent to Competitively Contract**

REF:

- RCW 41.06.142
- WAC 357- 43 What definitions apply to this chapter of the civil service rules?
- WAC 236.51 Competitive Contracting
- Collective Bargaining Agreement (if applicable)

I am writing to inform you of the agency's intent to competitively contract the service you provide as an employee of the state **(describe service)**. The agency is pursuing competitive contracting to *improve efficiency or save costs (select one or both that apply)*. For more detail see paragraph three below.

You have **60 calendar days (January 14, 2006) (insert applicable date)** from the date of this letter to offer individually or as a group any alternative that addresses the business problem, objective, and opportunity detailed below **(when potentially displaced employees are members of a bargaining unit include the following: Please note that if the terms of your alternative proposal conflict with those of applicable collective bargaining agreement(s), acceptance of your proposal will be conditional upon resolution of such conflict with the appropriate exclusive bargaining representative.** Please send any alternatives to: **Jane Smith, Director.**

After considering all alternatives offered, the agency may decide to proceed with soliciting bids from individuals, nonprofit organizations, businesses, employee business units, or other entities to provide the service(s). Potentially displaced employees may then compete in competitive contracting as one or more employee business units. The earliest bids may be solicited is **90 calendar days (February 12, 2006) (insert applicable date)** from the date of this notice.

The agency has tentatively set the date of **March 15, 2006 (insert applicable date)** as its intended date to solicit bids. This date may change depending on the agency's needs including time to evaluate employee-offered alternatives or to provide a minimum of 20 calendar days for potentially displaced employees to consider forming an EBU after rejection of any offered alternative commensurate with the requirements of WAC 236-51-120 **(when potentially displaced employees are members of a bargaining unit include the following: or to provide at least 21 calendar days notice to potentially displaced employees' exclusive bargaining representative.)** If a change in the intended day to solicit bids is necessary, the agency will notify all persons on the original distribution list of this letter in writing.

- **Description of the Service:** Here the agency should provide a detailed description of the service.
- **Problem, Objective, or Opportunity:** The agency should follow the format of the example provided in 5.1.5.
- **Determination of a Competitive Market:** This brief statement articulates the competitive field of service providers capable of providing the service being competitively contracted.
- **Potentially Displaced Employees:** All the employees should be listed along with title/function.
- **The Amount and Type of State Resources Allocated:** The agency needs to be very specific so the potentially displaced employees can begin immediately.

cc: LRO Liaison **(or others as required)**

Chapter 5, Section 2

Competitive contracting alternatives response

5.2.1 Who can generate an alternative?

Alternatives may come from individual or groups of potentially displaced employees

An alternative to competitive contracting may only come from potentially displaced employees.

- Potentially displaced employees are strongly advised to review in its entirety RCW 41.06.142, WAC 236-51, and WAC 357-43 to familiarize themselves with the requirements and process of competitive contracting.
- Potentially displaced employees, individually or as a group, may offer alternatives. Potentially displaced employees will be offered, by the agency, state resources to assist them in preparing an alternative within the sixty calendar day window. Additional state resources required by potentially displaced employees must be requested from and approved by the agency pursuant to WAC 236-51-115.
- Potentially displaced employees may utilize non-state resources without limit or approval from the agency provided the use of these non-state resources does not conflict with any law or rule.

5.2.2 Elements of the competitive contracting alternative response

What are the minimum elements of a competitive contracting alternative response?

- The competitive contracting alternative response should be detailed enough for the agency to determine the viability of the alternative but may include assumptions provided that they are so identified. This chapter includes a template for potentially displaced employees to communicate the following elements of their alternative response:
 - Recommended changes to the service that will address the problem, objective, and opportunity described in the notification;
 - If potentially displaced employees are part of a bargaining unit, terms different from those in any applicable collective bargaining agreements;
 - Required investments (if any);
 - How success will be measured;
 - Why the alternative should work; and
 - Transition plan on how to get there and by when.
- Potentially displaced employees may include additional pages or documentation that supports their alternative.
- Template for Response: A template is provided as an example. It contains all of the required elements and potentially displaced employees are encouraged to copy it exactly. Dates are provided as a reference only, (see <http://sw.wa.gov/correspondence/exec/letter2.html> for specific executive correspondence guidelines).



Agency Letterhead

January 13, 2006 **(insert applicable date)**

TO: Jane Smith, Director

FROM: Janet Doe, Title (Exclusive Bargaining Representative if applicable)

SUBJECT: **Alternative to Competitive Contracting**

REF:

- Notification by Jane Smith, Director dated November 14, 2005
- RCW 41.06.142
- WAC 357-43 What definitions apply to this chapter of the civil service rules?
- WAC 236.51 Competitive Contracting
- Collective Bargaining Agreement (if applicable)

Pursuant to the references above, this memorandum represents the alternative from the following potentially displaced employees: **(list all applicable)**.

- **Recommended changes to service that address the problem, objective, and opportunity:**
Here potentially displaced employees must address specifically what is stated in the notification.
- **(When potentially displaced employees are members of a bargaining unit include the following if applicable: Terms different from those in any applicable collective bargaining agreements.**
- **Required investments:** The cost versus the benefit involved. The investment must support the item above and provide a return.
- **How success will be measured:** A set of critical success factors that communicate results that show the objective is being met and the opportunity realized.
- **Why alternative should work:** This should provide a convincing argument for the agency to accept the proposal.
- **Preliminary transition plan on how to get there and by when:** Here the potentially displaced employees provide a transition timeline to get to the desired results. This should also include time to transition staff, acquire equipment, and training.

cc: LRO Liaison (or others as required)

Chapter 5, Section 3

Agency response to competitive contracting alternative

5.3.1 Form, Method, and Timing of an Agency Response

Form & Method

The agency will respond to all alternatives offered in writing (WAC 236-51-120). Templates for acceptance, rejection, and no alternatives received are included below: (see <http://sw.wa.gov/correspondence/exec/letter2.html> for specific executive correspondence guidelines).

Timing

WAC 236-51-120 states that the agency must respond to all alternatives offered. If no alternatives are offered within the 60 calendar days allotted, the agency shall notify all potentially displaced employees that it will proceed with its solicitation. The agency may need to extend its intended date to solicit bids for a number of reasons.

For example:

- To allow for more time to consider any alternatives presented
- To provide at least 21 calendar days notice to potentially displaced employees' exclusive bargaining representative (when potentially displaced employees are members of a bargaining unit)
- Allow for more time in the development of the solicitation
- To accommodate staff schedules
- To provide the required minimum of 20 calendar days specified in WAC 236-51-120 for potentially displaced employees to form one or more EBUs and notify the agency per WAC 236-51-200

In any event, the agency may not solicit bids for competitive contracting any earlier than 90 calendar days from the date of notification.



Agency Letterhead

February 15, 2006 **(insert applicable date)**

TO: Janet Doe, Title **(Exclusive Bargaining Representative if applicable)**

FROM: Jane Smith, Director

SUBJECT: **Acceptance of Alternative to Competitive Contracting**

REF:

- Alternative to Competitive Contracting dated January 13, 2006
- Notification by Jane Smith, Director dated November 14, 2005
- RCW 41.06.142
- WAC 357-43 What definitions apply to this chapter of the civil service rules?
- WAC 236.51 Competitive Contracting
- Collective Bargaining Agreement (if applicable)

This letter is in response to the alternatives submitted by you and your team on January 13, 2006 **(insert applicable date)**. The agency has considered the alternative presented and has decided to accept it as an alternative to competitive contracting. **(In the event that potentially displaced employees are members of a bargaining unit and their proposal includes terms that are in conflict with the terms of any applicable collective bargaining agreements include the following: Acceptance of your proposal is conditional upon resolution of any conflicts with the appropriate exclusive bargaining representative(s)).** In the coming weeks, we will outline a performance agreement and plan to implement the proposed alternative.

If the original objective or goal of the alternative is not met within the time specified in the performance agreement, the agency may then decide to resume the competitive contracting process.

cc: LRO Liaison **(or others as required)**



Agency Letterhead

February 15, 2006 (**insert applicable date**)

TO: Janet Doe, Title (Exclusive Bargaining Representative if applicable)

FROM: Jane Smith, Director

SUBJECT: **Rejection of Alternative to Competitive Contracting**

REF:

- Alternative to Competitive Contracting dated January 13, 2006
- Notification by Jane Smith, Director dated November 14, 2005
- RCW 41.06.142
- WAC 357-43 What definitions apply to this chapter of the civil service rules?
- WAC 236.51 Competitive Contracting
- Collective Bargaining Agreement (if applicable)

This letter is in response to the alternatives submitted by you and your team on January 13, 2006 (**insert applicable date**). After careful consideration, the agency is rejecting the alternative offered by you and your team and is proceeding with soliciting bids on the date indicated on the notification. That date is **March 15, 2006 (insert applicable date)**.

All potentially displaced employees may form one or more EBUs for the purpose of submitting a bid or bids to perform the services. WAC 236-51-200 provides the requirements for those wanting to form an EBU including the requirements to notify Jane Smith, Agency Director in writing prior to the intended day the agency will solicit bids. That date is **March 15, 2006 (insert applicable date)**. This agency will not consider EBU bids that do not provide all of the required information or notifies the agency of its formation after the solicitation has been issued. Potentially displaced employees represented by a collective bargaining agreement should consult the terms of their agreement and/or their exclusive bargaining representative for additional assistance.

The Department of Personnel will have available to EBUs training on the competitive contracting bidding process and general bid preparation. If training and other resources are needed by the EBU, they must be specified by the EBU in accordance with WAC 236-51-200.

Prior to the effective date of an agreement between the agency and either an EBU or an external bidder, potentially displaced employees will be subject to the agency's layoff procedure, pursuant to WAC 357-43. Specific questions about the layoff procedure may be directed to your HR representative, Sandy Jones.

cc: Sandy Jones, HR
LRO Liaison (**or others as required**)



Agency Letterhead

February 15, 2006 (**insert applicable date**)

TO: State Employee, Title (Exclusive Bargaining Representative if applicable)

FROM: Jane Smith, Director

SUBJECT: **No Alternatives to Competitive Contracting Received**

REF:

- Notification by Jane Smith, Director dated November 14, 2005
- RCW 41.06.142
- WAC 357-43 What definitions apply to this chapter of the civil service rules?
- WAC 236.51 Competitive Contracting
- Collective Bargaining Agreement (if applicable)

This letter is to inform you that no alternatives to soliciting bids for competitive contracting have been received. As such, this agency is proceeding with soliciting bids on the date indicated on the notification. That date is **March 15, 2006 (insert applicable date)**.

All potentially displaced employees may form one or more EBUs for the purpose of submitting a bid or bids to perform the services. WAC 236-51-200 provides the requirements for those wanting to form an EBU including the requirement to notify Jane Smith, Agency Director in writing prior to the intended day the agency will solicit bids. That date is **March 15, 2006 (insert applicable date)**. This agency will not consider bids from an EBU that does not provide all of the required information or notifies the agency after the agency has issued the solicitation. Potentially displaced employees represented by a collective bargaining agreement should consult the terms of their agreement and/or exclusive bargaining representative for additional assistance.

The Department of Personnel will have available to EBUs training on the competitive contracting bidding process and general bid preparation. If training and other resources are needed by the EBU, they must be specified by the EBU in accordance with WAC 236-51-200.

Prior to the effective date of an agreement between and agency and either an EBU or an external bidder, potentially displaced employees will be subject to the agency's layoff procedure, pursuant to WAC 357-43. Specific questions about the layoff procedure may be directed to your HR representative Sandy Jones.

cc: Sandy Jones, HR

LRO Liaison (**or others as required**)

5.3.2 Considerations for Implementing Employee Offered Alternatives

This will not be business as usual

Implementation of the employee offered alternatives represents a performance agreement with expectations and consequences if objectives are not met. Therefore the agency and the employees need to take responsibility to regularly review results and take corrective action, if necessary, to stay on course.

5.3.3 An Agency's Response to an EBU's Formation

An EBU becomes a bidder in a competitive contracting solicitation by notifying the agency of its formation as required by WAC 236-51-200. As a result of that notification, the agency is required to respond to the EBU either affirming its planned use of state resources to prepare its bid or modify it based on available state resources and the needs of the agency to meet its mission (reference WAC 236-51-205). When the EBU's membership includes one or more members of a bargaining unit, the agency will include mention that acceptance of any proposal submitted by that EBU that includes terms that are in conflict with the terms of any applicable collective bargaining agreement(s) will be conditional upon resolution of the conflict with the appropriate exclusive bargaining representative(s). A sample format is included on the next page.



Agency Letterhead

March 10, 2006 **(insert applicable date)**

TO: Jane Smith, Director

FROM: State Employee, Title **(Exclusive Bargaining Representative if applicable)**

SUBJECT: **Receipt and acknowledgement of intent to compete; EBU (list all members)**

REF:

- Notification by Jane Smith, Director dated November 14, 2005
- RCW 41.06.142
- WAC 357-43 What definitions apply to this chapter of the civil service rules?
- WAC 236.51 Competitive Contracting
- Collective Bargaining Agreement (if applicable)
- Agency notice of either "no alternative received" or "alternative rejected" dated February 15, 2006.
- EBU notice of formation (as required in WAC 236-51-200)

The agency has received notice of your decision to compete in the competitive contracting solicitation referenced in the notice sent by me to all potentially displaced employees on November 14, 2005. As required by WAC 236-51-205 this agency **(insert one of the following: accepts your EBU's resource plan to prepare its bid in its entirety or accepts your EBU's resource plan with the following modifications.** The Department of Personnel will have available to EBUs training on the competitive contracting bidding process and general bid preparation. That training will be scheduled as soon as possible to allow your EBU enough time to prepare its bid.

If one or more members of an EBU belong to a bargaining unit, add the following: Please note that if the terms of your EBU's bid conflict with the terms of any applicable collective bargaining agreement(s), acceptance by this agency will be conditional upon resolution of such a conflict with the appropriate exclusive bargaining representative(s).

Prior to the effective date of an agreement between and agency and either an EBU or an external bidder, potentially displaced employees will be subject to the agency's layoff procedure, pursuant to WAC 357-43. Specific questions about the layoff procedure may be directed to your HR representative Sandy Jones.

cc: Sandy Jones, HR

LRO liaison **(or others as required)**

Chapter 6 Solicitation & Award

Chapter 6, Section 1

About this chapter

6.1.1 Key components of this chapter

This chapter provides guidance on developing the solicitation and award methods

This chapter will provide guidance on how to successfully conduct a competitive contracting solicitation and award.

Previous chapters provided agencies with methods to assess the market, develop requirements (quality, performance, and results), analyze costs, and assess and mitigate risks. This chapter incorporates that information in a practical manner and provides agencies with guidance on:

- What to include in the solicitation document
- Communicating with bidders on how the agency will evaluate competing proposals and award the contract

6.1.2 Material covered in chapter 2

The elements of a competitive contracting solicitation, as defined in WAC 236-51-305, are listed below. **The bold items** represent what was included in Chapter 2 of this manual. The balance of the content (*italics*) will be covered in this chapter.

1. *Complete bidder instructions*
2. *Submittal requirements*
3. **Performance work statement**
4. *Cost and non-cost evaluation criteria*
5. *Name and address of the person designated to receive complaints and appeals*
6. *Agency's plan for publication and notice of award/intent to award*
7. Contract requirements, which shall include, but are not limited to:
 - a. **State standards as provided in WAC 236-51-210**
 - b. **Compliance and adherence to a quality assurance plan**
 - c. **Measurable standards for the performance of the contract**
 - d. **Methods used to measure contract performance, costs, service delivery quality, and other contract standards**
 - e. *Terms and conditions; (including distinctions between terms and conditions for an EBU versus others)*
 - f. *Provisions requiring an entity other than an employee business unit to consider employment of state employees who may be displaced by the contract*
 - g. *Cancellation provisions for improper or failed performance*
 - h. *Complaint process*
 - i. *Appeal process*

*Chapter 6, Section 2***Solicitation content**

As stated in rule (WAC 236-51-300), GA will provide state leadership in an effort to develop standard terms and conditions and bid templates to support the solicitation process for competitions under RCW 41.06.142. The purpose of this requirement was to ensure a fair and consistently applied set of rules and processes that are easily understood by all. While they are not in this version of the guidance manual, you can expect to see them in future releases.

6.2.1 Complete bidder instructions/submittal requirements

A competitive contracting solicitation should require, at a minimum, the following instructions to bidders for submitting proposals:

Instructions and submittal requirements

- Bidders will need to become familiar with applicable laws and statutes and in particular RCW 41.06.142 and WAC 236-51. The responsibility is on each bidder to understand and adhere to the requirements of the competitive contracting process.

Note: *It is recommended that agencies provide a copy or link of any referenced law or rule to each bidder.*

- Bidders are responsible for reading and understanding the business requirements outlined in the Performance Work Statement (PWS) and Quality Assurance Plan (QAP). Bidders should respond only to amendments made in writing (see WAC 236-51-310).
- **Does the solicitation require that bidders physically visit service delivery locations?** If so, bidders need to become familiar with and verify any environmental factors that may impact current or future performance to the requirements of the contract.
- **Questions, inquiries, and input into the solicitation:** Agencies will need to identify a point of contact in the solicitation. Bidders should submit all questions, inquiries, and input in writing. Agencies should be prepared to provide bidders with current service delivery cost and performance data. Materials provided to one bidder (including EBUs) will need to be shared with all bidders. Potentially displaced employees (members of an EBU) may provide input into the solicitation, as would other bidders, provided that they comply with the requirements of WAC 236-51-302.
- Amendments and changes will be issued in writing and according to WAC 236-51-310.
- Notice of the solicitation along with any related announcements and amendments will be made in accordance with WAC 236-51-320. Agencies will need to specify methods and/or systems other than those specified by GA.

- Bids will be submitted and received as required by WAC 236-51-400. Instructions for withdrawal and modification of bids (prior to opening) and correction of computational errors (after opening) may be included also.
- An EBU's bid shall include all costs related to delivering the service as required by WAC 236-51-215. Bids submitted by EBUs that do not conform to the requirements of WAC 236-51-215 may be deemed non-responsive and rejected.
- Bid information will be subject to disclosure as described in WAC 236-51-405. Included in the WAC section referenced is the process for handling proprietary information.

Award

- Agencies and bidders should refer to WAC 236-51-600 through 620 for specifics about the award process;
- If an award is made to an EBU (including those with one or more members of a bargaining unit), the resulting contract becomes the formal and binding agreement for performing services as defined in the competitive contracting solicitation.

Note: *An agency's acceptance of any bid or proposal, offered by an EBU comprised of one or more members of a bargaining unit, which conflicts with the terms of any collective bargaining agreement(s), is conditional upon resolution of such conflict with the appropriate exclusive bargaining representative(s). Resolution of such conflict shall occur as provided for in WAC 236-51-605 but before the agency issues its notice of intent to award as described in WAC 236-51-600. If resolution is not reached with the appropriate exclusive bargaining representative(s), then the agency will issue the award to the next most responsive bidder.*

- If an award is made to a private service provider (regardless whether an EBU is a bidder or not) and it results in bargaining unit employees being displaced, then agencies must:
 - Contact their liaison at the LRO prior to issuing the notice of intent to award
 - Notify displaced employees, and their exclusive bargaining representative (at the same time as unsuccessful bidders are notified) pursuant to WAC 236-51-600 of the agency's intent to award the contract to the apparent successful bidder (in this case a private service provider)
 - Respond as required by law to any requests for information or bargaining

Note: *The agency's requirement to bargain does not extend to its award decision. The requirement for the agency to bargain with the displaced employee's exclusive bargaining representative extends to only the effects of that decision. The agency's liaison at the LRO will lead the bargaining effort. The steps outlined above may also apply when a competing EBU (let's say one comprised of non-bargaining unit employees) is awarded a contract over another EBU (comprised of bargaining unit employees).*

- The notice of intent to award should include the expected award date and the name of the apparent successful bidder.

Complaints and appeal

- Complaints by bidders or potential bidders must be filed with the agency head or designee prior to the expected date of award. Details about the complaint process are contained in WAC 236-51-500 through 515.
- An appeal is filed after contract award (see WAC 236-51-700 through 745 for specifics).
- Under WAC 236-51-725, agencies shall transmit appeals within five business days to: Office of Administrative Hearings, PO Box 42488, Olympia WA 98504-2488; 360-664-8717; fax 360-664-8721.

Complaints relating to IT Technology solicitations

The following procedure is to be used in handling complaints when the competitive contracting acquisition deals with an IT services acquisition:

1. The complaint must be made to the agency, which will investigate and render a preliminary decision. The preliminary decision must be forwarded to the ISB/DIS for review.
2. The ISB/DIS will render its findings and recommended decision to the agency. The agency will adopt the findings and recommended decision rendered by the ISB/DIS as the agency's final decision.
3. This final agency decision may then be appealed after award as outlined in WAC 236-51-700 through WAC 236-51-745.

6.2.2 Evaluation of bids

RCW 41.06.142 (e) states that the agency must determine that the contract results in savings or efficiency improvements to make an award. The agency will demonstrate that it met this requirement when it completes its evaluation and issues a notice of intent to award.

The agency will need to follow the terms of the solicitation document in evaluating and scoring cost and non-cost factors. Non-cost factors are customized for each solicitation and may include, but are not limited to; a response from the bidder on meeting specified performance standards, proven track record, creating efficiency and value, or presenting a solution to a business problem. In addition, agencies should note the requirements of bid evaluators outlined in WAC 236-51-410.

At the end of this section, once again referring to the hypothetical Vehicle Maintenance example, we present two examples that illustrate how the agency may score both criteria.

Note: Agencies should collaborate closely with their internal procurement function and/or with the contracting authority specific to the type of acquisition being planned, as established and proven evaluation methods already exist that can be tailored to fit any circumstance.

Cost evaluation criteria

Chapter 3 provides specifics on comparing current delivery costs with cost proposals submitted by bidders. WAC 236-51-306 outlines specific requirements for agencies in evaluating costs between a private bidder and an EBU.

Non-cost evaluation criteria

Non-cost criteria will be evaluated according to the method outlined in the solicitation. An EBU’s versus a private bidder’s response to a non-cost solicitation requirement may be different. Therefore, an agency will need to consider how it configures its non-cost solicitation requirements such that it enables all bidders to be evaluated on their response. In *Figure 27* there is an example of how agencies may accomplish this.

Non-cost Solicitation requirement	Private bidder’s response	EBU’s response
Plan to deliver services consistent with the business requirements specified in the PWS	Previous performance history delivering service to other customers	Individual employee performance history of EBU members plus historical effectiveness in executing similar plans
Scalability and reliability to expand market share to include maintenance of Departments ABC & DEF Vehicles	Employee turnover, capacity, financial stability, balance sheet, and credit history	EBU plan for recruiting and retaining members, marketing plan, capital equipment utilization and/or acquisition strategy, and cost control plans

Figure 27

Private bidder and EBU evaluation

Weighing and consideration of cost versus non-cost factors

The solicitation will need to specify how cost and non-cost factors will be evaluated and weighted. How at the agency determines the criteria will depend on the nature of the requirements and the business problem presented in the PWS and QAP. Figures 28 and 29 illustrate a cost/non-cost bid evaluation method.

Canceling a solicitation

WAC 236-51-615 outlines when an agency may cancel a solicitation or reject all bids after the bids are opened, but before bid award if:

1. Cost savings or efficiency improvements will not be achieved as a result of an award
2. The solicitation did not contain all of the information and factors necessary to determine if cost savings or efficiency improvements will be achieved as a result of an award
3. No responsive bids were received from a responsible bidder (see glossary for a definition or responsive and responsible)
4. The solicitation and award process was not fair, equitable, or objective
5. Changes in market conditions have occurred that significantly impact the original intent to competitively contract the service

Figure 28 *Cost & Non-cost Evaluation Criteria: Private bidder*

Figure 29 *Cost and Non-cost Evaluation Criteria: EBU*

click on figures above to download Excel template.

6.2.3 Standard terms and conditions

A required element of every competitive contracting solicitation

Terms and conditions are an important requirement of any solicitation. The state's procurement authorities provide standardized terms and conditions for use in the acquisition of goods and services which should be used when contracting with private service providers (see list below). These standard terms and conditions have been reviewed and, where required, modified to handle the specific requirements of a competitive contracting solicitation. An EBU, on the other hand, is comprised of state employees and is an entity within its own agency therefore; the terms and conditions for an EBU's agreement will be very different from those of a private service provider. GA, in conjunction with OFM, Office of the Attorney General, DOP, and DIS has developed a separate set of terms and conditions that apply to an EBU.

1. ISB Model Contracts for Personal and Purchased Services at:
<http://dis.wa.gov/portfolio/modelcontracts.htm>
2. Office of State Procurement; Competitive Procurement Standards, Professional Service Standards: <http://www.ga.wa.gov/PCA/Bids/T3SSTAND.DOC>
3. Office of State Procurement; Competitive Procurement Standards, Standard Terms and Conditions: <http://www.ga.wa.gov/PCA/Bids/STTERMS.DOC>
4. OFM; Guide to Personal Services Contracting, Appendix E - Sample Personal Services Contract: <http://www.ofm.wa.gov/contracts/psc/Append%20E.doc>
5. OFM; Guide to Client Services Contracting, Appendix D - Model Client Service Contract: <http://www.ofm.wa.gov/contracts/csg/appendixD.doc>

Changes to standard terms and conditions

It is not uncommon for a bidder to recommend changes to the standard terms and conditions. These changes can have significant implications later on and should not be dismissed as a trivial detail. For example, one standard term addresses the independent status of the private service provider. This term is in place to protect the state from costly claims by contractors or their employees of the right, privilege or benefit which would accrue to an employee under chapter 41.06 RCW or Title 51 RCW. Terms and conditions are established at the state level to address these and other contracting risks. Latitude to negotiate or deviate from these standards will require appropriate review by the agency's management (see chapter 4 - Risk Assessment), legal team, and/or the Office of the Attorney General.

6.2.4 Terms and conditions required in a competitive contracting solicitation

Hiring of state employees who may be displaced by the contract

RCW 41.06.142 (1) (c) requires that a contract with an entity other than an EBU include a provision requiring the entity to consider employment of state employees who may be displaced by the contract. Regardless of the terms and conditions the agency decides to use, this term must be included.

Note: *The law did not intend for agencies to compel private bidders to hire potentially displaced employees nor indicate the manner in which it should consider them.*

Contract cancellation (termination) provisions

All of the state's terms and conditions contain cancellation (termination) provisions in one form or another. As this provision is required by RCW 41.06.142 (1) (d), it must be included. Cancellation of a contract should be the result of failure by a service provider to meet standards of

contract performance, costs, service delivery quality, and other contract standards as identified in the contract and solicitation.

Performance Work Statement (PWS) versus Statement of Work (SOW)

A central piece of performance based contracting is the concept of contracting for results versus simply specifying the tasks to be performed under the contract. For competitive contracting, RCW 41.06.142 (1) (a) requires that the invitation for bid or request for proposal contains measurable standards for the performance of the contract. This requirement under the law is addressed in WAC 236-51-305 (3) which requires that the competitive contracting solicitation contain a performance work statement.

As defined in WAC 236-51-010 (20) a “**performance work statement**” means a statement of the technical, functional and performance characteristics or requirements of the work to be performed. The statement identifies essential functions to be performed, determines performance factors, including the location of the work, the units of work, the quantity of work units, and the quality and timeliness of the work units.

A “**statement of work**” is simply a narrative description of products or services to be provided under the contract.

Conformance to a Quality Assurance Plan (QAP)

In conjunction with a PWS the agency’s solicitation must contain the requirement that service providers conform to a QAP. WAC 236-51-010 (22) defines a “**quality assurance plan**” as a plan by which an agency will monitor a contract awardee’s performance to ensure that the standards of the performance work statement are met within the costs, quality of service, delivery, and other standards of the contract.

Chapter 7 **Contract Management & Monitoring**

Chapter 7, Section 1

Introduction

7.1.1 **Key components of this chapter**

What this chapter will cover

RCW 41.06.142 (d) requires the agency to establish a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards as criteria for contracting with individuals, non-profit organizations, businesses, EBUs, and other entities for services customarily and historically provided by state employees. The Office of Financial Management (OFM) has two guides that are excellent sources of more detailed information about managing personal or client service contracts (see <http://www.ofm.wa.gov/contracts.htm>).

The Performance Work Statement (PWS), Quality Assurance Plan (QAP) (see Chapter 2); and the contract terms and conditions will be the primary drivers in the management and monitoring of a contract. This chapter focuses on the period of time from commencement of work under contract through completion/termination.

This chapter is organized as follows:

- **The contract management team** - Roles and responsibilities
- **Verification (inspection), monitoring and accepting performance** - Performance to the PWS and QAP
- **Modifying the contract** - Change orders, price modifications, etc.
- **Dispute resolution** - Escalation paths and considerations, techniques, and tactics
- **Incentives and terminations** - Required by statute RCW 41.06.142 (1)(d) for agencies to cancel contracts that do not meet standards
- **Contract close out** - Renewals, extensions, and re-solicitations

7.1.2 **Brief review of PWS and QAP**

Again, the key deliverables from the business requirements effort are:

Performance Work Statement (PWS) - Definition from WAC 236-51-010 (20) “a statement of the technical, functional and performance characteristics or requirements of the work to be performed. The statement identifies essential services to be performed, determines performance factors, including the location of the work, the units of work, the quantity of work units, and the quality and timeliness of the work units.”

Quality Assurance Plan (QAP) - Definition from WAC 236-51-010 (22) “a plan by which an agency will monitor a contract awardee’s performance to ensure that the standards of the performance work statement are met within the costs, quality of service, delivery, and other standards of the contract.”

The PWS and the QAP, which detail contract requirements, are the primary documents for contract management and monitoring. In addition, other contract documents are required by WAC 236-51-305, as follows:

- State standards as provided in WAC 236-51-210; and

- Terms and conditions, particularly:
 - Provisions requiring an entity other than an EBU to consider employment of state employees who may be displaced by the contract; and
 - Cancellation provisions for improper or failed performance.

Chapter 7, Section 2

The contract management team

Requirements when an EBU is awarded the contract

WAC 236-51-200(b) requires that an EBU, upon notifying the agency of its formation, designate a leader or leaders. The EBU is also required by WAC 236-51-220 to designate a point of contact for the competitive contracting process.

7.2.1 Agency: roles and responsibilities

Agency senior management

The ultimate responsibility for the performance of any contract rests with the agency director and his or her staff. It is therefore vital that an agency's senior management take continued interest in the performance of a service provider by doing the following:

- Review operational results and performance measures regularly
- Meet with and communicate with the service provider's senior management
- Make key decisions in a timely manner
- Communicate openly and honestly
- Delegate authority as required
- Maintain continued support and commitment
- Set a high standard for ethical behavior, data driven decision making, operational excellence, and results-based performance management

Contract administration function

The agency contract administration function has the responsibility to create and manage the agency's contract management and monitoring standard based on best practices. In addition, the agency contract administration function will also:

- Manage contract authorities and delegations as required
- Ensure that contracts reflect the state's standard terms and conditions
- Provide methods, processes, and training to enable effective service provider performance management
- Based on lessons learned, provide input on methods, processes, statute, and rules

Contract administrator

This individual is the key agency contact, and he or she will have tactical responsibility for the administration of the contract. Depending on the complexity of the service being contracted, this individual must have the skill sets, experience, and authority to manage and affect the following:

- Execute the authority delegated in writing by the agency to act on its behalf

- Monitor the service provider’s performance and any customer complaints
- Identify changes, when needed, and process them via contract amendments
- Monitor and approve payment
- Conduct financial reviews and audits, if necessary, during the course of the contract
- Work with the service provider to resolve any problems that arise;
- Terminate the contract, if necessary, which includes determining breached performance or contractual provisions and documenting efforts to correct the breach or recommending termination to the appropriate authority
- Manage close-out of the contract
- Evaluate the results at the end of the contract and recommend actions such as: renewal, extensions, or re-solicitation.

Human resources (HR)

EBU members continue to be state employees and an EBU is an entity within the agency. As a result, HR will need to be involved in assisting EBU leaders, agency management, and contract administrators to manage the personnel needs of the EBU.

7.2.2 Contractor: roles and responsibilities

Senior management

The roles and responsibilities of the contractor’s senior management and the agency’s senior management are the same (see 7.2.1, paragraph 1).

Point of contact(s)

In general, a day-to-day point of contact(s) will need to be identified to support the tactical needs of the contract administrator.

Individual employees

The contractor is directly responsible for what their employees do and fail to do. Individual employees will need to understand the requirements of the work to be done, how to do it, and to recognize when it is done properly.

7.2.3 EBU: roles and responsibilities

EBU leader(s)

The EBU leader(s) represent the interest of the EBU members. The leader or a chosen delegate is responsible for the following:

1. Receive and submit notices (before and after award)
2. Conduct negotiations (including contractual changes)
3. Authority to contractually obligate the employee business unit (including contractual changes)
4. Seek clarifications and amendments to the contract
5. Represent the EBU in operational or performance reviews

EBU point of contact

The EBU leader(s) may delegate the responsibilities above to a member or member(s). The need to delegate is based on the day-to-day requirements and complexity of the service(s) being performed.

EBU members(s)

EBU members are state employees. They perform their duties and responsibilities as outlined in the contract between the EBU and the agency.

Chapter 7, Section 3

Verification, monitoring, and accepting performance

Guidance on developing a verification plan for incorporation into the QAP and PWS has already been covered in this manual (see 2.3.4). This section will discuss how verification plays a role in contract management and monitoring.

7.3.1 Verification and acceptance

Verification and acceptance as a condition for payment

Verification and acceptance of a service typically form the basis for regular payments to a service provider. This gives the agency the needed leverage to compel a service provider to deliver the services as specified in the PWS. At the beginning of the contract period the agency may conduct frequent or 100% verification in order to “prove out” or “qualify” the service provider. As part of the QAP, the agency should also specify the plan to reduce or eliminate verification once the service provider has demonstrated capability. If the agency is required to maintain or increase verification due to a service provider’s performance, the agency should consider remedies, such as discounts, to compensate for the added costs.

Note: *Any provision, like the one outlined above, must be included in the contract if it is to be enforceable with the service provider.*

7.3.2 Monitoring

Surveillance and monitoring are critical

Monitoring means any planned, ongoing, or periodic activity that measures and ensures a service provider’s compliance with the terms, conditions, and requirements of a contract. The purpose of monitoring is to ensure:

- The service provider is complying with the terms and conditions of the contract and applicable laws and regulations
- The service provider is delivering the quality of services specified in the contract
- The agency and the service provider are preventing non-compliance by identifying and resolving potential problems through constructive and timely feedback; and
- Progress is being made on schedule and within budget toward the expected results and outcomes.

As part of regular agency feedback, the service provider should be made aware of both non-conformances and any positive or negative trends detected in their performance. Negative

trends should be investigated for root cause as would any other non-conformance. Positive trends need to also be examined in order to repeat the success in other areas or confirm that progress towards achieving results is being made. *Figures 31 and 32* illustrate trend analysis using the example developed in 2.3.5. *Figure 30* shows the results of corrective action on each trend.

Service provider report card

A report card, or scorecard, is a useful tool for communicating contract performance. Graphs showing trends and reports on the status of pending corrective actions is also useful. *Figure 30* illustrates a scorecard based on the business requirements summary developed in 2.3.5.

Figure 30

Service Provider
Scorecard

Note: In the examples provided, a corrective action process is also illustrated.

XYZ Fleet Management Service Provider Report Card for March 2006					
Task, result or outcome	Performance Measure	Performance Standard	AQL	Performance for March '06	Comments/Corrective Action
Level 1 Vehicle maintenance service	Vehicle availability	Average (12 mth. rolling) 82.5% vehicle availability (NAFA Standard). % of vehicles available to clients each Monday @ 8 a.m.	82.5% minimal acceptable level	79.30%	Corrective action XYZ #1: 3 vehicles involved in accidents and deadlined. XYZ Fleet and contract administration awaiting approval of modification to contract performance standard that does not count vehicles involved in accidents. Status: Pending Due Date: April 1 '06 Owner: Jane Smith: agency Contract Administrator
Task, result or outcome	Performance Measure	Performance Standard	AQL	Performance for March '06	Comments/Corrective Action
Level 2 Preventative maintenance	Vehicle availability	Perform level 3 preventative maintenance within NAFA standard time allotted	See below		
Level 3 Tune-ups	Time standard	NAFA Standard 1 hr.	+/- .1 hr.	0.9	
Level 3 Lube, oil & filter	Time standard	NAFA Standard .5 hr.	+/- .1 hr.	0.6	
Level 3 Safety inspections	Time standard	NAFA Standard .5 hr.	+/- .1 hr.	0.5	
Level 3 Emission testing	Time standard	NAFA Standard .25 hr.	+/- .1 hr.	0.1	Corrective action XYZ #2: Team reviewed standard and determined that it was established with older generation equipment. Contract is being modified to change the standard and re-target specification. XYZ's bid was based on their current times. No pricing change required. Status: Closed Days Open: 3

Vehicle availability

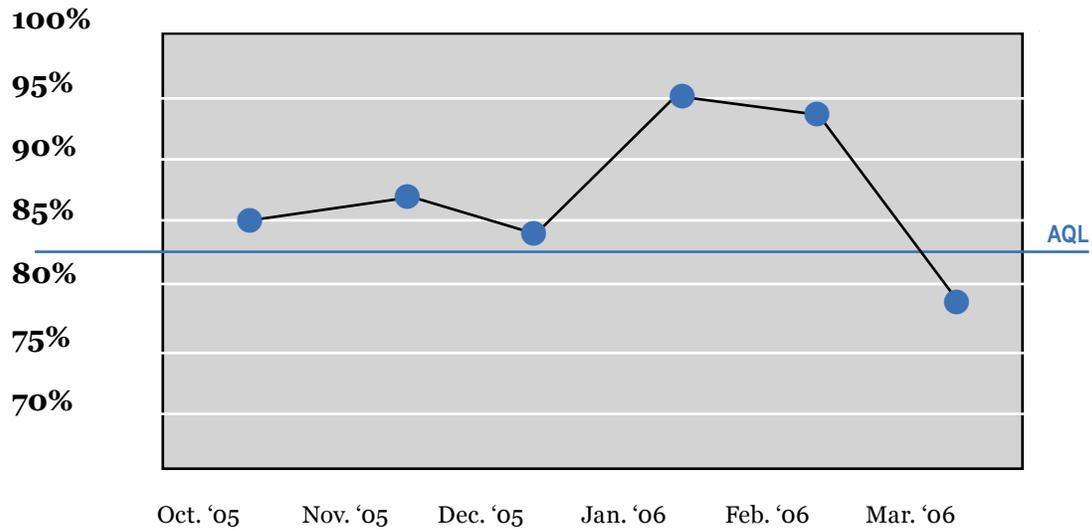


Figure 31

*Service Provider
Performance Trending:
Example*

Emission testing

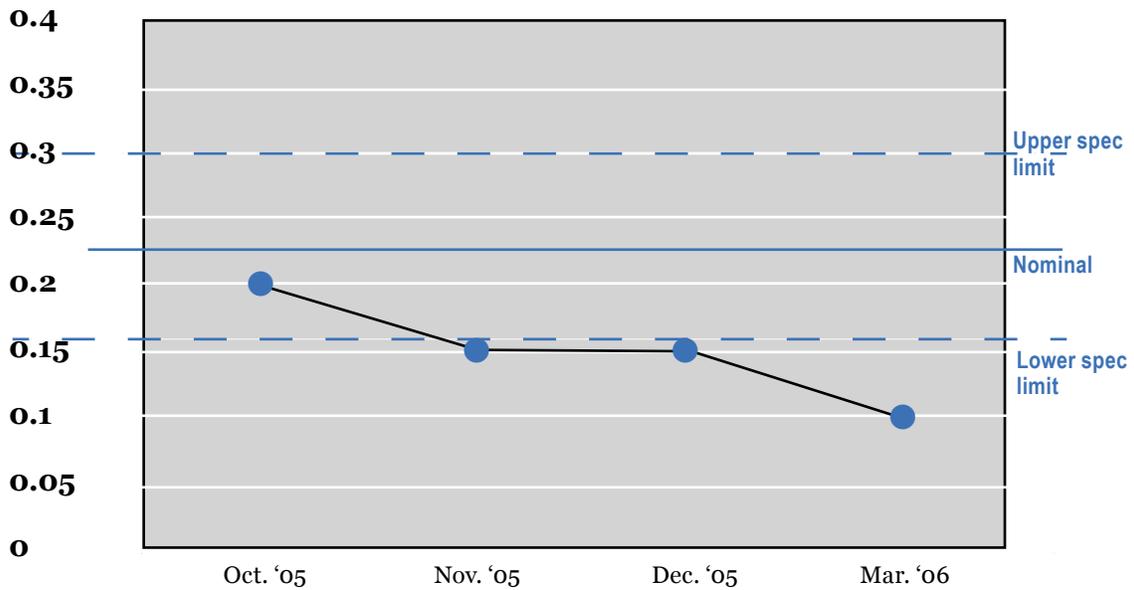


Figure 32

*Service Provider
Performance Trending:
Example*

Service provider business reviews

Regularly scheduled reviews of the state of the business between the service provider and the agency are crucial. These reviews may also be unscheduled if there are issues that need to be addressed due to failure to perform.

Chapter 7, Section 4

Modifying the contract

Ideally, the original contract would accurately anticipate and provide provisions for all possible situations that might occur as a contract is being performed. However, additional needs, changing conditions, unanticipated situations, and other factors may arise that necessitate a contract modification. Careful consideration of the nature of the modification and the terms and conditions of the original contract will determine the appropriate action to be taken to successfully execute a change to a contract.

7.4.1 Basis for modification

Bilateral

For most changes both the agency and the service provider will need to agree to any contract changes. These changes may involve modifications to the PWS or QAP, pricing, and/or schedule.

Unilateral

Unilateral changes are brought by a single party to the contract. These changes are invoked only when certain conditions, which are defined in the contract, occur.

7.4.2 Principle areas of contract changes

Performance Work Statement

This may include adding, modifying or deleting tasks, services or deliverables, or revising specifications. However, changes to the Performance Work Statement must stay within the general scope of the original contract.

Note: WAC 236-51-225 specifies that an EBU awarded a contract by an agency shall not perform or bid on solicitations for services not contained in its contract unless their agency approves it in writing.

Price

Changes to a contract price require the agreement of both parties. In amending a contract for IT goods and services, if the cost of the contract changes by more than the agency's delegated authority, ISB approval is required. Where possible, the original contract terms and conditions should allow for variability in pricing under certain conditions. Special care should be taken by the agency to ensure it understands what a service should cost to avoid "low-balling" of bids.

Note: "Low-balling" refers to the practice of submitting a bid proposal below a cost that is sustainable over the term of the contract with the sole intention of winning the solicitation and raising the price after award. This practice is considered unethical and serves to only reinforce the need that agencies understand the cost model of the service being solicited.

Period of performance

An agency must carefully consider what should be the appropriate period of performance (term) for a contract prior to issuing its solicitation. Examples of factors that may affect the period of performance for a contract:

- Cost and complexity of issuing a solicitation
- Level of start-up investment required of the service provider
- Operational disruption and risk

Regardless of the period of performance selected an agency should monitor contract end dates so as to allow enough lead-time for re-solicitation. This should minimize the need for changes or extensions to the contract term (see 7.7 for information on contract extensions).

Chapter 7, Section 5

Dispute resolution

Contract disputes are not in the best interest of either the agency or the service provider. An important goal of a contract management and monitoring process is to avoid such disputes.

7.5.1 Preventing disputes

Doing what you say and saying what you do

Predictability and consistency in applying the contract terms and conditions and the performance standards, along with focusing on results, is the best way to avoid disputes. If an agency is conducting verification monitoring and acceptance, and proactively working and closing the corrective action loop, then it also reduces the likelihood of conflict.

Sources of disputes include:

- Failure to produce or submit key deliverables
- Inferior quality of services
- Late payment issues
- Changing the standards or Performance Work Statement arbitrarily or without mutual agreement
- Customer complaints
- Significant audit or monitoring findings
- Failure to perform all or part of the contract
- Late performance
- Late submission of reports on a recurring basis

7.5.2 Resolving disputes

Getting to yes

It is in the best interest of everyone involved to work toward a mutually agreed upon resolution. In the case of EBUs, the agency can enlist Human Resources to facilitate resolution. Provisions for resolving conflicts informally should be part of any contract.

Chapter 7, Section 6

Incentives and terminations

7.6.1 Preliminary actions and corrective action

Terminating a contract should not be a surprise

Agencies should develop a closed loop corrective action process that addresses issues as they happen but before drastic action is necessary. The contract administrator's responsibilities regarding corrective action include the following:

- Communicate contract remedies, up to and including termination, as appropriate, when the service provider's performance is deficient
- Notify the service provider both verbally and in writing that a problem has been identified
- Notify the service provider of expectations for correcting the problem or, if appropriate, ask them for advice on how to correct the problem
- Specify a date or time when the agency expects the problem to be resolved or action will be taken
- Document conversations with the service provider by a memo to the contract file, and/or follow up with a written letter to the service provider
- Seek specialist advice, including legal counsel, when unsure of the rights of either party or the appropriate action required

7.6.2 Incentives

Chapter 2, Section 3 of this manual

Positive and negative incentives may be developed as part of a performance-based contract. In the case where the service provider is failing to perform to the contract requirements, the agency may invoke negative incentives or remedies.

7.6.3 Terminations

For default

A termination for default happens when a party is in "material breach" of one or more terms or conditions of the contract. An agency or other party to the contract may be able to claim damages as a result of a termination due to breach. Selecting properly qualified service providers along with writing a clear PWS and QAP are the main ways to avoid default.

For convenience

Termination for convenience happens when both parties have experienced significant change in the scope and expectations of the contract. Care should be taken to avoid clauses in contracts that allow a service provider to unilaterally terminate for convenience. Conversely, the state should always seek to retain its right to terminate for convenience.

For lack of funding

Included in any provision for termination, an agency will need to be able to terminate a contract with a service provider in the event that funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of the contract.

Chapter 7, Section 7

Contract Close Out

EBUs and expiration-termination of a contract

WAC 357-43 provides specific rules governing EBU member's status as a state employee upon contract termination or expiration.

7.7.1 Renewals/Extensions

Typically procurement documents and resulting contracts provide for an initial term, with options for limited renewals before a re-solicitation is required. The decision to renew a contract with a service provider may be based on a number of considerations, including the following:

- Performance by the service provider has met or exceeded expectations
- Recently enacted contract changes or investments in equipment have not fully yielded their expected returns
- Re-solicitation of the contract is not presently feasible
- At a later date the agency will be better placed to take advantage of an emerging market opportunity

Regardless of the reason, the renewal of a contract should be formally documented. Documentation should include the expected length of the extension or renewal.

7.7.2 Re-solicitations

How is a competitively contracted award re-bid?

A service that was competitively contracted and subsequently awarded to a private service provider is re-solicited like any other purchased, personal or IT-related service. On the other hand, a service that was competitively contracted and subsequently awarded to an EBU is re-solicited via competitive contracting as described in RCW 41.06.142 and WAC 236-51.

Post contract review

Prior to re-solicitation the agency should conduct a review to determine what needs to be done better or what could be improved in the next contracting cycle.

Chapter 8 Checklist/Agency Readiness

Chapter 8, Section 1

About this chapter

8.1.1 Purpose of this chapter

Format for this chapter

This chapter will be presented in a format that agencies can use to “cut and paste” key milestones and deliverables generic to each competitive contracting solicitation. This ensures:

1. That the agency accounts for the minimum requirements under the rules and law
2. That the agency prepares a sound plan.

This chapter is not intended to provide guidance on project management techniques and methods. This chapter will be divided by the four distinct phases of a competitive contracting project:

- Pre-notification activities
- Potentially displaced employee notification and alternatives phase
- Solicitation and award
- Transition

An Excel[®] spreadsheet will be made available by GA for agencies to use as a template.

Note: *OFM’s Guide to Personal Services Contracting, Appendix F and Guide to Client Services Contracting Appendix G contain additional checklists that may be helpful in planning a competitive contracting acquisition. They can be found at: <http://www.ofm.wa.gov/contracts.htm>*

8.1.2 Project management

Most agencies manage projects today and competitive contracting, from the initial identification and screening of possible services, to a transition to a service provider should be managed as a single program or project. The Department of Personnel, as well as, a host of others provides training, software, and consulting to help agencies manage projects.

8.1.3 Overall timeline

Below is an example of an overall timeline to control key milestones during the competitive contracting project. The timeframes listed are for reference only. Agencies should consult RCW 41.06.142, WAC 236-51, and any applicable collective bargaining agreement(s) for specific time-frame requirements.

Competitive Contracting Project Timeline, Milestones, & Deliverables	Month 01	Month 02	Month 03	Month 04	Month 05	Month 06	Month 07
Pre-notification activities							
Potentially displaced employee notification (at least 90 calendar days prior to soliciting bids)							
Solicitation							
Transition							

Chapter 8, Section 2

Pre-notification activities

The table below represents a list of activities prior to notification of potentially displaced employees.

Note: Each agency is responsible for reviewing and abiding by applicable laws and rules around competitive contracting. The list below includes those requirements along with other deliverables but should only be used for guidance.

Competitive Contracting Project Tasks, Milestones, & Deliverables
Pre-notification activities
Agency contract management and monitoring process
Performance based agreements
Process for measuring contract performance, costs, service delivery quality, and other contract standards
Contract cancellation process for non-performance
Review agency strategic plan
Review agency activity inventories
For IT-services, review ISB policies, standards and guidelines
Review agency IT portfolio with the DIS Senior Information Technology Management Consultant for IT-related CC
Identify possible service for competitive contracting
Document activities
Evaluate activities
Prioritize services for competitive contracting
Determination of a competitive market
Risk assessment (start - update and review throughout the term of the contract)
Business requirements
Define the service
Current state
Statement of business problem or opportunity
Description of service
ID employees potentially displaced by contract
ID employees exempted by RCW 41.06.070
Employee readiness
Current service delivery costs

Competitive Contracting Project Tasks, Milestones, & Deliverables

Future state

- Desired results
- What constitutes success

Business Requirements Analysis

- Work analysis
- Performance analysis
- Verification plan
- PWS developed
- QAP developed

Contract requirements

- State standards as required by WAC 236-51-210
- Measurable standards for performance
- Methods used to measure contract performance
- Terms and conditions
- Provisions for awardee (other than an EBU) to consider employment of displaced state employees
- Cancellation provisions for improper or failed performance

Solicitation documents developed

- Bidder instructions
- Submittal requirements
- Cost and non-cost evaluation criteria
- Point of contact for receiving **complaints** or appeals
- Plan for publication and notice of award/intent to award
- Complaint process
- Appeal process
- Method to publish solicitation
- Potentially displaced employee notification prepared
- Resources identified for potentially displaced employees to offer an alternative to competitive contracting

Chapter 8, Section 3

Potentially displaced employee notification and alternatives phase

The table below represents a list of activities conducted post notification and up to publication of the solicitation; this includes the alternatives phase and EBU formation.

Note: *Each agency is responsible for reviewing and abiding by applicable laws and rules around competitive contracting. The list below includes those requirements along with other deliverables but should only be used for guidance.*

Competitive Contracting Project Tasks, Milestones, & Deliverables
Potentially displaced employee notification (at least 90 calendar days prior to soliciting bids)
Alternatives phase
Potentially displaced employee alternative tendered within 60 calendar days of notification
Agency considers alternative
Agency rejects or accepts alternative
If applicable, agency monitors performance of employee alternative
If applicable potentially displaced employees decide to form an EBU to bid on solicitation
EBU notifies agency
Identifies the potentially displaced employee members in the EBU
EBU designates leader(s)
EBU submits a resource plan
Agency evaluates EBU resource plan

Chapter 8, Section 4

Solicitation and award

The table below represents a list of activities that occur after the solicitation is published and through award/appeal (if any).

Note: *Each agency is responsible for reviewing and abiding by applicable laws and rules around competitive contracting. The list below includes those requirements along with other deliverables but should only be used for guidance.*

Competitive Contracting Project Tasks, Milestones, & Deliverables
Solicitation
Bids received
Bids evaluated
Notice of intent to award issued
Complaints (if any)
Negotiations with apparent successful bidder
Award
Appeals (if any)
OFM Filing of Personal Services Contract (if required)

Chapter 8, Section 5

Transition

The table below represents a list of activities that occur after award/appeal (if any) through the transition to the awardee service provider. Chapter 9 of this manual goes into greater detail on planning and managing this transition.

Note: *Each agency is responsible for reviewing and abiding to applicable laws and rules around competitive contracting. The list below includes those requirements along with other deliverables but should only be used for guidance.*

Competitive Contracting Project Timeline, Milestones, & Deliverables
Transition
Preliminary transition plan created
EBU award transition
Acquiring new resources
Creating new position descriptions
Laying-off or re-classification of displaced employees (non-EBU members)
Re-classifying and re-appointing EBU members
Implementing new operating procedures
Private service provider award transition
Acquiring new resources
Laying-off or re-classification of displaced employees
Transition of state employees to the employment of a private service provider (if applicable)
Use of or access to state property and facilities
Disposition of materials and equipment not needed by the private service provider
Contractor or EBU perform service or function per the contract

Chapter 9 Transition planning

Chapter 9, Section 1

About this chapter

9.1.1 Purpose of this chapter

What this chapter will cover

Transition planning identifies and describes the steps required to transition to a new provider of a competitively contracted service. These steps may include, but are not limited to:

EBU award

- Acquiring new resources
- Creating new position descriptions
- Laying-off or re-classification of displaced employees (non-EBU members)
- Re-classifying and re-appointing EBU members
- Implementing new operating procedures (to include a lay-off procedure per WAC 357-43-095)

Private service provider award

- Acquiring new resources
- Laying-off or reclassification of displaced employees
- Transition of state employees to the employment of the private service provider (if applicable)
- Use of or access to state property and facilities
- Disposition of materials and equipment not needed by the private service provider

This chapter also outlines the general roles and responsibilities of key leaders in the transition phase.

9.1.2 Timeframe

What span of time is covered in a transition?

A transition period begins on the date of award as described in WAC 236-51-610 and ends with a new service provider performing the work under contract. The length of any transition depends largely on the complexities and scope of the service. Therefore, a transition period may vary from weeks to months. The length of time for any transition should be minimized in the interest of all parties involved. While the agency plans a competitive contracting solicitation, it should also develop a plan for transition. Why? Because either outcome (EBU or private service provider award) results in the need for a transition. Chapter 8 of this manual provides competitive contracting project related tasks, milestones, and deliverables to assist agencies in getting the planning effort started.

9.1.3 Appeal

When can an appeal be filed?

Within 20 calendar days of an award, an appeal may be filed by parties on the grounds specified in WAC 236-51-700. If an appeal is pending, the agency may stay the award decision per WAC 236-51-720. A pending appeal may or may not delay transition activities.

Considerations for an agency to stay an award during an appeal

If an appeal is filed, agencies will receive it in writing and, at a minimum, it shall include the appellant's name and a brief description on the grounds for an appeal along with a brief description of the issue(s) to be resolved (see WAC 236-51-715). At this point the agency must consider whether or not to stay the award. The list below is intended for reference only and is not an exclusive list.

Note: *The decision to stay or not stay an award is one that may benefit from the application of risk assessment and management techniques (see chapter 4).*

Considerations to stay an award

- An awardee, as part of their proposal, must invest considerably in new equipment or hire new staff to perform the service
- The extent to which the agency feels that the appeal has merit and administrative law judge will find for the appellant and remand the decision to award back to the agency
- The willingness or ability of displaced employees to stay on and continue to provide the service till the appeal is resolved
- The willingness or ability of a private service provider to stand-by and await the results of an appeal

Considerations not to stay an award

- The results of an appeal are unlikely to affect the decision to award
- The ability to sustain the current service is not possible due to attrition and/or equipment obsolescence
- The benefit to the customer, the public, or the state is great and delaying implementation will close the window to that opportunity

Chapter 9, Section 2

EBU award transition

9.2.1 Primary deliverables; EBU award transition

Acquiring new resources

For a successful EBU, an early focus may be on the acquisition of any needed equipment or securing of sub-contractors as specified in their bid. The transition time may be af-

ected by these acquisitions and lead-times and should be disclosed to the agency as soon as possible. For instance:

- Acquisition of capital equipment
- EBU solicitation of sub-contractors
- EBU recruiting and selection of needed staff

Creating new position descriptions

In order for an EBU to function properly, every member will need to understand their duties, roles, and responsibilities. Position descriptions will need to be created reflecting the EBU's hierarchy and how it fits in with the rest of the agency's organizational structure in order to better enable performance management and outline accountabilities.

Laying-off or re-classification of displaced employees (non-EBU members)

Employees who are not part of an EBU or are part of an EBU that was not awarded the bid are subject to their employer's lay-off procedure or are re-classified as required. WAC 357-46 Lay-off and Separation outlines the requirements of agencies in laying-off displaced employees.

Re-classifying and re-appointing EBU members

As described in WAC 357-43-025, on the effective date of the contract, the EBU members will be appointed in accordance with the terms and conditions of the contract. As a result, employees will need to be re-classified accordingly.

Implementing new operating procedures

An EBU will need to modify or create operating procedures and work rules based on the agreement. These operating procedures will require review and approval by the agency as required. One of these procedures will be the EBU's lay-off procedure as required by WAC357-43-095.

9.2.2 Roles and responsibilities in the EBU award transition

Agency senior management

A key role played by an agency's senior management during an EBU award transition is to ensure that progress and momentum toward implementation is being maintained. This is accomplished by reviewing and approving a transition plan developed jointly by the EBU and the agency contract administrator. An agency senior management should also require from the EBU leader(s) and the agency contract administrator, regular reporting on progress and immediate notification when roadblocks are encountered that threatens the transition.

Agency contract administrator

In conjunction with an EBU leader(s), the agency contract administrator develops the transition plan by identifying key milestones and deliverables along with outlining the timeline and resources needed for success. The agency contract administrator ensures that the transition results in an implementation of an EBU that will provide the service consistent with its proposal and the terms and conditions of the contract.

EBU leader(s)

While all EBU members are jointly responsible for the EBU's performance in complying with the terms and conditions of the contract, the EBU leader(s) assume management responsibilities and now become responsible for the output of the EBU. This includes the deliverables outlined in the transition plan.

EBU members

In many cases EBU members will be performing their old jobs while also assisting in the transition. Patience and flexibility will be the important during the transition period. After transition, the EBU members are responsible for the EBU's performance.

*Chapter 9, Section 3***Private service provider award****9.3.1 Primary deliverables; private service provider award transition****Acquiring new resources**

As with an EBU, a private service provider may need to secure new resources upon award of the contract. However, any problems recruiting new hires or financing capital equipment should be immediate red flags for the agency. These signs may indicate a weakness in the supplier's viability and ability to fulfill the requirements of the contract. These problems should have been identified during bid evaluation and risk assessment (see Chapter 6 and 4 respectively).

Laying-off or re-classification of displaced employees

Displaced employees are subject to their employer's lay-off procedure or are re-classified as required. WAC 357-46 Layoff and Separation outlines the requirements of agencies in laying-off displaced employees.

Transition of state employees to the employment of a private service provider (if applicable)

RCW 41.06.142 (1) (c) requires that a contract with an entity other than an EBU include a provision requiring the entity to consider employment of state employees who may be displaced by the contract. If, after consideration, a private service provider decides to hire all or some of the displaced employees, it will work with the agency and the displaced employees to determine the appropriate date of separation from state service. The scope and responsibility of employees (before, during, and after transition) who are being considered for employment by a private service provider will need to be evaluated to determine what, if any, ethics or legal restrictions may apply. Agencies with questions should consult with their legal counsel or the Executive Ethics Board with any questions or concerns (see <http://ethics.wa.gov/>).

Note: *The law did not intend for agencies to compel private bidders to hire potentially displaced employees nor indicate the manner in which it should consider them.*

Use of or access to state property and facilities

Background checks and access to facilities and/or use of state property will need to be factored in. Terms and conditions of access and/or use of state resources should be spelled out in the contract along with expectations of private service provider staff on site.

Disposition of materials and equipment not needed by the private service provider

The sale or disposal of surplus materials and equipment may need to happen during the transition. Surplus of state property is governed under separate statute and rules (see <http://www.ga.wa.gov/customer/cust-surplus.htm>).

9.3.2 Roles and responsibilities in the private service provider award transition

Agency senior management

A key role played by an agency's senior management during a service provider award transition is to ensure that progress and momentum toward implementation is being maintained. This is accomplished by reviewing and approving a transition plan developed jointly by the private service provider and the agency contract administrator. An agency's senior management should also require from the private service provider transition leader and the agency contract administrator, regular reporting on progress and immediate notification when roadblocks are encountered that threatens the transition.

Agency contract administrator

In conjunction with the private service provider transition leader, the agency contract administrator develops the transition plan by identifying key milestones and deliverables along with outlining the timeline and resources needed for success. The agency contract administrator ensures that the transition results in an implementation of a service that is consistent with the private service providers' proposal and the terms and conditions of the contract.

Private service provider senior management

Takes part in progress updates and reviews along with agency senior management to ensure that the transition is moving along as planned and removes any roadblocks as required.

Private service provider transition leader

Works in conjunction with the agency contract administrator to complete the transition per plan.

Schedule A Performance Work Statement (PWS) Outline

1. Background
2. Scope
3. Tasks to be performed
4. Deliverables
5. Business requirements
6. Performance verification
7. References
8. Attachments

Schedule B Quality Assurance Plan (QAP) Outline

1. Introduction section
2. Statement of objective section
 - 2.1. Results
 - 2.2. Standards of performance
 - 2.3. Service provider compliance
 - 2.4. Root-cause analysis and corrective action
 - 2.5. Incentives
3. Roles & responsibilities section
4. Verification methods section
5. Corrective action process
6. Provider quality control plan

