

THIS DOCUMENT IS RELEASED BY
THE AUSTRALIAN FEDERAL POLICE UNDER THE
FREEDOM OF INFORMATION ACT 1982



High Value Spending Proposal (PART A) Panel Arrangement *Approval to approach the market*

Version Control: v.11.2 13/08/2021

Provision of Legal Services – 2023/2024 Financial Year (SON3622041)

AFP Procurement ID ⓘ	P230614
Exempt from AusTender Reporting ⓘ	No
Public Interest Certificate Issued ⓘ	No
CPRs s.2.6 Applying Measures ⓘ	Not applicable
Will this procurement involve consultancy services? ⓘ	Yes this procurement involves consultancy services
Does this procurement require consideration of Australian Privacy Principles (APPs)? ⓘ	No, this procurement does not involve the collection, storage or use of personal information and/or data.

PURPOSE

This High Value Spending Proposal (Part A) is to:

- Specify the background, requirement/s and risks associated with the proposed procurement activity;
- Describe the procurement methodology to be undertaken; and
- Obtain [PGPA Delegate approval](#), in accordance with the [Public Governance, Performance and Accountability \(PGPA\) Act 2013](#) and the [Commonwealth Procurement Rules \(CPRs\)](#), to progress with the procurement activity to an Approach to Market (ATM) with the intent to commit and enter into a contractual arrangement with a supplier that represents Value for Money (VFM).

INDIGENOUS PROCUREMENT POLICY ⓘ

This procurement (*select one*):

- does not** fall within the [Indigenous Procurement Policy](#) (Mandatory Set Aside Policy) for the following reason: the procurement will use a mandatory Whole-of-Government arrangement
- does** fall within the [Indigenous Procurement Policy](#) (Mandatory Set Aside Policy) as it's estimated total contract value is between \$80,000 and \$200,000 (GST inclusive), and the procuring business area has conducted a [Supply Nation Indigenous Business Direct search](#) to identify a suitable Indigenous business (*insert details of search conducted in table below*).
- does** fall within the [Indigenous Procurement Policy](#) (Mandatory Set Aside Policy) as its estimated total contract value is between \$80,000 and \$200,000 (GST inclusive), however the procuring business area **has not taken any action to identify a potential Indigenous business.**



High Value Spending Proposal (PART A) Panel Arrangement

Approval to approach the market

Version Control: v.11.2 13/08/2021

BACKGROUND

The Whole of Australian Government Legal Services Panel (Standing Offer Notice ID SON3622041) (the Panel) commenced on 15 August 2019 and has been extended to 30 June 2024.

The AFP transitioned to the WoAG Panel SON3622041 (the Panel) arrangements on 14 February 2020 and no longer outsourced any new work under the old Home Affairs Parcelling Arrangements or the Department of Environment and Energy's panel, as these parcelling arrangements ceased.

The Panel has been established through a competitive value for money process following an open approach to market. Agencies are able to purchase directly from the Panel, as the Commonwealth Procurement Rules (CPRs) have been satisfied.

Legal service providers are appointed to the Panel for one or a number of practice areas, each with associated schedules of rates.

The Panel consists of 6 broad **areas of law**:

1. workplace, industrial relations and compensation
2. property and environment
3. public law
4. corporate and commercial
5. litigation specialisation
6. Legal Support Services

Home Affairs has established Bundling arrangements with legal service providers for Corporate and Commercial, and General Public Law Bundles. In addition to accessing those Bundles, we will still be able to use different legal service providers, so long as the provider is on the Panel for the practice area of law for the requested services.

Alongside the Panel, Commonwealth agencies can use Australian Government Solicitor (AGS) for any legal work at any time. However, we must use AGS for tied/national security work.

Agencies are also able to purchase up to 10% of the value of their external legal services outside of the Panel. This includes from legal service providers who did not tender or who were not successful in being selected for the Panel.

All "legacy" matters outsourced under the previous parcelling arrangements have been completed.

THE REQUIREMENT

This spending proposal is for the provision of legal services:

- the arrangements from the 2018/2019 financial year
- 2019/2020, 2020/2021, 2021/2022 & 2022/2023 financial years in accordance with the Commonwealth Procurement Framework – the Panel arrangements which commenced on 14 February 2020.
- New financial year engagements



High Value Spending Proposal (PART A) Panel Arrangement *Approval to approach the market*

Version Control: v.11.2 13/08/2021

AFP Legal may engage legal service providers by way of different methods of procurement, including:

- Provision of legal advice by way of:
 - The Panel arrangements;
 - Arrangement with Australian Government Solicitor;
 - Access to the Home Affairs Bundling arrangements with legal service providers;
 - Approach to market in accordance with the Commonwealth Procurement Rules.

For all of the above arrangements, the value of each specific contract / official order will be approved by the PGPA Delegate using AFP Legal's LRN process (forming the HVSP Part B approval).

Attachments

- Whole of Australian Government Legal Services Panel – Areas of Law;
- Matrix of Legal Services Providers;
- AFP Specific requirements.

Has a detailed '[Statement of Requirements \(SOR\)](#)' been completed? Yes No

THIS DOCUMENT IS RELEASED BY THE AUSTRALIAN FEDERAL POLICE UNDER THE FREEDOM OF INFORMATION ACT 1982



High Value Spending Proposal (PART A) Panel Arrangement
Approval to approach the market

Version Control: v.11.2 13/08/2021

CONTRACT VALUE

The below table is the maximum estimated values for the contract initial term and any applicable options.

The PGPA Delegates approval will cover the Contract Initial Term value only. Prior to executing any contract variations/extensions new PGPA Delegate approval will need to be obtained.

Initial Term	AUD \$ 1,900,000.00 (GST inclusive)
Option(s)	Not applicable
Total Maximum Contract Value	AUD \$ 1,900,000.00 (GST inclusive) for initial term and all option/s

CAF Fee (where applicable):	AUD \$ 12,500.00 (GST Exempt) or Not applicable <i>[This fee is payable in addition to the total contract value]</i>
------------------------------------	---

Cost Centre	300750	Internal Order	XCORPL
Does this procurement involve the purchase of assets?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Asset Under Construction (AUC) (where applicable):		[Insert AUC number]	
Does this procurement relate to gifting?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Initial Term	AUD \$ 3,400,000.00 (GST inclusive)
Option(s)	Not applicable
Total Maximum Contract Value	AUD \$ 3,400,000.00 (GST inclusive) for initial term and all option/s

CAF Fee (where applicable):	AUD \$ 12,500.00 (GST Exempt) or Not applicable <i>[This fee is payable in addition to the total contract value]</i>
------------------------------------	---



High Value Spending Proposal (PART A) Panel Arrangement Approval to approach the market

Version Control: v.11.2 13/08/2021

Cost Centre	300715	Internal Order	XLEGAL
Does this procurement involve the purchase of assets? Asset Under Construction (AUC) (where applicable):		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [Insert AUC number]	
Does this procurement relate to gifting?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

CONTRACT TERM

Initial Term	12 months
Option(s)	Not applicable.
Total Maximum Contract Term	12 months

The total AFP Legal and Compensation budget for the 2023/2024 financial year is not yet known. However, AFP Legal will spend approximately \$7.2M on external legal services for financial year 2022/2023 and anticipate, with all of the same pressures, we will spend a similar amount this financial year, while also remaining diligent in managing and minimising external legal expenditure wherever possible.

RISK ASSESSMENT

A [Risk Assessment and Treatment Plan \(RATP\)](#) has been undertaken in accordance with the [AFP National Guideline on risk management](#) and the [National Guideline on procurement and contracting](#).

The overall risk rating of this procurement activity is:	LOW
--	-----

METHOD OF PROCUREMENT

The method of procurement for this procurement activity will be (select one):

- Panel approach to all panellists under the relevant category
- Panel approach to selected panellists only under the relevant category
- Panel approach to a single panellist under the relevant category (VFM justification required)
- Panel approach the sole supplier from an existing standing offer arrangement



High Value Spending Proposal (PART A) Panel Arrangement
Approval to approach the market

Version Control: v.11.2 13/08/2021

- Whole-of-Government arrangement (mandatory use panel)
- Whole-of-Government arrangement (non-mandatory use panel)

Panel Title	Whole of Australian Government Legal Services Panel		
Panel SON	SON3662041	AFP or Other Agency panel?	<input type="checkbox"/> AFP <input checked="" type="checkbox"/> Other agency
Does a fee apply to using this panel?	Yes a central administration fee (CAF) fee applies to WoG Legal Services Panel SON3622041		
Category	Legal Services		
Panellist/s to be approached	Attached are the legal services providers and their relevant areas of law for the Panel. ABNs can be provided on request.		
Type of contract to be executed:	Official Order / Work Order (specific to this panel)		

It is mandatory that the Panel be used for the procurement of all Legal Services.

The Attorney General's Department (AGD) administer the Panel for the benefit of participating Agencies. As such, a Panel fee is payable to fund AGD's administration costs on a cost recovery basis. We expect the Panel fee rate to be around 0.5% of our external professional fees reported to the Office of Legal Services Coordination at the end of the financial year. As such, we don't expect this to exceed \$25,000 for the financial year.

The procuring business area will evaluate all responses and will execute a contract with the preferred panellist by issuing an Official Order in accordance with the terms and conditions of the relevant Panel's Deed of Standing Offer

Approval for each specific matter will be sought from the PGPA delegate using Legal's LRN process.

VALUE FOR MONEY

Every AFP procurement must achieve value for money (VFM) ([CPRs section 4 'Value for money'](#)).

Price must not be the sole factor in assessing value for money. AFP Officials must consider the relevant financial and non-financial costs and benefits of their procurement activity i.e. quality, fitness-for-purpose, experience, past performance, flexibility of the proposed solution, environmental sustainability, physical and information security, destruction and disposal, and whole-of-life costs.



High Value Spending Proposal (PART A) Panel Arrangement

Approval to approach the market

Version Control: v.11.2 13/08/2021

Elements to Value for Money

The procuring business area confirms this procurement will achieve VFM for the AFP as it: (select all that apply):

- Encourages competition and is non-discriminatory (approaching multiple suppliers)
- Uses public resources in an efficient, effective, economical and ethical manner
- Facilitates accountable and transparent decision making
- Encourages appropriate engagement with risk
- Is commensurate with the scale and scope of the business requirement

Where all of the above elements to VFM cannot be met provide additional justification:

The Panel has been established through a competitive value for money process following an open approach to market.

For each specific contract/order, AFP Legal will generally seek 3 or more quotes from legal services providers on the Panel or the Home Affairs Bundling Arrangement. Where a decision is made to approach only one supplier, the LRN Form requires justification. This could be for reasons including urgency, continuation of existing work or similar matters where another provider would have to spend significant time familiarising with the work, specialist skillsets, or sensitivity of matter.

PROCUREMENT PROCESS

The procurement process will be conducted in accordance with the [CPRs](#) and the [AFP National Guideline on procurement and contracting](#). The procurement method detailed above will ensure that value for money will be achieved.

PROCUREMENT STAKEHOLDERS

In accordance with the [National Guideline on procurement and contracting](#), the following AFP business areas have been consulted (select all that apply):

- | | |
|--|--|
| <input checked="" type="checkbox"/> AFP Legal Insert LEX ref # | <input type="checkbox"/> DAF TA* Insert TA ref # |
| <input type="checkbox"/> Security | <input type="checkbox"/> DTA Consider First Policy Insert CONF ref # |
| <input type="checkbox"/> National Armoury | <input type="checkbox"/> DTA Fair Criteria Policy Insert FAIC ref # |
| <input type="checkbox"/> Portfolio Financial Representative | <input type="checkbox"/> Operational Safety & Security Working Group |
| <input type="checkbox"/> National Assets Team | <input type="checkbox"/> Other business area [Insert] |
| <input type="checkbox"/> ICT Assets Team | |

Note: *For ICT-related procurements, a Design Authority Forum (DAF) Technology Acquisition (TA) number must be obtained by consulting with Operations Technology and Innovation (OT&I). To obtain the DAF TA number log a job in the AFP Service Portal.



High Value Spending Proposal (PART A) Panel Arrangement *Approval to approach the market*

Version Control: v.11.2 13/08/2021

In addition to the above the following stakeholders will be involved in the progression of this procurement activity.

Stakeholder name and title	Role or responsibility in procurement activity
AFP Legal	Client Business Area/End User
s 47E(c) Legal Practice Manager	Project Manager <i>(where applicable)</i>
Emily Caldwell, General Counsel – Corporate	Contract Owner
Andrew Kelly A/g General Counsel Operations	Contract Owner
s 47E(c) Legal Practice Manager	Contract Manager
s 47E(c) Practice Management Officer	Contract Administrator
Evaluation committee not required as the use of the panel is mandatory and Legal have a unique arrangement in place	The Panel has been established through a competitive value for money process following an open approach to market. For each specific contract/order, AFP Legal will generally seek 3 or more quotes from legal services providers on the Panel or the Home Affairs Bundling Arrangement. Where a decision is made to approach only one supplier, the LRN Form requires justification. This could be for reasons including urgency, continuation of existing work or similar matters where another provider would have to spend significant time familiarising with the work, specialist skillsets, or sensitivity of matter.

CONFLICT OF INTEREST

All stakeholders who may have influence over this procurement activity are required to complete a Conflict of Interest Declaration in accordance with the Department of Finances guidance on [Ethics and Probity in Procurement](#).

At a minimum, the following stakeholders are required to complete Col Declarations:

- a) the PGPA Delegate
- b) The Recommending Officer
- c) All evaluation committee members

The Recommending Officer is responsible for ensuring all stakeholders are aware of the obligations to self-report by completing a Col Declaration.



High Value Spending Proposal (PART A) Panel Arrangement

Approval to approach the market

Version Control: v.11.2 13/08/2021

The Recommending Officer confirms:

- No perceived or actual conflicts have been identified or declared.
- Perceived or actual conflicts have been identified.

THIS DOCUMENT IS RELEASED BY
THE AUSTRALIAN FEDERAL POLICE UNDER THE
FREEDOM OF INFORMATION ACT 1982



High Value Spending Proposal (PART A) Panel Arrangement Approval to approach the market

Version Control: v.11.2 13/08/2021

CPS COMPLIANCE REVIEW

Central Procurement services (CPS) has conducted a compliance review of this spending proposal against the [Commonwealth Procurement Rules \(CPRs\)](#), relevant procurement connected policies (PCPs), and the [AFP National Guideline on procurement and contracting](#).

Based on the information provided by the procuring business area CPS considers this procurement activity as:

- compliant** *Where reviewed as 'compliant' please finalise 'Recommendation' section, and progress to the Delegate.*
- conditionally-compliant** *Where reviewed as 'conditionally-compliant' the non-compliance issues (listed below) should be actioned OR justification for why no action has been taken must be documented in the 'Recommendation' section. Documents reviewed as 'Conditionally-compliant' can be progressed without CPS re-review.*
- non-compliant** *Where reviewed as 'non-compliant' the non-compliance issues must be actioned, and the revised iteration of this document resubmitted to CPS (for re-review).*

Non-compliance issues to be address:

-

CPS advice/better practice comments:

-

Is AFP Legal consultation required: **No**

s 47E(c)

s 47E(c)

Name

Signature

CPS, TM – AFP s 47E(c)
Title and AFP No.

26/06/2023
Date reviewed



High Value Spending Proposal (PART A) Panel Arrangement
Approval to approach the market

Version Control: v.11.2 13/08/2021

PGPA DELEGATE APPROVAL

Procurement Title	Provision of Legal Services – 2022/2023 Financial Year [SON3662041]
AFP Procurement ID	P230614
Contract Initial Value	AUD \$ 1,900,000.00 (GST inclusive)
Contract Initial Term	12 months
<p>I, as the relevant PGPA Delegate, am satisfied that:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> this procurement activity is compliant with the required Australian Government procurement policies and legislative requirements set out in the Public Governance Performance and Accountability Act 2013, the Commonwealth Procurement Rules (CPRs), the Commissioner’s Financial Instructions, and the AFP National Guideline on procurement and contracting. <input checked="" type="checkbox"/> I hold the appropriate PGPA delegation and have sufficient funds within my area of delegation to cover any resulting commitment. <input checked="" type="checkbox"/> Conflicts of Interest Declarations have been declared, documented and appropriately managed. <input checked="" type="checkbox"/> this procurement activity will provide an efficient, effective, economical and ethical use of Government money. <p><u>PGPA Delegate approval:</u></p> <p><input checked="" type="checkbox"/> Approved to Approach to Market (ATM) <input type="checkbox"/> Not approved to Approach to Market (ATM)</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>Emily Caldwell</p> <hr/> <p>Delegate Name</p> <p>General Counsel Corporate, AFP23365</p> <hr/> <p>Delegate Title and AFP ID</p> </div> <div style="width: 45%; text-align: center;"> <div style="background-color: #cccccc; padding: 5px; color: red; font-weight: bold;">s 47E(c)</div> <hr/> <p>Delegate Signature</p> <p>30/06/2023</p> <hr/> <p>Approval Date</p> </div> </div>	



High Value Spending Proposal (PART A) Panel Arrangement
Approval to approach the market

Version Control: v.11.2 13/08/2021

PGPA DELEGATE APPROVAL

Procurement Title	Provision of Legal Services – 2022/2023 Financial Year [SON3662041]
AFP Procurement ID	P230614
Contract Initial Value	AUD \$ 3,400,000.00 (GST inclusive)
Contract Initial Term	12 months

I, as the relevant [PGPA Delegate](#), am satisfied that:

- this procurement activity is compliant with the required Australian Government procurement policies and legislative requirements set out in the [Public Governance Performance and Accountability Act 2013](#), the [Commonwealth Procurement Rules \(CPRs\)](#), the [Commissioner’s Financial Instructions](#), and the [AFP National Guideline on procurement and contracting](#).
- I hold the appropriate PGPA delegation and have sufficient funds within my area of delegation to cover any resulting commitment.
- Conflicts of Interest Declarations have been declared, documented and appropriately managed.
- this procurement activity will provide an efficient, effective, economical and ethical use of Government money.

PGPA Delegate approval:

- Approved** to Approach to Market (ATM)
- Not approved** to Approach to Market (ATM)

Andrew Kelly

 Delegate Name

A/g General Counsel Operations, AFP5448

 Delegate Title and AFP ID

Andrew Kelly

 Delegate Signature
 30/06/2023

 Approval Date