

Contract Management General Requirements Guideline

Purpose

The Contract Management General Requirements Guideline¹ provides direction and guidance for public authorities on general contract management matters relating to procurements undertaken by South Australian public authorities under Treasurer's Instructions 18 Procurement.

As discussed in the *Procurement Planning Policy*, contract management planning commences early in the procurement process. Ensuring the key requirements are fulfilled before the contract starts is fundamental for effective contract management.

Other Useful Resources

The *Contract Handover Checklist*, *Contract Start-Up Guideline*, *Contract Extensions and Variations Guideline*, *Contract Closure Guideline* and the *Disposal Guideline* all contain details on ways to effectively set up, manage and close out a contract. Public authorities should also refer to [PC044 South Australian Funding Policy for the NFP Sector](#) in relation to contracts with the Not-for-Profit sector.

What is Contract Management?

Contract management refers to all activities undertaken by a public authority generally after the contract has been executed/commenced.

Effective contract management:

- supports the achievement of value for money outcomes throughout the contract term, by ensuring that all parties to the contract meet or exceed their obligations in line with the contract performance measures, timeframes and expected deliverables;
- minimises the risks to the public authority, government and clients;
- holds the parties to the contract to account;
- prevents misunderstandings about the contract scope;
- promotes innovation and improvement in supplier performance; and
- assists in developing the capability of both the supplier and the public authority.

It is important that contracts are managed consistently and actively throughout their life in accordance with the contract terms and conditions and the public authorities' Contract Management Framework.

¹ This Guideline has been modelled on and derived from the documents listed below:

- ['Australian Government Contract Management Guide'](#), Commonwealth of Australia 2019.
- ['Contract management framework'](#), State of Queensland (Department of Housing and Public Works) 2019.

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Contract Register

The *Procurement Governance Policy* requires public authorities to maintain a contract register to record details of all goods and services contracts valued above \$55,000, including secondary contracts under established panel contracts. The type of information to be captured in a contract register is set out in Appendix 1.

Contract Management Framework

The *Procurement Governance Policy* requires public authorities to implement and maintain a Contract Management Framework ('CM Framework'). The purpose of the CM Framework is to provide a clear and standardised approach to managing and administering contracts for goods and services procured from suppliers.

Contract management requires a broad range of knowledge and skills. The CM Framework should detail the roles and responsibilities of key stakeholders involved in the contract management process including:

- Contract Governance Committee
- Sourcing Lead
- Contract Owner (Project Sponsor)
- Contract Manager
- Contract Administrator
- Other Stakeholders (e.g. end users, customers or clients, suppliers and specialist advisors).

The contract governance committee or contract owner should ensure the people appointed to these roles have necessary skills and knowledge. Refer Attachment 1 for further guidance.

The CM Framework should also outline the key processes and activities that are required to undertake in order to achieve effective contract outcomes.

Contract management processes should be commensurate with the length, complexity, risk profile and value of the contract; and adhere to the *Contract Management Policy*.

For example, where a contract is routine or transactional e.g. for the supply of goods at a price-per-unit to a single location, the contract management may focus on invoice validation and approval. Complicated performance management activities are not generally required in these contracts. It should be straightforward to determine whether the goods or services met specification, were delivered on time and within the agreed budget. A *contract management checklist* can be a useful tool for managing routine and transactional contracts.

However, where a contract is strategic or complex e.g. for the supply of a variety of

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goods (across multiple locations, varying prices for volume and performance of service) the contract management approach needs to be more comprehensive. A *Contract Management Plan* is required for these contracts.

Contract Management Plan

A contract management plan contains key information about how the contract will be managed over the contract term to ensure value for money is achieved. It should be a working document that assists the contract manager to effectively manage the contract. The contract management plan should be developed before the contract commencement date.

The contract management plan should detail commonly referenced information about the contract. It should not replicate contract information but should provide references to that information (e.g. relevant contract clauses, location of registers or plans). This is to ensure that, should information change in the contract or other documents, it is not contradicted by the contract management plan.

Completing the contract management plan requires professional judgement to determine the level of detail for each section, which may range from a simple statement to more comprehensive detail and information, depending on the value, complexity, and risk profile of the contract.

Develop other plans if required

Most contract information, risks and issues can be documented in the contract management plan or the risk management plan. However, other plans that public authorities may consider developing include:

- transition plans
- communications or stakeholder engagement plans
- probity plan
- fraud control plan
- security plan
- supply chain risks plan
- disposal plan.

Attachment 2 provides more information about these plans.

Organisational Contract Management Requirements

The *Procurement Governance Policy* requires each CM Framework to detail organisational-level contract management requirements, which may include:

- privacy and confidentiality;
- probity, ethical behaviour, accountability and transparency;
- stakeholder engagement; or

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- across-government contracts.

Privacy and Confidentiality

Confidential government, end-user, client and supplier information should be handled appropriately throughout the contract management process in accordance with confidentiality and privacy clauses contained in the contract. All commercial information is to be treated as confidential.

Probity, Ethical Behaviour, Accountability and Transparency

Contract management practices and actions that strengthen probity, ethical behaviour, accountability and transparency may include:

- maintaining a written record of all decisions, contract management meeting outcomes, key discussions with suppliers and significant contract management issues including approvals and the rationale for decisions made;
- undertaking supplier audits and accessing supplier information where necessary;
- undertaking site visits to verify contract undertakings and outcomes;
- establishing processes for identifying, declaring and managing conflicts of interest;
- providing regular reports on supplier performance to senior management and any applicable committees; and
- the use of a gift register.

Further information is available in the *Probity and Ethical Procurement Guideline*.

Stakeholder Engagement and Relationship Management

An effective and professional supplier relationship underpins the achievement of contract outcomes, with the contract manager being the key link between the public authority and the supplier. This occurs through regular communication, engagement, sharing information and advice, providing constructive feedback about performance issues, and promoting the highest possible standards concerning value for money and achievement of outcomes.

Wherever possible, contract managers and suppliers should work collaboratively, respectfully and flexibly. If the contract manager has a professional and fair relationship with the supplier and maintains open communication, they can also:

- identify and resolve problems before the matter escalates;
- discuss and resolve issues of non-compliance or under-performance in a constructive way; and
- work with the supplier to encourage innovative solutions.

When the contract is with a not-for-profit organisation, consider the principles of [DPC044 The South Australian Funding Policy for the Not for Profit Sector](#).

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The contract manager may need to review and strengthen their relationship with the supplier if they experience issues such as:

- poor response times to requests
- lack of a shared understanding about key contract issues
- limited willingness to respond to requests for information or updates on progress
- general dissatisfaction about the helpfulness of the other party.

It is preferable that all formal communication in relation to the contract be channeled through the contract manager.

If the supplier account manager is not effective, it is important to escalate this issue to the contract owner.

Subcontractors

If a supplier uses subcontractors to deliver an element of the contract, most contracts require suppliers to impose the contractual requirements agreed between the public authority and the supplier on subcontractors. This means the supplier remains responsible for managing the contract, as well as managing the involvement of any subcontractors.

The public authority's contract manager should understand what elements of the contract are delivered by any approved subcontractors and what impacts it could have on the management and achievement of the contract outcomes.

When deciding on whether to approve a subcontractor for use, the public authority's contract manager should think about the effect it will have on the contract outcomes, including whether it raises any risks and whether the risks identified are acceptable to manage. Further information can be found in the *Contract Development Guideline* and *Contract Extensions and Variations Guideline*.

Across-Government Contracts

Attention should be paid to monitoring the outcomes of the secondary procurement processes to ensure that suppliers have been engaged in accordance with the intended panel contract objectives and that where mandatory, only suppliers from the panel contract are engaged (i.e. monitoring supplier leakage). Refer to the *Across-Government, Multi-Agency and Panels Guideline* for more information.

Making Payments

Timely payments made in accordance with the contract are important in maintaining a good supplier relationship and ensuring the supplier can continue to provide the contracted goods and services.

The [Late Payment of Government Debts \(Interest\) Act 2013](#), provides for interest to be paid on the late payment of debts due to businesses in connection with contracts

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for the supply of goods or services to State Government.

Managing Contract Risk

It is the contract manager's responsibility to efficiently and effectively identify, escalate and manage risk events or emerging risks that arise during the term of the contract.

Risks may specifically relate to the goods or services being received (for example, Work Health & Safety risks in a cleaning contract or using unqualified trainers to deliver training programs), or they may relate to the contract management process itself (for example, loss of key staff, staff having insufficient expertise in contract management or failure to adequately check deliverables or pay invoices on time).

The public authority's approach to managing risks for individual contracts should be consistent with the public authority's broader risk management framework.

Record keeping

Keeping records and significant documents that relate to the contract management phase is a crucial aspect of good contract management. These records may include, but are not limited to:

- procurement documentation;
- the risk management plan and risk assessment;
- the original contract;
- the contract management plan;
- minutes of contract management meetings;
- significant communications with the supplier;
- where applicable, records of invoices and payments;
- performance reports, assessments, feedback or non-compliance issues;
- variations or extensions to the contract; and
- legal or technical advice received.

Proper systems for identifying, gathering and recording relevant information helps contract managers to effectively manage the contract and provide a clear audit and accountability trail.

Performance Management

Performance management involves the actions public authorities take to ensure the goods or services are delivered as required under the contract. Performance management should take place throughout the life of the contract and be based on the performance standards included in the contract and documented and agreed by both the public authority and the supplier.

A formal performance management framework can assist public authorities to

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provide a consistent approach to contract management including contract administration, relationship management, performance management including underperformance, as well as contract complaints and disputes.

The performance framework set out in the contract differs for each contract depending on the procurement objectives. It should enable public authorities to:

- validate when expected performance has been achieved
- identify when performance issues require remedy
- recognise examples of innovative practice.

Contract Management Meetings

Regular scheduled contract management meetings with the supplier are important to monitor contract activities and to discuss improvement opportunities. The frequency of contract management meetings can vary depending on the contract. For example, the majority of medium to longer term contracts may require contract management meetings on a quarterly basis, with short term contracts (less than six months) or higher risk contracts requiring meetings on a more regular basis. It is expected that the number of meetings increases during transition.

A formal agenda is good practice and assists to guide the discussion towards improving contract outcomes. Key contract management meeting outcomes should be documented and readily available for reference.

Generally, if there are no specific performance requirements in the contract:

- goods should be new and unused, fit for purpose and inclusive of manufacturers warranties; and
- services should be provided at a standard expected of an experienced professional supplier of similar services.

Systems for collecting performance data are best established from the commencement of the contract, with the data discussed with all parties during contract finalisation, at any kick-off (start-up) meeting, and at the regular contract management meetings thereafter.

Public authorities should ensure any information they use to assess the supplier's performance is assessed holistically and is accurate, fair and verifiable, particularly if this is used to justify actions available under the contract (such as withholding contract payments).

Public authorities should ensure they have the capability and capacity to collect, understand and interpret the results of the performance data. In some cases (e.g. strategic and complex contracts), an independent assessment, evaluation or periodic audit can assist in determining the extent to which the performance measures have been met. This may be particularly useful where specific international or Australian

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quality standards are required to be met.

Contract Reviews

During the life of the contract, the contract manager should review the contract periodically to assess if the parties are meeting the contract outcomes and whether the contract continues to accurately reflect the public authority's requirements.

Contracts should be reviewed on a regular basis, with the timing and frequency to be commensurate with the contract term, value, complexity, and risk profile. At a minimum, all contracts should be formally reviewed every 12 months.² A low-risk contract might only need that annual review. However, for long-term or high-risk contracts, the public authority might require more frequent performance reviews e.g. quarterly or monthly.

For contracts with a term longer than 12 months, public authorities should undertake an annual assessment to determine whether:

- key targets/deliverables were achieved or are on track to be achieved;
- key targets/deliverables were or are on track to be achieved within the specific timeframe;
- the contract continues to deliver value for money; and
- there is opportunity for improvement and/or innovation.

The *Annual Contract Review Template* can be used.

In addition to the minimum requirements set out in the *Contract Management Policy*, the public authority should undertake a formal review when considering whether to exercise an available contract extension option (i.e. renew the contract) or extend a contract.

External Evaluations

For Complex and Strategic contracts, the effectiveness of the contract may be reviewed through an external evaluation (independent or otherwise). The need for an external evaluation, and any budget implications, should be identified during the procurement planning stage. When considering the need for an external evaluation you should think about:

- the value, complexity and risk profile of the contract
- the importance of the contract outcome relation to the achievement of public authority's strategic priorities
- the opportunities for learning to inform future directions and decision making.

You may require the supplier to deliver an external evaluation as part of their

² In accordance with the Contract Management Policy

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contract. In these circumstances the supplier may contribute some or all of the cost of the external evaluation. Alternatively, the public authority may procure and pay its own evaluator. The evaluation should focus upon the achievement of outcomes, as well as deliverables, targets and milestones that relate directly to the strategic objectives identified in the procurement planning stage.

The benefits of an independent external evaluation can be realised for both the public authority and supplier. They include:

- determining whether the supplier achieved the intended outcomes and/or whether there are opportunities for improvements to be made
- strengthening accountability for the impact and outcome of the contract
- considering if the supplier provided value for money for the public
- influencing policy makers and other funders by using evidence-based evaluation outcomes
- enabling successful goods and services to be considered and applied in different environments and circumstances, or to inform thinking for future procurements.

Industry Participation Policy

The [South Australian Industry Participation Policy](#) (SAIPP) and the [SAIPP Procedural Guidelines](#) outline various requirements of public authorities and suppliers to be applied when undertaking procurements and throughout the contract management process. In particular, the SAIPP requires public authorities to:

- monitor IPP Plan commitments as part of their contract management regimes
- obtain regular reports from contractors
- report on IPP outcomes annually

Contract managers should refer to the SAIPP for further guidance on how meet the policy requirements or contact the Office of the Industry Advocate (OIA) oia@sa.gov.au.

Managing underperformance

When performance issues are identified, it is important that potential risks are promptly communicated and addressed:

Where there is a possibility that the underperformance may result in unsatisfactory outcomes for end-users or there are significant performance issues, a formal performance management process should be undertaken. Formal discussions should take place between appropriate public authority personnel, such as the contract manager, legal, procurement and/or identified subject matter experts such as finance, safety and environment, and the supplier to:

- discuss the specific non-compliance and/or performance issues;
- allow the under-performing party an opportunity to discuss their performance;

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- document an agreed plan of action with the supplier to address the performance issues, including timeframes for implementation;
- agree dates for amended performance review; and
- if necessary, manage disputes and any breach of contract in accordance with the process set out in the terms and conditions of the contract.

In order to provide an official record of the issue and remedies, all performance discussions should be documented in writing through meeting minutes, file notes or follow up email correspondence. This provides necessary evidence for potential contract disputes and contract termination, if required.

Underperformance should not be overlooked for the sake of the supplier relationship. Clear, solution-focused communication that leads to improved performance supports the professional working relationship between all parties.

Note: If the public authority fails to address the non-performance with the supplier, it could inadvertently cause a waiver of that conduct/breach (see section on unintentional variation or waiver through conduct for further details)³.

Complaints Management

End-users may approach the contract manager with complaints about the goods or services provided to them under the contract. It is the contract manager's role to look into the complaint and consider whether it is something that they need to raise with the supplier.

Contract managers should be aware that sometimes a complaint, even though genuine, is not covered by the contract requirements or terms and conditions. For example, a member of staff may complain that the cleaners are not washing dirty dishes in the sink, when this is not a requirement of the cleaning contract.

If there is a complaint, by either the public authority or the supplier, the public authority should:

- follow any processes set out in the contract regarding complaints handling;
- keep records of all conversations with the complainant and supplier regarding the complaint; and
- keep records of all complaints and actions taken to resolve them.

Public authorities should refer to their Supplier Complaints Framework for further details. The *Supplier Complaints Schedule* may also be a useful resource.

Dispute Resolution⁴

The parties typically enter into a contract with an intent to work cooperatively, but there

³ For further guidance refer to the *Contract Extensions and Variations Guideline*

⁴ [practice guide contract dispute resolution ed2 \(nsw.gov.au\)](#)

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can be inherent tension between the primary goals of the public authority and the supplier. The contract manager is working on behalf of the public authority delivering a project with budget constraints. The supplier is seeking financial return from a contract that invariably involves risk. This predisposes the parties to interpret issues in different ways. These situations can lead to differences of opinion between the public authority and the supplier. Differences of opinion are generally resolved through discussion between the contract manager and supplier. However, at times differences of opinion remain and are escalated to a formal dispute. Typical triggers for disputes can include for example:

- financial imperatives
- interpretation of contract documentation
- unanticipated events/circumstances
- unrealised expectations
- unmatched views of the impact of variations.

As these situations divert resources from the original intent of the contract, it is in the interests of all parties to work proactively to prevent disagreements and disputes from festering and to resolve them fairly at the earliest opportunity.

If a dispute about the contract does arise, the public authority should carefully follow the dispute resolution process contained in the contract⁵. This process may include details such as: periods of notice, methods of delivering notices, information about show cause notices, escalation points, or other communication issues.

Contract managers should ensure they read and understand the relevant clauses of the contract before dealing with any issues that arise.

If the public authority recognises and addresses a potential or actual dispute early, it can reduce costs to both parties and helps to maintain a good working relationship. The time, money and resources invested in defending a position should be relative to the magnitude of the amount in dispute.

Formal dispute resolution processes (for example arbitration and litigation) are to be avoided, where possible; and should only be started after attempts to resolve the dispute by negotiation, escalation and mediation have failed to resolve the issues (subject to the processes required in the contract terms).

Contract managers should seek legal advice from the Crown Solicitor's Office, on rights and options, before they take any formal action or make recommendations to relevant delegates.

Termination and legal action are only to be considered as a last resort after all reasonable

⁵ Along with the public authority's own dispute resolution processes where documented

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attempts to resolve the issue have been made. However, the contract manager is always required to protect the interests of the public authority and the government.



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Appendix 1 - Contract Register

The type of information to be captured in a contract register may include:

- Public Authority Reference #ID
- Contract Title
- Market Approach Type
 - Reason for Limited Approach
- Contract Description
- Successful Supplier
- Contract Timelines
 - Date Contract Executed
 - Contract Term (in months)
 - Date Contract Start
 - Date Contract End
 - Date Market Approach Opened
 - Date Market Approach Closed
 - Contract Awarded
- Contract Complexity
- Contract Status
- Contract Risk
- Category Government
- Contract Value (including all extension options and GST)
 - Services:
 - Value of contract
 - % of contract that is services
 - Goods:
 - Value of contract
 - % of contract that is goods
- Location of Supplier
- Location of Supply/Services:
 - % of services delivered in SA
 - % of goods manufactured/produced in SA
- Is this supplier a Not-for-Profit?
 - Mandated DTF Funded Services Agreement used
 - Exemption from using the mandated DTF Funded Services Agreement exists
 - NFP indexation required
 - Mandatory NFP indexation applied
- Does this contract include value or performance targets or KPIs
- Savings / Additional Value Achieved, for example:
 - Unit Cost reduction
 - Improved quality for same price
 - Price saving from collaborative contracts
 - Increased efficiencies (including transactional savings)
 - Total savings achieved
 - Improved service delivery for clients / stakeholders
 - Improved sustainability outcomes
 - Increased employment opportunities - targeted area / cohort
 - Reduced risk or liability position
 - Increased training opportunities - targeted area / cohort
 - Corporate Social Responsibility
 - Increased benefit for regional / small / Aboriginal business
 - Increased engagement with Disability Enterprises
 - Innovative Proposals

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Attachment 1 Roles and Responsibilities

Contract Governance Committee

An oversight or governance committee can be established to oversee contracts of high value, risk or complexity. Membership may comprise senior public authority staff, end-users, business unit representatives, as well as the contract manager. Alternatively, the public authority's existing governance committee (for example, Procurement Governance Committee) may be designated to oversee a specific contract.

Sourcing Lead

The Sourcing Lead is responsible for leading the procurement process including planning and sourcing stages (i.e. the public authority procurement contact person named in the approval to approach the market). The sourcing lead may also be the contract manager. This will depend on the nature of the procurement, the structure of the public authority's procurement and contract management functions, and the complexity of the procurement and contract.

Contract Owner (Project Sponsor)

The Contract Owner is responsible for the strategic oversight of the contract, and achievement of outcomes, and accountable for the budget/cost centre that funds the contract. It should be an authorised person with the authority to commit the funds for the contract, approve contract payments and minor variations. The Contract Owner is also responsible for appointing contract management roles and approving the contract management plan.

It is recommended that the Contract Owner is a senior employee from the business unit who is impacted by the contract outcomes.

Contract Manager

The Contract Manager is responsible for managing the day-to-day activities of the contract and is the single point of contact for suppliers on all contract matters.

The key roles of the contract manager are usually to:

- understand the contract requirements and obligations;
- monitor performance against obligations set out in the terms and conditions of the contract;
- make sure the contract outcomes are achieved;
- ensure performance reports are provided by the supplier;
- conduct contract reviews and post-contract reviews;
- identify opportunities for realising additional value;
- address problems and conflicts that may arise;
- manage, escalate and address contract risks;

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- maintain effective relationships with the supplier and attend regular contract management meetings;
- communicate with end-users, stakeholders and clients;
- certify payments to the supplier for work done (where applicable);
- foster integration and collaboration with other suppliers (where relevant);
- maintain records in sufficient detail to provide an audit trail;
- assess and (where required) seek approval for any variations to the contract; and
- review the contract management plan.

The Contract Manager is recommended to be a representative within the business unit with the relevant technical and interpersonal skills. All Contract Managers need to meet the minimum training requirements of the *Contract Management Policy*.

Contract Administrator

The Contract Administrator performs administrative activities over the contract management lifecycle. The Contract Administrator role is separate from the Contract Manager but may be performed by the same staff member.

Other Stakeholders

Implementing effective contract management strategies involves managing the needs and expectations of internal and external stakeholders who may include end users, customers or clients, suppliers, or specialist advisors. The type and frequency of interaction and communication with stakeholders will vary according to the value, risk and complexity of the contract.

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Attachment 2

- **Transition plans:** If the contract is replacing an existing contract for similar goods or services, the public authority may require a “transition in” plan at the commencement of the contract, both its own actions/responsibilities and a supplier’s transition plan for their responsibilities. Similarly, public authorities, as well as a supplier, may need a plan to “transition out” at the end of the contract. These plans detail transition tasks, timeframes, resources, communications, risks and management strategies. See section below on managing transition issues for further details. Further information on contract transition is provided in the next section.
- **Communications or stakeholder engagement plan:** This formally defines who should be given what information, when that information should be delivered, and what communication channels will be used to deliver the information.
- **Probity plan:** A probity plan details the mechanisms for assuring probity within the management of the contract.
- **Fraud control plan:** This plan details specific fraud risks within contract management and the measures to mitigate the risks.
- **Security plan:** Security risks can arise from the supplier accessing facilities or data or needing to integrate their products with public authority systems etc. The supplier may have to meet very specific security policies and other requirements. A security plan details: mandatory security standards, procedures to be followed, and required risk mitigation measures. It may also cover the protection of personal information and cyber security issues if applicable.
- **Supply chain risks plan (e.g. disruption of supply or modern slavery):** Aspects of the supplier’s supply chain could be geographically, ethically or environmentally unsound particularly in certain industries. A supply chain risk management plan details the procedures for monitoring the supplier’s supply chain and for addressing any identified issues.
- **Disposal plan:** Public authorities are required to dispose of surplus goods in a manner that is lawful, efficient, economical, and ethical. In some cases, the supplier may be contracted for the eventual disposal of the goods, but the public authority will remain accountable for how the disposal occurs. Refer to the *Disposal Guideline* for further information and utilise the *Disposal Plan Template*, where required.

If required, contract managers should draft and agree all necessary plans as early as practicable to guide contract management processes.