



Government of **Western Australia**
Department of **Corrective Services**

ANNUAL REPORT 2012/13

CBD Courts Project Contract

This Report covers the operation of the CBD Courts Project Contract as it pertains to Court Security and Custodial Services.

30 September 2013



Government of **Western Australia**
Department of **Corrective Services**

CBD Courts Project Contract

Annual Report 2012/13

Hon Joe Francis MLA
Minister for Corrective Services

In accordance with section 45 of the *Court Security and Custodial Services Act 1999* (the Act), I hereby submit for your information and presentation to Parliament the 2012/13 Annual Report of the CBD Courts Project Contract. This report pertains to the provision of court security and custodial services under the CBD Courts Project Contract Public Private Partnership with Western Liberty Group Pty Ltd (Western Liberty Group).

Under section 45 of the Act, the Chief Executive Officer of the agency principally assisting the Minister for Corrective Services, is required to submit to you by 30 September each year a report on each contractor who provided services under a contract in the preceding 12 months.

This report presents an overview of services provided under the CBD Courts Project Contract by Western Liberty Group through their contractor G4S Custodial Services Pty Ltd (G4S). While G4S perform the services, the State's contract is with Western Liberty Group. This is reflected in the Annual Report through reference to Western Liberty Group in the main, with such references to be read as including G4S.

Compliance information and statistical information in the report are presented for the period 1 July 2012 to 30 June 2013

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October 2013

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1. FOREWORD AND COMMISSIONER'S MESSAGE

The court security and custodial services provided under the CBD Courts Project Contract include services provided at both the District Court Building and the Central Law Courts. These two sites represent the bulk of court security and court custodial workload in the Perth metropolitan area. These services are part of a broader range of services provided by Western Liberty Group to the Department of the Attorney General as part of the CBD Courts Project Contract Public Private Partnership. I have delegated all the functions under the *Court Security and Custodial Services Act 1999* (the Act) in relation to the relevant sections of the CBD Courts Project Contract Services Agreement to the Executive Director Court and Tribunal Services of the Department of the Attorney General.

The CBD Courts Project Contract represents a unique model for the procurement and provision of court security and custodial services for the State of Western Australia through the amalgamation of service provision with the design, construction, maintenance and operation of the facilities in which the services are provided. To date, the project has resulted in the provision of high quality court custody and security services in the District Court Building and Central Law Courts Building.

The provision of services under the Public Private Partnership has now been in operation for over five years. During the first year of operation a number of service delivery problems were encountered. Many of these initial difficulties resulted from the initial learning period and transition to the new facilities. I am pleased to report that there has been a trend of continuous improvement with the level of service provided in the 2012/13 reporting period. This has been achieved through a positive working relationship and the continued application of detailed performance linked indicators that provide comprehensive coverage of the standard of services to be provided by the contractor.

The improvement in service delivery to date and the ongoing relationship building between the State and Western Liberty Group stand the partnership in good stead for continued success into the future.

Heather Harker
A/COMMISSIONER
DEPARTMENT OF CORRECTIVE SERVICES

2. EXECUTIVE SUMMARY

The provision of services under the CBD Courts Project Contract commenced on 3 June 2008. The 2012/13 year was the fifth year of full operation under the Services Agreement with Western Liberty Group for the provision of court security and custodial services at the District Court Building and the Central Law Courts. This year saw continued improvements in service delivery compared with the previous reporting periods.

The Principal of the Services Agreement under the contract is the Commissioner of the Department of Corrective Services. Pursuant to section 20(1) of the Act, the Commissioner delegated contract management responsibilities to the Executive Director Court and Tribunal Services of the Department of the Attorney General.

In managing the Services Agreement, the Department of the Attorney General actively monitored, managed and reported on Western Liberty Group's performance during 2012/13. The Contract Management Branch of the Department of the Attorney General met and communicated with Western Liberty Group on a regular basis to deal with contractual and operational issues. Executive and strategic oversight was provided by the CBD Courts Project Management Board in accordance with the established governance arrangements for the contract.

Western Liberty Group's performance in 2012/13, in terms of financial abatements that were applied, continued to improve. In that respect during the 2012/13 reporting period Western Liberty Group incurred financial abatements of \$144,630, compared with \$332,048 in financial abatements in 2009/10, \$261,986 in 2010/11 and \$158,692 in 2011/12. The level of service provided by Western Liberty Group is not measured solely by the number of abatements applied during the reporting year. Various stakeholder satisfaction of Western Liberty Group's performance was positive and, overall, security and custodial services provided by Western Liberty Group were of a high standard. However, this was blemished by three instances where there were major performance issues resulting in persons in custody having escaped under the definition of the contract, albeit that they were apprehended shortly after without any further incident.

In assessing service delivery failures and the application of abatements during 2012/13, the Department of the Attorney General gave consideration to the impact on court operations, the level of operational risk involved and the need to provide a commercial incentive for Western Liberty Group to improve performance. This meant that abatements were not applied to a considerable number of non-critical service failures in recognition of the need to balance financial penalties with the materiality of individual service failure incidents.

A total of 59,406 persons in custody hours were serviced under the contract during the reporting period, which was below the contractual lower band estimate of 64,163. This was primarily the result of improvement in the processing of persons in custody as reflected by the average court custody duration of 4.98 hours per person, compared with the 2004 model average of 5.4 hours per person.

The gross cost of this service was \$9,390,679 (ex GST), which was approximately \$213,068 below the Department of the Attorney General's budget allocation.

3. BACKGROUND

In June 2005, the State entered into a 27 year Public Private Partnership with Western Liberty Group for the provision of facilities and services associated with the operation of courts in the Perth Central Business District (CBD). This initiative is referred to as the CBD Courts Project. The contract with Western Liberty Group is comprised of two major and separate components, namely the Facilities Agreement and the Services Agreement.

The Facilities Agreement requires Western Liberty Group to design, construct and maintain the following:

- District Court Building and pedestrian tunnel under Hay Street to the Central Law Courts (Stage 1);
- Custodial areas of the Central Law Courts (Stage 2); and
- Security systems in the Central Law Courts (Stage 3).

Construction of the District Court Building and the Central Law Courts custodial area was completed during 2008. Construction of the Central Law Courts security systems was completed in April 2010.

The Services Agreement requires Western Liberty Group to provide the following services:

- Custody services within the District Court and Central Law Courts;
- User management and court security services within the District Court and Central Law Courts;
- Court recording and transcription services and court booking services within the District Court Building only;
- Hard and soft facility management services for the District Court Building and Central Law Courts custodial area and security systems; and
- Court room booking services.

Services provision under the Services Agreement began on 3 June 2008 following completion of the District Court Building. Performance of the court security and custodial services is subject to the requirements of the *Court Security and Custodial Services Act 1999* (the Act) and is subcontracted to G4S Custodial Services Pty Ltd (G4S). While G4S perform the services, the State's contract is with Western Liberty Group Pty Ltd. This is reflected in this report through reference to Western Liberty Group in the main, with such references to be read as including G4S.

This report is submitted in accordance with Section 45 of the Act for the period 1 July 2012 to 30 June 2013.

4. ACHIEVEMENTS AND ACTIVITIES

A. Contract Governance

The governance arrangements for the Services Agreement consist of a committee structure as contemplated by the Services Agreement, management delegations from the Principal of the Services Agreement and documented roles and responsibilities for individual executive and management positions within the Department of the Attorney General.

The committee structure is outlined below.

Title	Chairperson	Focus
Management Board	Director General (DotAG)	Contract strategic direction, governance and performance (meets biannually)
Management User Group	Chief Judge (District Court)	Operational service delivery requirements and standards (meets monthly)
Working Committee	CBD Courts Project Contract Administrator (DotAG)	Contract management and service provision (meets every two months)

The Principal of the Services Agreement is the Commissioner of the Department of Corrective Services. The Commissioner has delegated contract management responsibilities to the Executive Director, Court and Tribunal Services of the Department of the Attorney General, pursuant to section 20(1) of the Act.

B. Contract Management

Contract management associated with the Services Agreement is undertaken by the Court and Tribunal Services division of the Department of the Attorney General. The Contract Management Branch actively monitors, manages and reports Western Liberty Group's performance at the contractual level while also endeavouring to foster a long term cooperative relationship to ensure the partnership is a success for both the State and Western Liberty Group. Members of the Branch team meet and/or communicate with Western Liberty Group on a daily basis to deal with contractual and operational issues as they arise and develop strategies for service improvement.

The Contract Management Branch has developed a comprehensive contract management plan. The core processes addressed by the contract management plan and associated working documents relate to:

- performance reporting and monitoring;
- relationship management, dispute resolution and issue management;
- governance, probity and compliance;
- knowledge and information management;
- change management;
- contingency planning; and
- ongoing review.

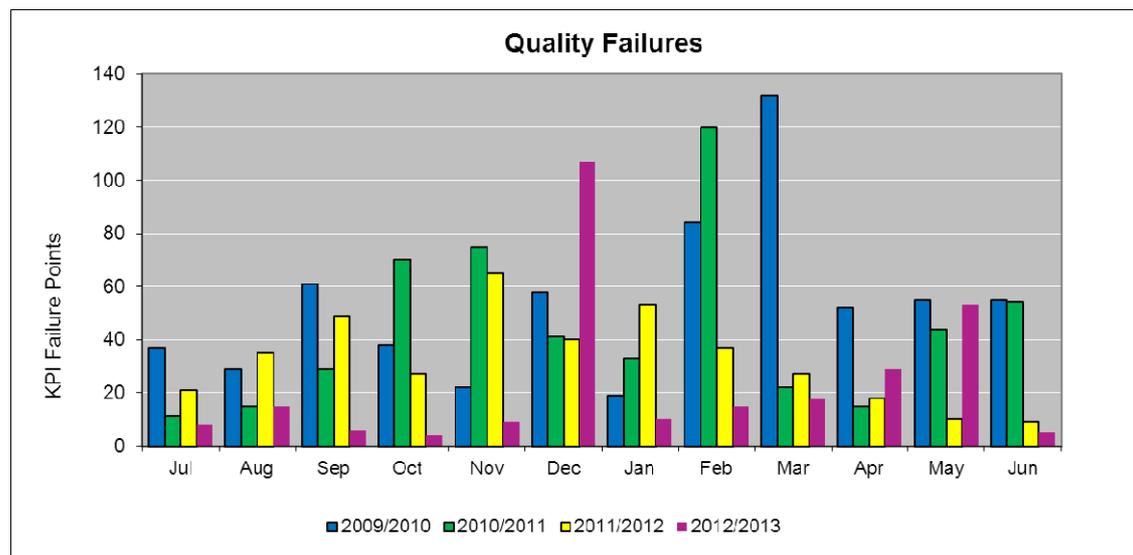
In undertaking specific monitoring of the services provided under the Act, the contract management team uses information from a range of sources. These include:

- reviewing data on custody hours, movements and incidents from the Custodial Services Support System;
- self reported information on incidents and operations from Western Liberty Group and G4S;
- reporting from various stakeholders on service provision; and
- direct observations made by contract management and court security directorate staff.

This information forms the basis for regular discussions on service delivery issues with Western Liberty Group. This information is also used by the contract management team in the assessment and application of contractual abatements.

C. Contractor Performance

Performance against the Key Performance Indicators (KPI) improved on an overall basis from the previous year. This is demonstrated by the reduction in the total number of contractual KPI failure points incurred by Western Liberty Group in delivering all of its services under the contract (which include court security and custodial services). A comparison of performance in the 2009/10, 2010/11 and 2011/12 reporting periods against 2012/13 is provided in the following graph.



While the application of abatements in itself should not be solely relied upon to measure Western Liberty Group's overall performance, it is an indication of areas where improvement is required in service delivery. In that respect, there were some issues with responding to duress alarms, complying with policies and procedures and a slight decline over last year's performance in delivering persons in custody to court on time. While the duress alarms were accidentally triggered, the Department of the Attorney General considered that there was a need to reaffirm that responses to emergency situations is a critical component of service delivery. The Department also focussed on Western Liberty Group facilitating appropriate training for security and custodial officers failing to comply with policy and procedures.

All in all service delivery continued to improve generally in 2012/13, however, there were some notable performance issues during the year that was of concern to the Department of the Attorney General and the Department of Corrective Services. To that end, there were three instances where a person in custody was deemed to have escaped under the terms of the contract. Two of these incidents occurred in the Magistrates Court Building and one at the grounds of Royal Perth Hospital following a hospital visit arranged for a person in custody. In all three instances, the person in custody was apprehended shortly after without further incident. No one was injured or harmed and there was no property damage.

D. Reviews

(i) Office of the Inspector of Custodial Services (OICS) Custody Centre Review

The Office of the Inspector of Custodial Services (OICS) conducted an inspection into the activities in the District Court Building and Magistrates Court Building under the Act on 5 and 6 February 2013. The Office of the Inspector of Custodial Services has provided verbal feedback to Western Liberty Group and the Department of the Attorney General. The feedback provided was generally positive in nature and also highlighted some very minor issues that require attention. A written report on the outcome of the inspection has not been received by either Western Liberty Group or the Department.

E. Contract Variations

There were no variations during the reporting period.

F. Contractual Disputes and Payment Issues

The Contract Management Team and Western Liberty Group worked cooperatively to resolve all payment issues without referring them to arbitration. There were no major contractual disputes regarding payment for court security and custodial services in 2012/13. However, Western Liberty Group questioned the State in relation to the application of abatements for two incidents involving the escape of persons in custody. In that respect Western Liberty Group/G4S argued that the incidents were not completed escapes under the terms of the contract. Following advice sought from the State Solicitor's Office, Western Liberty Group was advised that in both instances their claims were dismissed and that the abatements applied would stand.

5. CONTRACT COMPLIANCE

A. Key Performance Indicators and Abatements

The contractor is required to meet certain KPIs in the provision of services and is required to monitor and report its performance on a daily and monthly basis. The contract management team also conducts targeted monitoring to verify the contractors self reporting in this regard.

Failure to meet KPI standards can result in payment abatements being imposed against Western Liberty Group with the value of the abatements determined through the application of specified formulae contained in the Services Agreement. In determining the extent to which abatements would be enforced, consideration was given to the impact on court operations, the level of operational risk involved and the need to provide a commercial incentive for Western Liberty Group to improve performance. This meant that abatements were not applied to a considerable number of non-critical service failures in recognition of the need to balance punitive actions with relationship building.

The following table provides a summary of KPI failures and associated abatements applied in 2012/13.

Service Failures against Court Security and Custodial Service KPI

	Key Performance Indicator	Failure Incidents (Points)	Abatement \$
Court Security Services	34 Responding to duress alarms	30	23,355
	35 Attending to safety and security incidents	0	0
	36 No unauthorised access	0	0
	37 No unauthorised articles	0	0
	38 Report safety and security incidents	14	10,656
	40 Comply with User Management and Court Security Operating Plan and the Service Specifications	32	24,417
	65 Comply with Policy and Procedures Manual and Operating Manuals	0	0
Custodial Services	41 Death in custody	0	0
	42 Serious injury to Person in Custody	0	0
	43 Completed escapes from custody	120	92,049
	44 Unlawful release from custody	0	0
	45 Assault upon a court user by a Person in Custody	0	0
	46 Persons in Custody are delivered to court on schedule	14	10,838
	47 Report custodial incidents	6	4,650
	48 Comply with Custodial Services Operating Plan and Service Specifications	41	31,384
	61 Provision of Daily Performance Report and notification of loss /interruption of essential services	4	2,927
	65 Comply with Policy and Procedures Manual and Operating Manuals	2	1,624
Total		263	\$201,901

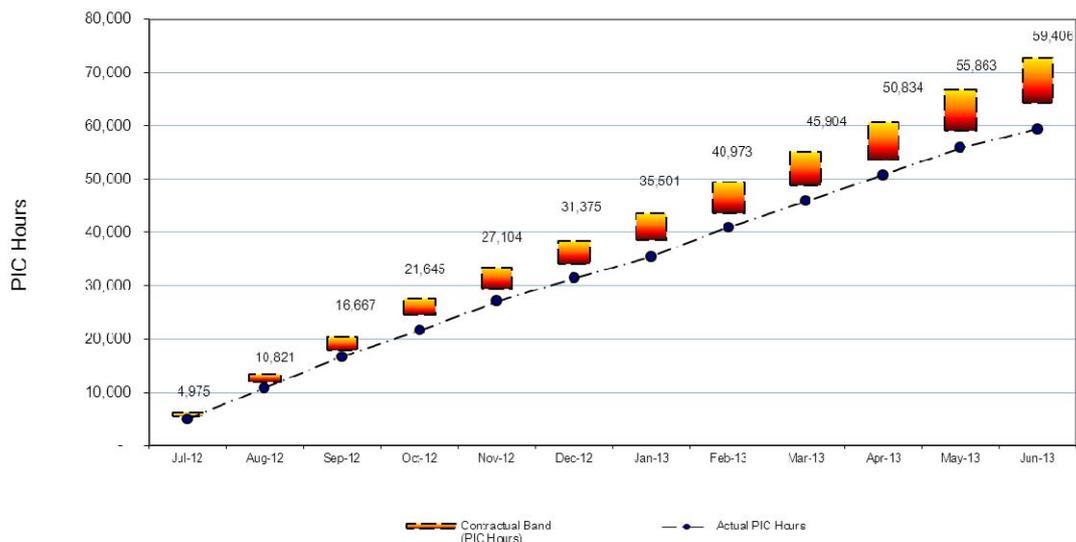
Note: In the above table the abatement dollars are calculated based on the total quality failure points applied. However, in accordance with the contract when determining the final abatements charged for each month, 10 quality failure points are subtracted (i.e. deemed to be “free points” under the contract). Therefore, the total points abated do not correspond with the amounts abated as detailed above.

B. Service Provision

Service demand and payment for the custodial services component of the contract is based on a fixed annual price for an anticipated band of court custody hours, with allowance for adjustment on an hourly rate basis should the actual custody hours fall outside of the set band. The band was established based on court custody data analysis and modelling performed in 2004 as part of the planning for the CBD Courts Project.

The actual custody hours of 59,406 were below the lower band limit of 64,163 for the reporting period. This was primarily the result of improvement in the processing of persons in custody (PIC) through the courts and the increased use of video link for court appearances as reflected by the average court custody duration of 4.98 hours per person, compared with the 2004 model average of 5.4 hours per person. The prior reporting period averaged 5.14 hours per PIC.

Cumulative Actual PIC Hours v Contractual PIC Hour Band



Payment for the court security component of the contract is based on a fixed annual price for base building security and user management services plus a volume based adjustment for variable demand services such as gallery guards and court orderlies. Approximately 85% of the court security and custodial services received under the contract are subject to a fixed annual payment irrespective of the resources engaged by Western Liberty Group to provide the services. Apart from the variable volume based costs for gallery guards and court orderlies the Department does not actively monitor or verify the resource hours utilised by Western Liberty Group. However, Western Liberty Group does provide this data on a monthly basis and it is presented below for general information purposes in the broader context of court security and custodial services provided to the State. In the absence of verification and demonstrated operational efficiencies, the resource data provided can not be relied upon as an indicator of service demand.

Service Delivery Resource Hours Reported by Western Liberty Group

Activity	Resource Hours*
User Management and Court Security Services	103,675.25
Custodial Services	95,705.68
Total	199,380.93

* Figures not verified and not to be taken as an indicator of service demand or cost. Figures are for the period 1 July 2012 to 30 June 2013.

C. Cost of Service

Total Contract Cost (1 July 2012 – 30 June 2013)	
User Management, Court Security and Custodial Services	\$9,390,679
Less Abatements	-\$206,710
Subtotal (exclusive of GST)	\$9,183,969
GST	\$918,397
Total (inclusive of GST)	\$10,102,366

The gross service cost of \$9,390,679 was largely in line with the Department of the Attorney General's budget allocation for this service. This was to be expected given the predominately fixed nature of the service payments.

6. MAJOR CHALLENGES FOR 2013/14

No major challenges are anticipated for the ensuing financial year.