



Australian Government

Department of Defence

ASDEFCON

(Complex Materiel)

Volume 1

Incorporating:

Conditions of Tender

Draft Conditions of Contract

Draft Statement of Work

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FOREWORD

ASDEFCON (Complex Materiel) is designed for use when undertaking complex acquisitions of equipment and supplies and consists of two volumes, each volume addressing a different level of complexity and risk. ASDEFCON (Complex Materiel) Volume 2 is the standard template and is aimed for use in medium to high risk procurements which do not justify the use of ASDEFCON (Strategic Materiel).

ASDEFCON (Complex Materiel) Volume 1 has been developed as the shortform version of the standard template and is aimed for use in lower risk complex procurements where the supplies being acquired are commercial-off-the-shelf items, require minimal or no design, development or integration activities and where the contract will generally be completed within 2 years and cost less than \$5 million.

Defence and DMO maintain a process of continuous improvement to the ASDEFCON suite of tendering and contracting templates to provide a best-practice procurement environment to ensure Defence contractors are able to deliver on time, on budget and to the required quality, safety and capability. The document is intended to reduce the time and effort taken by Defence and DMO personnel and potential tenderers when tendering and contracting with Defence and DMO.

Future changes to ASDEFCON (Complex Materiel) will be released through the issue of new versions of the template and Departmental Procurement Policy Instructions on an 'as required' basis. This process will ensure the template remains current with legislation, policy and procurement practices.

Suggestions for changes to the document are welcomed and should be submitted in the form of a Document Change Proposal referred to in the General Information for Users section.

I trust you find ASDEFCON (Complex Materiel) Volume 1 useful for your contracting needs.

A handwritten signature in black ink, appearing to read 'Harry Dunstall', written over a faint circular stamp.

Harry Dunstall
General Manager Commercial

GENERAL INFORMATION FOR USERS

USE OF ASDEFCON (COMPLEX MATERIEL) VOLUME 1

1. *ASDEFCON (Complex Materiel)* is for use when undertaking complex acquisitions of equipment and supplies. By using a standard template for all complex materiel acquisitions, the Department of Defence aims to minimise the cost of tendering and the duration of negotiations.
2. *ASDEFCON (Complex Materiel)* Volume 1 is aimed for use in low-to-medium risk complex procurements where the supplies being acquired are Commercial-Off-The-Shelf items or Military-Off-The-Shelf items and require minimal or no design, development or integration activity, and where the contract will generally be complete within 2 years and cost less than \$5 million.
3. Drafters must be careful when opting to use *ASDEFCON (Complex Materiel)* that the acquisition requirements fall within the complex materiel category as defined in the *Defence Procurement Policy Manual (DPPM)*.
4. *ASDEFCON (Complex Materiel)* is designed for procurements that are both covered and non-covered, and subject to, and exempt from, the Mandatory Procurement Procedures (MPPs) for the purposes of the *Commonwealth Procurement Guidelines – December 2008*. For information on whether a procurement is covered or subject to the MPPs, refer to the DPPM.

STRUCTURE AND FORMAT OF ASDEFCON (COMPLEX MATERIEL) VOLUME 1

5. *ASDEFCON (Complex Materiel)* Volume 1 contains the following sections;
 - a. Preliminary pages – including covering letter;
 - b. Part 1: conditions of tender - including annexes;
 - c. Part 2: Draft conditions of contract, including attachments; and
 - d. Part 3: Draft Statement of Work, including annexes.
6. The clauses, annexes and attachments constituting *ASDEFCON (Complex Materiel)* Volume 1 have been divided into three categories, “Core”, “RFT Core” and “Optional”. Any condition within *ASDEFCON (Complex Materiel)* Volume 1 described as:
 - a. “Core” must be included in all RFTs and Contracts;
 - b. “RFT Core” must be included in all RFTs but depending upon the tenderer’s response may not be required in the Contract; and
 - c. “Optional” must be included in a RFT if required for the particular project requirements.

Drafters may tailor the standard “Core”, “RFT Core” and “Optional” provisions to the extent permitted at paragraph 13 below. All references to “Core”, “RFT Core” and “Optional” should be deleted prior to RFT release.

7. The structure of *ASDEFCON (Complex Materiel)* Volume 1 should be retained regardless of whether clauses have been modified or deleted or whether new clauses have been inserted.
8. If “Optional” clauses in *ASDEFCON (Complex Materiel)* Volume 1 are not applicable to the particular procurement, the narrative should be replaced with “Not Used” and the numbering sequence should be retained. If new clauses are added they should be included at the end of the most relevant section of the document. If new clauses must be inserted between existing clauses an alpha suffix (e.g. clause 4.1, 4.1.A, 4.2 etc) or equivalent regime should be used.
9. *ASDEFCON (Complex Materiel)* Volume 1 also contains “Options” within clauses where the drafter is required to choose from two or more alternatives. A brief note describing the circumstances in which an “Option” must be used precedes the clause. “Options” not selected for use should be deleted in their entirety prior to RFT release and the narrative replaced with “Not Used”.

10. *ASDEFCON (Complex Materiel)* Volume 1 contains “Notes to drafters” and “Notes to tenderers” which provide guidance during the preparation of the RFT and tender responses. All “Notes to drafters” should be deleted prior to RFT release. All “Notes to tenderers” should be deleted prior to Contract signature.
11. There are instances in the conditions of tender and draft conditions of contract where additional details are required prior to the release of the RFT to industry. These are marked in the document with **square brackets** as follows:

[...BRIEF INDICATION OF INFORMATION REQUIRED TO BE INSERTED PRIOR TO RFT RELEASE...]

There are other instances where relevant input will not be able to be finalised until after selection of the preferred tenderer. These are marked in the document with **curved brackets** as follows:

(...INSERT AMOUNT...)

TAILORING OF ASDEFCON (COMPLEX MATERIEL) VOLUME 1 CLAUSES

12. The aim of developing standard tendering and contract documents, such as *ASDEFCON (Complex Materiel)* Volume 1, is to standardise, to the maximum extent practicable, the structure, language, and provisions used by Defence when acquiring supplies. This has the benefit of reducing administrative costs for both Defence and tenderers and allows Defence to adopt a standard portfolio approach to contracting for supplies in line with best practice.
13. Wherever possible, the form of the template should be adhered to and project specific tailoring of *ASDEFCON (Complex Materiel)* Volume 1 should be kept to a minimum. However, when tailoring is necessary, clauses should only be added, modified or deleted after seeking specialist advice from the applicable legal and/or procurement advisor in the first instance, or from the Commercial Innovation and Practice Help Desk (see paragraph 17). “Core” clauses must not be amended or deleted except on specialist advice.

CHANGES TO ASDEFCON (COMPLEX MATERIEL)

14. *ASDEFCON (Complex Materiel)* Volume 1 is a dynamic document that will be amended on an “as required” basis to reflect changes in legislation, policy and procurement practices. Amendments to *ASDEFCON (Complex Materiel) Volume 1* will be communicated through Defence Procurement Policy Instructions.
15. Template users are also welcome to suggest changes to the template by using a Document Change Proposal (DCP) form. A copy of the form can be downloaded from the addresses specified at paragraph 18.

COMMERCIAL INNOVATION AND PRACTICE HELP DESK

16. Drafters requiring contracting advice or assistance should approach their Group or Divisional contracting support areas in the first instance. If the relevant support officer is not known, drafters should contact the relevant Executive Director Contracting (EDCON) in their respective Contracting Services area. EDCON details are available in the functional directory at:
<http://intranet.defence.gov.au/dmoweb/sites/PCB/comweb.asp?page=79152&Title=Functional%20Directory>. For advice regarding the *ASDEFCON* templates, including proposed updates, please contact the Commercial Innovation and Practice Helpdesk.
17. Contact details for the Commercial Innovation and Practice Help Desk are:

Commercial Innovation and Practice Help Desk

e-mail: commercial.innovationandpractice@defence.gov.au

DISSEMINATION OF ASDEFCON (COMPLEX MATERIEL)

18. *ASDEFCON (Complex Materiel)* can be downloaded from the DEFWEB DMO Home page via the ‘*ASDEFCON* suite of tendering and contracting templates’ at the following address:

<http://intranet.defence.gov.au/dmoweb/sites/PP/comweb.asp?page=21622&Title=ASDEFCON%20Templates>

or from the DMO internet site by following the 'Contracting' link to the following address:

http://www.defence.gov.au/dmo/DMO/function.cfm?function_id=45.