

AFP National Guideline on procurement and contracting

1. Disclosure and compliance

This document is classified **UNCLASSIFIED** and is intended for internal AFP use.

Disclosing any content must comply with Commonwealth law and the [AFP National Guideline on information management](#).

Compliance

This instrument is part of the AFP's professional standards framework. The [AFP Commissioner's Order on Professional Standards \(CO2\)](#) outlines the expectations for appointees to adhere to the requirements of the framework. Inappropriate departures from the provisions of this instrument may constitute a breach of AFP professional standards and be dealt with under Part V of the [Australian Federal Police Act 1979](#) (Cth).

2. Acronyms

AFP	Australian Federal Police
ATM	Approach to Market
CFIs	Commissioner's Financial Instructions
CPRs	Commonwealth Procurement Rules
DoF	Department of Finance
EOI	Expression of interest
ICT	Information and Communications Technology
NPC	National Procurement and Contracts Team
PGPA	Public Governance, Performance and Accountability
PSPF	Protective Security Policy Framework
RFQ	Request for Quotation
RFT	Request for Tender

3. Definitions

AFP appointee – means a Deputy Commissioner, an AFP employee, special member or special protective service officer and includes a person:

- engaged overseas under s. 69A of the [Australian Federal Police Act 1979](#) (Cth) (the AFP Act) to perform duties as an AFP employee

- seconded to the AFP under s. 69D of the AFP Act
- engaged under s. 35 of the AFP Act as a consultant or contractor to perform services for the AFP and determined under s. 35(2) of the AFP Act to be an AFP appointee.

(See s. 4 of the AFP Act.)

Approach to market (ATM) – is a request document developed as part of the Commonwealth Contracting Suite that invites potential suppliers to participate in a limited or open tender procurement process.

AusTender – is the Commonwealth Government’s procurement publishing and reporting website: www.tenders.gov.au.

Commercial activities – are activities which encompass procurement, contracting, outsourcing, intellectual property issues, insurance and revenue-generating opportunities and functions.

Commonwealth contract - is used to create a contract for procurements less than \$200,000. This contract is part of the Government’s Commonwealth Contracting Suite.

Commonwealth Contracting Suite – is the mandatory suite of documents created by the Department of Finance to streamline procurement processes under \$200,000 for government and business. The documents include the ATM, the Response to ATM, Evaluation Report and the Commonwealth Contract.

Conditions for participation – are the minimum conditions that potential suppliers must demonstrate compliance with, in order to participate in a procurement process or for submissions to be considered. This may include a requirement to undertake an accreditation or validation procedure.

Contingent liability – is an indemnity, guarantee, warranty or letter of comfort that may give rise to a liability on the occurrence of a particular future event that is outside of the control of the AFP.

Consultant – is an individual or entity engaged to provide consultancy services involving the development of an intellectual output that assists the AFP to make decisions, such as research, findings, the expression of an original concept, advice and/or recommendations.

Contract – is an arrangement, as defined by the [Public Governance, Performance and Accountability Rule 2014](#) (Cth), for the procurement of goods and services under which relevant money is payable or may be payable. The term encompasses formal agreements, deeds of standing offer, purchase orders, official orders, leases and memorandums of understanding.

Contract Management System – means the AFP’s system for reporting and managing contracts. Through Insight! AFP appointees can create and vary their own contracts.

Contractor – is an individual or entity contracted to provide goods or services under direction, or in accordance with AFP specifications, as to how the work is to be performed and/or the form of the goods or service to be produced. ‘Contractor’ for the purposes of this instrument has the same meaning as ‘service provider’ and ‘supplier.’

Construction services – refers to procurements related to the construction of buildings and all procurements covered by the [Public Works Committee Act 1969](#) (Cth).

Coordinated procurement – refers to whole-of-government arrangements for the supply of goods or services that **must** be used unless a specific exemption has been granted jointly by the AFP's portfolio minister and the Finance Minister.

Cooperative agency procurement – involves more than one agency as a buyer. The AFP can procure cooperatively by approaching the market with another agency or by accessing an existing contract belonging to another agency (often referred to as piggybacking).

Deed of standing offer – is an arrangement setting out the terms and conditions, including a basis for pricing, under which a supplier agrees to supply specified goods and services for a specified period.

Expression of interest – is a response to an open approach to the market requesting submissions from potential suppliers interested in participating in a procurement. The list of potential suppliers who have submitted expressions of interest may be used as the basis for conducting a prequalified tender process.

Goods – means every type of right, interest, or thing legally capable of being owned. This includes, but is not restricted to, physical goods, real property and intangibles such as intellectual property, contract options and goodwill.

Indemnity – is a legally binding promise whereby a party undertakes to accept the risk of loss or damage another party may suffer.

Limited tender – means approaching one or more potential suppliers to make submissions, where the process does not meet the rules for open tender or prequalified tender. For procurements valued at \$80,000 (GST inclusive) and above, limited tendering is only permitted under certain conditions outlined in Division 2 of the [Commonwealth Procurement Rules](#).

Official – is defined in s. 13 of the [Public Governance, Performance and Accountability Act 2013](#) (Cth).

Official order – is a contract for the supply of goods or services issued to a supplier in accordance with the terms of a deed of standing offer or other form of overarching contract.

Online purchasing system – is the AFP online tool available via *Insight!* that is used to create a purchase order.

Open approach to the market – means any notice, published on AusTender, inviting all potential suppliers to participate in a procurement which may include a request for tender, request for quote, request for expression of interest, request for application for inclusion on a multi-use list, request for information and request for proposal.

Open tender – means an ATM, published on AusTender, inviting all potential suppliers to lodge a submission.

Panel – is a group of suppliers engaged under deeds of standing offer to supply identified goods or services. Panels are usually established through a single procurement process and official orders are typically raised for each separate procurement from the panel.

PGPA Act – means the [Public Governance, Performance and Accountability Act 2013](#) (Cth).

PGPA Rule – means the [Public Governance, Performance and Accountability Rule 2014](#) (Cth).

Prequalified tender – means publishing an approach to market inviting submissions from all potential suppliers on:

- a short list of potential suppliers that responded to an initial open approach to market
- a list of potential suppliers selected from a multi-use list established through an open approach to market
- a list of all potential suppliers that have been granted a specific licence or comply with a legal requirement, where the licence or compliance with the legal requirement is essential to the conduct of the procurement.

Probity - is the evidence of ethical behaviour including complete and confirmed integrity, uprightness and honesty in all aspects of a procurement process.

Procurement – means the whole process of acquiring goods or services encompassing:

- identification of a need
- risk assessment
- seeking and evaluating alternative solutions
- contract award
- delivery of and payment for goods or services
- ongoing management of the contract where relevant including consideration of contract options and disengagement of a service provider at the end of the contract
- consideration of disposal of goods at the end of their useful life where relevant.

Procurement threshold – is a value above which a procurement, unless specifically exempt, is subject to the additional rules outlined in Division 2 of the [Commonwealth Procurement Rules](#) (see s. 12 of this guideline for further information).

Purchase order – is a written contract issued to suppliers for low value low risk procurements of goods or services. Purchase orders include standard terms and conditions.

Relevant delegate – is the Official identified in [Annexure B to the Commissioners Financial Instructions \(CFIs\) - Schedules of Authorisations and Delegations](#) to hold the powers and responsibilities as delegated by the Commissioner.

Request documentation – means the documentation provided to potential suppliers to enable them to understand and assess AFP requirements and to prepare appropriate and responsive submissions.

Request for tender – is a published notice inviting suppliers who satisfy the conditions for participation to submit a tender in accordance with the requirements of the request documents.

Response to ATM – is a submission made by a potential supplier making an offer to provide goods or services in response to an ATM.

Service provider – means the entity or entities that have contracted with the AFP for the supply of goods or services. For the purposes of this guideline 'service provider' has the same meaning as 'contractor' and 'supplier'.

Spending proposal – means the document that contains the key elements of a proposed procurement process and is used to inform the relevant delegate and obtain approval for a proposed procurement activity.

Submission – means any formally submitted response from a potential supplier to an approach to market. Submissions may include:

- offers
- quotations
- tenders
- expressions of interest
- applications for inclusion on a multi-use list.

Tenderer – is an entity or person who has responded with a submission to an ATM.

Value – the total estimated value of the goods or services being procured, as determined in accordance with the rules at s. 9 in Division 1 of the [Commonwealth Procurement Rules](#). The value of the goods or services being procured will determine whether a particular procurement is subject to the additional rules in Division 2.

Value for money – means a comparative analysis of all relevant costs and benefits (or technical merit) of each proposal throughout the whole procurement cycle (with consideration also given to whole of life costing or total cost of ownership).

4. Guideline authority

This guideline was issued by the Chief Financial Officer using power under s. 37(1) of the [Australian Federal Police Act 1979](#) (Cth) as delegated by the Commissioner under section 69C of the Act.

5. Introduction

This guideline advises AFP appointees on their obligations when engaging in the:

- procurement of goods and services on behalf of the AFP
- entering into and management of contracts for the supply of goods and services.

This guideline is a companion to the [Commissioner's Financial Instructions](#) and provides additional instruction and guidance for AFP appointees involved in procurement and contracting. This guideline also provides links to essential policy and guidance documents such as the [Commonwealth Procurement Rules](#) and to AFP-specific guidance on the procurement processes.

6. Policy

The PGPA Act requires the Commissioner to manage the resources of the AFP in an efficient, effective, economical and ethical manner.

AFP appointees undertaking procurement on behalf of the AFP must adhere to the PGPA Act, PGPA Rule, the Commonwealth Procurement Rules, the [Commissioner's Financial Instructions](#) and this National Guideline.

Commonwealth and AFP procurement policy requires ethical behaviour, achieving value for money, encouraging competition and making procurement decisions in an accountable and transparent manner.

7. Role of National Procurement and Contracts and AFP Legal

The National Procurement and Contracts Team (NPC) in the Finance and Commercial portfolio, is responsible for:

- providing advice to business areas on the procurement of goods and services ensuring compliance with the Australian Government procurement policy framework
- ensuring that the AFP complies with government reporting obligations in relation to procurement
- providing assistance and support to business areas on contracting and contract management activities.

AFP Legal is responsible for:

- determining a the appropriate form of contract for procurements valued at \$200,000 and above and high risk procurements such as consultancies
- providing legal advice in relation to contract management issues
- providing advice on contingent liabilities including warranties indemnities and guarantees provided by the AFP.

AFP appointees must refer to NPC all:

- procurements where the estimated value of the goods or services being procured is \$80,000 and above (GST inclusive)
- contract variations/extensions relating to procurements or contract variations/extensions that increase the value of a contract beyond the \$80,000 (GST inclusive) threshold
- procurements less than \$80,000 (GST inclusive), for any of the following a:
 - consultancy
 - proposal to terminate a contract or tender process
 - proposal to commence work without a formal written signed contract in place

Whilst NPC assists business areas to meet their obligations in accordance with the PGPA Rule and provides compliance assessment and advice on procurement, it does not provide sign-off or provide approval of spending proposals. Approval of spending proposals and compliance with the PGPA Rule is the responsibility of the relevant delegate.

Part 1: Legal framework

8. Commissioner's Financial Instructions

In accordance with the PGPA Rule, the Commissioner has issued the [Commissioner's Financial Instructions](#) (CFIs). The CFIs outline AFP policies and practices necessary for carrying out or giving effect to the PGPA Act and PGPA Rule. The CFIs also establish AFP specific rules to ensure compliance with the rules of the Government's procurement and financial management frameworks. The CFIs provide instruction to AFP appointees carrying out duties relating to procurement in a manner tailored to the AFP's particular circumstances and needs.

The CFIs provide instructions for dealing with a number of procurement related activities. These include:

- CFI 03: Justifying spending
- CFI 04: Approving commitment of relevant money
- CFI 05: Procurement of goods and services (including the engagement of consultants and contractors)
- CFI 06: Entering into arrangements
- CFI 07: Managing service delivery
- CFI 08: Making payment of relevant money
- CFI 22: Managing risk and accountability
- Annexure B: Schedules of Delegations and Authorisations.

9. Commonwealth Procurement Rules

Compliance with the [Commonwealth Procurement Rules](#) (CPRs) is mandated under s. 102 of the PGPA Act.

The CPRs set down the rules for all procurement and articulate the requirements for all Officials performing duties in relation to procurement. Non-compliance with the CPRs must be reported in the AFP's certificate of compliance.

The CPRs are the core of the Government's procurement framework; for additional procurement guidance, the following are available:

- Department of Finance's (DoF's) [Procurement Policy Website](#)
- Finance Guidance, Resource Management Guides and Tools issued by the DoF, advising key changes and developments to the procurement framework
- other procurement guidance
- the [Commissioner's Financial Instructions](#) and associated [National Guidelines](#).

10. Commitment to spend relevant money

Prior to entering into a contract for the supply of goods or services, an Official requires approval in accordance with s. 23 of the PGPA Act.

When procuring goods or services valued over \$10,000 (GST inclusive), approval must be obtained via completion of the appropriate approval document as described in s. 16 below.

The relevant delegate must be satisfied, after making reasonable inquiries, that giving effect to the spending proposal (proposed procurement) would be an efficient, effective, economical and ethical use of Commonwealth resources that is not inconsistent with the policies of the Commonwealth (as per s. 15, s. 16 and s. 23 of the PGPA Act, and s. 18 of the PGPA Rule).

11. Record keeping

Documentation of procurement processes and management of contracts is critical to accountability and transparency. It provides a record of how procurement and contracting activities have been conducted and facilitates scrutiny of these activities.

All AFP appointees engaged in procurement must maintain appropriate documentation, commensurate with the scale, scope and risk of each procurement scheme contract management activity. In each case, they must ensure there is sufficient documentation to justify:

- the requirement for the procurement
- the procurement process that was followed
- how value for money was considered and achieved
- all relevant decisions made before and during conduct of the procurement, including approvals and the basis of those decisions.

Consistent with the [Archives Act 1983](#) (Cth) documentation relating to a procurement **must be retained for a minimum period of 3 years** after the procurement process has been completed (or for a longer period if required by legislation or other reason specific to the particular procurement) and thereafter destroyed in accordance with the [Archives Act 1983](#) (Cth).

Officials are advised that a member of the public under the [Freedom of Information Act 1983](#) (Cth) may request access to procurement related information held by an agency. The information, unless exempt under that Act, will be disclosed.

Record keeping checklists and spending proposal templates are available from the [National Procurement and Contracts homepage](#).

The [AFP National Guideline on information management](#) details obligations relating to records management.

12. Divisions of the Commonwealth Procurement Rules (CPRs) and procurement thresholds

The CPRs are split into two divisions:

- **Division 1** sets out rules that must be applied to all procurement activities regardless of the value
- **Division 2** sets out additional rules that must be applied to procurements valued at or above the relevant procurement threshold where no exemption applies.

The following procurement thresholds apply to agencies subject to the PGPA Act_2013 (Cth) (including the AFP) and trigger compliance with the rules at Division 2:

- \$80,000 (GST inclusive) for procurements other than construction services
- \$7,500,000 (GST inclusive) for construction services.

Appendix A of the CPRs lists the exemptions that apply to Division 2; however, such procurements are still required to be undertaken in accordance with the rules at Division 1 of the CPRs.

AFP appointees must consult National Procurement and Contracts when procuring goods and services valued at \$80,000 (GST inclusive) and above, regardless of whether the procurement is for construction services or an exemption applies.

13. Value for money (COMMONWEALTH)

The requirement to achieve value for money applies to all procurement activities and is the core rule of the [CPRs](#). Consideration of how value for money will be achieved is required at the commencement of all procurement processes. AFP appointees must be able to demonstrate how

the procurement will achieve a value for money outcome for the AFP.

Price is not the sole determining factor in assessing whether a particular procurement represents value for money. Value for money requires consideration of the financial and non-financial costs and benefits associated with the procurement and takes into account:

- quality of the goods and services
- fitness for purpose
- a potential suppliers experience and performance history
- flexibility of the goods or service including innovation and adaptability over the life of the procurement
- environmental sustainability
- whole-of-life costs.

AFP appointees **must** refer to s. 4 of the CPRs when determining value for money.

14. Valuing procurements

AFP appointees must estimate the value of the procurement before the procurement method is determined.

The estimation **must** include all forms of remuneration including any taxes, charges and allowances to be paid over the life of the contract/s. The valuation must also include any potential contract extension options.

The total value of a contract may also be influenced by factors such as provision for:

- price/wage movements over the life of the contract
- an increase to the scope of services due to changes in operational requirements.

A procurement must not be divided into separate parts solely for the purpose of avoiding a relevant procurement threshold.

AFP appointees **must** refer to s. 9 of the CPRs when valuing procurements.

14.1 Valuing panel arrangements

When establishing panel arrangements, the value of the procurement is the estimated total value of all goods or services that may be procured from all members of the panel over the life of the panel arrangement.

15. Indigenous procurement policy

This policy is central to the Government's commitment to increasing the number of Indigenous adults in work and is about creating opportunities for Indigenous businesses to grow and employ more people. The new policy applies to new contracts from 1 July 2015.

The policy has three key components:

- a target for purchasing from Indigenous enterprises
- a mandatory set-aside to direct some Commonwealth contracts to Indigenous enterprises
- minimum Indigenous participation requirements for certain Commonwealth contracts.

For further information the Indigenous Procurement Policy can be found at:
<http://www.dpmc.gov.au/ipp>.

Part 2: AFP framework

16. Procurement steps and timeframes

There are 6 major steps that are generally followed when procuring goods or services. Within each step there are also a number of decisions or actions to be addressed. The major steps in a procurement are:

- **Step 1.** Plan and scope the procurement.
- **Step 2.** Determine the procurement method.
- **Step 3.** Obtain approvals and prepare to approach the market.
- **Step 4.** Approach the market.
- **Step 5.** Evaluate submissions.
- **Step 6.** Award and manage the contract, receive the goods and services and conclude the process.

These steps apply to both low value procurement as well as more complex procurement activities. The level of effort and rigour associated with a procurement process should be commensurate with the level of the procurement risk. A more complex procurement process may involve conducting an open tender process, convening an evaluation committee to conduct the evaluation, issuing a formal contract and managing supply of goods/services over a period of time.

For procurements valued over \$80,000 (GST inclusive) guidance documents such as the steps to be completed as part of a procurement process and an indicative timetable are available from [National Procurement and Contracts](#) (AFP Hub).

17. Procurement method

All procurement activities must be classified as being conducted by one of three procurement methods:

- open tender
- prequalified tender
- limited tender

Prior to a procurement activity commencing, the proposed method of procurement must be documented in a spending proposal and approved by a relevant delegate.

The procurement method selected for each procurement activity is determined by the requirement to achieve value for money and comply with the rules outlined in the CPRs.

17.1 Mandatory coordinated procurement arrangements

For particular goods and services, the Government has determined that value for money is best achieved through whole-of-government coordinated procurement arrangements. These

arrangements have been established through open tender procurement processes and **must** be used irrespective of the value of the procurement. Unless specifically detailed as part of the coordinated procurement arrangement, exemptions from using these arrangements may only be granted jointly by the Minister for Home Affairs and the Minister for Finance where a special need for an alternative supply can be demonstrated.

The requirement to use coordinated procurement arrangements is outlined in s. 4 of the [CPRs](#). More information on goods and services subject to mandatory [coordinated procurement arrangements](#) is published on the Department of Finance (DoF) website.

Details of coordinated procurement arrangements and their AFP contract managers are included in the [AFP's list of panels](#) (AFP Hub).

17.2 Cooperative procurement

Cooperative procurements involve joining with another agency to procure goods and services through an open tender process. These arrangements may only be used where they represent value for money for the AFP. If the AFP wishes to join a cooperative procurement arrangement, the initial request documents and the subsequent contract must specify potential use by the AFP. AFP appointees must work with NPC to join or access existing cooperative procurement arrangements.

Details of cooperative procurement arrangements that the AFP has accessed are included in the [AFP's list of panels](#) (AFP Hub).

Guidance on [cooperative procurement](#) is published on the DoF website.

17.3 Panels

A procurement from a panel is considered to be conducted in the same manner that the panel was originally established. Panel arrangements within the AFP are generally established through open tender processes. Once established, a panel can achieve value for money and streamline procurement processes by:

- providing a flexible, streamlined and efficient process for procuring goods or services on a regular basis
- allowing direct engagement of panel members for routine low value purchases
- allowing large volumes of goods or more complex services to be procured efficiently without conducting a full open tender process

Each AFP panel arrangement has a panel manager. This person should be the first point of contact for Officials wishing to purchase goods or services provided by that panel. The panel manager will provide instructions on how to use the panel in accordance with the deed.

Depending on the nature of a panel, panel members may be engaged by either:

- conducting a competitive procurement process where a request for quotation is issued to all or some panel members
- directly approaching a single panel member after evaluating, based on value for money, the specific goods or services and price structure contained within each panel member's deed of standing offer.

Spending proposals must document the process used to approach a panel and justify how value for money will be achieved. Spending proposals from panels valued at \$80,000 (GST inclusive) and above and for consultancy services must be reviewed by NPC prior to approval by the relevant delegate.

17.4 Limited tender

When conducting a procurement through limited tendering, the number of submissions (quotes, offers) sought from suppliers will depend on the:

- nature of the goods and services
- size and maturity of the market
- value and risk associated with the procurement.

A competitive process must be undertaken for all procurement activities unless there are circumstances and conditions that justify approaching a single supplier. These circumstances and conditions must be soundly justified and documented in the spending proposal. Whilst there may be occasions where it may be appropriate to seek a single quotation, this must be the exception rather than standard practice.

Division 2 of the CPRs sets out the conditions that limited tendering can be used to procure goods and services valued at or above the procurement thresholds of \$80,000 (GST inclusive) and \$7,500,000 (GST inclusive) for construction services.

If there is no mandatory coordinated procurement arrangement, AFP panel, or cooperative procurement, the table below outlines the method of procurement required within the AFP to ensure compliance with the CPRs:

Value (GST inclusive)	Procurement method	How approval is provided and recorded
Over \$80,000 (GST inclusive)	<ul style="list-style-type: none"> • open tender or • prequalified tender or • limited tender in accordance with the conditions outlined in Division 2 of the CPRs. 	Business areas must complete the relevant high value spending proposal template and send to NPC for review prior to obtaining relevant delegate approval.
Between \$10,000 and \$80,000 (GST inclusive)	<ul style="list-style-type: none"> • limited tender (1–6 written quotes) 	<p>Business areas must complete the relevant low value spending proposal template and risk profile guide.</p> <p>If only 1 quote is sought, the reasons must be justified within</p>

		the spending proposal.
Under \$10,000 (GST inclusive)	<ul style="list-style-type: none"> • limited tender (1–3 verbal or written quotes) 	<p>Business areas must obtain PGPA approval in writing and document the procurement process to be used.</p> <p>If only 1 quote is sought, the reasons must be justified and documented.</p>

17.5 Procuring consultancy services

Contracts for consultancy services must be reported in the AFP's annual report and are separately identified on AusTender. As a result of the increased scrutiny, all spending proposals for consultancy services, **regardless of value, must be reviewed by NPC** prior to obtaining delegate approval.

DoF's advice on [additional reporting on consultancies](#) provides assistance to Officials to determine the difference between a contractor and a consultant.

17.6. Procuring software

All software procurement in the AFP is centralised. Business areas are prohibited from procuring software directly from suppliers. AFP appointee must comply with s. 12 of the [AFP National Guideline on software management and copyright](#) which outlines the process for procuring software.

18. Spending proposal

All procurements valued at \$10,000 (GST inclusive) or more **must** be documented through the development of a spending proposal using the templates provided on the [NPC homepage](#) (AFP Hub). A spending proposal must be used to obtain approval prior to the commencement of the procurement process.

The spending proposal must provide evidence of compliance with the CPRs and CFIs and must be retained within the business area in accordance with the record keeping requirements detailed in s. 11 above.

The level of information provided in a spending proposal should be commensurate with the scale, scope and relative risk of the proposed procurement. Depending on the value of the procurement, the spending proposal should document the:

- specific requirement for the good or services
- estimated contract value and start and end dates
- risks associated with the procurement
- proposed method of procurement

INFORMATION PUBLISHED

PERMANENTLY UNDER THE

FREEDOM OF INFORMATION ACT 1982
(COMMONWEALTH)

INFORMATION PUBLICATION SCHEME (IPS)

- procurement process timetable, as required
- stakeholders to the procurement process, as required
- contract and project managers, as required
- potential conflicts of interest.

There are 4 different spending proposal templates available which guide AFP appointees through the procurement process.

- [Template 1: High value spending proposal template for procurements valued over \\$80,000](#)
- [Template 2: Low value spending proposal template for procurements valued between \\$10,000 and \\$80,000](#)
- [Template 3: Panel spending proposal template – for procurements valued over \\$80,000](#)
- [Template 4: Panel spending proposal template – for procurements valued between \\$10,000 and \\$80,000.](#)

19. Approaching the market and request documents

The primary purpose for request documentation is to inform suppliers of the AFP's requirements and contract terms and conditions relating to the procurement. Request documents should enable suppliers to provide submissions that clearly relate to the AFP's requirements.

Request documents include:

- Request for Quotation (RFQ) – used to obtain submissions from suppliers for limited tender procurements valued at less than \$80,000 (GST inclusive) and also used for procurement processes from panel arrangements
- Approach to Market (ATM) – a request document developed as part of the Commonwealth Contracting Suite used to invite potential suppliers to participate in a limited or open tender procurement process.
- Request for Tender (RFT) – these contain more detail and are used for more complex high value procurements including open approaches to the market
- Request for Expression of Interest (EOI) – used during an open approach to the market to establish a shortlist of suppliers from which a subsequent prequalified tender process may be conducted.

When approaching the market, AFP appointees must ensure that all potential suppliers are dealt with in a non-discriminatory manner. Request documentation (including any changes and addenda) must be issued to all suppliers participating in a procurement process at the same time and in a manner that encourages competition and makes efficient, effective, economical and ethical use of Commonwealth resources. Similarly all procurement processes must have a common deadline for participating suppliers to lodge submissions with the AFP.

19.1 Approach to Market documentation

When conducting a procurement valued between \$10,000 and \$200,000 (GST inclusive) it is mandatory to use templates that form part of the Commonwealth Contracting Suite. The interactive templates have been tailored for use by the AFP and are available from the Department of Finance website after completing an online registration process.

The process for conducting procurements valued between \$10,000 and \$80,000 (GST inclusive) can be found on the [AFP Hub](#). To determine the risk profile and level of documentation required

for procurements of this value a [Risk Profile Guide](#) should be used.

The Commonwealth Contracting Suite must be used to seek submissions from suppliers for all procurements that are assessed as having a medium or significant risk limited tender procurements valued between \$10,000 and \$80,000 (GST inclusive). The templates are not to be used for procurements valued between \$80,000 and \$200,000 (GST inclusive) without consultation with NPC.

The Commonwealth Contracting Suite of documents **must** not be used for:

- whole-of-government arrangements
- construction
- existing contractual arrangements (e.g. standing offer or panel)
- ICT purchases (including software, hardware and services)
- entering into a financial arrangement that is not a procurement (e.g. a grant, disposal or an investment)
- both procurement and delivery will take place outside of Australia
- a risk assessment indicates that a bespoke contract is required to manage specific risks (e.g. discreet or covert procurements).

19.2 Request documentation for panels

Depending on the nature of a panel, panel members may be engaged by:

- conducting a competitive procurement process where a RFQ is issued to some or all panel members
- directly approaching a single panel member after evaluating, based on value for money, the specific goods or services and price structure contained within each panel member's deed of standing offer.

Spending proposals must document the process used to approach a panel and justify how value for money will be achieved.

Panel managers should be able to provide instructions on how to access goods and services in accordance with the deeds of standing offer. NPC can also provide assistance with procuring goods and services from panels and maintain a suite of RFQ templates for obtaining quotations from panel members. More information on panel arrangements is in s. 17.3 above.

19.3 Request documentation for open approaches to market

For procurement processes valued at \$80,000 (GST inclusive) and above, NPC should be consulted on the most appropriate method of procurement and documentation. NPC maintain a suite of detailed request documentation templates (i.e. the RFT and EOI templates) which can be adapted for use with a variety of different procurement processes. AFP appointees should contact NPC and obtain the appropriate request documents once they have completed their spending proposal.

All open approaches to the market must be published on AusTender by NPC. AusTender facilitates the distribution of open tenders to all suppliers at the same time and in a manner that is transparent and accountable. During the conduct of an open tender process, any changes, addenda or advice to suppliers must be made available to all potential suppliers via a notice on

AusTender.

All open approaches to the market must be advertised on AusTender for a minimum of 25 calendar days; however, under any of the following circumstances this time limit may be reduced to less than 10 days:

- details of the procurement have been published on AusTender in the AFP's procurement plan for a minimum of 30 days
- the procurement relates to commercial goods or services of a type that are offered for sale to non-government buyers for non-government purposes
- for a second or subsequent approach to the market for procurements of a recurring nature
- where a genuine state of urgency renders the normal time limit impractical.

A longer period in the market may be required if there are public holidays intervening or the complexity of the procurement means 25 days is insufficient for potential suppliers to lodge a submission.

20. Contract types

All purchases \$10,000 (GST inclusive) and above must be evidenced in writing in a contract between the AFP and the supplier. The formalisation of the terms and conditions at the procurement stage becomes the basis of a written contract.

The contract must be issued to the supplier prior to the delivery of any goods or services. When planning a procurement, AFP appointees must determine the most appropriate contract type to protect the interests of the AFP depending on the:

- nature of the goods and services being procured
- value and risk associated with the procurement.

AFP appointees should consult NPC and/or AFP Legal if assistance is required to determine an appropriate form of contract.

Contracts serve to protect the interests of the AFP by establishing clear terms and conditions relating to the particular goods or services. Contracts may include information and clauses about the following matters:

- purpose, services, timing and standards of goods or services to be provided
- financial matters, including pricing, method of payment, reimbursement of expenses or tax/invoice issues
- risk management issues including insurance and indemnities
- AFP security issues
- ownership and licences, including intellectual property rights
- privacy and confidentiality clauses
- communication management, including delivering of notices and dispute management clauses.

Draft contract terms and conditions are provided to suppliers in request documents. As part of their submission, suppliers are required to either accept the contract terms and conditions or declare their inability to comply with specific clauses of the draft contract. A potential supplier's level of compliance with the draft contract should form part of the evaluation of submissions and will inform the capability and risk associated with the particular supplier.

A contract can take the form of any of the following:

- AFP purchase order
- Commonwealth Contracting Suite contract
- AFP supply agreement, services agreement or deed of standing offer
- official order
- exchange of letters.

20.1 Purchase order

For low risk procurements valued between \$10,000 and \$80,000 (GST inclusive) the recommended contract type is an AFP Purchase Order. A low risk procurement is considered to be the purchase of off-the-shelf goods that are not difficult to replace, where there is no potential for reputational damage or poor service by the supplier and are at a fixed price. Services are generally not considered low risk. The Risk Profile Guide should be used to determine the risk profile of the procurement.

20.2 Commonwealth Contracting Suite

The Commonwealth Contracting Suite of documents that have been tailored for use by the AFP must be used for procurements between \$10,000 and \$200,000 (GST inclusive). Although the templates can be used for procurements valued up to \$200,000, NPC must be consulted prior to using the templates for procurements valued between \$80,000 and \$200,000 (GST inclusive).

The Commonwealth Contracting Suite contract templates are to be used in conjunction with the Approach to Market templates detailed in s. 19.1 above, and other relevant procurement documentation as determined by the Risk Profile Guide (\$10,000 to \$80,000) or AFP Risk Assessment (over \$80,000 or a procurement with significant risks).

The interactive Commonwealth Contracting Suite templates are available from the Department of Finance website after completing an online registration process. The Commonwealth Contracting Suite must be used to seek submissions from suppliers for all procurements that are assessed as having a medium or significant risk limited tender procurements valued between \$10,000 and \$80,000 (GST inclusive).

Refer to s.19.1 above for instances where the Commonwealth Contracting Suite of documents **must** not be used.

Procurements for ICT products including software and hardware and services must be referred to the [Technical Purchasing Team](#) and, if not from an existing deed of standing offer, an appropriate form of contract may be required to be drafted in consultation with AFP Legal.

20.3 Official order

A panel is established using a deed of standing offer to supply identified goods or services, and official orders are typically raised for each separate procurement from the panel.

Deeds of standing offer specify:

- the terms and conditions that apply when goods and services are procured from the panel

- how goods and services will be procured from the panel (by issue of a separate contract usually in the form of an official order)
- the scope of the goods or services available from the panel
- indicative rates or set prices for the goods or services
- the term during which the panel will operate.

Official orders generally specify the:

- precise goods and services to be procured
- time frame for delivery of the goods and services
- fees and any other special conditions relating to the individual procurement.

21. Conflict of interest and probity

AFP appointees involved in procurement must avoid conflicts of interest, including perceived conflicts. A conflict of interest may arise where a person has a private or personal interest in a situation sufficient to appear to influence the performance of their official duties in an objective manner.

Even where there is no evidence of improper action, the mere perception of impropriety may be sufficient to undermine confidence in a person's ability to act properly.

The perception of impropriety created by the conflict of interest is the issue, particularly in:

- any situation in which the payment relates to a member of the Official's family or a business entity with which the Official, or a member of the Official's family, is directly associated
- any item of expenditure for goods and services proposed by an Official, who is the partner or family member of the approving Official.

Officials involved in a procurement process, including contractors such as business or probity advisers, should make a written declaration of any actual or perceived conflicts of interests prior to taking part in the process.

Conflict of interest issues are addressed during completion of spending proposals and tender evaluation plans. Officials should also be mindful of the potential for conflict of interest issues to arise at any stage of a procurement process and must address them as they arise.

Probity provides a level of assurance to delegates, suppliers and the Commonwealth that a procurement was conducted in a manner that is fair, equitable and defensible. The DoF provides comprehensive guidance on [ethics and probity in procurement](#)

22. Risk management and insurance

The Australian Government's policy is to accept risks only when the expected benefits, financial or otherwise, are sufficient to outweigh the level and cost of the risk. AFP appointees should generally not accept risks which a supplier is better placed to manage.

Throughout a procurement process, AFP appointees must remain cognisant of risks and their potential impacts.

22.1 Risk assessment

INFORMATION PUBLICATION SCHEME (IPS)

Prior to any procurement, business areas must complete an initial risk assessment to identify and assess any potential risks to the AFP associated with the goods or services required. Where the risk assessment does not identify any major or higher risks to the AFP, its personnel, information, assets or reputation, the business area may progress with the process and then complete a separate procurement risk assessment.

Potential risks associated with each stage of a procurement process need to be identified and managed. Procurement efforts should be commensurate to the risk associated and value of a procurement process.

For procurements valued between \$10,000 and \$80,000 (GST inclusive) a [Risk Profile Guide](#) must be completed. The guide allows for the risk associated with a procurement to be identified, and the correct level of documentation and effort to be directed at the procurement process.

A risk assessment and treatment plan must be conducted for all procurements valued at \$80,000 (GST inclusive) or above, and for lower value higher risk procurements such as consultancy services.

Risk assessments must be undertaken in accordance with the process outlined in the [AFP National Guideline on risk management](#).

The initial risk assessments must be attached to the spending proposal and be approved by the relevant delegate. Risk assessments and risk management plans should be reviewed and amended throughout a procurement process.

A comprehensive list of the types of risk that should be considered and managed throughout a procurement process is available in the [Procurement Risk Toolkit](#) (AFP Hub).

22.2 Insurance

For procurements valued at \$80,000 (GST inclusive) and above the AFP generally requires suppliers to carry the following levels of insurance cover:

- public liability insurance (at least \$10,000,000) for all procurements
- product liability insurance (at least \$10,000,000) where equipment or products are provided to the AFP
- professional negligence insurance (at least \$5,000,000) where professional services including consultancy services are provided to the AFP
- workers' compensation as required by law.

Where levels of cover or AFP requirements for a particular type of insurance are challenged by potential suppliers, AFP appointees should consult NPC in the first instance and AFP Legal for more complex procurements.

Levels of insurance required for procurements valued at less than \$80,000 (GST inclusive) should be considered based on risk and checked as part of the procurement process. It is expected that suppliers maintain insurance at levels that a prudent supplier would normally maintain or are required to hold by law. For example, all suppliers entering AFP premises would be expected to hold, as a minimum, public liability insurance and workers' compensation insurance as required by law.

23. Financial viability assessments

A financial viability assessment evaluates the risk that, over the life of a proposed contract, a supplier may not be able to:

- deliver the goods and services which are specified in the contract
- fulfil guarantees or warranties provided for in the contract.

The requirement for a financial viability assessment should be considered when planning a procurement process and must be undertaken prior to entering into a contract for all high value, high risk procurements which:

- are critical to the operations of the AFP
- involve significant payments in advance of provision of goods or services (prepayments).

Where a procurement project or a particular supplier poses a risk to the AFP's operations, AFP appointees should consider incorporating additional measures into contracts which serve to protect the interests of the AFP. Such measures may include:

- financial undertakings
- performance guarantees
- quality undertakings and warranties relating to the quality of the goods or services
- liquidated damages clauses.

Advice should be sought from AFP Legal if additional contract clauses are required to manage a high risk contract or supplier.

NPC can assist with the ordering of financial viability assessments on potential suppliers.

Department of Finance's guidance on [Assessing Financial Viability](#) provides further information on managing risk and the conduct of financial viability assessments.

24. Security

Where external services are required, AFP appointees must consider the risks associated with external service providers having access to AFP facilities, personnel, assets and official information; particularly if the provider has access to, or interests with, an entity of interest to law enforcement or a foreign owned enterprise.

Prior to procuring any goods or external services, AFP appointees must complete a risk assessment as per s. 21.1 above to identify, assess and treat any security risks associated with the goods or services required.

Risk assessments must be undertaken in accordance with the [AFP National Guideline on risk management](#).

24.1 Security and approaches to the market

Open approaches to the market must include, through consultation with the [Security portfolio](#), security and integrity provisions relevant to the goods or services being procured, and must clearly indicate clauses that are mandatory to meet the minimum standards and those that are

optional or desirable.

Request documents (e.g. request for tender) should indicate whether a potential supplier's key personnel (including the bid manager and company directors, area managers or partners as applicable) will be required to undergo a security and suitability, professional conduct and integrity assessment to determine if the personnel and supplier are suitable to provide goods or services to the AFP. The security assessment, suitability assessment and integrity assessment, which address behaviour such as honesty, trustworthiness, maturity, tolerance, and loyalty, will be conducted by the AFP Security Portfolio. The outcome of such assessments must form part of the associated quotation/tender evaluation.

The Australian Government has determined minimum standards and procedures that must be applied to functions involving the generation, handling, storage, transfer or transmission and disposal of official information. Request documents prepared by AFP appointees must refer to these minimum standards which are outlined in the [PSPE](#).

24.2 Security obligations in contracts

Contracts must contain reference to any security obligations placed on the service provider.

Where a contract requires the service provider to access official information, additional matters must be addressed in the evaluation criteria. All tenderers must meet the following requirements:

- a conflict of interest declaration must be completed to disclose any potential conflict of interest that would impact on security in the performance of functions or services on behalf of the Australian Government
- the service provider's employees who require access to sensitive facilities, sensitive practices or procedures or official information must be security cleared to the appropriate level and comply with the security of the AFP and all applicable AFP reporting requirements as per the:
 - AFP Commissioner's Order on security (CO9)
 - AFP National Guideline on personnel security vetting
 - AFP National Guideline on security reporting
- the service provider's premises and facilities must be suitable for the storage and handling of official information up to and including the nominated classification level
- the service provider must have systems that are able to meet designated information security standards for the electronic processing, storage, transmission and disposal of official information
- provide details of any police investigation into its company, any association with anyone who is or has been involved in criminal activity
- agree to provide details of company directors
- key personnel involved in the delivery of services to the AFP who require access to AFP personnel, premises and information must undergo a security, professional conduct and integrity assessment and briefings.

24.3 Security and contractor's personnel

AFP appointees are responsible for ensuring the security procedures and practices undertaken by

the service provider are appropriate and specified in the contract. If the contract requires that the service provider be provided with access to official information, this access must occur in an appropriate security environment. The minimum security measures are those detailed in the [PSPF](#) and the [AFP Security Governance Instrument Framework](#), specifically:

- [AFP Commissioner's Order on security \(CO9\)](#)
- [AFP National Guideline on personnel security vetting](#)
- [AFP National Guideline on working in the AFP's classified environments](#).

24.4 Confidentiality undertakings in procurement processes

Where the AFP is required to release official information to potential suppliers as part of a procurement process, confidentiality undertakings (deeds of confidentiality) must be obtained from the potential supplier before such information is released.

Where official information is required to be provided to suppliers, consideration must be given to structuring the procurement process in a manner that also allows for security and suitability, professional conduct and integrity assessments to be conducted and confidentiality undertakings obtained prior to the release of any information. Any release of official information must be done in accordance with a risk assessment management plan and the [AFP National Guideline on information management](#).

These requirements may involve splitting the procurement process into two stages that include:

- releasing a request for expressions of interest (EOI) containing minimal information
- conducting security and integrity assessments on successful respondents to the EOI
- obtaining confidentiality undertakings from successful respondents
- releasing any official information as part of a formal request for quotation or tender once these security requirements have been met.

24.5 Contract management and security

AFP appointees must seek to develop positive working relationships with service providers as this promotes open communication and adds value to the security environment through the prompt identification and resolution of issues.

AFP appointees must ensure there are terms in the contract that allow the AFP to terminate the contract for security or integrity incidents, or the inability of a contractor to remedy those incidents under the terms of the contract.

The AFP contact manager, in consultation with the Security portfolio, must monitor the service provider's security procedures on a regular basis. A clause must be included in the contract providing the AFP with access to the service provider's premises, records and equipment. This will help the AFP to manage the contract and will provide an avenue for regular monitoring, to ensure that the service provider is complying with its security obligations.

The means and frequency of monitoring a service provider's security procedures must be detailed in the risk management plan that is derived from the risk assessment conducted as part of the procurement process. Any security incidents involving a contract or service provider must be reported to [Security-Reporting-and-Referrals](#) in accordance with the requirements of the [AFP National Guideline on security reporting](#) and other related security governance.

AFP appointees involved in assessing the security requirements for contracts, (especially in relation to a service provider's ICT systems and their capacity to comply with information, personnel and physical security standards) must seek advice from [the Security](#) portfolio via [Security-Reporting-and-Referrals](#) in the earliest stages of the procurement process.

25. Engaging sole traders and individuals

The AFP must, under the [Superannuation \(Productivity Benefit\) Act 1988](#) (Cth) and the [Superannuation Guarantee \(Administration\) Act 1992](#) (Cth) provide superannuation contributions for certain contractors and consultants engaged by the AFP. This obligation applies for contractors working as individuals/sole traders where the contract is 'wholly or principally for their personal labour' but not where a contract is with an intermediary such as a company or a partnership.

AFP appointees intending to engage contractors or consultants on the understanding that they will provide personal labour in the same sense as an employee of the AFP should therefore be aware that a superannuation liability in favour of the contractor or consultant could be invoked.

AFP appointees intending to engage consultants or contractors must take appropriate steps to avoid incurring a superannuation liability. If contracts are to be entered with individuals for labour hire, the proposed contracts should be examined by AFP Legal to determine whether a superannuation liability will exist. If it does, arrangements must be made for the superannuation payments to be made every time the individual's invoice is paid.

If AFP Legal determines that a superannuation liability exists, AFP appointees should also contact the [National Taxation Team](#) for further information regarding how payments should be processed.

26. AFP Procurement Plan

The AFP is required to plan forthcoming procurement and must publish on AusTender a Procurement Plan to draw businesses' early attention to potential procurement opportunities. The published plan includes:

- a strategic procurement outlook
- the subject matter of any planned procurement
- the estimated date of the approach to the market.

Publishing opportunities enables the AFP to reduce the time for lodgement of tender responses from the prescribed 25 calendar days to not less than 10 calendar days. AFP appointees must seek advice from National Procurement and Contracts (NPC) if intending to take advantage of the reduced time limit.

All business area managers must ensure that the subject matter of any planned procurement and the estimated date of the publication of the approach to the market is provided to NPC as soon as they become aware of the procurement.

27. Contract reporting

AFP contracting activities must be accountable and transparent to the parliament, potential

suppliers and the general public.

27.1 AusTender reporting

The AFP is required to publish on AusTender details of all procurement contracts and agency agreements with a commitment value of \$10,000 (GST inclusive) or more. Deeds of standing offer are also published on AusTender.

As soon as a formal contract is executed or varied, the AFP appointees responsible for management of the contract **must** register the contract in Insight!. The contract manager must complete this process within 7 working days to allow sufficient time for NPC to review the documentation provided and to report the contract on AusTender no later than 42 days from date of execution of the contract.

Contracts and related documents that **must** be registered include:

- contracts and agency agreements valued at/over \$10,000 (GST inclusive) including:
 - Commonwealth Contracting Suite contracts
 - leases
 - licences
 - service agreements
 - letters of agreement
 - memorandums of understanding
 - maintenance agreements
- consultancies (regardless of value)
- variations to contracts
- deeds of standing offer
- official orders valued at/over \$10,000 (GST inclusive) issued in accordance with a deed of standing offer (reported on AusTender as a separate contract and linked to the deed when reported)
- additional services procured in accordance with an existing contract by issuing an official order or work order
- supplier-initiated agreements (contracts issued by a supplier under their terms and conditions) .

A contract variation must be registered if:

- the term is extended
- the value is increased
- the value is reduced for any reason, such as early termination, reduction in services, or exercise of step-in rights by the AFP
- other changes (non-price) that will be of sufficient interest to stakeholders to warrant the variation (e.g. the assignment or novation of a contract from one supplier to another).

Business areas should be aware that purchase orders not linked to a formal contract are automatically reported on AusTender via the SAP Gazettal Screens in the Online Purchasing System.

Contract details reported on AusTender include:

- the supplier's name, address and ABN
- the total contract value (GST inclusive)

- the contract term
- a description of the goods and services to be supplied
- the procurement method used to establish the contract
- details of confidentiality clauses in the contract
- whether the contract is for consultancy services and reasons for engaging the consultant.

The contract value reported is the total value committed at the time of contract execution including GST. This value excludes any options, extensions, renewals or other mechanisms in the contract that may be executed at a later date. These options, extensions, etc. must be reported as variations against the original contract at the time the option is executed or taken up.

27.2 Senate order on departmental and agency contracts

The Senate Order on departmental and agency contracts requires an internet listing twice a year that identifies contracts entered into during the preceding calendar or financial year, valued at or above \$100,000 (GST inclusive), along with details relating to each of those contracts. NPC uses the information provided on AusTender to satisfy the requirement of the Senate Order as it relates to procurement contracts. Details of the full Senate order reporting obligations are contained in Department of Finance's (DoF's) [Financial Resource Management Guidance No. 403 Meeting the Senate Order on Entity Contracts](#).

27.3 Contracts exempt from reporting

The AFP has some contracts which are genuinely sensitive. If details of these contracts were reported on AusTender, harm would likely be caused by their disclosure. The Commissioner, or their delegate, may direct in writing that details of such contracts are not to be reported on AusTender if the contract details would also be subject to an exemption under the *Freedom of Information Act 1982*. The primary reasons AFP contract details may attract an exemption are either:

- ensuring enforcement of the law and protection of public safety
- protection of national security
- protection of personal information.

NPC maintain a list of contracts with exemption from reporting on AusTender. This list may include purchase orders not issued in accordance with a formal contract. Officials must provide details of all proposed purchase orders that are to be exempt from reporting to NPC prior to raising a shopping cart via the Online Purchasing System.

The number of exempt contracts entered into by the AFP must be reported in the annual report.

NPC have developed an [authorisation for exemption from reporting template](#) to assist officials seek exemption from reporting. This template is available from the [NPC homepage](#). This form must be approved (signed) by the relevant delegate and attached with the contract registration in Insight.

27.4 Further information

The DoF has published on their website guidance on the reporting of contracts which can be accessed via the following links:

- [Reporting Requirements for Contracts and Entity Agreements](#)
- [Additional Reporting on Consultancies](#)
- [Additional Reporting on Confidentiality](#).

28. Contract variations

Procedures for initiating and processing variations should be clearly defined in the contract. AFP appointees must ensure variations are efficiently managed, including explicit authorisation procedures and reporting systems.

Contract variations may include provisions that:

- increase, decrease or omit part of the contracted goods or services
- change the scope or design in the course of manufacture, supply or service delivery
- change the character or quality of the goods or services
- amend contract terms and conditions
- order 'additional services' where provided for in a contract
- terminate a contract.

A contract variation **must not** be executed without both:

- approval of a spending proposal (note: the relevant delegate must have sufficient delegation to cover the entire value of the contract and not just the value of the proposed variation)
- formalisation of the variation by issue of a letter of variation that has been signed by a relevant delegate.

National Procurement and Contracts (NPC) **must** be consulted during the development of a spending proposal for any contract variation that:

- relates to a contract valued at \$80,000 (GST inclusive) or more
- increases the total contract value to above \$80,000 (GST inclusive)
- relates to provision of consultancy services

AFP Legal should be consulted for assistance with drafting high value, high risk contract variations.

Some AFP contracts have provision for additional goods or services to be procured in accordance with specific clauses. NPC must be consulted in relation to the procurement of any additional services in accordance with such clauses. Additional goods or services should be procured by issuing an official order.

A variation may only be allowed if the scope and relative cost of the variation remain within the limits of the original procurement. Additional goods or services that increase the scope of a contract may need to be treated as a new procurement and therefore require a new approach to the market, particularly where the total contract value exceeds the threshold for a procurement.

Unauthorised or informal changes to a contract have the same effect as a formal variation. It is possible to vary a contract verbally, or by conduct, even where the contract has an express provision that variations must be in writing. These changes may fundamentally alter the scope of the contract.

Contract managers must ensure that clients in other parts of the AFP are not communicating directly with the contractors and committing the AFP to unapproved contract variations.

29. Contract extensions

A contract term may only be extended if that contract contains provisions/options that allow such extensions. Prior to exercising any option to extend a contract, AFP appointees must review the contract with regard to supplier performance and the market and whether the arrangement will continue to represent value for money for the AFP.

The exercise of any contract extension must be in accordance with the terms and conditions of the existing contract and comply with the CPRs requirement for demonstrating value for money.

Contract extensions must not be automatic. Consideration of a possible extension should commence in sufficient time to allow the alternatives to be considered and possibly exercised. Sufficient time must be allowed to prepare for an approach to the market and selection of an alternative supplier before the current contract term expires.

Action to exercise an option to extend a contract or go to market must commence no later than 6 months prior to expiry of the contract unless an alternative timeframe is specified within in the contract.

Contracts without an option to extend cannot be extended. Any arrangement to continue an expired contract on a month to month basis is contrary to the CPRs.

A contract extension **must** not be executed without:

- approval of a spending proposal (note: the relevant delegate must have sufficient delegation to cover the entire value of the contract and not just the value of the proposed extension)
- development of a spending proposal in consultation with National Procurement and Contracts for any contract extension involving a procurement valued at \$80,000 (GST inclusive) or more
- formalisation by issue of a letter between the parties that has been signed by the relevant delegate.

30. References

Legislation

- [Archives Act 1983](#) (Cth)
- [Australian Federal Police Act 1979](#) (Cth)
- [Freedom of Information Act 1982](#) (Cth)
- [Freedom of Information Amendment \(Reform\) Act 2010](#) (Cth)
- [Public Governance, Performance and Accountability Act 2013](#) (Cth)
- [Public Governance, Performance and Accountability Rule 2014](#) (Cth)
- [Public Works Committee Act 1969](#) (Cth)
- [Superannuation Guarantee \(Administration\) Act 1992](#) (Cth)
- [Superannuation \(Productivity Benefit\) Act 1988](#) (Cth).

AFP governance instruments

- [AFP Commissioner's Order on Administration \(CO1\)](#)
- [AFP Commissioner's Order on Security \(CO9\)](#)
- [AFP National Guideline on security reporting](#)
- [AFP National Guideline on personnel security vetting](#)
- [AFP National Guideline on working in the AFP's classified environments](#)
- [AFP National Guideline on risk management](#)
- [AFP National Guideline on software management and copyright](#)
- [AFP National Guideline on intellectual property, commercialisation, logos and insignia](#)
- [AFP National Guideline on information management](#)
- [Commissioner's Financial Instructions](#).

Other

- [Protective Security Policy Framework](#)
- [National Procurement and Contracts homepage](#) (AFP Hub)
- [Commonwealth Procurement Rules](#) (1 July 2014)
- [Better Practice Guide - Developing and Managing Contracts](#) (Department of Finance and Administration/Australian National Audit Office, February 2007), which contains more comprehensive contract management guidance
- [Department of Finance's Procurement Policy Framework](#)
- [Indigenous Procurement Policy](#).

INFORMATION PUBLISHED
PURSUANT TO THE

FREEDOM OF INFORMATION ACT 1982
(COMMONWEALTH)

INFORMATION PUBLICATION SCHEME (IPS)