

Administrative Policy No. 13.11

Subject:	Monitoring Contractor Performance
Information Contact:	Central Contracts and Legal Services MS 45811 http://one.dshs.wa.lcl/fs/oss/ccs/Pages/default.aspx
Authorizing Sources:	Chapter 39.26 RCW , Procurement of Good and Services Chapter 39.34 RCW , Interlocal Cooperation Act Chapter 43.19 RCW , Department of Enterprise Services
Effective Date:	April 17, 2000
Revised:	April 8, 2016
Approved By:	<u>Original signed by Dana Phelps</u> Acting Assistant Secretary, Services & Enterprise Support

Purpose

This policy establishes requirements for monitoring DSHS contracts.

This policy, and any procedures or guidelines referenced, is intended for internal use only. The policy is not intended, nor can it be relied upon, to create any substantive or procedural rights enforceable by any party involved in matters with DSHS.

Scope

This policy applies to all client service contracts, professional (personal) service contracts, operational (purchased) service contracts, data sharing agreements, and interlocal agreements.

This policy does not apply to:

1. Quality assurance reviews through facility licensing or certification processes, unless the Administration specifically designates in writing that the reviews are intended as contract-monitoring activities.

2. Leases, easements, or contracts to purchase land or buildings. For contracts relating to these types of agreements, contact the [Operations Support and Services Division](#).

Additional Guidance

For further information, please refer to the following DSHS Administrative Policies:

- [13.08 Purchased Goods and Services](#)
- [13.10 Central Contracts and Legal Services](#)
- [13.13 Insurance Requirements for Contracts](#)
- [16.05 Enterprise Risk Assessment and Self-Evaluation](#)
- [19.50.30 Subrecipient Monitoring, Fiscal Process](#)

Definitions

Administration means the affected DSHS Administration, division, office, or program.

Agency Contracts Database (ACD) is the DSHS electronic enterprise information system used for the creation, tracking and monitoring of all DSHS client service, operational (purchased) service, professional (personal) service contracts, data sharing and interlocal agreements.

Central Contracts and Legal Services (CCLS) means the statewide DSHS headquarters contracting office in the Operations Support and Services Division, Fiscal Administration.

Client service contract means a contract for services provided directly to DSHS clients. (See RCW 39.26.010[4]).

Contract management means day-to-day activities related to contracting out services, including contractor screening, contractor selection, contract preparation, and monitoring contractor performance.

Data sharing agreement means any agreement between the department and one or more external entities for the sharing and safeguarding of electronic data. Data sharing agreement does not mean an agreement to lease or purchase computers or other IT equipment.

Interlocal agreement means a contract or agreement between DSHS and any public agency, political subdivision, or unit of local government including, but not limited to: municipal corporations, quasi-municipal corporations, counties, special purpose districts, and local service districts; any agency of state government; any agency of the United States; any Indian Nation recognized as such by the federal government; and any political subdivision of another state. [chapter 39.34 RCW](#), Interlocal Cooperation Act, governs interlocal agreements.

Monitoring includes any activity that reviews and evaluates contractor performance and compliance with the terms, conditions, and requirements of a contract.

Monitoring guidelines means an Administration's written internal policies and procedures used to: identify program risks; establish contractor performance monitoring practices; and assign staff to conduct risk assessments, develop monitoring plans, and carry out monitoring activities.

Operational (purchased) service contract means a contract for services to accomplish routine, continuing, and necessary functions. These services include, but are not limited to equipment maintenance and repair; janitorial services; security; computer hardware and software installation and maintenance; data entry; and, programming services (see chapters 39.26 and 43.41A RCW).

Professional (personal) service contract means a contract for services that are provided to DSHS, and that accomplish a specific study, project, task, or other scope of work. (RCW39.26.010 [21]), see "Services;" under chapter 39.26 RCW, there is no distinction between purchased and personal service contracts.

Risk assessment is the process of assessing DSHS' or its clients' exposure to harm or loss that could arise from activity associated with a contract for services by evaluating risk factors associated with the contracted activity and a proposed contractor.

Risk factors are circumstances that may increase the likelihood that the contractor will not meet the goals of the contract or will not provide contracted services safely, effectively, and efficiently.

Service means tasks or actions performed by the contractor in order to comply with the contract statement of work.

Policy:

A. Monitoring Client Service Contracts, Professional (Personal) Service Contracts, Operational (Purchased) Service Contracts, Data Sharing Agreements, and Interlocal Agreements.

Administrations must:

1. Require staff who monitors contractor performance to complete all relevant CCLS Contracts Academy and DES Procurement training courses.
2. Develop written contract monitoring guidelines consistent with this administrative policy.
3. Submit guidelines to the CCLS Chief within 90 days of this policy's effective date and submit any changes to an Administration's guidelines within 30 days of the change.

4. Conduct a risk assessment of each service or group of similar services for which the Administration contracts. Risk Assessments must include, at a minimum, the following Service Level Core Risk Factors:
 - Client Health and Safety: The degree to which clients will be subjected to risks to their health and safety based on either the nature of the service or the vulnerability of the clients.
 - Program/Service History: The measurement of risk associated with programs or services that are new, modified, or high profile.
 - Complexity of Service: The measurement of risk associated with the contracted service as indicated by such things as: a statement of work with multiple components, the need for specialized skills, complex service requirements, the level of internal contract management, services that are critical to the agency mission, and the need for a high level of detail.
 - Financial: The measurement of risk associated with funding such as funding amounts, funding requirements, federal funding issues, and subrecipient status.
 - Data sharing: The measurement of risk associated with electronic sharing of confidential or protected health information with an entity external to the department.

5. Conduct a risk assessment for each individual contract. Risk Assessments must include, at a minimum, the following Contractor/Contract Core Risk Factors:
 - Contractor Experience: The measurement of risk associated with the experience of the contractor in providing the services for which the contract is written.
 - Performance History: The measurement of risk associated with compliance issues that resulted in known audit findings, litigations, revoked licenses, terminations for default, or corrective actions against the contractor.
 - Multiple Contracts/Funding: The measurement of risk associated with the number of different funding sources, including other contracts with other programs within the department and other state agencies.
 - Subcontracting of Services: The measurements of risk associated with a contractor subcontracting out key activities and their ability to monitor the subcontractor's performance.

6. Develop an appropriate monitoring plan for each contracted service. A sample monitoring plan is available on the CCLS website under [Contract Monitoring](#).

Monitoring plans must:

 - a. Include a brief description of the type of services contracted.
 - b. Include a brief description of the contract.

c. Identify specific monitoring activities designated staff will conduct. In determining the activities, the staff must:

- Identify risk factors considered in the risk assessments for the service and on the specific contractor.
- Describe the frequency and method of monitoring activities.
- Identify monitoring activities that are mandatory based on program requirements.

B. Entering monitoring activities in the ACD

Staff responsible for monitoring contractor performance, with the exception of those exempted in the Scope of this policy, must enter into the ACD monitoring activities as specified in the respective plans.

C. CCLS Responsibilities

1. CCLS must provide relevant training, consultation, and technical assistance related to monitoring contractor performance.
2. The CCLS Chief may waive, on a case-by-case basis, any of the requirements in this policy.

For further specific guidance, Administrations may contact [CCLS](#).