



New South Wales
Government

Contractor Performance Reporting and Exchange of Reports between Government Agencies Guidelines

2nd edition December 1999

**Contractor
Performance
Reporting
and
Exchange of
Reports between
Government
Agencies**
Guidelines

2nd edition
December 1999

**Contractor Performance Reporting and
Exchange of Reports between Government Agencies
Guidelines**

Establishes common contractor performance reporting format and process for exchange of reports between government agencies.

The Contractor Performance Reporting and Exchange of Reports between Government Agencies Guidelines were developed by the Construction Policy Steering Committee (CPSC).

The CPSC membership includes representation of:

- Cabinet Office
- Department of Housing
- Department of Industrial Relations
- Department of Public Works and Services (Chair)
- Olympic Co-ordination Authority
- Pacific Power International
- Rail Access Corporation
- Rail Services Australia
- Roads and Traffic Authority
- State Rail Authority of NSW
- Sydney Water
- Treasury

December 1999
DPWS report number 99118

© This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without written permission from the Construction Policy Steering Committee.

Requests and inquiries about reproduction and rights should be addressed to:

Executive Director
Construction Policy Steering Committee
Level 23, McKell Building
2–24 Rawson Place
SYDNEY NSW 2000

phone (02) 9372 8852
fax (02) 9372 8851
website <http://www.cpsc.nsw.gov.au>
email cpsc@dpws.nsw.gov.au

NSW Department of Public Works and Services
Cataloguing-in-Publication data

**New South Wales. Construction Policy
Steering Committee.**

Contractor performance reporting and exchange of reports between government agencies guidelines.

ISBN 0 7347 4009 3
ISBN 0 7310 0964 9 <set>

1. Construction industry—New South Wales.
- I. Title. II. Series (Capital Project Procurement Manual).

354.944'008'242

Information design by
Montague Leong Design Pty Ltd.

Cover printed on 100% oxygen-bleached (totally chlorine free) paper. Paper for the inside pages is 70% recycled and Australian-made.

Printed using vegetable-based mineral-oil-free inks.

Contents

1	What is contractor performance management?	3
2	Reporting	4
	Objective	4
	Application	4
	Frequency	4
	Preparation of performance reports	5
	Contractor's response	5
	Recommendation for further work	5
	Access to reports	5
3	Preparation of a contractor performance report	6
	Basic contract information	6
	Identification of reports	7
	Context of the performance assessment	7
	Standard performance criteria and evaluation	7
	Assessment of contractor's performance	11
	Overall performance	11
4	Unsatisfactory performance report	13
	Review of performance ratings of 'unsatisfactory'	13
	Revised performance report	13
	Appeal process	14
5	Final performance report	15
6	Exchange of report information between government agencies	16
	Management of information exchange	16
	Advising contractors about information exchange	16
	Information for exchange	17
	Use of information prepared by another agency	17
	Appendices	
	A Contractor performance report	18
	B Optional contractor performance rating system	20
	C Clauses for inclusion in tender documents	21

Definitions

The definitions have been drawn from the *NSW Government Code of Practice for the Construction Industry* and the *Capital Project Procurement Manual*.

‘Construction industry’ includes all organised activities concerned with demolition, building, landscaping, maintenance, civil engineering, process engineering, mining and heavy engineering.

This includes projects involving private sector participation in the provision of the State’s assets, for example, by way of Build/Own/Operate schemes and similar arrangements.

‘Contractor’: individual or organisation responsible for the performance of the work specified under a contract.

‘Principal’: the person, entity or organisation responsible for contracting with a contractor or consultant for the carrying out of the work.

‘Project’: an undertaking with a defined beginning and objectives by which completion is identified. A project may be completed using one contract or a number of contracts.

‘Subcontractor’: party that provides a service and/or product to a contractor and/or subcontractor or client.

1 What is contractor performance management?

To facilitate continuous improvement by contractors and to monitor performance, government agencies need to acquire, maintain and exchange information about the performance of contractors on projects.

A rigorous contractor reporting system is also an important tool to provide feedback to a contractor on its performance on each project.

To be relevant, up-to-date information must be available. This can be achieved if each agency records, objectively and by reference to these guidelines, the performance of each of its contractors.

These records are known as contractor performance reports. The reporting format described in these guidelines assesses performance against standard criteria. Agencies may add more criteria to meet their specific needs or to standardise reporting across different classes of work.

Contractors wishing to do business with government agencies need to be aware of the requirements on:

- performance reporting
- assessment of contractor performance on both public and private sector projects
- the use of contractor performance reports when evaluating contractors for registration, pre-qualification, selective tender list, expressions of interest or awarding of a contract, and
- exchange of information on contractor performance reports between government agencies.

Purpose and structure of these guidelines

These guidelines will assist both contractors and government agencies to continuously improve performance and outcomes within enterprises and on projects. This edition of the guidelines replaces in full the edition in the *Capital Project Procurement Manual*, October 1993. The guidelines are presented as follows.

- **This section** provides the background to the Government's policy on contractor performance reporting.
- **Section 2** outlines the requirements for contractor performance reporting.
- **Section 3** describes the standard performance criteria of a contractor performance report. It includes procedures for assessment and review.
- **Section 4** provides a method for dealing with unsatisfactory performance and outlines an appeal process that is available to the contractor should it disagree with the agency's decision.
- **Section 5** describes the requirements of a final contractor performance report.
- **Section 6** sets out the procedures for agencies to manage the exchange of information between government agencies.
- **Appendix A** is a proforma for contractor performance reporting.
- **Appendix B** is a numerical method of measuring the performance of a contractor. Its use is optional.
- **Appendix C** outlines suggested clauses for agencies to include in tender documents.

2 Reporting

Objective

The objective of performance reporting is to obtain a measure of the contractor's performance under the contract.

Performance assessments during the course of a contract help both the agency and the contractor to reach a common understanding of the expectations of both parties about the work. They also help to identify areas that the contractor is excelling in and any areas that need improvement. Performance reports are used in the assessment of a contractor for pre-qualification, selective tender list, registration, tender evaluation and—in the event of termination—for unsatisfactory performance under a contract.

Application

Performance reporting on contractors is required for all major construction projects. The size and scope of construction work commissioned by government agencies varies greatly so there is no single definition of 'major' projects. However, as a general guide, all projects separately listed in an agency's capital works plan or in the budget paper for capital works projects should be regarded as 'major' for the purpose of performance reporting. Agencies may choose to prepare reports for other contracts.

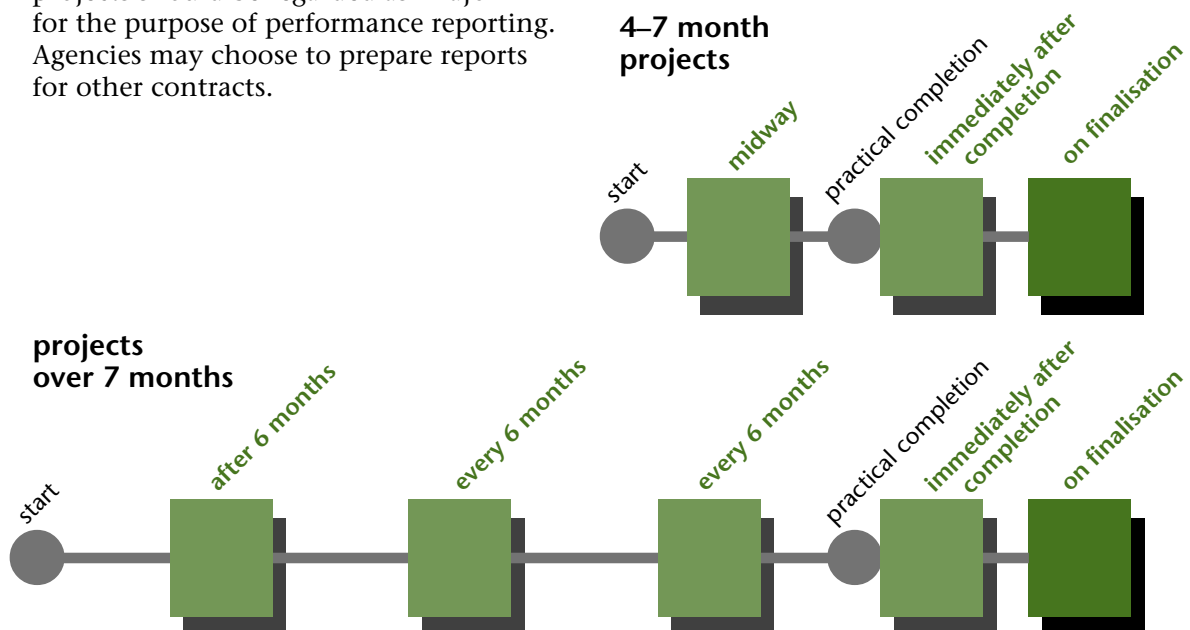
The reporting requirement applies to contracts for all forms of procurement associated with the construction industry, eg. construct only; design and construct; design development and construct; build/own/operate; build/own/operate and transfer; individual contracts associated with construction management.

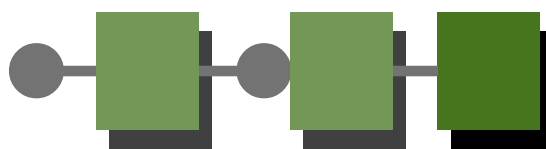
Frequency

The reporting periods are to be determined with the contractor at the initial post-contract award meeting. As a minimum, a contractor performance report should be prepared:

- midway through the contract, for projects with a contract period between four and seven months
- every six months from the date of acceptance, for projects with a contract period exceeding seven months
- immediately after practical completion of a contract
- when a contract is terminated, and
- on finalisation of all outstanding claims.

Additional reports should also be obtained when there is a continuing period of unsatisfactory performance on a contract.





Preparation of performance reports

Responsibility for completion of performance reports which are outlined in more detail in *Section 3* and supported by *Appendix A*, should be assigned to the person with delegated authority for the management of the contract who, for the purpose of these guidelines, is referred to as the Reporting Officer. To be in the position to make factual assessments against evaluation criteria on the contractor's performance, the Reporting Officer must have frequent and direct liaison with the contractor.

A person experienced in contract management must review the Reporting Officer's assessment. This person will be referred to as the Reviewing Officer. The Reviewing Officer's task is to ensure that the report is objective and accurate so that it can be relied upon by an agency making accountable decisions about selection, registration or regrading of tenderers.

Contractor's response

It is important that the contractor be given feedback on the assessment.

Each performance report must be discussed with the contractor who must be given the opportunity to comment on the assessment. The Reporting and/or the Reviewing Officer must address any issues raised by the contractor and respond in writing. The contractor's comments and the written response by the Reporting and/or Reviewing Officer form part of the performance report.

Recommendation for further work

An important reason for assessing the performance of contractors is to determine whether the contractor is suitable for further work of a similar type for the reporting agency.

All performance reports include the option of making a recommendation whether a contractor is suitable or unsuitable for further work. The option should be considered where the contractor's performance is assessed as unsatisfactory.

The final performance report on each contract will be the main source for evaluation of the performance of a contractor and therefore must include a recommendation on whether a contractor is suitable or unsuitable for further work.

Access to reports

Contractor performance reports should be treated as sensitive documents and should be held by a central office within the agency, preferably the office responsible for registration or pre-qualification of contractors. Within the agency, information on a contractor's performance report may be released on a need-to-know basis to persons with authority, eg. to the convenor of a tender evaluation committee.

It is essential that performance reports are recorded and stored in a way that facilitates efficient handling and easy retrieval and provides confidence that the information is complete. Central co-ordination is therefore recommended.

Access to reports prepared by other agencies is addressed in *Section 6 – Exchange of report information between government agencies*.

3 Preparation of a contractor performance report

This section will assist agencies in the preparation of contractor performance reports and should be read in conjunction with *Appendix A – Contractor Performance Report*.

Basic contract information

Each contractor performance report must contain the following:

- Contract details set at the date of acceptance of the tender:
 - name of agency
 - name of contractor, including full particulars of business registration and Australian Company Number (ACN) or Australian Business Number (ABN)
 - contract description and contract number
 - contract sum
 - date of acceptance of tender, and
 - contract period and time for practical completion or date for practical completion.
- Progressive reports that show the value of work completed as a percentage of the total contract value at the date of the report.
- Details of variations in cost and extensions of time:
 - total extensions of time approved
 - extended date for practical completion
 - actual date of practical completion, (if applicable), and
 - contract sum at report date.



Identification of reports

The performance report must clearly show the reason for, or circumstances of, the report: eg. progress report after 'x' months, final report, or report due to unsatisfactory performance.

The dates on which various parts of the report are prepared must be clearly shown. This helps people using the report at a future date to make their own assessment of the relevance of the information to their decision making.

Context of the performance assessment

A contractor's performance must be assessed in the context of the project as a whole, including the respective roles and obligations of the Principal and contractor under the contract.

Persons preparing or reviewing the performance of a contractor must consider whether satisfactory progress or completion of a project has been affected by any matters which are:

- outside the contractor's control, or
- the result of some action by the Principal.

That is, evaluation against performance criteria must measure the contractor's performance, after taking into account matters beyond the contractor's control.

Standard performance criteria and evaluation

The standard criteria against which contractors are to be assessed include:

- time management
- management and suitability of site personnel
- management of subcontractors, consultants and other suppliers
- standard of work
- contract administration
- quality systems
- occupational health, safety and rehabilitation management
- management of industrial relations
- environmental management
- workforce or skills development, and
- co-operative relationships.

In some contracts, an agency may determine that there is no need to assess the contractor's performance against all of the standard criteria listed above.

In other contracts, other performance criteria may be added to meet an agency's specific requirements or any specific performance requirements set out in the contract. Performance against these criteria should be assessed similarly to the standard criteria and *Assessment of contractor's performance* (page 11).

The areas that should be considered when assessing the contractor's performance on each of the standard criteria are set out in the following sections.

... continues

3 Preparation of a contractor performance report (continued)

Standard performance criteria and evaluation (continued)

Time management

On major contracts the contractor's detailed construction program will form the basis for assessing its ability to manage time. On smaller contracts, the nominated commencement and completion dates may be adequate as the basis for assessment.

In assessing the contractor's time management performance the following should be considered:

- progressive monitoring of works and appropriate resource allocation to critical activities
- updating of program to account for unforeseen delays
- ability to meet programmed milestones
- progress of the work
- inclement weather
- industrial conditions affecting the work
- occupational health and safety issues affecting the work
- environmental management issues affecting the work
- latent conditions, and
- delays by public authorities outside the contractor's control.

Management and suitability of site personnel

The contractor's ability to manage site personnel to ensure co-operative and effective performance including:

- adequacy of the number of site personnel engaged by the contractor in terms of efficient use of resources for the work
- control of site personnel
- payment to workers of all moneys due in respect of their employment and

receipt or accrual on their behalf of all employment benefits under any industrial award, enterprise agreement etc, Act or regulation

- observance of site rules and procedures, and
- suitability of staff, ie. compliance with the requirements set out in the *NSW Government Code of Practice for the Construction Industry* and attendant *Code of Tendering* including management, administrative, scientific or industry skills and overall experiences relevant to the tasks undertaken.

Management of subcontractors, consultants and other suppliers

The contractor's ability to co-ordinate and manage both off-site and on-site subcontractors, consultants and suppliers to ensure effective performance including:

- full compliance with legal and contractual obligations
- timely delivery of goods and services
- timely completion of consultant services and subcontract work
- observance of equitable terms of payment for all parties down the payment chain, and
- making payments to all subcontractors, consultants and suppliers in accordance with contract conditions.

Standard of work

Standard of work will generally be measured against the requirements of the specification. In addition, the following should be considered:

- amount of remedial work required, if any
- conformance with specified performance criteria
- compliance with specified tolerances and finishes, and
- performance during the defects liability period, if applicable.



Contract administration

The contractor's ability to administer the contract including:

- compliance with the contract concerning timely requests for information or the provision of information such as drawings, reports or other documentation
- timely submission of claims for payment, variation claims, etc, including the adequacy of supporting evidence
- proportion of claims approved for extensions of time, and
- proportion of variation orders approved (including value).

Quality systems

Quality systems will generally be measured against the specification and the contractor's quality system implementation including:

- extent of the contractor's compliance with the specified quality systems standard and with the project quality plan
- results of quality audits for the project
- the number of any repetitions of the same non-conformance, and
- ability of the quality system to identify and deal with non-conformances and conditions adverse to quality.

Occupational health, safety, and rehabilitation (OHS&R) management

The requirements for occupational health, safety and rehabilitation on government projects are set out in the *NSW Government's OHS&R Management Systems Guidelines*.

Assessment items include:

- compliance with OHS&R obligations
- compliance with occupational health and safety issues specifically nominated

in the contract and/or the contractor's OHS&R Management Systems

- compliance with the Project OHS&R Management Plan or Site-specific Safety Management Plan, as appropriate
- compliance with Safe Work Method Statements
- results of audits of the Project OHS&R Management Plan, Site-specific Safety Management Plan or Safe Work Method Statement, as appropriate
- fulfilling the contractor's obligations for subcontractor OHS&R management
- the number of infringement notices issued to the contractor, and
- the number of directions issued to the contractor concerning safety.

Management of industrial relations

The requirements for management of industrial relations on government projects are set out in the *NSW Government Code of Practice for the Construction Industry* and *Implementation Guidelines*. More detailed requirements are in the *NSW Government Industrial Relations Management Guidelines*.

Assessment items include:

- compliance with industrial relations obligations
- implementation of strategy for the management of industrial relations by the contractor
- implementation of the Project Industrial Relations Plan or Evidence of Compliance with Employment Obligations, as appropriate to the project, and
- results of review of the Project Industrial Relations Plan implemented or review of project industrial relations performance, as appropriate.

... continues

3 Preparation of a contractor performance report (continued)

Standard performance criteria and evaluation (continued)

Environmental management

The requirements for environmental management on government projects are set out in the *NSW Government Environmental Management Systems Guidelines*.

Assessment items include:

- compliance with environmental obligations
- compliance with environmental impact statement requirements
- compliance with the project Environmental Management Plan
- implementation of the contractor's Environmental Management System, where required, (ie. on major projects as defined in the *Environmental Management Systems Guidelines*), and
- results of audits of the project Environmental Management Plan implemented.

Workforce or skills development

The requirements for workplace reform and skills development are outlined in the *NSW Government Code of Practice for the Construction Industry* and Implementation Guidelines.

Assessment items include:

- implementation of workplace reform and skills development requirements of the Code and Implementation Guidelines
- development and implementation of training or skills development plans, where required
- establishment of a training facility and the delivery of appropriate structured and skills formation initiatives at or near the site, on selected projects where required

- implementation of workforce diversity strategies which may include opportunities for women, Aboriginals and Torres Strait Islanders, where required, and
- results of reviews on workforce or skills development initiatives implemented.

Co-operative relationships

Assessment items include:

- commitment to a co-operative approach to the early resolution of claims including:
 - timely submission of claims
 - claims are factual and justifiable
 - quantum is not exaggerated
- commitment to resolving issues through open and effective communication
- commitment to a non-adversarial approach to dispute resolution with litigation reserved as a last resort
- commitment and implementation of a management approach that fosters continuous improvement, self-assessment and general industry monitoring, and
- adoption and commitment to the partnering principles with its clients, subcontractors, consultants and suppliers.



Assessment of contractor's performance

The contractor's performance is to be assessed against the performance criteria and graded in accordance with the following definitions:

superior	standard well above the required standard of performance
good	standard satisfactory and often exceeds the required standard of performance
acceptable	mostly meets required standard of performance but has some weaknesses
unsatisfactory	many weaknesses, has not met the required standard of performance.

Section 4 deals with unsatisfactory performance reports in more detail.

Where a contractor's performance is not assessed against a standard performance criterion using the grades above, the criterion is to be struck out and the reason noted in the overall comments section of the report.

Overall performance

Assessment of overall performance should reflect the contractor's performance against the criteria outlined in *Standard performance criteria and evaluation* (pages 7–10) and also whether the contractor demonstrated a planned and committed approach to achieving successful project outcomes.

A numerical expression of overall performance can be made using the rating system detailed in *Appendix B*. This numerical expression of the overall performance is optional.

Review and recommendations

The Reporting Officer and the Reviewing Officer must make every effort to ensure that comments are objective, accurate, can be substantiated and are supported by facts.

The Reporting Officer is responsible for making a recommendation on the contractor's suitability for further work of the same nature for the same agency.

The Reviewing Officer is to ensure that the report is objective and accurate so that it can be used reliably for making accountable decisions concerning registration, pre-qualification, selective tender lists or selection of a tenderer.

Overall comment

In completing reports it is important to report on good and superior performance as well as unsatisfactory performance. As reports will be used in tender assessment, contractors with proven good or superior performance should be recognised above those with average performance.

... continues

3 Preparation of a contractor performance report (continued)

Overall comment (continued)

Comments should be kept to the facts relating to the contract at hand. Where it is considered necessary to give an opinion, the opinion should be:

- a first-hand opinion
- recorded and signed by the Reporting Officer, and
- about the contractor, not individuals.

In particular, comments should commence with 'In my opinion'.

For example

- ✓ 'In my opinion, the contractor did not provide a suitably experienced project manager' or
- ✓ 'In my opinion, the management of the contract was not satisfactory'.

Comments should refer to the weakness/failure of the contractor and not to individuals.

In reporting, do not use extreme language.

For example

- ✗ 'In my opinion, the contractor was totally (or completely) inefficient'.

It is easy to challenge such opinions, as there may be some area, no matter how small, where the contractor was not inefficient and/or the Reporting Officer is unable to substantiate the inefficiency.

Reasons for any opinion should be stated and should refer to the relevant evidence that underpins such opinion.



4 Unsatisfactory performance report

A contractor's performance may be rated as unsatisfactory in one or more of the assessment criteria or in the overall assessment.

In most cases, an unsatisfactory overall rating will lead to a recommendation that the contractor is unsuitable for further work of a similar nature for the agency preparing the performance report.

Review of performance ratings of 'unsatisfactory'

Rated unsatisfactory in one or more assessment criteria (but overall assessment satisfactory)

The contractor must be made aware if its performance is rated as unsatisfactory in any assessment criterion and given an opportunity to comment on the report in accordance with the following procedure:

- 1 the contractor is to be advised in writing of the assessment and requested to respond in writing within a reasonable time, say 10 working days
- 2 the Reviewing Officer considers the contractor's response and the contractor advised if the unsatisfactory rating(s) is to be retained.

The above procedure is to be used where the overall assessment is satisfactory but one or more of the assessment criteria is rated as unsatisfactory, and the contractor is assessed suitable for further work.

Overall assessment unsatisfactory

Where the overall assessment is unsatisfactory or the contractor is not recommended for further work of a similar nature for the reporting agency, the following procedure applies:

- 1 a meeting between the contractor, the Reporting Officer and the Reviewing Officer is to be convened
- 2 the reason(s) for the assessment(s) contained in the Performance Report is to be discussed and the discussions minuted
- 3 the contractor is given the opportunity to respond in writing within a reasonable time, say 10 working days of the meeting
- 4 upon review of the contractor's response, the Performance Report may be adjusted at the discretion of the Reviewing Officer, and
- 5 if upon completion of steps 1 to 4 the contractor's overall assessment is considered unsatisfactorily, then the contractor must be informed and given the option of seeking a review which will be undertaken in accordance with the *Appeal process* overleaf.

Revised performance report

The contractor is to be sent a further copy of the performance report, whether amended or not, at the end of the above review processes.

... continues

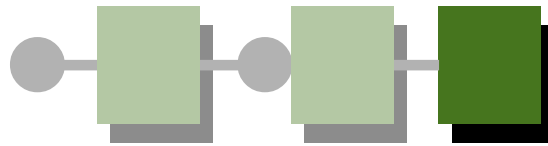
4 Unsatisfactory performance (continued)

Appeal process

If after following the review process described in *Review of performance ratings of 'unsatisfactory'* a performance report rates the contractor's overall performance as unsatisfactory or the contractor is not recommended for further work of a similar nature the contractor must be given the opportunity to have an independent review as follows.

- 1 The review will be undertaken within a reasonable time, say 10 working days of receipt of an appeal by the contractor.
- 2 The person(s) conducting the review must be from senior management, and not associated with the project concerned. For works requiring pre-qualification, the review should be carried out by a Review Committee, which should include an independent representative, for example from another government agency.
- 3 The review is to be undertaken on the available evidence submitted by all parties and the reviewer or committee may at its absolute discretion seek additional information from the contractor, Reporting Officer or Reviewing Officer, either in writing or in person.
- 4 The contractor is to be notified of the outcome of the appeal within a reasonable time, say 10 working days of the review. Where the performance report is changed as a result of a review, an adjusted copy of the report is to be given to the contractor.

5 Final performance report



The final performance report on each contract will be the main source of data for evaluation of the performance of a contractor. For this reason, the final report should reflect the performance of the contractor throughout the contract.

When performance is unsatisfactory, concise backup evidence and all relevant details of the unsatisfactory performance must accompany the report.

Documentary evidence supporting reports, including minutes of meetings with the contractor, should be attached to the report. Care should be taken not to destroy the evidence whilst it is still relevant to a performance report.

6 Exchange of report information between government agencies

Management of information exchange

All agencies should nominate a person with authority, who will be responsible for the receipt of requests for, and the subsequent supply of, information on contractor performance reports.

Information should only be supplied as a result of a request by an authorised inquirer who must be from a NSW Government agency. For additional security, agencies should nominate specific positions with the authority to seek information, and to place restrictions on the purposes for which the information can be sought.

All requests for information should be recorded and all responses to requests should be in writing, although this can be waived if there are no adverse assessments. All comments made or received should be minuted on file even if a performance report is not provided to the requesting agency.

Advising contractors about information exchange

Contractors must be made aware that, in tendering and contracting with any agency, the agency may exchange information about their performance with other NSW Government agencies.

A “conditions of tendering” and a “conditions of contract” clause, similar to those in *Appendix C*, will need to be included in tender documents and/or in a notice to tenderers, to make contractors aware of information exchange among agencies.

Information for exchange

The information for exchange between agencies is restricted to that contained in a contractor performance report and any notes from associated discussions and reviews. If the performance report shows an acceptable or better assessment, the information can be provided to the requesting agency without sending a copy of the report itself.

If the reporting agency agrees to exchange information that includes adverse assessments, the performance report must be forwarded in its entirety and be accompanied by concise backup evidence and all relevant details of the unsatisfactory performance. This material would include:

- minutes of any relevant meeting with the contractor where the adverse performance was discussed
- any written response by the contractor to the adverse assessment
- outcome of any agency review(s) of the contractor's performance, and
- status of any review being undertaken.

Use of information prepared by another agency

NSW Government agencies may use contractor performance reports prepared by other agencies to evaluate contractors for registration, pre-qualification, selective tender lists or awarding of a contract.

The date of the performance report and the description of the type of work undertaken would help the receiving agency to judge the usefulness of the performance report to the agency's evaluation process.

The assessment of a contractor's capabilities should be based on the most up-to-date information about a contractor's performance. Unless otherwise specified, an agency should supply the information contained in the most recent report for any current, or just completed, contract.

Earlier performance reports on the contract or reports for other contracts may also be supplied, if needed, to give a clearer indication of the general performance of the contractor.

If action is pending concerning a performance report, for example a review is still in progress, the receiving agency needs to be advised so that appropriate care can be taken by that agency when considering the information supplied.

Agencies should only use information contained in the performance report for the purpose of evaluating contractors for registration, pre-qualification, selective tender listing, expression of interest or awarding of a contract. Information for exchange must therefore be treated confidentially with due regard given to the provisions of the *Privacy Act 1988 (Cwlth)*.

Appendix A

reporting agency

Contractor Performance Report

General information

contractor's name

ACN/ABN

contract no.

contract description

contract period (weeks)

original due date for
practical completion

date of acceptance of tender

original contract sum

Reason for report

midway through
4-7 month
contract

six-monthly
report

practical
completion

on
finalisation

termination
of contract

continuing
unsatisfactory
performance

other (give details)

Contract progress

total extensions of
time approved (days)

extended date for
practical completion

percentage of work
completed at report date

actual date of
practical completion

contract sum as

varied at report date

Contractor's performance

(✓) tick appropriate box

unsatisfactory

acceptable

good

superior

time management

standard of work

quality systems

mgt & suitability of site personnel

management of subcontractors, etc.

contract administration

OHS&R management

management of industrial relations

environmental management

workforce or skills development

co-operative relationships

other

overall performance

Suitability for further work

Not Suitable

Suitable

Optional to (✓) during course of
contract. Must (✓) as appropriate
on completion of contract.

If 'Not Suitable' is ticked,
detailed reasons must
be given.

Appendix B

Optional contractor performance rating system

Performance criteria

Contractor performance ratings are allocated points against the performance criteria (eg. time management, standard of work, etc) based on the rating scale below:

superior	10 points
good	7 points
acceptable	5 points
unsatisfactory	0 points

Performance rating formula

The Reporting Officer determines the performance rating as a percentage using the formula:

$$A = \frac{\text{contractor's point score} \times 100}{\text{total maximum points}}$$

The contractor's point score is the total of the points scored against the performance criteria.

The total maximum points applicable is the number of criteria graded against x 10.

The total maximum points may vary from report to report, depending on the number of performance criteria the contractor is graded against.

Contractor's overall performance

The assessment percentage (A) is then graded as follows:

superior	over 85%
good	over 63%
acceptable	over 50%
unsatisfactory	under 50%

This method may be used when assessing a contractor's performance on a single contract, several contracts, over a period of time, or on a particular type of contract.

Appendix C

Clauses for inclusion in tender documents

To ensure that contractors are quite clear about an agency's policy on the recording and reporting of contractor performance, clauses in the following terms should be included in the tender documents.

Conditions of tendering

Exchange of information between NSW Government agencies

Lodgement of a tender will itself be an authorisation by the Tenderer to the Principal to make available, on request, to any NSW government agency information including but not limited to information dealing with the tenderer's performance for any contract that may be awarded. Such information may be used by the recipient NSW government agency for assessment of suitability for registration, pre-qualification, selective tender lists, expressions of interest or the award of a contract or termination of contract.

The provision of the information by the Principal to any other NSW agency is agreed by the tenderer to be a communication falling within Section 22(i) of the *Defamation Act 1974* (NSW), and the tenderer shall have no claim against the Principal or the State of New South Wales in respect of any matter arising out of the provision or receipt of such information, including any claim for loss to the tenderer arising out of the communication.

In the evaluation of tenders, the Principal may take into account any information about the tenderer that the Principal receives from any source.

During the course of the contract, the successful tenderer's performance will be monitored and assessed. Performance assessment reports, including substantiated reports of unsatisfactory performance, can be taken into account by NSW government agencies and may result in future opportunities for NSW government work being restricted or lost.

Conditions of contract

Exchange of information between NSW Government agencies

The contractor authorises the Principal to make information concerning the contractor available to other NSW government agencies. Such information may include, but is not limited to, any information provided by the contractor to the Principal and any information relating to the contractor's performance under the contract.

The contractor acknowledges that information about the contractor from any source, including substantiated reports of unsatisfactory performance, may be taken into account by NSW government agencies considering whether to offer the contractor future opportunities for NSW government work.

The contractor acknowledges and agrees that the communication of such information to any NSW government agency is a communication falling within Section 22(i) of the *Defamation Act 1974* (NSW).

The contractor releases and indemnifies the Principal and the State of New South Wales from and against any claim in respect of any matter arising out of such communications. Without limitation of the above, the contractor releases the Principal and the State of New South Wales from any claim it may otherwise have for any loss to the contractor arising out of the contractor's performance under the contract by the Principal, the communication of information relating to such assessment to any NSW government agency, or the use of such information by the recipient.

