



Contract Management

Discussion Paper
November 2009

1. INTRODUCTION

Waste collection contracts are often the largest single commercial contract that Councils enter. They involve substantial expenditure and complex provisions that need to be closely monitored because they facilitate the provision of an essential service to ratepayers. This service must be provided in a fair, effective and efficient manner (see section 8(h) of the *Local Government Act 1999* (SA)). This means that Councils have a duty to ensure that they not only provide this service and achieve best value for money in doing so. This requires Councils to monitor the delivery of waste services by applying sound contract management practices. Utilising effective contract management practices will assist Councils to achieve better outcomes, ensuring that best value for money is achieved and that service quality is maintained.

2. IMPORTANCE OF CONTRACT MANAGEMENT

The aim of contract management is to ensure that services are provided to the required standard, within the agreed timeframe whilst achieving value for money. It is important that contracts are actively managed throughout their life to help ensure contract performance is satisfactory, stakeholders are well informed and all contract requirements are met. This is particularly important with respect to waste contracts where inadequate monitoring of contractor performance can result in:

- 2.1 losses being sustained by a Council due to substandard and/or negligent performance;
- 2.2 loss of reputation and political attention as a consequence of poor service delivery;
- 2.3 damage to the Council's commercial and community credibility through inadequate monitoring; and
- 2.4 damage to the environment from inappropriate waste disposal.

3. CORE TASKS

There are various core tasks that need to be undertaken in effectively managing waste contracts from their commencement. These tasks form the subject of the following discussion.

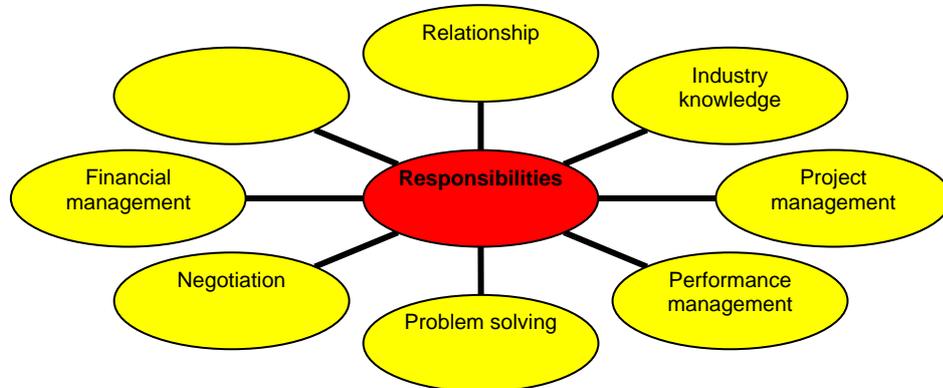
3.1 Identifying and managing risks

It is important that all risks are identified and appropriately managed. Examples of risks that arise in waste contract scenarios include:

- 3.1.1 failure of the Council to have sufficiently skilled and experienced resources to effectively manage the contract;
- 3.1.2 failure of the contractor to provide services on time, to agreed standards and in accordance with the contract;
- 3.1.3 failure by the Council to act on contractor under-performance; and
- 3.1.4 inadequate handling of contract variations.

3.2 Identifying and assigning responsibilities

It is important that Councils internally identify and clearly assign responsibilities for contract management at the outset. These tasks should be assigned in light of the skills and experience required to perform such functions. The successful management of waste contracts will generally require skills and experience in the areas outlined below:



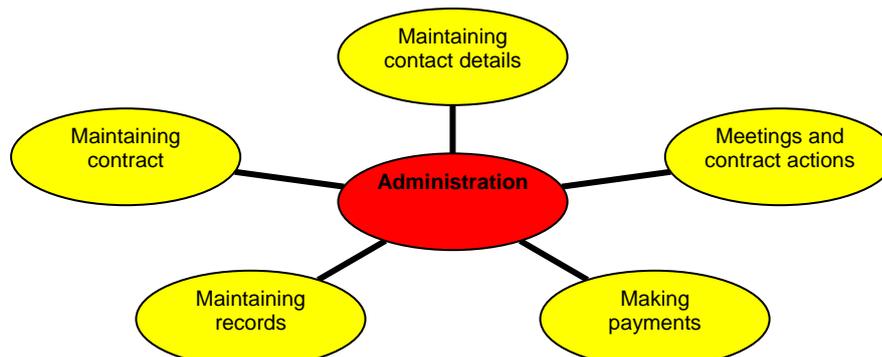
3.3 Managing relationships

Successful relationship management underpins overall successful contract management. It is important to establish and maintain a constructive relationship and regular communications, as the nature of waste contracts means that there is ongoing service delivery. A structured approach to managing relationships should be adopted, comprising of informal, day to day discussions and interactions and formal meetings at pre-determined intervals with nominated personnel from both the Council and the contractor.

Relationships should be managed in a professional manner and be based on cooperation and mutual understanding taking into account the need for probity and ethical behaviour. Maintaining a good relationship does not mean that the terms of the contract are not enforced where this is warranted. It is about enforcing the terms of the contract in a professional manner based on evidence of contractual performance. This requires the establishment and maintenance of an appropriate record trail. What is necessary in the circumstances will vary but the importance of the maintenance of accurate, contemporaneous records to successful contract management cannot be underemphasised.

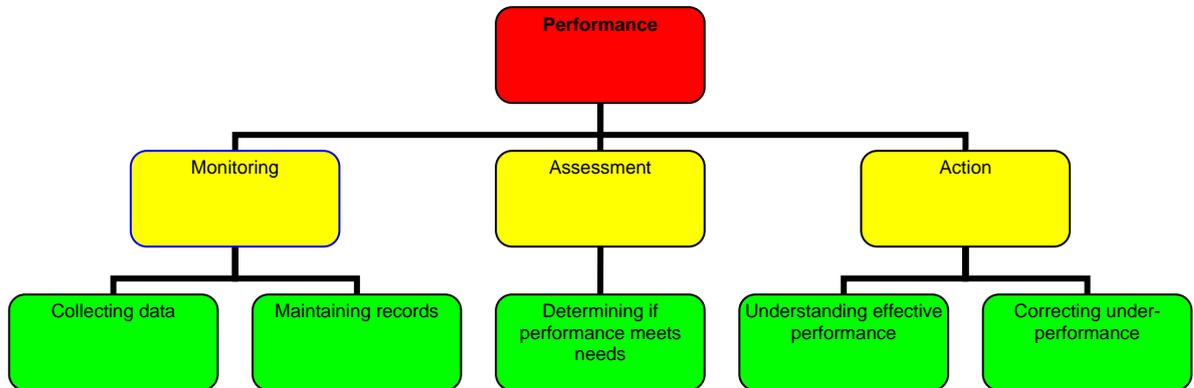
3.4 Administering the contract

Contract administration is an integral and important element of contract management and overlaps with monitoring and performance assessment. It encompasses various activities that need to be completed on a daily basis:

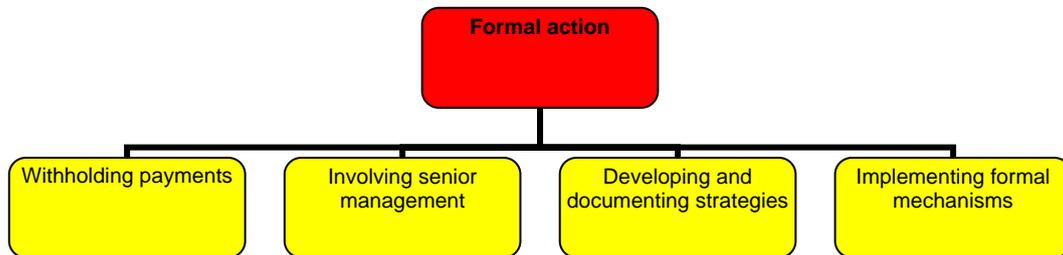


3.5 Managing contractor performance

Performance management must be undertaken throughout the life of the contract. Performance management involves:



At the early stages of under performance, agreeing upon informal remedial action will often be the best and most economical approach. Such action could include replacing or using additional personnel, reporting back more frequently on progress and modifying processes or systems for clarifying the Council's requirements. But depending on the seriousness of the under performance, the action taken may need to be more formal and could include:



3.6 Negotiate contract variations

The ability to vary the contract should be directed and controlled by the Council and should only occur in defined circumstances. It should be noted that it is possible to inadvertently amend a contract by oral agreement or conduct, even where there is a contractual provision expressly requiring a formal process to be followed. Consider the following contract variations checklist:

Contract variations checklist

Key issues to consider in managing contract variations include:

- following the procedures required by the contract;
- assessing the reasons for the proposed variation and whether these may indicate an emerging or actual performance problem;
- assessing the impact of the proposed variation on the contract deliverables, particularly whether the variation or the work it represents is actually required and whether it was part of the original contract deliverables;
- determining the effect the proposed amendment will have on contract price;
- considering the authority for making the variation;
- properly documenting details of the variation and its impact; and
- meeting any reporting requirements.

4. CONCLUSION

Waste collection is an essential service for ratepayers. Councils need to manage waste contracts carefully as any problems with the performance of contractors can create substantial difficulties for Councils. Councils must respond appropriately to evidence of such behaviour in order to ensure the appropriate and effective delivery of the essential service. In order to do this, Councils should develop formal systems for monitoring and reviewing all contracts. The level of complexity should depend on factors such as the value of the contract and the nature of the services being performed. The monitoring system should be developed and clearly communicated to potential contractors prior to Councils entering into contracts.