

Project Summary Report

Court Security and Custodial Services Contract

NOVEMBER 2016



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1 Foreword

This project summary focuses on the procurement process and contractual arrangements for commissioning a service provider under the *Court Security and Custodial Services Act 1999* (the Act).

The security of courts, the safety of court users and the safety and security of persons in custody, including those in courts, police lock-ups or who are being transported, are elements of the justice system in Western Australia (WA). The aim of the Court Security and Custodial Services (CS&CS) contract is to enhance community safety through the efficient and effective delivery of such services.

Public expectations for these services are understandably high. This includes the expectations that the community will be kept safe and protected from offenders, the welfare and safety of persons in custody will be maintained at all times, and the community can participate openly and safely in court processes.

The service specifications for the new CS&CS contract are based on the rehabilitative philosophy of the Department of Corrective Services (the Department) and include high standard of care for persons in custody. Under the contract, the needs of individuals in custody will be assessed and responded to, including the needs of Aboriginal people, women with the care of infants and people with medical, mental health or other specific needs.

A competitive tender process was used to identify the provider best placed to deliver services via the best value for money solution. Under the new contract more services will be delivered at a lower cost.

Please note this Project Summary Report should not be relied on as a complete description of the rights and obligations of the parties to the project and is not intended for use as a substitute for the contract documents.

2 Background

The Act was enacted on 18 December 1999 and provides for the administration of court security and custodial services and the powers of parties in relation to these services.

Statutory responsibility for the administration of services covered by the contract has rested with the Commissioner of Corrective Services, as Chief Executive Officer of the Department, since 2000.

The Act enables the State to enter into contracts with the private sector for the delivery of services, with the Commissioner of Corrective Services as Principal to the contract. Services under the contract are provided to the Department, the Department of the Attorney General and the Western Australia Police (WA Police).

2.1 Standing Committee on Public Administration Report

In June 2016, the Standing Committee on Public Administration tabled in Parliament its report on the Inquiry into the Transport of Persons in Custody. The inquiry focussed on the CS&CS contract held by Serco (Australia) Pty Ltd (Serco).

The report found that it was appropriate for the contract to be re-tendered. It also made a number of findings and recommendations for changes to the scope and operation of the contract. Specifications in the new contract have addressed a number of these recommendations, as outlined below.

- **Governance** – Governance arrangements are written in to the contract to ensure appropriate oversight, transparency and communications between all parties. The contract will be administered by a contract management team within the Department.

- **Efficiencies** – The contract provides a range of operational efficiencies to improve the functioning of courts, police lock-ups and prisons. Performance indicators under the contract will include demonstration of these efficiencies, along with the secure and humane treatment of persons in custody.
- **Increased scope** – The contract provides a range of additional services, some at no extra cost, as well as a locked in price for optional services which are pending a value for money assessment. Improved pricing mechanisms will allow additional services to be purchased by the State if volumes increase, without prohibitive pricing bands being applied.

These are expanded at Section 8.

3 Objectives

The project objectives which align with the Department’s 2015-18 Strategic Plan are to provide:

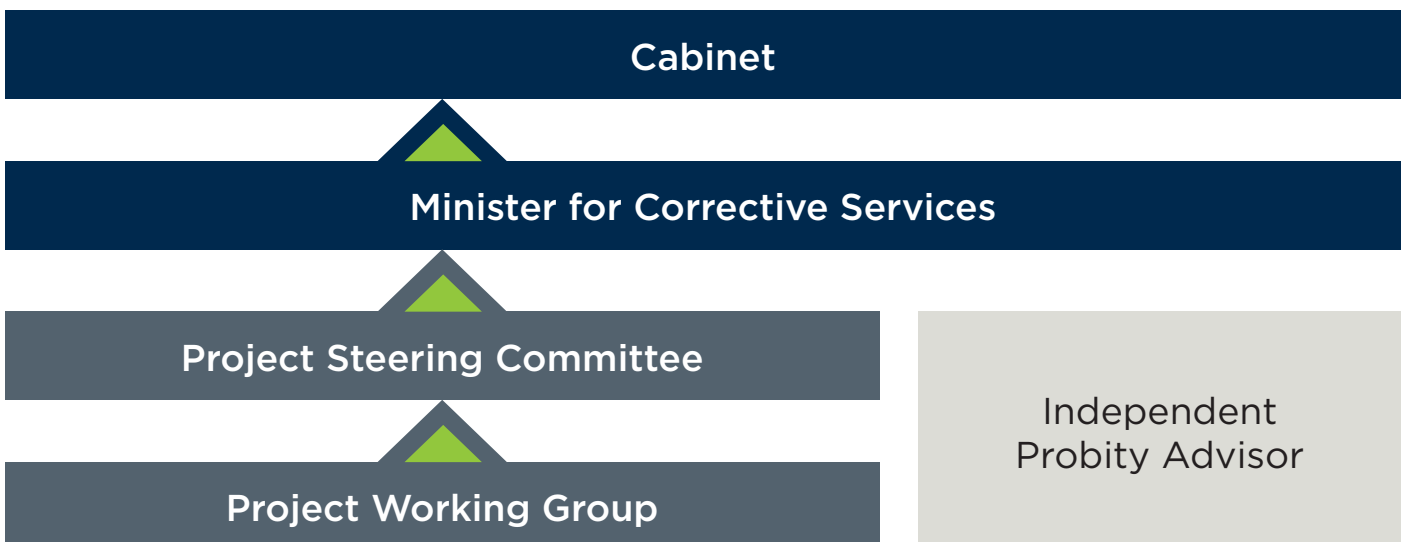
- the public with secure and appropriate court security services, custodial services and movement services that are cost efficient and effective;
- persons in custody with proper care whilst under the control of the contractor;
- contractor services which are fit for purpose and meet the requirements of:
 - the Act;
 - relevant policies, procedures and standards; and
 - other such minimum standards as determined by the State; and
- an integrated service for specified movements, across the Department, WA Police and the Department of the Attorney General.

4 Governance

On 19 October 2015 Cabinet approved the establishment of a Project Steering Committee to provide leadership, guidance and oversight of the project.

The Project Steering Committee:

- reports to the Minister for Corrective Services;
- is chaired by the Commissioner of Corrective Services;
- is comprised of senior representatives from the Department, the Department of Treasury, the Department of the Attorney General, the State Solicitor’s Office and WA Police; and
- is supported by a Project Working Group comprising subject matter experts.



5 Procurement Process

The decision to re-tender the contract is consistent with the recommendations arising from the Economic Regulation Authority's *Inquiry into the Efficiency and Performance of Western Australian Prisons – Final Report*¹, that creating greater competition for the contract and more choice in the number and type of providers will encourage better overall performance. It is also consistent with the findings of the Standing Committee on Public Administration's report on the *Transport of Persons in Custody*.

The Department undertook an open and competitive procurement process in accordance with relevant State tendering guidelines. This included the elements described below.

5.1 Planning and Scoping

The Department, WA Police and the Department of the Attorney General were responsible for identifying, scoping and, where time and data constraints allowed, conducting value for money assessments on services to be included in the new contract. Items were prioritised according to their importance to the relevant agency.

Options for the procurement process were then developed taking account of timing, budget and the projected demand for services.

On 14 December 2015 Cabinet approved the recommendation of the Project Steering Committee to commence a single stage procurement process within the existing budget, to be completed in October 2016.

5.2 Procurement Plan

The Procurement Plan was informed by several of sources including:

- State Supply Commission policy;
- subject matter experts at the Department, WA Police and Department of the Attorney General;
- relevant independent reviews and inquiries; and
- market testing undertaken for the mid-term review of the previous contract, which found that there was substantial private sector interest.

The State Tenders Review Committee endorsed the Procurement Plan on 13 January 2016.

¹8 October 2015

5.3 Request for Tender Phase

The Request for Tender (RFT) was released on 26 February 2016, and included:

- detailed service requirements;
- commercial requirements; and
- legal requirements.

A mandatory industry briefing session was held for potential Respondents in March 2016.

5.3.1 Interactive Tender Process

During the RFT phase, opportunities for potential Respondents to gain a better understanding of the requirements of the tender and minimise the risk of the current contractor having an unfair competitive advantage, included:

- site visits at key delivery locations including Hakea Prison, and the Supreme (Stirling Gardens), Cathedral Precinct (David Malcolm Justice Centre and State Administrative Tribunal), Family, Fremantle and Geraldton Courts²;
- inspection of metropolitan-based vehicles which were representative of the fleet under the existing contract; and
- workshops with the Department to clarify proposal requirements.

5.4 Evaluation Process

All proposals were assessed against the criteria set out in the RFT to determine the best overall value for money solution. The evaluation process included the following elements.

5.4.1 RFT Evaluation

Proposals were received on 17 June 2016 and evaluated against a range of qualitative and quantitative criteria which considered the following:

- Organisational Capacity and Service Management;
- Methodology for and Experience in providing Court Security Services;
- Methodology for and Experience in providing Custody Services;
- Methodology for and Experience in providing Movement Services;
- Sustainability;
- Financial Capacity;
- Pricing Criteria;
- Proforma Contract Acceptance;
- Optional Services; and
- Value for Money.

A panel of senior State representatives undertook the evaluation. The panel included:

- Executive Director, Strategic Capability and Review Division, Department of Corrective Services;
- Deputy State Solicitor Commercial, State Solicitor's Officer;
- Director, Performance and Evaluation, Department of Treasury;
- Deputy Commissioner, Regulation and Operational Services Division, Department of Corrective Services;
- Superintendent, Executive Services, WA Police; and
- Director, Court Risk Assessment, Department of the Attorney General.

² The District Court was not included in this process as security for this court is managed via a separate Public Private Partnership arrangement with Western Liberty Group.

5.4.1 RFT Evaluation continued...

The Evaluation Panel was supported by two sub-panels which focussed respectively on Operational and Commercial and Legal criteria. These panels included public sector experts with significant experience working in service delivery across the client agencies, as well as State advisors.

The Project Steering Committee accepted the recommendation of

the Evaluation Panel to appoint Broadspectrum (Australia) Pty Ltd (Broadspectrum) as the Preferred Respondent and Serco as Reserve Respondent. This recommendation was approved by Cabinet and, on 31 August 2016, the Minister for Corrective Services announced the appointment of Broadspectrum as the Preferred Respondent to proceed to contract negotiations.

5.4.2 Internal Cost Model

An Internal Cost Model (ICM) was developed and represents the risk adjusted cost to the State of delivering services covered by the contract, based on the most efficient public sector approach. The ICM was considered by the Evaluation Panel and Project Steering

Committee to determine whether private or public sector options represented the best value for money.

The table below provides a comparison of the risk-adjusted cost of Broadspectrum's bid with the risk-adjusted cost of public sector delivery of the services.

Assessment	Contract Year 1	5 Year NPV ³	10 Year NPV	15 Year NPV
Risk-Adjusted Broadspectrum Bid	\$54,903,735	\$253,280,572	\$520,880,213	\$813,566,529
Risk-Adjusted ICM	\$67,181,442	\$324,674,015	\$664,082,877	\$1,013,342,128
Saving	\$12,277,708	\$71,393,443	\$143,202,664	\$199,775,600

5.4.3 Value for Money

The evaluation process for the project sought to identify the best overall value for money solution. The concept of value for money goes beyond the selection of the lowest price solution, focusing on the overall value of each delivery option. This

involved a careful comparison of public-sector delivery options against each proposal received. The analysis considered quantifiable elements (i.e. items that can be quantified in dollar terms) as well as qualitative considerations.

³Net Present Value

5.4.4 Probity

The procurement and evaluation processes were undertaken within a robust probity framework in accordance with the following principles:

- fairness and impartiality;
- use of a competitive process;
- consistency and transparency of process;
- security and confidentiality;
- identification and resolution of conflicts of interest; and
- compliance with State policies as they apply to tendering.

Key evaluation activities were monitored by an independent probity advisor from Stantons International. This involved monitoring, assessing and providing probity advice to address any anomaly in the procurement process. A probity certificate was issued confirming compliance with the probity framework and State Supply Commission guidelines on 21 October 2016.

6 Negotiation

A Negotiation Panel comprising members from the Department, State Solicitor's Office and Department of Treasury, led negotiations with Broadspectrum to address all outstanding issues and finalise the Project documents.

The Commissioner of Corrective Services and Broadspectrum signed a Services Agreement on 27 October 2016. The Minister issued a press statement on the Agreement on 28 October 2016.

7 Timetable

Details of the timing of the procurement process are provided in the timetable below.

Phase	Description	Date
Approval and Planning Phase	Minister announced contract with Serco would not be extended	16 June 2015
	Cabinet approved establishment of Project Steering Committee and approved funding for project costs	19 October 2015
RFT Phase	Cabinet approved procurement process	14 December 2015
	RFT released	26 February 2016
	Mandatory industry briefing session	14 March 2016
	Site visits commenced	18 March 2016
	Vehicle inspection	20 March 2016
	Site visits completed	22 March 2016
	Interactive tender workshops commenced	27 April 2016
	Interactive tender workshops completed	3 May 2016
	Deadline for lodging Proposals	17 June 2016
Contract Negotiation Phase	Minister approved Preferred Respondent	29 August 2016
	Broadspectrum announced as Preferred Respondent	31 August 2016
	Negotiations commenced	16 September 2016
	Minister approved final terms of the Agreement	27 October 2016
Transition Phase	Contract executed/signed	27 October 2016
	Transition commences	28 October 2016
Service Commencement	Transition completed	23 March 2017

8 Court Security and Custodial Services Contract

The *Court Security and Custodial Services Contract* delivers a significant value for money outcome for the community. More services will be provided to a higher standard, and at a lower cost. Key elements of the new contract are described below.

8.1 Security

The contract obliges Broadspectrum to minimise the risks to the community, staff and persons in custody in delivering the services.

- Broadspectrum's control centre will integrate with the Department's Coordination Centre to provide 24 hour centralised oversight of all movements of persons in custody.
- The new role of Principal Movements Officer at the Department will work with Broadspectrum, the Department of the Attorney General, WA Police and the contract management team to ensure all movements of persons in custody are managed effectively.
- Risk management mechanisms for all services will be continuously reviewed and updated in response to new intelligence.
- A flexible group of mobile staff will be available to provide additional support where needed to meet volume fluctuations and address risks at metropolitan and regional courthouses.
- An integrated information technology platform will be used to allow the rapid collection and dissemination of data about persons in custody and their movement, and information and intelligence about any court user of interest who creates an elevated risk in managing court security and court custody.

8.2 Duty of Care

Services will focus on the human dignity, security and welfare of persons in custody, and will be in-line with the rehabilitative philosophy of the Department.

- Contract workers will be trained to create a pro-social and empathic environment. Contract workers will:
 - address persons in custody by name and with courtesy;
 - clearly identify themselves and their role;
 - provide persons in custody with information about processes and what to expect;
 - manage toilet visits and hospital sits as discreetly as possible; and
 - not subject persons in custody to harsh or degrading treatment.
- Disturbances will be de-escalated with the minimum amount of force necessary to maintain safety and security and restraints will only be used when required.
- Services will be responsive to the needs of people from diverse cultural backgrounds, with particular regard for Aboriginal people.

8.2 Duty of Care continued...

- Contract workers will assess and respond to the specific needs of persons in custody, including:
 - the needs of people with disabilities;
 - paediatric support for persons caring for an infant during transportation or court appearances; and
 - medical and mental health needs, including the risk of self-harm.
- The environment in which persons are in custody will be safe, secure and as comfortable as possible and regular welfare checks will be undertaken.

Where persons in custody are being transported in a secure vehicle, welfare checks will be undertaken every 15 minutes, at a minimum.

- Where practicable the shortest possible route will be taken when transporting persons in custody to minimise time spent in transit.
- The clearance of additional non-hub police lock-ups under the contract will reduce the time that people spend in these short-term custody environments.

8.3 Value for Money

In-line with the recommendations of the Standing Committee on Public Administration, the new contract delivers an expanded scope of services and operational improvements at a reduced cost.

The contract provides the best value for money option for the people of WA based on risk, cost and quality of service.

- Operational efficiencies under the new contract mean that it will be delivered for around \$36.8 million⁴ less than the current contract. This equates to a saving of around 18 per cent or \$11 million per annum.
- The following services will be provided under the contract at no additional cost:
 - the clearance of additional regional police lock-ups in Fitzroy Crossing, Cue, Mount Magnet, Mullewa, Kambalda, Leinster, Cranbrook, Mount Barker, Tambellup, Wagin (a total of 23 locations under the contract); and
 - additional custody and dock-guard services at regional courts in Esperance, Fitzroy Crossing, Katanning, Meekatharra, Merredin, Narrogin and Newman.
- Additional clearance services from the Perth Watch House will be provided to the Rockingham and Mandurah police lock-ups.
- Improved pricing models will more accurately reflect demand, delivering cost savings for the State if volumes increase and additional services are required.
- Stronger variation clauses will allow services to be modified as demand changes.

⁴ Over the forward estimates period.

8.4 Innovations

The contract provides innovative ways to deliver services to a high quality.

- Concierge services will be provided at the Supreme Court Stirling Gardens.
- Contract workers will undergo court etiquette training to enhance the effective functioning of the courts.
- Under a financial incentive regime up to 5 per cent of Broadspectrum's monthly contract fee will be based on demonstration of outcomes, to drive performance under the contract.

8.5 Optional Services

The contract includes a locked-in price for six months for court custody services at Kununurra, South Hedland, Carnarvon and Geraldton, which were included as optional services in the RFT.

This will allow the State to undertake a value for money assessment of the proposal, to inform a decision about whether to buy these services.

8.6 Operation Period

The contract provides for an operation period of up to 15 years.

- The initial term will be for five years with the option to extend the contract for a further two consecutive terms of up to five years each.
- The Department will undertake a mid-term review of contract performance during the initial five year term.

9 Transition Phase

Broadspectrum will commence delivery of services on 24 March 2017. As Principal to the contract, the Commissioner of Corrective Services will lead the transition of services from the current contractor Serco, to Broadspectrum, with support from subject matter experts from the Department, WA Police and the Department of the Attorney General.

Risk and quality assurance checks and mitigation plans have been developed to ensure that services continue to be delivered and that the safety and security of the community, staff and persons in custody are maintained throughout the transition phase.

“How people are treated in custody reflects a society’s commitment to the universality of human rights. Custodial settings epitomise the challenges of balancing security and community safety with respect for and compliance with human rights.”

Associate Professor Bronwyn Naylor, Monash University and Dr Inez Dussuyer

in Getting the Balance Right: Protecting human rights in custodial settings, Presentation at the Australia and New Zealand Society of Criminology Conference, Canberra 2008

“Contestability is founded on the principle that competition (or the credible threat of competition) is better than monopoly, whether the provider is public, private or not-for-profit.”

Gary L. Sturgess

Contestability in Public Service: An alternative to Outsourcing, Australia and New Zealand School of Government, 2015

