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**National Defence – Assistant Deputy Minister (Finance)**  
**FAM Chapter 1021-4 Contingent Liabilities and Contingent Assets**

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## **1. Effective Date**

- 1.1 This policy is effective on **1 March 2021**.
- 1.2 This policy replaces all previous Department of National Defence (DND)/Canadian Armed Forces (CAF) financial management (FM) policy instruments related to [contingent liabilities](#) and [contingent assets](#) including Financial Administration Manual (FAM) Chapter 1021-4, Contingent Liabilities, dated 27 October 2006.
- 1.3 The policy was approved by the Assistant Deputy Minister, Finance (ADM(Fin)) on **1 March 2021**.

## **2. Application**

- 2.1 This policy applies to all contingent liabilities and contingent assets in the DND/CAF.
- 2.2 FAM Chapter 1021-1, Liabilities including Payables at Year End (PAYE), is the overarching policy for liabilities and it applies to all of the department's major categories of liabilities. This policy provides additional policy direction for contingent liabilities and takes precedence over FAM Chapter 1021-1 for policy direction on specific contingent liabilities topics, but FAM Chapter 1021-1 must also be consulted as it still applies and provides policy coverage on liabilities topics not exclusive to contingent liabilities. This policy also provides policy direction on the disclosure of contingent assets for financial reporting purposes.

## **3. Context**

- 3.1 The department must manage its contingent liabilities and contingent assets in accordance with Treasury Board (TB) policies. Due to the nature and complexity of its programs, the department and the CAF are faced with unique situations that may not be addressed or fully articulated under the TB Directive on Accounting Standards and Government of Canada Accounting Handbook (GC) 3300-3310 Contingent Liabilities and Loan Guarantees and GC 3320 Contingent Assets. This policy outlines and explains the DND/CAF contingent liabilities and contingent assets policies in these circumstances and does not generally repeat any of the information in the GC 3300-3310, GC 3320, or FAM Chapter 1021-1, Liabilities including Payables at Year-End (PAYE).
- 3.2 This policy must be read in conjunction with and after reading the following:
- GC 3300-3310 Contingent Liabilities and Loan Guarantees;
  - GC 3320 Contingent Assets; and
  - FAM Chapter 1021-1, Liabilities including Payables at Year-End (PAYE).
- 3.3 All financial documentation supporting the transactions must be retained for six years from the end of the fiscal year in which the transaction takes place. All documentation is retained until the account is cleared. When a criminal, disciplinary or recovery action is taken, all documentation must be retained and protected for six fiscal years after the process is completed.

- 3.4 See [Appendix A](#) for the definitions applicable to this policy and a list of acronyms used.

## **4. Objectives and Expected Results**

- 4.1 The objectives of this policy are to:

- Identify the DND/CAF key stakeholders involved with the FM of contingent liabilities and contingent assets and outline their roles and responsibilities; and
- State and explain the DND/CAF FM policies for contingent liabilities and contingent assets that are not addressed in GC 3300-3310 Contingent Liabilities and Loan Guarantees, GC 3320 Contingent Assets or FAM Chapter 1021-1, Liabilities including Payables at Year-End (PAYE).

- 4.2 The expected results of implementing this policy are:

- Effective governance, oversight, and internal controls over DND/CAF contingent liabilities and contingent assets;
- Key DND/CAF stakeholders are aware of and understand their roles and responsibilities with respect to contingent liabilities and contingent assets; and
- The DND/CAF's contingent liabilities and contingent assets are appropriately assessed, recorded in the departmental financial management system (FMS), and reported in the department's external financial reports on a timely basis.

## **5. Requirements**

### **A. Contingent Liabilities**

#### **Definition of a Liability**

- 5.1 As defined in paragraph 5.1 of FAM Chapter 1021-1, Liabilities including PAYE, liabilities are present [obligations](#) of the DND/CAF to others arising from [past transactions or events](#), the settlement of which is expected to result in the future [sacrifice of economic benefits](#) (PS 1000.44).

- 5.2 Obligations are not liabilities unless they have all the following three essential characteristics:

- They embody a duty or responsibility to others. The department has little or no discretion to avoid settlement of the obligation;
- The duty or responsibility to others requires a future transfer or use of assets, provision of goods or services, or other form of economic settlement. The settlement will take place on a date that is specified or determinable, on occurrence of a specified event, or on demand; and
- The transactions or events obligating the department have already occurred.

- 5.3 A liability must be recognized and recorded in the departmental FMS when all of the following conditions are met:

- The obligation meets the definition of a liability in [paragraph 5.1](#) above;

- There is an appropriate basis of measurement; and
- A reasonable estimate can be made of the amount involved.

### **Definition of a Contingent Liability**

- 5.4 Contingent liabilities are possible obligations that may result in the future sacrifices of economic benefits arising from existing conditions or situations involving uncertainty. That uncertainty will ultimately be resolved when one or more future events not wholly within the government's control occurs or fails to occur. Resolution of the uncertainty will confirm the existence or non-existence of a liability (PS 3300.03).

### **Characteristics of Contingent Liabilities**

- 5.5 Contingent liabilities are distinct from liabilities as there is a degree of uncertainty as to whether a present obligation to sacrifice economic benefits exists at the financial reporting date.
- 5.6 Contingent liabilities have two basic characteristics:
- An existing condition or situation at the financial reporting date to indicate that the DND/CAF may have a liability; and
  - An expected confirming future event(s) that will resolve the uncertainty as to whether a present obligation to sacrifice economic benefits exists.
- 5.7 For example, the DND/CAF may be involved in a lawsuit (the existing condition or situation). However, it may not be known with certainty whether this event will result in a liability. It is only the settlement of the lawsuit (the future event) that will confirm if the DND/CAF has a liability. Contingent liabilities often arise as a result of possible obligations of the department under existing agreements, contracts or legislation.
- 5.8 The existing condition or situation must relate to a transaction, event or situation that already existed as at the financial reporting date.
- 5.9 The confirming future event does not create a liability – it only proves or disproves its existence at the financial reporting date. The future confirming event cannot be wholly within the control of the department.

### **Existence Uncertainty**

- 5.10 Further to PS 3300.13, the uncertainty relating to the future event(s) that will confirm the existence of a liability can be expressed by a range of probabilities. The following range of probabilities determine which contingent liabilities are accrued in the departmental FMS, and which are disclosed in the department's external financial reports:
- Likely: a greater than 70% probability;
  - Unlikely: a less than 30% probability; and
  - Not determinable: a probability between 30% and 70%.

### **Recognition of Contingent Liabilities**

- 5.11 When a DND/CAF item meets the definition of a contingent liability, it must be recognized and accrued in the departmental FMS when:
- It is likely the future event(s) will confirm that a liability existed at the financial reporting date; and
  - The amount can be reasonably estimated.
- 5.12 In cases where a DND/CAF item meets the definition of a contingent liability and it is either unlikely or not determinable that a future event will confirm the existence of a liability, a contingent liability would not be accrued.
- 5.13 If there is conflicting or insufficient evidence on which to base a determination, one or both of the conditions for recognition set out in [paragraph 5.11](#) may not be met. In these circumstances, an accrual would be inappropriate.
- 5.14 A contingent liability continues to be recognized until it is settled or otherwise extinguished, or until the probability of the occurrence of the future confirming event is considered unlikely.
- 5.15 Assessing the likelihood of the future confirming event(s) occurring and estimating its financial effects are matters of professional judgment. In identifying contingent liabilities and determining their amount, consideration would be given to all information available prior to completion of the department's external financial reports, supplemented by experience in similar cases or situations.

### **Disclosure**

- 5.16 In assessing the department's financial position and results, it is important to understand its risks and exposure to contingent liabilities. Regardless of whether contingent liabilities should be recorded, at a minimum, knowledge of the existence, nature and extent of these types of obligations is warranted because they indicate a possible claim on the economic resources of the government.
- 5.17 When a DND/CAF item meets the definition of a contingent liability, it must be disclosed in the department's external financial reports, in the following cases:
- It is likely the future event(s) will confirm that a liability existed at the financial reporting date but the amount cannot be reasonably estimated;
  - It is likely the future event(s) will confirm that a liability existed at the financial reporting date and an accrual has been made, but there exists an exposure to liability in excess of the amount accrued;
  - The occurrence of the future event is not determinable; or
  - The contingent liability is recorded in the consolidated financial statements of the Government of Canada (see the [Exceptions](#) section of this policy).

- 5.18 The following would be disclosed in the notes to the departmental financial statements:
- The nature of the contingent liability including a description of the circumstances that gave rise to it;
  - The best estimate of the contingent liability or a range of possible amounts, except where the amount cannot be reasonably estimated or where this disclosure would have an adverse effect on the outcome;
  - The reasons for any non-disclosure of the estimate of contingent liability range of possible amounts; and
  - When an estimate of the amount has been made, the basis for that estimate.
- 5.19 There may be situations where there are sensitivities surrounding the disclosure of specific amounts and particulars. Professional judgment shall be used if there is sensitive information, legal or otherwise, that if revealed before the conclusion of due process would have a negative effect on the case.
- 5.20 Please contact the appropriate Level 1 (L1) Comptroller, through the financial chain of command, when assistance is required to evaluate whether a potential contingent liability requires recognition in the departmental FMS and/or appropriate disclosure in the departmental financial reports. Please see [Appendix B](#) for a summary of the range of probabilities and the application of accounting treatment for contingent liabilities.

### **Categories of Contingent Liabilities**

#### **General**

- 5.21 In the Public Accounts of Canada and the Receiver General's Specific guidelines for individual plate reporting, contingent liabilities are grouped into the following categories:
- Pending and threatened litigation and other claims;
  - Guarantees provided by the government;
  - International organizations; and
  - Insurance programs.
- 5.22 The following types of contingent liabilities would apply to the DND/CAF and are addressed in this policy:
- Pending and threatened litigation and other claims;
  - Environmental contamination; and
  - Guarantees provided by the government.
- 5.23 The other two categories, international organizations and insurance programs, include contingent liabilities related to either subscriptions or loans to international organizations (e.g. callable share capital, lines of credit) or insurance programs of the government, which are the responsibility of other authorized Government of Canada organizations. As these situations do not apply to the DND, no contingent liability reporting is applicable for these categories. For further details on the commonly

occurring categories of contingent liabilities, please see [Contingent Liabilities Applicable to the DND/CAF](#) section of this policy.

### **Exclusions**

5.24 Normal uncertainties connected with the ongoing and recurring use of accounting estimates do not fall within the scope of contingencies. The fact that an estimate of an amount involves measurement uncertainty does not create a contingent liability. For example, amounts owed for goods or services received but not billed are not contingent liabilities, even though the amounts may be estimated. There is nothing uncertain about the fact that these liabilities have been incurred; any uncertainty is related solely to the estimates of the obligations. Contingent liabilities are characterized by the uncertainty related to the existence of a liability at the financial reporting date.

5.25 The following types of transaction should not be reported as contingent liabilities as they do not meet the definition of contingent liabilities in [paragraph 5.4](#) of this policy. Please note the following list is not exhaustive and only includes examples:

- Accounts payable, which are unpaid actual liabilities;
- Commitments, as their primary purpose is to maintain an accurate record of free balances in departmental appropriations and allotments; and
- Contractual obligations for the purchase of goods and/or services by the department or agency in the course of carrying on its activities.

### **Exceptions**

5.26 The DND is to record an estimated contingent liability in the departmental FMS once it is assessed as likely to result in a liability and it can be reasonably estimated. However, when either of the following two exceptions apply, consultation with the Office of the Comptroller General (OCG) is mandatory to ensure the amounts are appropriately recorded in the accounts and financial reports of the Government of Canada:

- When the magnitude of the estimated contingent liability is so significant that its inclusion in expense/liabilities risks revealing the estimate of potential liability; or
- When the contingency relates to decisions of the Treasury Board Secretariat (TBS) as the public service employer and the potential impact of the claim extends across many departments.

5.27 OCG would assess the individual case and determine whether it is more appropriate to either:

- Require the DND/CAF to record and disclose the contingent liability and related expense in the department's external financial reports; or
- Record the contingent liability and related expense in the consolidated financial statements of the Government of Canada and only disclose the contingent liability in the department's external financial reports. In such cases the department only records the liability and expense once the uncertainty surrounding the liability is removed in a future period.



- 5.28 In the event one of the exceptions above may apply to an assessed DND contingent liability, the Director Financial Accounting (DFA) would consult with the OCG. For further details on the exceptions, please see GC 3300-3310.06.

### **Contingent Liabilities Applicable to the DND/CAF**

#### **Pending and Threatened Litigation and Other Claims**

- 5.29 Contingent liabilities include possible financial obligations of the Crown (direct, not through agents) in respect of claims and litigation. In the course of its ongoing operations, the DND may be threatened or formally served with litigation as a result of the following examples of legal claims:
- Breach of contract;
  - Legal claims regarding damage to property;
  - Legal claims related to physical or mental injury;
  - Legal claims resulting from assets on loan; and
  - Other legal claims in which a party alleges that DND/CAF sites are at fault or DND/CAF has been negligent in its dealing with outside parties.
- 5.30 The estimated value for a contingent liability related to a claim or a pending or threatened litigation is an amount that represents the best estimate of potential loss to the Crown based on previous cases, probability assessments or other considerations as determined by DND Canadian Forces Legal Advisors (CFLA) and DFA.
- 5.31 Where more than one party is named in the claim (e.g. additional Government of Canada department(s), a province, municipality or other external third party), DND is to report an estimate of the department's expected share of the contingent liability. The estimated division of the potential contingent liability should be based on advice from legal services as to how the liability is expected to be allocated amongst the named parties.
- 5.32 All claims relating to pending or threatened litigation and other legal claims must be assessed by DND CFLA. Further, the DND/CAF contingent liabilities related to litigation and other legal claims must be reviewed on a quarterly basis to ensure the validity of the information that is reported to the Receiver General and included in the department's financial reports. Claims must continue to be recognized until settled or otherwise extinguished.
- 5.33 The DND shall review media reports for threatened liabilities. These types of contingent liabilities shall be reported under the pending and threatened litigation and other claims category for financial reporting purposes following consultations with CFLA.

#### **Environmental Contamination**

- 5.34 The DND/CAF recognizes liabilities for the remediation of contaminated or Unexploded Ordnance (UXO) affected sites. The FM policy for remediation liabilities is provided in FAM Chapter 1021-3, Environmental Liabilities.

- 5.35 When the DND is not directly responsible and does not accept responsibility for the remediation of contaminated or UXO-affected sites, but there is uncertainty as to whether the DND may be held responsible, the DND/CAF may need to recognize or disclose a contingent liability. There must be an environmental standard and contamination must exceed the standard, and all other contingent liability recognition or disclosure criteria must be satisfied. The future event that determines whether or not the DND will be held responsible for the remediation of contaminated or UXO-affected sites must also not be wholly within the DND's control.
- 5.36 Further, if litigation for damages related to a contaminated or UXO-affected site has been launched against the DND/CAF, the claim must be assessed against the criteria for recognition and/or disclosure of a contingent liability. Both of these types of contingent liabilities shall be reported under the pending and threatened litigation and other claims category for financial reporting purposes.

#### **Guarantees Provided by the Government**

- 5.37 A guarantee is a promise that the Government of Canada will repay an amount to a guaranteed party (e.g. lender), subject to the terms and conditions of an agreement, if the party guaranteed (e.g. borrower) defaults on a guaranteed condition of the agreement. A guarantee may meet the criteria for recognition or disclosure as a contingent liability, depending on the assessment of the agreement and the probability of default by the party guaranteed.
- 5.38 Guarantees provided by the Government of Canada may be included in the following types of transactions:
- Borrowings of enterprise Crown corporations, which are agents of Her Majesty;
  - Borrowings made by enterprise Crown corporations and other government business enterprises which are not agents of Her Majesty;
  - Insurance programs of the government;
  - Loan guarantees; and
  - Other explicit guarantees.
- 5.39 Proper authorizations at the highest levels within the Government of Canada are required for any potential guarantee being considered. Please contact the Director of Financial Policy (DFP) through the appropriate L1 Comptroller for guidance in these situations.

### **B. Contingent Assets**

#### **Definition of a Contingent Asset**

- 5.40 Contingent assets are possible assets arising from existing conditions or situations involving uncertainty. That uncertainty will ultimately be resolved when one or more future events not wholly within the control of the DND/CAF occur, or fail to occur. Resolution of the uncertainty will confirm the existence or non-existence of an asset. (PS 3320.03)

### **Characteristics of Contingent Assets**

- 5.41 Contingent assets are distinct from assets because they are characterized by the uncertainty related to the existence of an asset at the financial reporting date.
- 5.42 Contingent assets have two basic characteristics:
- An existing condition or situation that is unresolved at the financial reporting date; and
  - An expected confirming future event that will resolve the uncertainty as to whether an asset exists.
- 5.43 For example, a litigation may be initiated by the DND/CAF in which recovery of funds or punitive damages are reasonably expected to be received (the existing condition or situation). However, it may not be known with certainty whether this event will result in an asset. It is only the settlement of the litigation (the future event) that will confirm if the DND/CAF has an asset.
- 5.44 The confirming future event does not create an asset – it only proves or disproves its existence at the financial reporting date. The future confirming event cannot be wholly within the control of the department.
- 5.45 Assessing the likelihood of the future confirming event(s) occurring and estimating its financial effects are matters that require the application of professional judgment. In identifying contingent assets and determining their amount, consideration would be given to all information available prior to the completion of the departmental financial reports, supplemented by experience in similar cases or situations.

### **Existence Uncertainty**

- 5.46 Further to PS 3320.12, the uncertainty relating to the future event(s) that will confirm the existence of an asset can be expressed by a range of probabilities. The following range of probabilities determine which contingent assets are disclosed in the department's external financial reports:
- Likely: a greater than 70% probability;
  - Unlikely: a less than 30% probability; and
  - Not determinable: a probability between 30% and 70%.

### **Disclosure**

- 5.47 In assessing the department's financial position and results, it is important to understand its contingent assets. At a minimum, knowledge of the existence, nature and extent of contingent assets is warranted because they indicate the economic resources that may be available to the government.
- 5.48 When a DND/CAF item meets the definition of a contingent asset, it must be disclosed in the department's financial reports when it is likely the future event(s) will confirm that an asset existed at the financial reporting date.

- 5.49 Disclosure of the nature of contingent assets includes a description of the circumstances giving rise to the uncertainty and information about the anticipated resolution of the uncertainty.
- 5.50 When a reasonable estimate can be made, disclosure of the extent of a contingent asset includes the DND/CAF's best estimate and a range of possible amounts, unless it would have an adverse effect on the outcome.
- 5.51 Please contact the appropriate L1 Comptroller, through the financial chain of command, when assistance is required to evaluate whether a potential contingent asset requires disclosure in the department's external financial reports. Please see [Appendix C](#) for a summary of the range of probabilities and the application of accounting treatment for contingent assets.

## **6. Roles and Responsibilities**

- 6.1 The following identifies the roles and responsibilities of various DND organizations related specifically to contingent liabilities and contingent assets.

### **Deputy Minister**

- 6.2 The Deputy Minister (DM) is responsible for:
- Establishing an effective departmental governance and oversight framework to ensure a risk-based departmental system of internal financial control over contingent liabilities and contingent assets is established, monitored and maintained;
  - Ensuring L1 Advisors and the Assistant Deputy Minister (Finance)/Chief Financial Officer (ADM(Fin)/CFO) are aware of their responsibilities and have the necessary knowledge to carry them out; and
  - Ensuring that the ADM(Fin)/CFO advises the OCG on a timely basis where there are difficulties in complying with this policy.

### **Assistant Deputy Minister (Finance)/Chief Financial Officer**

- 6.3 The Assistant Deputy Minister (Finance)/Chief Financial Officer (ADM(Fin)/CFO) is responsible for:
- Establishing, maintaining and monitoring a risk-based system of internal controls over financial management within the DND/CAF to ensure the appropriate identification, management, mitigation, and reporting of all contingent liabilities and contingent assets;
  - Providing financial functional direction and guidance across the department and the CAF on matters related to contingent liabilities and contingent assets; and
  - Ensuring that corrective actions are taken to address instances of non-compliance with this policy by a civilian, or in the case of a CAF member, notifying the military chain of command that corrective actions must be taken.

### **Level 1 Advisors**

6.4 Level 1 (L1) Advisors (ADM and Military L1s) are responsible for:

- Ensuring that this policy is properly applied within their organization; and
- Ensuring Responsibility Centre (RC) Managers within their organization are aware of their responsibilities and have the necessary knowledge to carry them out.

### **Director General Strategic Financial Governance**

6.5 The Director General Strategic Financial Governance (DGSFG) is responsible for:

- Ensuring that this policy takes into consideration the unique situations and circumstances of the DND/CAF;
- Ensuring the development of financial controls, systems, and procedures in support of this policy; and
- Bringing to the ADM(Fin)/CFO's attention any significant compliance issues with this policy that they become aware of and providing recommendations on how to address them.

### **Director Financial Policy**

6.6 The Director Financial Policy (DFP) is responsible for:

- Defining and developing departmental FM policy for contingent liabilities and contingent assets; and
- Providing policy interpretation and clarification when appropriate.

### **Director Financial Control**

6.7 The Director Financial Controls (DFC) is responsible for:

- Assessing the effectiveness of key controls related to in-scope business processes and systems and making recommendations based on the results of the assessments;
- Reporting on the status of the assessments and completing the annual summary for inclusion as an Annex to the departmental financial statements; and
- Tracking and reporting on the status of remediation action plans.

### **Director Financial Systems Integration**

6.8 The Director Financial Systems Integration (DFSI) is responsible for:

- Creating and maintaining financial business process documentation on contingent liabilities and contingent assets ;
- Assisting with the development and design of business process as well as remediation assistance through financial business process re-engineering and transformation activities when requested or required; and

- Establishing and issuing mandatory procedures in compliance with this policy that standardize how activities related to contingent liabilities and contingent assets are performed across the DND/CAF.

### **Director General Financial Operations and Services**

6.9 The Director General Financial Operations and Services (DGFS) is responsible for:

- Supporting the implementation and overseeing the day-to-day application of this policy including by ensuring the appropriate procedures are in place; and
- Bringing to the attention of the ADM(Fin)/CFO any significant compliance issues with this policy that they become aware of and providing recommendations of how to address them.

### **Director Financial Accounting**

6.10 The Director Financial Accounting (DFA) is responsible for:

- Monitoring the contingent liability and contingent asset details reported by CFLA Comptroller, and reviewing them for overall reasonableness as required, to help ensure they are appropriately recorded and disclosed in the department's external financial reports;
- Recording recognized contingent liabilities, and any subsequent adjusting entries required to ensure the reasonableness and completeness of the contingent liabilities reported in the department's external financial reports;
- Disclosing the contingent liabilities and any contingent assets of the department appropriately in the department's external financial reports;
- Preparing, verifying and submitting the balances of the contingent liabilities and their respective allowances to the Receiver General; and
- Providing procedure guidance and policy interpretation to Corporate Departmental Accounting Office (CDAO), RDAOs and L1 Comptrollers to support the appropriate recognition and reporting of contingent liabilities and contingent assets.

### **Level 1 Comptrollers**

6.11 Level 1 (L1) Comptrollers are responsible for:

- Ensuring all staff within their organization who are involved with contingent liabilities and contingent assets understand and properly apply this policy and supporting procedures;
- Providing financial direction and guidance on the department's contingent liabilities and contingent assets policy and procedures within their L1 organization;
- Engaging the CFLA Comptroller when potential contingent liabilities and/or contingent assets are identified within their L1's areas of responsibility in order for CFLA to provide legal advice and when required, their assessment of whether the items require recognition and/or disclosure in the department's external financial reports (includes assessment of probability of occurrence and estimates of the amounts); and

- Ensuring that compliance with this policy is monitored.

#### **Regional Departmental Accounting Office Comptrollers**

- 6.12 Regional Departmental Accounting Office (RDAO) Comptrollers are responsible for:
- All responsibilities identified in [paragraph 6.11](#) of this policy for L1 Comptrollers;
  - Providing guidance and assistance to RC Managers within their area of responsibility in applying this policy;
  - Ensuring that all staff involved in the processes of contingent liabilities and contingent assets fully understand this policy and receive adequate training and support; and
  - Ensuring that RC Managers are properly applying this FM policy within their area of responsibility.

#### **Director Infrastructure and Environment Comptrollership**

- 6.13 As the L1 Comptroller for Assistant Deputy Minister (Infrastructure and Environment) (ADM(IE)), the Director Infrastructure and Environment Comptrollership (DIEC) is responsible for:
- All responsibilities identified in [paragraph 6.11](#) of this policy for L1 Comptrollers; and
  - Ensuring the accuracy of all remediation liability estimates used in the assessment of contingent liabilities related to contaminated or Unexploded Ordnance (UXO) affected sites.

#### **Canadian Forces Legal Advisor**

- 6.14 The DND Canadian Forces Legal Advisor (CFLA) is responsible for:
- Providing legal interpretations and assistance with regard to assessing potential contingent liabilities and contingent assets for their probability of occurrence and estimates of the amounts;
  - Ensuring where more than one department or other external party is named in a legal claim that the DND portion of the estimated potential amount is appropriate given the claim details; and
  - Updating CFLA records for items assessed as required on an ongoing basis to support quarterly reporting of contingent liabilities and contingent assets to DFA.

#### **Canadian Forces Legal Advisor Comptroller**

- 6.15 The DND Canadian Forces Legal Advisor (CFLA) Comptroller is responsible for:
- All responsibilities identified in [paragraph 6.11](#) of this policy for L1 Comptrollers;
  - Supporting the CFLA in fulfilling their responsibilities to ensure the appropriate identification, assessment, and reporting of all contingent liabilities and contingent assets; and
  - Providing monthly, quarterly, and annual reports to DFA and providing additional details when required.

### **Judge Advocate General**

6.16 Judge Advocate General (JAG) is responsible for:

- Providing legal interpretations and assistance to the Minister of National Defence (MND), the DND/CAF with regard to contingent liabilities and contingent assets associated with international and military law.

### **Responsibility Centre Managers**

6.17 Responsibility Centre (RC) Managers are responsible for:

- Engaging their L1 Comptroller, through the financial chain of command, when potential contingent liabilities and/or contingent assets are identified within their area of responsibility in order that their L1 Comptroller can seek CFLA's advice and assessment of the potential items for recognition and/or disclosure in the department's external financial reports;
- Maintaining accurate and complete records to supply proper documentation with regard to contingent liabilities and contingent assets; and
- Taking corrective measures to remedy any deficiencies identified in the management and reporting of contingent liabilities and contingent assets.

## **7. Consequences of Non-Compliance**

7.1 Under the TB Policy on Financial Management, the DM is responsible for investigating and acting when significant issues regarding policy compliance arise, and ensuring that appropriate remedial action is taken to address such issues within the DND/CAF. The TB Framework for the Management of Compliance provides guidance on the considerations for determining the possible mix of consequences, which include the impact of the non-compliance, whether there has been a history of non-compliance, was there intent and other circumstances.

7.2 To support the DM's responsibility under the TB Policy on Financial Management, the ADM(Fin)/CFO or in the case of a member of the CAF, the military chain of command at the ADM(Fin)/CFO's direction, must ensure corrective actions are taken to address instances of non-compliance with this policy. Corrective actions can include a requirement for additional training, changes to procedures or systems, removal or suspension of delegated financial authorities on a temporary or permanent basis, disciplinary action or other measures as appropriate.

## **8. References**

### **8.1 Legislation**

*Financial Administration Act*

### **8.2 Treasury Board and Central Agency FM Policy Instruments**

[TB Directive on Accounting Standards: GC 3300-3310 Contingent Liabilities and Loan Guarantees](#)



[TB Directive on Accounting Standards: GC 3320 Contingent Assets](#)  
[TB Policy on Financial Management](#)  
[TB Framework for the Management of Compliance](#)

### **8.3 DND/CAF FM Policies**

[FAM Chapter 1020-4, Tangible Capital Assets](#)  
[FAM Chapter 1021-1, Liabilities including Payable at Year-End \(PAYE\)](#)  
[FAM Chapter 1021-3, Environmental Liabilities](#)

### **8.4 DND/CAF FM Guides, Forms, Tools, and Other References**

PS Handbook 3200 Liabilities  
PS Handbook 3300 Contingent Liabilities  
PS Handbook 3320 Contingent Assets  
[Receiver General Specific guidelines for individual plate reporting - Public Accounts of Canada](#)

## **9. Enquiries**

- 9.1 Questions on policy interpretation and clarification are to be addressed to the appropriate Comptroller.
- 9.2 If the local Comptroller requires assistance, the question will be escalated through the financial chain of command.
- 9.3 If the L1 Comptroller needs guidance on the matter(s) raised, the L1 Comptroller may contact the CFLA Comptroller for assistance in determining whether a possible liability needs to be assessed and potentially recognized or disclosed as contingent liability. In cases where the L1 Comptroller needs guidance regarding the financial reporting of contingent liabilities and contingent assets, the L1 Comptroller may contact DFA.
- 9.4 If DFA needs guidance on the matter(s) raised, they may contact DFP.

## Appendix A – Definitions and Acronyms

The following definitions apply to this policy:

### **Definitions**

**Financial reporting date (date des états financiers)** is the last day of the reporting period to which a financial report relates. The department produces quarterly financial reports and departmental financial statements annually. Common financial reporting dates are June 30<sup>th</sup>, September 30<sup>th</sup>, December 31<sup>st</sup> and March 31<sup>st</sup> (i.e. the end of the fiscal year for the Government of Canada).

**Obligations (obligations)** result in a government being bound or committed to a particular course of action. They can arise from:

- Agreements or contracts, including situations where only one party has fulfilled its obligation or where both parties have partially fulfilled their obligations;
- Another government's legislation (for example, environmental legislation of one level of government could place legal obligations on another to prevent, abate or clean up environmental damage);
- A government's own legislation (for example, legislation may require the government to make transfers to organizations and individuals that meet certain criteria set out in that legislation);
- Constructive obligations (that is, those that can be inferred from the facts in a particular situation); and
- Equitable obligations (that is, those that are based on ethical or moral considerations).

**Past transactions and events (opérations et événements passés)** are transactions or events that occurred on or before the financial reporting date.

**Sacrifice of economic benefits (sortie future de ressources représentatives d'avantages économiques)** embodies a duty or responsibility to others to a future transfer or use of assets, provision of goods or services, or other form of economic settlement at a specified or determinable date, on occurrence of a specified event, or on demand.

### **Acronyms**

ADM – Assistant Deputy Minister

CAF – Canadian Armed Forces

CDAO – Corporate Departmental Accounting Office

CFLA – Canadian Forces Legal Advisor

CFO – Chief Financial Officer

DFA – Director Financial Accounting

DFC – Director Financial Controls

DFSI – Director Financial Systems Integration

DFP – Director Financial Policy  
DGFOs – Director General Financial Operations and Services  
DGSFG - Director General Strategic Financial Governance  
DIEC – Director Infrastructure and Environment Comptrollership  
DM – Deputy Minister  
DND – Department of National Defence  
FAM – Financial Administration Manual  
FM – Financial Management  
FMS – Financial Management System  
GC – Government of Canada  
IE – Infrastructure and Environment  
JAG – Judge Advocate General  
L1 – Level 1  
OCG – Office of the Comptroller General  
PS – Public Sector  
RC – Responsibility Centre  
RDAO – Regional Departmental Accounting Office  
TB - Treasury Board  
TBS – Treasury Board Secretariat  
UXO – Unexploded Ordnance

## Appendix B – Contingent Liabilities Summary of Range of Probabilities and Application of Accounting Treatment

- B.1 Further to PS 3300.13, the uncertainty relating to the future event(s) that will confirm the existence of a liability can be expressed by a range of probabilities. As a guideline, the range of probabilities can be broadly defined as:
- B.1.1 Likely: a greater than 70% probability;
  - B.1.2 Unlikely: a less than 30% probability; and
  - B.1.3 Not determinable: a probability between 30% and 70%.
- B.2 Please see the table below for a summary the application of the accounting treatment for contingent liabilities in accordance with this policy.

	Likelihood of Future Event(s) Confirming Liability Existence		
	Likely	Not Determinable	Unlikely
<b>Amount Estimable</b>	Record an estimated liability (see note)	Disclose in notes	Do not disclose in notes or record
<b>Amount Not Estimable</b>	Disclose in notes	Disclose in notes	Do not disclose in notes or record

**Note:**

- Unless one of the exceptions in [paragraph 5.26](#) applies and is approved by the OCG, in which case only disclose in notes.

The removal of a previously recognized contingent liability from the department's external financial reports should not occur as a result of the likelihood of the future confirming event becoming not determinable. The removal of a contingent liability should only occur if the likelihood of the future confirming event becomes unlikely and if there is a reasonable expectation that this status will not change in the near future.

## Appendix C – Contingent Assets Summary of Range of Probabilities and Application of Accounting Treatment

- C.1 Further to PS 3320.12, the uncertainty relating to the future event(s) that will confirm the existence of an asset can be expressed by a range of probabilities. As a guideline, the range of probabilities can be broadly defined as:
- C.1.1 Likely: a greater than 70% probability;
  - C.1.2 Unlikely: a less than 30% probability; and
  - C.1.3 Not determinable: a probability between 30% and 70%.
- C.2 Please see the table below for a summary the application of the accounting treatment for contingent assets in accordance with this policy.

	Likelihood of Future Event(s) Confirming Asset Existence		
	Likely	Not Determinable	Unlikely
<b>Amount Estimable</b>	Disclose in notes (see note)	Do not disclose in notes or record	Do not disclose in notes or record
<b>Amount Not Estimable</b>	Disclose in notes	Do not disclose in notes or record	Do not disclose in notes or record

**Note:**

- Disclosure of the extent of a contingent asset includes the DND/ CAF's best estimate and a range of possible amounts, unless it would have an adverse effect on the outcome.