

## 1.4 DELEGATIONS FOR PROCUREMENT

### INTRODUCTION

- 1 This chapter applies to all procurement undertaken in Defence and the Defence Materiel Organisation (DMO).
- 2 This chapter:
  - outlines the key policies that must be adhered to when exercising delegations for procurement; and
  - provides an overview of the required competency based procurement training for Defence and DMO officers.
- 3 Defence and DMO are governed by two separate sets of Chief Executive Instructions (CEIs) and financial management frameworks, including delegations. While there are similarities between the two systems, it is important to distinguish between Defence and DMO for the purposes of exercising delegations. Defence and DMO officers hold and exercise their delegation on behalf of a separate Chief Executive, that is, the DMO Chief Executive Officer and the Secretary. Please note that for the purposes of this chapter only, a reference to the 'Defence Portfolio' is a reference to both Defence and DMO. In this chapter only, a reference to Defence does not include the DMO and a reference to the DMO does not include Defence.

### MANDATORY POLICY

- For an official in the Defence Portfolio to exercise a power assigned or delegated to the Defence or DMO Chief Executive, that official must have the delegated authority of the relevant Chief Executive. For Defence officers those delegations are contained within FINMAN 2 – *Financial Delegations Manual* (FINMAN 2) and for DMO officers in the DMO Chief Executive's Instruction (CEI) 2.1 - Annexes A – E.
- Delegates must comply with the *Financial Management and Accountability Act 1997 (Cth)* (FMA Act), the *Financial Management and Accountability Regulations 1997 (Cth)* (FMARs), mandatory policy issued by the Department of Finance and Deregulation (including Financial Management and Accountability Orders and Finance Circulars), the Commonwealth Procurement Guidelines (CPGs), the Defence CEIs and/or the DMO CEIs and their Annexes, FINMAN 2, this Manual, and any other relevant Defence policy.
- DMO officers (and Defence officers exercising delegations on behalf of the DMO Executive) must comply with DMI(FIN) 01-0-032 – *DMO Business Rules in Relation to Procurement*, DMI(FIN) 01-0-025 – *Engagement of External Service Providers*, DMI(FIN) 1/2006 – *Obtaining FMAR 10 Authorisation* and DMI (FIN) 01-0-029 – *Financial Delegations Management Framework in the DMO*.
- Officials conducting procurement in the Defence Portfolio must obtain a minimum of four delegation approvals prior to the purchase of goods and services, and these approvals need to be exercised by suitably qualified delegates.
- Except for Simple procurements valued at \$5,000 or less, the delegations must be exercised by a minimum of two separate delegates. The three delegations of Proposal, Procurement and Contract Approver delegations cannot be exercised by the same delegate.
- Defence officers must not exercise a Defence delegation for DMO appropriated funds and DMO officers must not exercise a DMO delegation for Defence appropriated funds.

- For DMO procurements greater than \$5,000, a single DMO delegate must not exercise both Proposal Approver and Contract Approver delegations.
- If FMAR 10 is triggered, written authorisation from the Finance Minister, or their delegate, must be obtained before the Proposal Approver can approve a spending proposal under FMAR 9.
- Where the extent, scope and funding of the contract does not accord with the Proposal approval, the Proposal approval must be revised and approved prior to Contract approval.
- A delegate's decision must always be recorded in writing which may include electronic format.
- Delegates exercising financial delegations for procurement must meet the competency or proficiency requirements detailed in Chapter 1.4.
- Delegates not holding the appropriate competencies must ensure that a person holding those competencies has been consulted (Competent Adviser). The name and position of the Competent Adviser must be recorded.
- For DMO contracts valued at \$2m or more when there is to be an increase in the value of the contract exceeding \$20m or 20% of the contract value the requirements detailed in DMI(FIN) 01-0-032 –*DMO Business Rules in Relation to Procurement* relating to the 20/20 rule must be complied with.

## OPERATIONAL GUIDANCE

### BACKGROUND

- 4 The *Financial Management and Accountability Act 1997* (Cth) (FMA Act) provides the framework for the management of public money and public property. Public money and public property is money and property in the custody or control of the Commonwealth. Since DMO became a prescribed Agency in 2006, for the purposes of the FMA Act, there are two agencies within the Defence portfolio – Defence (which includes the Australian Defence Organisation) and DMO. The Defence Chief Executive is the Secretary and the DMO Chief Executive is CEO DMO. Relevant to all Defence Portfolio procurements is the approval process contained in the FMA Act, the *Financial Management and Accountability Regulations 1997* (Cth) (FMAR).
- 5 The FMA Act enables the Secretary and CEO DMO to delegate some of their powers to appropriate officials. For an official in the Defence Portfolio to exercise a power assigned or delegated to the Defence or DMO Chief Executive, that official must have the delegated authority.
- 6 A key provision of the FMA Act is section 44. This section places a positive obligation on the Secretary and the CEO DMO to manage the affairs of Defence and DMO in a way that promotes the efficient, effective and ethical use of Commonwealth resources for which they are responsible and in a manner that is not inconsistent with the policies of the Commonwealth. Section 44 also confirms that Chief Executives have the power (which may be delegated) to enter into contracts with respect to the affairs of their agency.
- 7 Before any Chief Executive or official enters into a contract involving a spending proposal, this expenditure must be approved in accordance with the requirements of the FMARs. Compliance with the FMARs is an important part of ensuring the efficient, effective and ethical use of public money, as required by section 44.

### **FMA Regulations applicable to the Approval Framework**

- 8 FMAR 3 defines a spending proposal as “a proposal that could lead to the creation of a contract, agreement or arrangement under which public money is payable or may become payable (including public money that is payable or may become payable in circumstances in which payment would be a notional payment for purposes of section 6 of the Act.)” A spending proposal is therefore separate and distinct from the contract, agreement or arrangement under which public money is or may become payable.
- 9 FMAR 7, specifically FMAR 7(4) states that “an official performing duties in relation to the procurement of property or services must act in accordance with the Commonwealth Procurement Guidelines”.
- 10 FMAR 9 states that “An approver must not approve a spending proposal unless that approver is satisfied, after reasonable inquiries, that giving effect to the spending proposal would be a proper use of Commonwealth resources”. In determining whether the expenditure would be a ‘proper use’, s 44 of the FMA Act defines proper use to mean “efficient, effective and ethical use that is not inconsistent with the policies of the Commonwealth.” Refer to chapter 3.10 for further guidance on policies of the Commonwealth.
- 11 FINMAN 2 and the Annexes to DMO CEI 2.1 provide officials (other than the Minister, the Secretary and the CEO DMO) with the delegated authority (delegates) to approve proposals under FMAR 9. Further information regarding compliance with the FMARs when making commitments to spend public money is contained in *Finance Circular No. 2009/05 Commitments to Spend Public Money*.
- 12 FMAR 10 is triggered by 'unfunded' future spending proposals – i.e. proposals with an estimated total value in excess of the uncommitted balance of all relevant appropriations. If FMAR 10 is triggered, the Finance Minister (or their 'FMAR 10' delegate) must give written authorisation before the approval of that proposal under FMAR 9. If FMAR 10 approval is required, FMAR 9 cannot be sought until FMAR 10 is exercised.
- 13 FMAR 11 requires an official to have the authority of the Minister, Chief Executive or an Act of Parliament to approve a spending proposal.
- 14 FMAR 12 requires approvals that have not been given in writing to be documented as soon as practicable after giving the approval.
- 15 FMAR 13 prohibits a person from entering into a contract, agreement or arrangement under which public money is, or may become payable, unless the associated spending proposal is approved under FMAR 9 and, if necessary, in accordance with FMAR 10.

### **DEFENCE AND DMO APPROVAL FRAMEWORK**

- 16 Defence and DMO have two separate sets of CEIs and financial delegation frameworks which incorporate the requirements of the FMA Act and the FMARs. The delegations frameworks are established under the respective CEIs to ensure Defence Portfolio procurements comply with the requirements of the FMA legislation and regulations. Officials conducting procurement in the Defence Portfolio must obtain a minimum of four approvals prior to the purchase of goods and services and these approvals must be exercised by suitably qualified delegates. The four financial delegations for procurement are:
- Proposal Approver (FMARs 9, 10, 11 and 12);
  - Procurement Approver (FMARs 7 and 9);
  - Contract Approver (FMARs 7 and 9); and
  - Contract Signatory (FMARs 9, 10 and 13).

Note: In the DMO, the Procurement Approver delegation is referred to as the Procurement Method Approver. For DMO officers, any reference to Procurement Approver in the DPPM should be construed as Procurement Method Approver.

- 17 Other delegations may also be required in certain circumstances, including for FMAR 10 approval (see below) and limitation of liabilities and indemnities (see Chapter 3.15).

### **SPECIFIC DELEGATE CONSIDERATIONS**

- 18 The following policies apply and must be considered by all delegates when exercising any of the four financial delegations for procurement:
- delegates must comply with the FMA Act, the FMARs, mandatory policy issued by the Department of Finance and Deregulation (including Financial Management and Accountability Orders and Finance Circulars), the Commonwealth Procurement Guidelines (CPGs), the Defence and/or the DMO CEIs (and their Annexes), FINMAN 2, this Manual, and any other relevant Defence policy;
  - delegations are ex officio; they are issued to a specific position or class of positions;
  - delegations may be exercised by the holder of the position, or an official occupying or performing the duties of the position;
  - delegates exercise their authority in their own right and cannot be directed to do so;
  - financial limits can be imposed on a delegate's authority;
  - delegates are to satisfy themselves that the total requirement has not been separated into two or more separate requests in order to fall within a financial limit placed on their delegation;
  - where a financial limit has been imposed on a delegate's authority, the limit includes any GST component of the purchase;
  - failure by a delegate to observe the financial limits imposed on their delegation would be a breach and may result in disciplinary action;
  - except for Simple procurements valued at \$5,000 or less, all three delegations must be exercised by a minimum of two separate delegates, however Proposal, Procurement and Contract Approver delegations can not be exercised by the same delegate;
  - the delegate should record the basis of their authority, through a signature block, comprising the delegate's signature, printed name, position number and title and date. The signature block should also include the capacity in which the delegate is approving the submission, that is, either a delegate of the DMO CEO or the Secretary of Defence;
  - where an oral contract is entered into, the Contract Signatory delegation need not be in writing; and
  - for Simple procurement where manual approval would unreasonably delay the process, delegates may provide approval by e-mail, where they are not co-located and are separated by a reasonable distance (see the Simple Procurement chapter).
- 19 For simple procurements equal to or less than \$5,000, one delegate may exercise all four delegations. For procurements greater than \$5,000, while an official can hold all four approval delegations, they must not exercise all three of Proposal, Procurement and Contract Approver. It is permissible for a single Defence delegate to exercise any two of these delegations and the Contract Signatory delegation. DMO delegates have greater restrictions on exercising Proposal, Procurement and Contract Approver as detailed in paragraph 23. In addition, more stringent provisions may be made at the local level, subject to operational requirements.
- 20 Delegation submission process templates for the Proposal, Procurement and Contract

Approver delegations can be found on the Office of Special Counsel intranet site. Use of process templates is not mandatory, but they provide best practice guidance on content of submissions.

- 21 Defence officers must not exercise a Defence delegation for DMO appropriated funds. DMO officers must not exercise a DMO delegation for Defence appropriated funds

### **DMO SPECIFIC PROCEDURES**

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- 22 DMO has specific procedures that must be complied with in regard to financial delegations. These procedures are contained in *DMI (FIN) 01-0-032 –DMO Business Rules in Relation to Procurement*, *DMI(FIN) 01-0-025 – Engagement of External Service Providers*, *DMI (FIN) 01/2006 Obtaining FMAR 10 Authorisation* and *DMI (FIN) 01-0-029 – Financial Delegations Management Framework in the DMO*. The procedures relate to:

- exercising multiple delegations;
- limiting liability;
- checking the DMOSS Standing Offer Panel;
- external service providers; and
- AusTender reporting.

- 23 For procurements over \$5,000 or complex procurements (regardless of value), a single DMO delegate must not exercise both Proposal Approval and Contract Approval. They can still exercise Proposal Approval and Procurement Approval, or Procurement Approval and Contract Approval (DMO CEI 2.1).

### **Increases to the Value of a Contract – The 20-20 Rule**

- 24 Where there is to be an increase through a contract change in the value of a contract exceeding \$20m or 20% of the contract value the Contract Approver must be:
- the relevant Branch Head where the officer who exercised the original approval was below Branch Head level; or
  - the relevant Divisional Head.
- 25 Proposal approval must also be exercised for the additional amount and procurement officers must adhere to the DMO requirement that the Proposal Approver and Contract Approver delegations be exercised by different officers.
- 26 This policy does not apply to DMO contracts valued at less than \$2m, or where discrete taskings are progressed against a Standing Offer as Simple procurements to achieve the outcome negotiated at the signing of the Standing Offer.

### **FINANCIAL MANAGEMENT AND ACCOUNTABILITY REGULATION (FMAR) 10**

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- 27 FMAR 10 states “if any of the expenditure under a spending proposal is expenditure for which an appropriation of money is not authorised by the provisions of an existing law or a proposed law that is before the Parliament, an approver must not approve the proposal unless the Finance Minister has given written authorisation for the approval.”
- 28 The intent of FMAR 10 is to enable the Government to manage the extent to which Commonwealth agencies enter into commitments to spend public money in the absence of an appropriation, and thereby potentially lock-in future Budgets.
- 29 FMAR 10 applies when there is insufficient unspent or uncommitted appropriation (or proposed appropriation in a Bill before Parliament) available to satisfy the total obligations arising under a spending proposal at the time the Proposal Approver is considering approving a spending proposal. Total obligations include those obligations potentially arising from any

indemnities or other contingent liabilities. While liability caps are not generally considered obligations for FMAR 10 purposes there are some circumstances where a liability cap may constitute a contingent liability. For further information and guidance see Finance Circular 2007/01 *FMA Regulation 10*.

- 30 If the requirement for FMAR 10 approval is triggered, written authorisation from the Finance Minister, or their delegate, must be obtained before the Proposal Approver can approve a spending proposal under FMAR 9.
- 31 The FMAR 10 delegation is detailed in FINMAN 2 – *Schedule F2-1* (for Defence delegates) and DMO CEI 2.1 - *Annex A* (for DMO delegates), including the Finance Minister's Directions and a list of FMAR 10 delegates.
- 32 For general guidance on when FMAR 10 authorisation is required refer to Finance Circular 2007/01 - *FMA Regulation 10*, Finance Circular 2009/05 - *Commitments to spend public money* and (for DMO officers) DMI (FIN) 1/2006 - *Obtaining FMAR 10 Authorisation*. Defence officers can also obtain further guidance on FMAR 10 by contacting the Directorate of Financial Policy in the Chief Finance Officer Group on (02) 6265 6111 or email [financial.policy@defence.gov.au](mailto:financial.policy@defence.gov.au) and DMO Officers can contact the DMO Financial Policy Helpdesk on (03) 9282 3959 or email [DMOFinance.Policy@defence.gov.au](mailto:DMOFinance.Policy@defence.gov.au).

### **PROPOSAL APPROVER**

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- 33 Proposal Approval is normally the first step in the procurement process for the control and management of expenditure by the Defence Portfolio. Proposal approval should be obtained prior to seeking quotes or tenders.
- 34 The Proposal Approver delegate must not approve a proposal to spend public money unless they are satisfied, after making such inquiries as are reasonable, that the proposed expenditure:
- is in accordance with the policies of the Commonwealth;
  - will make efficient, effective and ethical use of the public money;
  - if the proposal is one to spend special public money, is consistent with the terms under which the money is held by the Commonwealth; and
  - is covered by sufficient available appropriation or has the appropriate authorisation under FMAR 10.
- 35 The Proposal Approver delegations are outlined in FINMAN 2 – *Schedule F2-2* (for Defence) and DMO CEI 2.1 – *Annex B* (for DMO), including a list of Proposal approval delegates and any limits placed on their delegation. Directions relating to the exercising of the delegation are also provided.

#### **Statement of Funds Availability**

- 36 A delegate may only approve a spending proposal if there are sufficient funds available to cover the expenditure. Therefore, it is important that they are satisfied that sufficient funds remain available in their budget allocation (DMO officers should refer to DMO CEI 2.1) to cover the approximate cost of the proposal (excluding any options). It is in this context that submissions to a Proposal Approver should contain a statement of funds availability.

### **PROCUREMENT APPROVER**

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- 37 The official exercising the Procurement Approver delegation must:
- ensure the procurement method adopted represents value for money;
  - ensure that a decision to exempt an otherwise 'covered procurement' from the mandatory procurement procedures is made in accordance with the CPGs and DPPM

and that the reasons supporting such a decision are documented and appropriately filed;  
and

- record their action or decision and the basis or reasons for the action or decision. The record must be in writing or in electronic form. Any information or record in electronic form must be readily accessible so as to be usable for subsequent reference.

38 Procurement approval should be obtained prior to seeking quotes or tenders.

39 The Procurement Approver delegations are outlined in FINMAN 2 – *Schedule F2-3* (for Defence) and DMO CEI 2.1 – *Annex C* (for DMO), including a list of delegates and relevant limits and directions.

40 For further information on whether a procurement is ‘covered’ and if any DMO or Defence specific exemption applies, refer to Chapter 1.2 of the DPPM and paragraph 8.4 of the CPGs.

### **CONTRACT APPROVER**

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41 Contract approval must be obtained prior to entering into a contract, agreement or arrangement under which public money is, or may become, payable.

42 A person delegated to approve the entering into of a contract is to give approval only when satisfied that:

- funds are available to cover the procurement;
- expenditure has been approved by a Proposal Approver;
- the procurement method adopted represents value for money;
- the extent, scope and funding of the contract accords with the Proposal approval; and
- where the contract has an indemnity clause, the indemnity has been approved in writing by an authorised delegate (see Chapter 3.15 for further information).

43 Where the extent, scope and funding of the contract does not accord with the Proposal approval, the Proposal approval must be revised and approved prior to Contract approval.

44 The Contract Approver delegations are outlined in FINMAN 2 – *Schedule F2-4* (for Defence) and DMO CEI 2.1 – *Annex D* (for DMO), including a list of Contract Approver delegates and the relevant limits and directions.

### **CONTRACT SIGNATORY**

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45 The Contract Signatory delegate is responsible for entering into a contract, agreement or arrangement under which public money will become payable.

46 The Contract Signatory delegate may only enter into a contract when satisfied that:

- expenditure under the proposed contract, agreement or arrangement has been approved (and, if necessary in accordance with FMAR 10);
- where a clause limiting the liability of the contractor exists, that it has been approved by an official of SES band 1 or higher; and
- when entering into an indemnity arrangement where public money may become payable, that an approval in writing has been received from the authorised delegate (see Chapter 3.15).

47 The Contract Signatory delegations are outlined in FINMAN 2 – *Schedule F2-5* (for Defence) and DMO CEI 2.1 – *Annex E* (for DMO), including a list of Contract Signatory delegates and the relevant directions.

## **RECORDING OF DELEGATIONS**

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- 48 A delegate's decision must always be recorded in writing, which may include electronic format. Verbal delegations approvals should not be given unless an urgent or emergency situation arises where no delegates are available to provide written approval and the decision cannot be deferred. While verbal approval is acceptable in limited circumstances, in accordance with FMAR 12 and DMO CEI 2.1.6 (for DMO), the approver of the proposal to spend public money must record the terms of the approval in a document as soon as practicable after giving the proposal. Where verbal approval is given, the delegate is still required to exercise their delegation within the legal and policy requirements associated with the relevant approval.
- 49 A delegate's judgement may be open to internal or external scrutiny. Therefore, a delegate must always document their decision and the basis on which it was made, and be prepared to justify it.

## **SPLITTING A REQUIREMENT**

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- 50 Where a requirement exists, the proposal submitted to a delegate is to indicate the full financial implications of the proposal. Where a single requirement is to be sourced gradually (i.e. delivery will occur over a long period), the full requirement is to be advised to the delegate in the initial proposal submission.
- 51 A procurement must not be divided or split into separate parts for the purpose of either avoiding a procurement threshold or to enable a delegate to exercise approvals within the financial limitations of their delegations (See Chapter 1.2 for information on valuing a procurement).

## **ADDITIONAL APPROVALS**

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- 52 Procurement of Major Capital Equipment requires first and second pass approval. Please refer to Chapter 5.0 for information regarding this process. Additional project approvals are required for projects which meet certain thresholds (for example Ministerial Project Approval, and approvals for Construction and Public Works projects).

## **COMPETENCY REQUIREMENTS FOR DELEGATES**

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- 53 For Defence, financial delegations are detailed in FINMAN 2 and for DMO, the Annexes to DMO CEI 2.1. All delegates must comply with the directions issued with the delegations.
- 54 Delegates exercising financial delegations for procurement must meet the competency or proficiency requirements as detailed at the end of this chapter.
- 55 Delegates not holding the appropriate competencies must ensure that a person holding those competencies has been consulted (the Competent Adviser). Competent Advisers must be satisfied that, if they were exercising the delegation in their own right, the delegation submission includes sufficient information to satisfy the requirements of the delegation being exercised. While having separate Competent Advisers for each delegation is best practice, in areas where this is impractical, e.g. regional areas, it is permissible for the same Competent Adviser to advise the relevant delegates as long as the respective delegations are being exercised by different individuals, e.g. separate delegates for Proposal approval and Contract approval. A Competent Adviser provides independent advice and cannot be directed to change their advice.
- 56 The name and position of the Competent Adviser must be recorded. Where a Competent Adviser provides advice on a submission it should be included in the submission, and the relevant delegation submission should include a Competent Adviser signature block, comprising the Competent Adviser signature, printed name, position number and title and date. Where the advice of a Competent Adviser is not followed by the delegate, the delegate

- should document their reasons for not following the advice. Delegates should note that the responsibility for exercising the delegation continues to rest with the delegate.
- 57 Delegates holding competencies issued by training organisations other than the Defence Portfolio should consult the Procurement Training section later in this chapter.
- 58 Information on training and assessment of competencies providing for delegations is available in the Procurement Training section later in this chapter.
- 59 In exercising delegations, delegates should also continue to follow any local requirements and/or Quality Management System procedures.
- 60 Contract Signatory delegates are not required to meet a specified competency standard.

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### **CONTRACTORS EXERCISING FINANCIAL DELEGATIONS**

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- 61 The Defence and DMO Financial Delegation frameworks provide for contractors to exercise financial delegations for procurement. To be able to exercise a financial delegation a contractor must be an 'official' according to the FMA Act. A contractor is deemed to be an official if the contract with the contractor stipulates that the performance of a financial task involving the spending of public money is a requirement of the contract. A contractor who is an official is subject to the FMA Act, the FMARs, CPGs, Defence and DMO CEIs, FINMAN 2, this Manual and any other relevant Defence Portfolio policy.
- 62 The provision of financial delegations to contractors (where the contractor is a natural person) or a contractor's employees should be minimised consistent with effective and efficient use of resources, as the Commonwealth retains minimal control over the procurement, while remaining fully accountable for the expenditure of the public monies involved. Providing a financial delegation to a contractor or its employees will allow that person (the delegate) to approve the spending proposal or the liability to pay public money. In such a case, this means that the commitment and spending of public moneys would be entirely at the discretion of the contractor (or contractor employee), within the limits of the delegation.
- 63 Delegations for a contractor can only be issued by the Delegations Manager after approval by an official of Senior Executive Service or equivalent level. The 'Directions to Delegate' will outline any financial limits applicable to the contractor's delegation.
- 64 Where a contractor is granted a financial delegation it will be subject to the same competency requirements as Defence delegates (see paragraphs 53 - 60).
- 65 Where financial delegations are provided to a contractor (where the contractor is a natural person) or its employees, the arrangement should be reviewed at regular intervals and time limits should be imposed on the operation of the delegation that are consistent with the duration of the contractor's task. To enable the Commonwealth to monitor performance and to ensure public accountability, the contract between the Commonwealth and the contractor should include provisions enabling the Commonwealth, including the Australian National Audit Office, to access the premises, records and accounts of the contractor.
- 66 Further guidance on granting of financial delegations to contractors may be found in Chapter 4.11.

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### **STANDING OFFER DELEGATION REQUIREMENTS**

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- 67 The following paragraphs are intended to clarify the delegations that must be exercised prior to the establishment of standing offer arrangements and any order placed under a standing offer. Refer to Chapter 4.8 for more detailed guidance on standing offers.

#### **Approval of the establishment of standing offer arrangements**

- 68 Consistent with Finance Circular No. 2009/05, Defence Portfolio policy requires the following delegations be exercised for the establishment of a deed of standing offer:

- Proposal Approver;
- Procurement Approver;
- Contract Approver; and
- Contract Signatory.

#### **FMAR 10 Authorisation**

- 69 Generally, FMAR 10 authorisation will not be required for the establishment of a standing offer, provided the arrangement for which approval is being sought does not commit the Defence Portfolio to any expenditure (actual or contingent), and that the Defence Portfolio has full control over the orders that are placed under the arrangement.
- 70 FMAR 10 authorisation is required if the deed contains a form of spending commitment on behalf of the Commonwealth, such as an uncapped Commonwealth indemnity or a supplier liability cap with respect to third party claims.

#### **Approval of orders placed under a standing offer**

- 71 Consistent with Finance Circular No. 2009/05, Defence Portfolio policy requires that the following delegations be exercised (in this order) for the placement of an order under a standing offer:
- FMAR 10 (if triggered);
  - Proposal Approver;
  - Contract Approval; and
  - Contract Signatory.
- 72 There is no requirement for Procurement Approval for individual orders placed under a standing offer. However, when an individual order is placed under an established standing offer, it is best practice for the Proposal Approval submission to verify that the procurement method i.e. use of the standing offer, represents value for money. The Proposal Approval delegate must also confirm that the standing offer which is being used to purchase the goods/services constitutes an appropriate contractual framework for the sourcing of the relevant goods/services. This requires that the delegate confirm that the goods/services covered by the order are of a type or range described in the relevant deed of standing offer as goods/services available to be sourced under the arrangement. A standing offer cannot be used to purchase goods/services that fall outside the scope of the arrangement. In addition, the Proposal Approver delegate must also confirm that the number of quotes being sought under the arrangement is appropriate and contributes to the requirement to achieve value for money.

#### **Funds availability**

- 73 Officers are required to confirm Funds Availability whenever seeking Proposal Approval for an order under a standing offer. Funds Availability for the establishment of a Standing Offer is not required.

#### **SIMPLE AND COMPLEX PROCUREMENT COMPETENCIES**

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- 74 Nationally recognised qualifications for Simple and Complex procurement competencies may be obtained through face-to-face training, distance learning, recognition or a combination of these processes.
- 75 The Directorate of Procurement Policy within Office of Special Counsel DMO is responsible for the content of Defence Portfolio procurement courses. The Defence Education and Training Branch (DETD) implements procurement competencies within the Defence Portfolio through the oversight of the provision of procurement training and assessment through the Directorate of Corporate Training Administration and Delivery (DCTAD). Defence and DMO

staff can obtain further information by contacting the Contracting Help Desk on 1800 100 605 or email [contracting@defence.gov.au](mailto:contracting@defence.gov.au) or by referring to the [Office of Special Counsel intranet website](#). The Program Manager for Procurement in the Directorate of Corporate Training Administration and Delivery can be contacted on 02 6266 5649.

- 76 The procurement training courses in the Defence Portfolio have been developed to align with the Public Service Training Package. Details of the courses available can be found at <http://intranet.defence.gov.au/dsg/sites/CTAD/>

#### **Qualification requirements for Simple Procurement (no Defence Purchasing Card used)**

Qualification can be a current or a previous qualification.

<b>Proposal, Procurement and/or Contract Approvers</b>	
Current Qualification	Previous qualifications
<ul style="list-style-type: none"> <li>PSPPROC Unit 302A – Undertake Basic Procurement</li> </ul>	<ul style="list-style-type: none"> <li>Certificate IV in Public Sector Procurement OR</li> <li>Graduate Certificate in Strategic Procurement OR</li> <li>Unit 301A Procure Goods and Services OR</li> <li>Statement of Competency – Simple Procurement</li> </ul>

#### **Qualification requirement for Simple Procurement with Defence Purchasing Card (Less than \$5,000)**

Qualification can be a current or a previous qualification.

<b>Proposal, Procurement and/or Contract Approvers</b>	
Current Qualification	Previous qualifications
<ul style="list-style-type: none"> <li>Defence Purchasing Card e-learning proficiency</li> </ul>	

#### **Qualification requirement for Simple Procurement with Defence Purchasing Card (More than \$5,000)**

Qualification can be a current or a previous qualification.

<b>Proposal, Procurement and/or Contract Approvers</b>	
Current Qualification	Previous qualifications
<ul style="list-style-type: none"> <li>Defence Purchasing Card e-learning proficiency AND Simple Procurement Competency (as for ‘no Defence Purchasing Card’)</li> </ul>	

**Qualification requirements for Complex/Strategic Procurement by Proposal and/or Procurement Approver**

Qualification can be a current or a previous qualification.

<b>Proposal and/or Procurement Approver</b>	
Current Qualification	Previous qualifications
<ul style="list-style-type: none"> <li>• PSPPROC Unit 302A – Undertake Basic Procurement AND PSPPROC Unit 407A/408A – Establish Procurement Need and Develop Request Documentation</li> </ul>	<ul style="list-style-type: none"> <li>• Unit 301A Procure Goods and Services AND Unit 401A Plan Procurement</li> <li>• Certificate IV in Public Service Procurement (Complete) OR</li> <li>• Statements of Competency in Simple Procurement AND Unit 2 (Specify, Define and Clarify Requests) AND Unit 3 (Plan Procurement) from Certificate IV in Public Sector Procurement OR</li> <li>• Graduate Certificate in Strategic Procurement (Complete)</li> </ul>

**Qualifications for Complex/Strategic Procurement by a Contract Approver**

Qualification can be a current or a previous qualification.

<b>Contract Approver</b>	
Current Qualification	Previous qualifications
<ul style="list-style-type: none"> <li>• PSPPROC Unit 302A – Undertake Basic Procurement AND PSPPROC Unit 407A/408A – Establish Procurement Need and Develop Request Documentation AND PSPPROC Unit 409A – Receive and Select Offers</li> </ul>	<ul style="list-style-type: none"> <li>• Statement of Competency – Simple Procurement AND Unit 4 (Implement a Procurement) from Certificate IV in Public Sector Procurement* OR</li> <li>• Certificate IV in Public Sector Procurement (Complete) OR</li> <li>• Graduate Certificate in Strategic Procurement (Complete) OR</li> <li>• Unit 301A – Procure Goods and Services AND Unit 402A Request and Receive Offers AND 403A – Award Contracts</li> </ul>
<p>* Unit 4 consists of four training modules:  <b>Module 4:</b> Introduction to Contracts and the Law  <b>Module 5:</b> Developing a Request  <b>Module 6:</b> Negotiation in Procurement  <b>Module 7:</b> From Offer to Contract  <i>Officers need to have attained competency in each of the modules to exercise Contract Approval</i></p>	

**KEY REFERENCES:**

- *Financial Management and Accountability Act 1997 (Cth)*
- *Financial Management and Accountability Regulations*
- *Commonwealth Procurement Guidelines - January 2008*
- *Department of Finance and Deregulation Finance Circular No. 2009/05 Commitments to Spend Public Money*
- *Department of Finance and Deregulation Finance Circular 2007/01 FMA Regulation 10*
- *Defence Chief Executive's Instruction 2.1, Procurement*
- *DMO Chief Executive Instructions 2.1, Procurement (including the Annexes)*
- *FINMAN 2 - Financial Delegations Manual*
- *DMI (FIN) 1/2006 - Obtaining FMAR 10 Authorisation*
- *DMI(FIN) 01-0-032–DMO Business Rules in Relation to Procurement*
- *DMI(FIN) 01-0-025 – Engagement of External Service Providers*
- *DMI(FIN) 01-0-029 – Financial Delegations Management Framework in the DMO*
- [\*Defence Materiel Instruction \(Procurement\) DMI\(PROC\) 13–0–001\*](#) —Mandatory Procurement Policy Requirements for all Defence Materiel Organisation Acquisitions (Including Sustainment Procurements) to Contract Signature.

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