

AusGuideline

Activity design

3.6 Scopes of service and basis of payment

Associated guidance on 'Activity design'

Part 3A *Identification & assessment of initiatives*

Part 3B *Preparing activity designs*

Part 3C *Appraisal and approval*

AusGuideline 3.1 *Principles of activity design*

AusGuideline 3.2 *Selecting forms of aid*

AusGuideline 3.3 *The logical framework approach*

AusGuideline 3.4 *Undertaking a prefeasibility study*

AusGuideline 3.5 *Undertaking a feasibility and design study*

AusGuideline 3.7 *Preparing activity schedules*

AusGuideline 3.8 *Designing and using Flexible Funding Accounts*

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1 Introduction

AusAID uses a range of delivery organisations and delivery agreements for the implementation of its activities. This guideline is concerned specifically with contracts, which are most commonly entered into with commercial contractors. However, other forms of delivery agreements will also require a description of the responsibilities of the delivery organisation and a payment regime, however detailed. Therefore the material in this guideline might be of use in drafting other forms of delivery agreement.

Activity designers are urged to consider contractual implications of their designs at an early stage and be aware of the documents AusAID requires for tendering. The Activity Manager should ensure that the design team consult with AusAID's Contracts Services Group (CSG) prior to undertaking the design study. This is so that the design team can ascertain the viable range of contract options for the type of activity being considered and the documentation requirements of different approaches.

2 Purpose of the scope of services and basis of payment

The scope of services and basis of payment are part of the contract document drawn up and agreed between AusAID and the implementation contractor.

The scope of service sets out the roles and responsibilities of the contractor, specifies what the contractor will be expected to produce and details any standards to be met.

The purpose of the basis of payment is to define the points in time at which the contractor will be paid, and the work for which the contractor will be paid.

It is important that both the scope of service and the basis of payment are clear, unambiguous and concise, and that they are consistent with other documents to which they refer, in particular, the activity design document (ADD). While the ADD is used by all parties involved in the activity as a guide for implementation, the scope of services and basis of payments should be focussed, stand-alone documents that include all responsibilities and deliverables for which the contractor is to be held responsible. At the outset it is important to recognise that the simplicity and clarity of activity design would be reflected in a relatively simple and straightforward scope of services.

Responsibilities for preparing the scope of services and basis of payment are divided between the designer, the Activity Manager and CSG in accordance with Annex A – Responsibilities.

3 Clarification of terms

The ADD describes the activity to be implemented including activity objectives and activity outputs. The successful implementation of the activity depends on the contributions of any or all of the following: the counterpart agency, other parts of the partner government, local NGOs, beneficiary communities, other donor activities, AusAID and the contractor.

Therefore, for most development activities, the contractor alone can not be expected to deliver activity objectives and activity outputs. In recognition of this, the following terms need to be clarified.

- **Output** is used to refer to activity outputs as described in the ADD and which may be contributed to by all parties involved in the activity.
- **Deliverable** is used to describe something or some process which the contractor is expected to deliver. Deliverables are related to outputs in that deliverables represent the work the contractor is expected to do towards achieving the outputs. (Note that it is possible that some outputs, particularly those that are substantially under the control of the contractor, will also be deliverables).
- **Milestones** are identifiable points in the implementation of an activity when a concrete achievement has been reached. The ADD, particularly the implementation schedule, will contain activity milestones which are worked towards by all parties involved in the activity.
- The basis of payments usually includes **payment milestones**. These are triggers for making payments to the contractor. A payment milestone would typically be the culmination of a series of deliverables, although a single deliverable could also be a contract milestone in its own right.

4 Contents of the scope of services

The contents of the scope of services will vary considerably depending on the type of activity being developed and the type of contract negotiated. Below is a general suggestion for the contents of the scope of services. There are two main parts. The preamble contains the activity description, coordination and consultation roles, administrative matters affecting the contract, comments on phasing, management and reporting and delineation of standards of service

provision and performance indicators. The second part of the scope of services is the description of the deliverables.

4.1 Activity description

The scope of services should draw upon the ADD for an overall description of the activity. It should refer the reader to the ADD for a complete description. This will usually mean a succinct and clear description of the goal, purpose and components of the activity. Care needs to be taken that the description of the activity in the scope of services and that in the ADD are consistent. The location and proposed duration of the activity should be noted.

This text should be based on the ADD *Executive Summary*.

4.2 Coordination and consultation

The scope of services should describe the partner government agencies involved in the activity and their roles. It should also describe the relationship and the formal links between the contracted implementation team and the counterpart agency. It should refer to the composition of the joint management committee (JMC), the frequency of JMC meetings and the contractor's responsibilities with respect to the JMC. It should make explicit reference to the activity being implemented under the activity-specific MOU between the Australian and partner governments (where such a MOU has been put in place).

This text should be based on the ADD section: *Management and coordination strategies: Coordination*.

4.3 Administering contracts

The scope of services should specify in overall terms the administrative services AusAID requires the contractor to perform and the relationship between the contractor and AusAID. It should define the channels of communication between AusAID and the contractor. In most cases the primary channel will be between the designated officer in the Post and the Australian Team Leader in the field.

Where necessary, indicate the need for subsidiary contractual arrangements between the activity and other parties, e.g., NGOs, suppliers, private sector service providers etc.

This text should be based on the ADD section: *Management and coordination strategies: Management arrangements*.

4.4 Activity phasing

The scope of services should state the overall duration of the activity and clearly define any planned phasing. For example, an activity may be designed for five years but have an initial preparatory phase of one year. The conditions under which any second or subsequent phases will proceed should be explained, including dates and deadlines. The scope of services should also set out the basis upon which the decision to proceed will be made, so that all parties to the contract are aware of the preconditions to proceeding to subsequent phases. Where there is some uncertainty or risk associated with further phases of implementation this should be stated and the criteria or conditions for continuation described.

This text should be based on the ADD section: *Suggested timing*.

4.5 Activity management

The scope of services should describe the activity management responsibilities of the contractor. This could include

- managing pre-departure preparation of personnel (such as health requirements or language training)
- undertaking pre-departure briefing of personnel
- establishing an office in country
- providing technical support and advice to the implementation team
- meeting quality assurance obligations
- establishing and maintaining clear arrangements for communication and consultation with counterpart staff
- establishing liaison mechanisms with national and local agencies, different regions of the country, local NGOs and communities or with local industry. Note any peak bodies that need to be involved
- liaising with other donors
- fulfilling reporting and consultation responsibilities with regard to partner government agencies and officials
- procuring any necessary goods and services
- complying with requirements relating to financial management, audit and assets management
- establishing regular and effective communications with AusAID
- ensuring appropriate risk management and quality control procedures are in place

- monitoring progress and providing appropriate reports to AusAID and the partner government, and,
- implementing performance improvement procedures.

This text should be based on the PDD section: *Management and coordination strategies: Management arrangements.*

4.6 Monitoring and reporting requirements

This section should define the necessary monitoring and reporting systems to establish an objective basis for reporting on

- the contractor's progress towards achieving deliverables, and
- progress of the activity in achieving its outputs and objectives.

For both of these, the scope of services should define requirements for reporting to AusAID, including content, nature (eg exception reporting), frequency, numbers and the timing of reports. Exception reporting is often sufficient and quarterly reports may be adequate. Regular reporting can be burdensome and often of little value to the counterpart agency. Therefore it is important to seriously consider the amount of regular reporting required and restrict it only to the essential minimum. Where a set report format is required, this should be described in an attachment to the scope of services.

One essential reporting requirement is AusAID's Simplified Monitoring Toolbox (SMT), specifically annual completion of the Corporate Reporting Tools (Benefits and Performance sheets). Activities also have the option of using the other tools in the toolbox. The scope of services should include the essential SMT requirement mentioned above and refer to the optional use of other elements of the SMT, noting that agreement on which elements to use should be made by the Activity Manager and the contractor during early implementation.

The existence of, and role played by, external monitoring systems such as TAGs should be mentioned where they exist.

Some activities involve strengthening the monitoring and evaluation capacities of a counterpart agency, for example, strengthening the capacity of a health department to monitor rates of infectious disease and use that information to evaluate various prevention strategies. If the contractor has a role in strengthening these capacities, the work that is required of the contractor should be spelt out in the deliverables section of the scope (see 4.9 below), not here.

This text should be based on the ADD section: *Monitoring and management strategies: Performance indicators and benefits: Reporting requirements for the activity.*

4.7 Standard of service provision

The scope of services should clearly outline the standards of service provision expected from the contractor. These should include

- the minimum levels of staff inputs and qualification that are expected (if these are critical)
- reference to building, construction or other standards for the provision of capital works. Use of international and local standards should be clearly delineated
- reference to the standards for procured items
- reference to any standards, codes of practice or codes of ethics issued from time to time by Australian or relevant international professional bodies
- reference to relevant laws and regulations in force in the partner country, both general and specific
- reference to any Commonwealth environment legislation or local guidelines or requirements for assessing environmental impacts, and
- any particular standards or quality assurance aspects relating to individual deliverables.

4.8 Sustainability

The scope of services should specify any required processes the contractor must apply to promote sustainability. Examples might include

- conducting participatory workshops with the counterpart agency and other stakeholders when proposing and developing changes to counterpart systems and practices
- regularly meeting and discussing partner government and recurrent cost financing issues with the partner government's finance or planning department, and
- conducting regular user needs/preference surveys.

The scope of services should also specify any deliverables which are identified elements of the activity sustainability strategy. Examples might include

- revision of the sustainability analysis and sustainability strategy as an integral part of each Annual Plan
- production of an on-the-job training and mentoring plan which is endorsed by counterparts, and
- the production of an asset maintenance plan.

For more information refer to AusGuideline 6.4 *Promoting practical sustainability*.

4.9 Description of the deliverables

This section should clearly set out what the contractor is expected to deliver. It will vary in length and complexity depending on the complexity of the activity.

Activity outputs are described in the ADD. In drafting the scope of services, the design team should determine for each output what actions or outcomes the contractor will need to produce to help achieve the activity output. These are the deliverables. Deliverables can take a number of forms and might include tasks that the contractor is expected to undertake, processes that the contractor should put in place and delivery of inputs such as procured items and training. The key consideration is that the deliverables must be under the control of the contractor, while contributing directly to the achievement of wider activity outputs.

Deliverables must be well described, unambiguous and have defined means of verification (whether quantitative or qualitative). This assists in accurate costing of activities, effective implementation by the contractor, and assessment of the contractor's performance by AusAID). The scope of services should list all the deliverables, with their verifiable indicators including indicative dates of delivery, either in chronological order or by component.

This text should be based on the ADD section: *Component structure: Output description*

5 The basis of payment

Responsibility for determining the style of the basis of payment (see section 5.1) rests largely with CSG. However, since the design team understands which deliverables are critical for the successful implementation of the activity, the team is usually tasked with developing payment milestones, based on the deliverables, for inclusion in the basis of payment.

A payment milestone might be the culmination of a series of deliverables, or a single deliverable in its own right. The design team should also identify any deliverables which it believes are not suitable to be incorporated wholly into payment milestones. These deliverables would be included in the basis of payments as reimbursable items. For example, if an activity involved the procurement, installation and commissioning of machinery, it might be inappropriate to base a payment milestone on the commissioning of the machinery, as it could force the contractor to carry the cost of the machinery for some months before being paid. Instead, the basis of payments could include the cost of the machinery as a reimbursable item, with a small payment milestone for its commissioning.

The draft basis of payment is provided to potential tenderers in order for them to provide a costing in their bids. Therefore it is important that the resources that the design team believes

are required for the activity are reflected in the draft basis of payments, and when preparing it the design team should check its consistency with the resource schedule.

5.1 Inputs, outputs and hybrid contracts

AusAID uses three styles of contracts – inputs, outputs and hybrids – and the basis of payments will vary depending on the style of contract determined as appropriate by CSG.

Inputs contracts pay contractors in accordance with an agreed work program and agreed monthly/daily/hourly rates for personnel inputs and reimbursable amounts for other inputs. They are rarely used and are only appropriate where deliverables are very difficult to define accurately or with certainty or where the operating environment is very unstable.

Outputs contracts pay contractors fixed lump sums upon AusAID acceptance of completion of payment milestones. There may be some separate reimbursable items, or all inputs might be rolled into the lump sums. There are flexibility problems with outputs contracts and there is a danger of contractors giving less emphasis to longer term capacity building priorities of activities in favour of meeting payment milestones and getting paid. They are best used

- in smaller activities or those with a short duration where significant changes are unlikely to be needed to the scope of work
- where deliverables are clearly identified, objectively measurable and unlikely to change
- in infrastructure activities, and
- in activities where large teams in-country are not required.

Hybrid contracts utilise a combination of input and output based payments. They are AusAID's preferred approach in medium and large scale activities. Hybrid contracts

- focus on achieving key results through output-based payment milestones
- provide flexibility in terms of variations to inputs and reimbursable costs, and
- address contractors' legitimate needs for a stable and predictable cash flow through regular inputs-based payments.

If the design team believes that an inputs contract is appropriate for the activity, they or the Activity Manager should contact CSG at the earliest opportunity to discuss why this is being recommended. More commonly, design teams will be preparing a basis of payments for an outputs or hybrid contract. Either of these will require the design team to identify payment milestones and reimbursable items.

5.2 The contents of the basis of payment

The basis of payment will usually contain the following

- a statement of the ceiling for total payment to the contractor
- a payment milestone table
- a periodic inputs payment table, in the case of a hybrid contract
- a list of procurement items and the estimated \$ amount that will be reimbursed at cost by AusAID and the fee for procurement
- a list of any other reimbursable items and the estimated \$ amount that will be reimbursed at cost by AusAID, and
- a summary cost table showing the total of items above.

Depending on specific activity issues CSG may decide, in consultation with the Activity Manager, to include additional items in the basis of payment, such as

- an *imprest account* or other flexible funding account. See AusGuideline 3.8 *Designing and using flexible funding accounts*
- *periodic performance payments*, as assessed by a Technical Advisory Group or by other means. Assessment will be in terms of the agreed performance indicators as set out in the scope of service. Where this item is considered appropriate it should be included in the summary cost table, and
- *liquidated damages*. When progress is contingent on the timely production of a deliverable it may be appropriate to include remedies such as liquidated damages. These will apply when the contractor is late in delivery, the delay was within its control and as a result there is an actual loss on the part of the Commonwealth.

Of the above, the design team is required to prepare a draft payment milestone table and the lists of recommended procurement items and other reimbursable items. If requested by the Activity Manager, the team might also be required to make recommendations on whether periodic performance payments as mentioned above would be appropriate, including what they would apply to and how performance would be measured.

5.3 Payment milestones

A payment milestone is an event that is selected to signify that certain tasks have been completed. A payment milestone consists of a statement of what will be achieved, a means of verifying the achievement and a date by which it will be achieved. Payment milestones should be judiciously chosen and based on the deliverables specified in the scope of services. As such, they should be based on real actions required of the contractor to support achievement of activity outputs. Milestones should not become ends in themselves.

It is important to avoid a large number of payment milestones that are based on reports. Too large a volume and intensity of reporting means the activity's strategic focus is significantly

diluted, both for the team members and the counterpart agency. From the counterpart agency's view, the production of milestone reports is of little direct value. This can be a major distraction for the counterpart agency if it is required to sign-off on each milestone report because of the sheer volume, length and density of milestone reports.

Each payment milestone must have a verifiable indicator against which AusAID can approve payment. Examples could be an independent appraisal of a report, acceptance by the counterpart agency of the work or assessment by a TAG review of satisfactory achievement. Approval or acceptance of the work of the contractor by the partner government is essential for sustainability, so approval/acceptance by the counterpart is often a valuable indicator. The standards for verification and acceptance by AusAID or the partner agency should be clearly identified in the specifications of the deliverables in the scope of services. The standards for verification that a payment milestone has been achieved should not be onerous or unreasonable. If delays are anticipated in verifying the achievement of the payment milestone, consideration could be given to allowing split payments. For example, acceptance by AusAID would trigger a part of the payment and acceptance by the recipient government would trigger the balance.

5.4 Sustainability

The basis of payment should include payment milestones that are within the control of the contractor while encouraging the contractor to focus on their contribution to broader activity objectives. To help achieve this, the basis of payments should

- not include a large number of small payment milestones which can become an administrative burden and which promote a short-term view of achievements
- provide adequate cash-flow to the contractor so that the pace of development is not artificially forced by the contractor's need for payment, when building sustainability and ownership takes time (note that this problem is alleviated by hybrid contracts), and
- give appropriate encouragement to contractors to focus on sustainability issues, by including payment milestones based on specific elements of the sustainability strategy as detailed in the ADD and the scope of services.

For more information refer to AusGuideline 6.4 *Promoting practical sustainability*.

5.5 The payment milestones table

The payment milestones table in the basis of payment will set out milestones (in chronological or component order) against which payments will be made to the contractor.

The milestone table should contain the following information

- a milestone number (for referencing on invoices)

- a scope of services output or activity reference for each milestone
- a description of the milestone, drawn from and cross-referenced to, the relevant deliverable(s) in the scope of services
- a verifiable indicator which specifies the information required to verify achievement or progress, in order for a milestone to be payable. The indicator could be “acceptance by AusAID”, or it may include measurements of quality, quantity and time. Sometimes a work methodology description is used instead of a verifiable indicator, to describe the steps that must be undertaken in order for the milestone to be payable under the contract
- an indicative date for achievement of the milestone, and
- the \$ value of each milestone payment (the design team is not required to provide estimates – the \$ amounts will result from negotiations with the preferred tenderer).

A sample payment milestone table is presented at Annex B.

6 A checklist for preparing the scope of services and basis of payment

The Activity Manager, in consultation with CSG, will ensure that the checklist below is applied during activity design and is used when finalising the scope of services and basis of payment. The checklist should be used as a guide only as each activity requires specific design and contract approaches to ensure its objectives are achieved and to the standards expected by both governments. The Activity Manager will obtain from CSG appropriate examples of the scope of services and the basis of payment to be provided to the feasibility design team during preparation of the ADD.

Preparation Checklist Table

Scope of Services	Preamble	<p>Is the activity description consistent with that in the ADD?</p> <p>Are the activity outputs described the same as in the ADD?</p> <p>Do the coordination arrangements and reporting requirements conform that those set out in the ADD? Do they need to be defined more specifically with respect to the role of the contractor?</p> <p>Is it clear who in AusAID will be undertaking key tasks in the management of this contract and that the relationship with the contractor is clearly explained?</p> <p>Does the scope of services identify the different phases of the activity and are these consistent with the ADD description?</p> <p>Does the scope of services outline the standards and performance requirements expected of the contractor and include specific performance indicators? Is it clear how and by whom contractor performance will be assessed?</p>
	Deliverables	<p>For each deliverable description (and inputs if these are to be specified)</p> <ul style="list-style-type: none"> ▪ Is there a clear statement of what is to be achieved or delivered? ▪ Does the contractor control all aspects of producing the deliverable? ▪ Could a payment milestone be based on the deliverable? If not, could they be part of a payment milestone, in conjunction with other deliverables? ▪ Does the scope of services provide sufficient information for verification of the deliverable to the level specified? ▪ Does the scope of services specify who will be responsible for verification and how this will be undertaken?
Basis of Payment	Structure	<p>Are the requirements as listed in this guideline, under the heading “The contents of the basis of payment”, met?</p> <p>Are the payment milestones clearly related to the deliverables as set out in the scope of services?</p> <p>Have any other payments been identified and if so, are these defined sufficiently to allow verification?</p> <p>Is there a clear distinction made between fixed fees payable to the contractor and reimbursable items?</p> <p>Are payments to be made on delivery of inputs? If so, are these justified? Are they documented separately?</p>
	Milestones	<p>For each milestone in the basis of payment</p> <ul style="list-style-type: none"> ▪ Is it directly related to a specific deliverable(s) in the scope of services? ▪ Is payment for the milestone based on acceptance by AusAID and/or the partner government of the delivery of a tangible output? Can this be readily verified? ▪ Is the date for delivery against the milestone estimated?

A Responsibilities

This table provides information on who is responsible for the various stages and documents that constitute the scope of services and the basis of payment.

Document	Responsibility	Comments
<p><i>Scope of Services</i></p> <ul style="list-style-type: none"> ▪ Preamble ▪ Deliverables description 	<p>Designer, in consultation with activity manager</p> <p>Designer, in consultation with activity manager</p>	<p>The designer may be best qualified to assess the services required of the Contractor. However, the activity manager will have the final say as to the content of the scope.</p>
<p><i>Basis of Payment</i></p> <p>Overall structure</p> <ul style="list-style-type: none"> ▪ Payment milestones 	<p>CSG, in consultation with activity manager</p> <p>Designer in consultation with activity manager and CSG.</p>	<p>The basis of payment structure depends on the nature of the activity and will be finalised before a request for tender is issued.</p> <p>Includes verifiable indicators.</p>

B Sample milestone tables

Example 1

ADD Output Ref	Payment Milestones	Work Methodology	Verifiable Indicator	Target Month	Dollar Amount
1.1, 2.1	Milestone 1 - Baseline Surveys methodology developed	Develop methodology outlining survey process, methods of data collection and proposed process of consultation.	Baseline surveys methodology accepted in writing by AusAID	end of month 4	
1.1	Milestone 2 - Baseline Surveys carried out in eight new activity areas	Undertake base-line surveys in accordance with approved methodology, to determine the level of health care and disease indicators such that an evaluation framework can be developed to measure activity impact against these baseline indices and in order to establish priorities.	Statutory declaration that baseline surveys have been undertaken in line with approved methodology	end of month 8	
1.1, 2.1, 3.2	Milestone 3 - Training Needs Analyses methodology and questionnaire developed for Components 1 and 2 & 3	Develop a training needs analysis methodology and questionnaire to identify the gaps between practicing health care worker's skills, knowledge and practices and those that are considered necessary to carry out the duties in a competent proficient manner.	Report summarising methodology, proposed implementation plan and questionnaire for TNA approved by counterpart agency	end of month 4	
1.1, 2.1, 3.2	Milestone 4 - Training strategy and plan prepared	Conduct base-line survey and community situation analysis. Conduct training needs analysis, in line with approved methodology and questionnaire. Identify core competencies for all trainees and training needs for proposed competency based trainers. Review training outputs of Phase 1 districts and existing course materials and training packages. Conduct workshop series to contribute to development of training plan.	Competency based training strategy and plan approved by counterpart agency	end of month 10	
4.2	Milestone 5 - Midwife Strategy prepared	Develop a strategy addressing issues identified in the Midwife Review. Adhere to AusAID's Population Policies and Guiding Principles	Report detailing the strategy and proposed implementation plan approved by counterpart agency and AusAID	end of month 8	
4.2	Milestone 6 - Draft Annual Plan prepared and submitted to AusAID	Prepare draft Annual Plan in consultation with all relevant stakeholders, addressing all requirements detailed in scope of services and informed by Risk Assessment Strategy Report agreed by AusAID	Draft Annual Plan accepted in writing by AusAID	end of month 9	

Example 2

ADD output ref	Milestone	Means of Verification for Payment	Target quarter	Payment Value (\$)
1.1	1. Customary lands registration	A preliminary study report, accepted in writing by AusAID, identifying broad issues, key personnel involvement and linkages with the other SIG departments, and describing a framework approach for implementation of customary land registration.	Q1	
1.2	2. Temporary occupation (TOL) report	A preliminary report, endorsed by the PS DOLS, as satisfactory for the purposes of the DOLS, which identifies stakeholders and consultations, planning issues, and including a draft action plan for implementation in the first pilot.	Q1	
2.1	3. Development of the land rent database and schedule system	A compendium (on appropriate media) from documentation prepared for the use of DOLS staff related to development of the database, including, at a minimum, user manuals and training evaluation returns together with a brief report indicating the significance of the documentation in the context of the system implementation strategy.	Q2	
3.1	4. Outline of staged capacity building program	A compendium of key documentation prepared for the purposes of implementing the program together with a brief report indicating the significance of the documentation in the context of the program, to include, at minimum: training program, draft individual action plans for managers and supervisors, operating procedures, and schedule for adoption, monitoring and review.	Q2	
4.1	5. Land transaction files	A brief report, endorsed by PS DOLS indicating the number of files so far classified and assigned for processing, or archiving, together with recommendations and plan for ongoing review and management of transactions records.	Q3	
4.2	6. Inventory of SIG owned/leased land	Inventory documentation (on appropriate media) together with a brief report indicating the significance of the documentation, the manner in which it demonstrates the status of SIG leased and owned land and describing the methodology for assessed use and value.	Q4	
5.1	7. Improved basis for selected SIG revenue generation and arrears collection	Proposed valuation documentation (on appropriate media) together with a brief report on the collection of stamp duties and the setting and collection of property rates by the Honiara City Council.	Q4	