



**Australian Government**  
**Department of Defence**

# **ASDEFCON**

## **(Strategic Materiel)**

**Incorporating:**

**Conditions of Tender**

**Draft Conditions of Contract**

**Draft Statement of Work**



**Australian Government**

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**Strategic  
Materiel**



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**FOREWORD**

ASDEFCON (Strategic Materiel) is the lead template in the ASDEFCON suite of tendering and contracting templates.

ASDEFCON (Strategic Materiel), and in particular the Statement of Work, has been developed primarily for the acquisition of high risk, high value, and/or software intensive systems including major platforms, and users should seek advice on tailoring it to their specific project needs. Projects that do not involve such characteristics should use another ASDEFCON template appropriate to their needs.

Defence and DMO maintain a process of continuous improvement to the ASDEFCON suite 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.

Future changes to ASDEFCON (Strategic Materiel) will be released through the issue of new versions of the template and Departmental Procurement Policy Instructions (DPPIs) on an 'as required' basis. This process will ensure the template remains current with legislation, policy and procurement practices. The key changes made to this template will be incorporated in other templates contained in the ASDEFCON suite where they are relevant and applicable.

Defence continues to consult widely in the development of ASDEFCON (Strategic Materiel). Suggestions for changes to the document are welcomed and should be in the form of a Document Change Proposal referred to in the General Information for Users section.

I trust you find ASDEFCON (Strategic Materiel) useful for your contracting needs.

A handwritten signature in blue ink, appearing to read 'Harry Dunstall', with a long, sweeping tail.

Harry Dunstall  
Special Counsel to CEO DMO

26 September 2009

## GENERAL INFORMATION FOR USERS

### PURPOSE OF ASDEFCON (STRATEGIC MATERIEL)

1. *ASDEFCON (Strategic Materiel)* is a tendering and contracting template for use in strategic materiel acquisitions by the Department of Defence. By using a standardised tendering and contracting template for all strategic materiel acquisitions, the Department of Defence aims to minimise the cost of tendering and the duration of negotiations.
2. Drafters must be careful when opting to use *ASDEFCON (Strategic Materiel)* that the acquisition requirements fall within the strategic materiel category as defined in the *Defence Procurement Policy Manual (DPPM)*.
3. *ASDEFCON (Strategic Materiel)* is designed for procurements that are not subject to the Mandatory Procurement Procedures contained in Division 2 of the current edition of the *Commonwealth Procurement Guidelines* – (ie. procurements that are exempt from the requirements of Chapter 15 of the *Australia-United States Free Trade Agreement*).

### FORMAT OF ASDEFCON (STRATEGIC MATERIEL)

4. *ASDEFCON (Strategic Materiel)* contains the following sections, which are also depicted in the attached flowchart:
  - a. Preliminary pages - including covering letter with Matrix of Changes attachment;
  - 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 and a Contract Data Requirements List.

Template users should also note the *ASDEFCON (Strategic Materiel)* Asset Library which can be accessed via the DEFWEB and internet sites listed at paragraph 11. The Asset Library consists of Data Item Descriptions (DIDs), Defence Materiel Organisation (DMO) Checklists and the Philosophy and Life Cycle Thread documents.

5. The clauses, annexes and attachments constituting *ASDEFCON (Strategic Materiel)* have been divided into three categories, “Core”, “RFT Core” and “Optional”. Any provision within *ASDEFCON (Strategic Materiel)* 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 12 below. All references to “Core”, “RFT Core” and “Optional” should be deleted prior to RFT release.

6. The structure of *ASDEFCON (Strategic Materiel)* should be retained regardless of whether clauses have been modified or deleted or whether new clauses have been inserted.
7. If “Optional” clauses in *ASDEFCON (Strategic Materiel)* 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 based on legal advice 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.1, 4.2 etc) or equivalent regime should be used.
8. *ASDEFCON (Strategic Materiel)* 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”. Please note the distinction between “Optional” clauses and “Options” within clauses.

9. *ASDEFCON (Strategic Materiel)* contains “notes to drafters”, “notes to tenderers” and “Notes” which provide guidance during the preparation of the RFT and tender responses, and during contract management. All “notes to drafters” should be deleted prior to release of the RFT to industry. All “notes to tenderers” should be deleted prior to Contract signature. “Notes” are used sparingly (mainly in the data item descriptions) and are not to be deleted.
10. There are instances in the conditions of tender and draft conditions of contract where additional details are required to be inserted by the drafter *prior to release of the RFT to industry*. These are marked in the document with **square brackets** as follows:  
[...INSERT CONTACT OFFICER DETAILS...]  
There are other instances where relevant input will not be able to be finalised until after selection of the preferred tenderer and for insertion in the final contract. These are marked in the document with **curved brackets** as follows:  
(...INSERT AMOUNT...)

#### **DISSEMINATION OF ASDEFCON (STRATEGIC MATERIEL)**

11. *ASDEFCON (Strategic Materiel)* can be downloaded and printed 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 N%20Templates](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](http://www.defence.gov.au/dmo/DMO/function.cfm?function_id=45)

#### **TAILORING OF ASDEFCON (STRATEGIC MATERIEL) CLAUSES**

12. Wherever possible, the form of the template should be adhered to and project specific tailoring of *ASDEFCON (Strategic Materiel)* 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 Contracting Help Desk (see paragraph 17). “Core” clauses must not be amended or deleted except on specialist advice.

#### **REPORTING OF VARIATIONS AND EXPERIENCE IN THE USE OF THE ASDEFCON SUITE**

13. Prior to an RFT based on *ASDEFCON (Strategic Materiel)* being submitted to the delegate approving the RFT, the Matrix of Changes at Attachment A to the covering letter of the RFT must be completed. The aim of the Matrix of Changes is to facilitate the internal review and template feedback process and to provide notification to industry of areas that vary from the standard *ASDEFCON (Strategic Materiel)* template.
14. After the final contract has been negotiated, the delegate approving the RFT is also responsible for preparing a summary of any significant differences between the final negotiated contract, the preferred tenderer’s tender and the RFT as released, including details of the main areas of concern raised during negotiations.
15. The delegate approving the RFT must then provide the completed Matrix of Changes, and the summary of significant differences between the RFT and final negotiated contract to Legal and Procurement Services Branch within DMO. These documents provide valuable feedback on how the template is being used and should be provided to the Contracting Help Desk (see paragraph 17).

#### **CONTRACTING 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 may call the Contracting Help Desk which will either provide contact details for the relevant support or contracting advice. Where appropriate, Legal and Procurement Services may arrange for legal advice to be obtained.

17. Contact details for the Contracting Help Desk are:

Contracting Help Desk

Ph: 1800 100 605

e-mail: [contracting@defence.gov.au](mailto:contracting@defence.gov.au)

#### **AMENDMENTS TO ASDEFCON (STRATEGIC MATERIEL)**

18. *ASDEFCON (Strategic Materiel)* is a dynamic document that will be amended on an “as required” basis to reflect changes in legislation, policy and procurement practices. Amendments will be released through the issue of a new version of the template. All new versions will be issued on the DEFWEB and internet at the sites listed above. Changes to the *ASDEFCON (Strategic Materiel)* Asset Library will also be released on these sites.

#### **CHANGE PROPOSALS TO ASDEFCON (STRATEGIC MATERIEL)**

19. Template users are also welcome to suggest changes to the template or provide general feedback by using a Document Change Proposal (DCP) proforma and to send these to the following email address; **asdefcon.dcp@defence.gov.au**. A copy of the proforma can be downloaded from the addresses specified at paragraph 11.
20. Change proposals will be given full consideration by Legal and Procurement Services Branch with input from appropriate DMO and Defence stakeholders. Those changes considered suitable to be progressed will be included in future iterations of the template and may be included in other templates within the ASDEFCON suite.

#### **ASDEFCON (STRATEGIC MATERIEL) TRAINING**

21. Any project using *ASDEFCON (Strategic Materiel)* must undertake training prior to commencing the RFT preparation process. For details on *ASDEFCON (Strategic Materiel)* training and other ASDEFCON training, including associated costs, please contact the Contracting Help Desk (details at paragraph 17).

