

## DEPARTMENTAL PROCUREMENT POLICY INSTRUCTION NO 19/2008

1 December 2008

**Note:** These instructions are of a permanent nature and remain in force until cancelled. They should be reviewed by the sponsor every three years and repromulgated only where a significant change of content is necessary. Publications can be accessed on the Defence Intranet at <http://intranet.defence.gov.au/home/documents/departme.htm>

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### IMPACT OF THE REVISED COMMONWEALTH PROCUREMENT GUIDELINES ON ASDEFCON

#### Purpose

1. The purpose of this *Departmental Procurement Policy Instruction* (DPPI) is to advise all Defence and Defence Materiel Organisation (DMO) procurement staff of changes to the ASDEFCON suite of tendering and contracting templates arising from changes to the Commonwealth Procurement Guidelines (CPG). This DPPI is to take effect immediately and will remain effective until the DPPI is cancelled (after the ASDEFCON templates have been amended to reflect the changes).

#### Background

2. In October 2008, the Government released the revised CPGs which are to take effect from 01 December 2008. The CPGs represent the policy framework under which Commonwealth agencies govern and undertake their own procurement.

3. Two new CPG requirements that require changes to be made to the ASDEFCON suite are:

CPG reference	Revised Commonwealth Procurement Guidelines requirement
Paragraph 6.21	Agencies must not enter into contracts with suppliers who have had a judicial decision against them (not including decisions under appeal) relating to employee entitlements and have not paid the claim. Agencies should seek to confirm a tenderer has no such unsettled judgements by seeking a declaration on the matter from all tenderers.
Paragraph 7.26	To enhance transparency, agencies must make available on request, the names of any subcontractor engaged by a contractor in respect of a Commonwealth contract for procurement.  a. Agencies must require contractors to agree to the public disclosure of the names of any subcontractors engaged to perform services in relation to a Commonwealth contract for procurement.  b. Contractors must be required to inform relevant subcontractors that the subcontractor's participation in fulfilling a Commonwealth contract for procurement may be publicly disclosed.

4. Specific changes required to the ASDEFCON suite of tendering and contracting templates are detailed in the annexes to this DPPI.

**Further queries**

5. Any questions regarding the amendments to the ASDEFCON templates or relating to this DPPI should be directed to the Contracting Help Desk. See contact details below.



HARRY DUNSTALL  
Special Counsel to Chief Executive Officer Defence Materiel Organisation

**Annexes:**

- A. [Amendment to ASDEFCON \(Strategic Materiel\)](#)
- B. [Amendment to ASDEFCON \(Support\)](#)
- C. [Amendment to ASDEFCON \(Complex Materiel\) volume 2](#)
- D. [Amendment to ASDEFCON \(Complex Materiel\) volume 1](#)
- E. [Amendment to ASDEFCON \(Services\)](#)
- F. [Amendment to ASDEFCON \(request for proposal\)](#)
- G. [Amendment to ASDEFCON \(Invitation to Register\)](#)
- H. [Amendment to ASDEFCON \(Standing Offer for Goods\)](#)
- I. [Amendment to ASDEFCON \(Standing Offer for Services\)](#)
- J. [Amendment to ASDEFCON \(Shortform Goods\)](#)
- K. [Amendment to ASDEFCON \(Shortform Services\)](#)

DISTRIBUTION: SDL 1, 2, 3, 4, 5, 6, 9A, 12, 14

CONTACT OFFICER: Contracting Help Desk  
Telephone: 1800 100 605  
Email: [contracting@defence.gov.au](mailto:contracting@defence.gov.au)

EARLIER DEPARTMENTAL PROCUREMENT POLICY INSTRUCTION CANCELLED: Nil

## AMENDMENT TO ASDEFCON (STRATEGIC MATERIEL)

1. The following amendment must be made to the annexes to Conditions of Tender:

**Insert** new clause 1.1 (h) to annex B to attachment A  
—Declaration by Tenderer

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|-----|--|
| 1.  | <b>Declaration by Tenderer (CORE)</b>  |
| ... |  |
| h.  | that the tenderer has no judicial decisions against it (excluding decisions under appeal) relating to unpaid employee entitlements where the entitlements remain unpaid. |

2. The following amendment must be made to the Conditions of Contract:

**Replace** existing clause 10.9.8 with the following

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|-------------|---|
| <b>10.9</b> | <b>Subcontracts (CORE)</b>  |
| ...         |   |
| 10.9.8      | The Contractor, if requested by the Commonwealth Representative, shall provide the Commonwealth Representative with names of all Subcontractors and a copy of any Subcontract, which copy need not contain prices. The Contractor acknowledges and shall inform its Subcontractors that the Commonwealth may be required to publicly disclose the subcontractors' participation in the performance of the Contract. |



## AMENDMENT TO ASDEFCON (SUPPORT)

1. The following amendment must be made to the annexes to Conditions of Tender:

<b>Insert</b> new clause 1.1 (h) to annex B to attachment A —Declaration by Tenderer	<p><b>1. Declaration by Tenderer (CORE)</b></p> <p>...</p> <p>h. that the tenderer has no judicial decisions against it (excluding decisions under appeal) relating to unpaid employee entitlements where the entitlements remain unpaid.</p>
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2. The following amendment must be made to the Conditions of Contract:

<b>Replace</b> existing clause 10.9.8 with the following	<p><b>10.9 Subcontractors (CORE)</b></p> <p>...</p> <p>10.9.8 The Contractor, if requested by the Commonwealth Representative, shall provide the Commonwealth Representative with names of all Subcontractors and a copy of any Subcontract, which copy need not contain prices. The Contractor acknowledges and shall inform its Subcontractors that the Commonwealth may be required to publicly disclose the subcontractors' participation in the performance of the Contract.</p>
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## AMENDMENT TO ASDEFCON (COMPLEX MATERIEL) VOLUME 2

1. The following amendment must be made to the annexes to Conditions of Tender:

<b>Insert</b> new clause 1.1 (h) to annex B to attachment A —Declaration by Tenderer	<p><b>1. Declaration by Tenderer (CORE)</b></p> <p>...</p> <p>h. that the tenderer has no judicial decisions against it (excluding decisions under appeal) relating to unpaid employee entitlements where the entitlements remain unpaid.</p>
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2. The following amendment must be made to the Conditions of Contract:

<b>Replace</b> existing clause 10.9.8 with the following	<p><b>10.9 Subcontracts (CORE)</b></p> <p>...</p> <p>10.9.8 The Contractor, if requested by the Commonwealth Representative, shall provide the Commonwealth Representative with names of all Subcontractors and a copy of any Subcontract, which copy need not contain prices. The Contractor acknowledges and shall inform its Subcontractors that the Commonwealth may be required to publicly disclose the subcontractors' participation in the performance of the Contract.</p>
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## AMENDMENT TO ASDEFCON (COMPLEX MATERIEL) VOLUME 1

1. The following amendment must be made to the annexes to Conditions of Tender:

<b>Insert</b> new clause 1.1 (h) to annex A of the Conditions of Tender—Declaration by Tenderer	<p><b>1. Declaration by Tenderer (CORE)</b></p> <p>...</p> <p>h. that the tenderer has no judicial decisions against it (excluding decisions under appeal) relating to unpaid employee entitlements where the entitlements remain unpaid.</p>
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2. The following amendment must be made to the Conditions of Contract:

<b>Insert</b> new clause 9.7.4	<p><b>9.7 Subcontracts (CORE)</b></p> <p>...</p> <p>9.7.4 The Contractor, if requested by the Commonwealth Representative, shall provide the Commonwealth Representative with names of all Subcontractors and a copy of any Subcontract, which copy need not contain prices. The Contractor acknowledges and shall inform its Subcontractors that the Commonwealth may be required to publicly disclose the subcontractors' participation in the performance of the Contract.</p>
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# AMENDMENT TO ASDEFCON (SERVICES)

1. The following amendment must be made to the annexes to Conditions of Tender:

<b>Add</b> the following new paragraph to existing clause 1.1 of annex A of the Conditions of Tender— Declaration by Tenderer <i>after</i> the paragraph ending ... <i>in accordance with the Contract.</i>	<p><b>1. Declaration by Tenderer (CORE)</b></p> <p>...</p> <p>By submitting its tender, the tenderer acknowledges and agrees that the tenderer has no judicial decisions against it (excluding decisions under appeal) relating to unpaid employee entitlements where the entitlements remain unpaid.</p>
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2. The following amendment must be made to the Conditions of Contract:

<b>Insert</b> new clause 8.8.4	<p><b>8.8 Subcontracts (CORE)</b></p> <p>...</p> <p><b>8.8.4</b> The Contractor, if requested by the Commonwealth Representative, shall provide the Commonwealth Representative with names of all Subcontractors and a copy of any Subcontract, which copy need not contain prices. The Contractor acknowledges and shall inform its Subcontractors that the Commonwealth may be required to publicly disclose the subcontractors' participation in the performance of the Contract.</p>
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## AMENDMENT TO ASDEFCON (REQUEST FOR PROPOSAL)

1. The following amendment must be made to the annexes to the Conditions of Proposal:

<b>Insert</b> new clause 1.1 (g) to annex B to attachment A of the Conditions of Proposal— Declaration by Respondent	1.	<b>Declaration by Respondent (CORE)</b>
	g.	that the Respondent has no judicial decisions against it (excluding decisions under appeal) relating to unpaid employee entitlements where the entitlements remain unpaid.



**AMENDMENT TO ASDEFCON (INVITATION TO REGISTER)**

1. The following amendment must be made to the annexes to the Conditions of Registration:

**Insert** new clause 1.1 (e) to annex B to the Conditions of Registration—Declaration by Respondent

1. **Declaration by Respondent (CORE)**

...

- e. that the Respondent has no judicial decisions against it (excluding decisions under appeal) relating to unpaid employee entitlements where the entitlements remain unpaid.



## AMENDMENT TO ASDEFCON (STANDING OFFER FOR GOODS)

1. The following amendment must be made to the annexes to Conditions of Tender:

**Insert** new clause 1.1 (h) to annex A of the Conditions of Tender—Declaration by Tenderer

**1. Declaration by Tenderer (CORE)**

...

- h. that the tenderer has no judicial decisions against it (excluding decisions under appeal) relating to unpaid employee entitlements where the entitlements remain unpaid.

2. The following amendment must be made to the Conditions of Deed:

**Insert** new clause 9.9.4

**9.9 Subcontracts (CORE)**

...

- 9.9.4 The Contractor, if requested by the Commonwealth Representative, shall provide the Commonwealth Representative with names of all Subcontractors and a copy of any Subcontract, which copy need not contain prices. The Contractor acknowledges and shall inform its Subcontractors that the Commonwealth may be required to publicly disclose the subcontractors' participation in the performance of the Contract.



## AMENDMENT TO ASDEFCON (STANDING OFFER FOR SERVICES)

1. The following amendment must be made to the annexes to Conditions of Tender:

<b>Insert</b> new clause 1.1 (g) to annex A of the Conditions of Tender—Declaration by Tenderer	<p><b>1. Declaration by Tenderer (CORE)</b></p> <p>...</p> <p>g. that the tenderer has no judicial decisions against it (excluding decisions under appeal) relating to unpaid employee entitlements where the entitlements remain unpaid.</p>
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2. The following amendment must be made to the Conditions of Deed:

<b>Insert</b> new clause 8.10.5	<p><b>8.10 Subcontracts (CORE)</b></p> <p>...</p> <p>8.10.5 The Contractor, if requested by the Commonwealth Representative, shall provide the Commonwealth Representative with names of all Subcontractors and a copy of any Subcontract, which copy need not contain prices. The Contractor acknowledges and shall inform its Subcontractors that the Commonwealth may be required to publicly disclose the subcontractors' participation in the performance of the Contract.</p>
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**AMENDMENT TO ASDEFCON (SHORTFORM GOODS)**

1. The following amendments must be made to the General Conditions:

<b>Replace</b> existing clause 26 with the following new clause	<b>26</b>	<b>Subcontracting</b>
	(a)	Subcontracting the whole or part of the Supplier's obligations under the Contract will not relieve the Supplier from any of its obligations under the Contract.
	(b)	The Supplier, if requested by the Contract Officer, shall provide the Contract Officer with names of all Subcontractors and a copy of any Subcontract, which copy need not contain prices. The Supplier acknowledges and shall inform its Subcontractors that the Commonwealth may be required to publicly disclose the subcontractors' participation in the performance of the Contract.



**AMENDMENT TO ASDEFCON (SHORTFORM SERVICES)**

1. The following amendment must be made to the General Conditions:

**Replace** existing clause 26 with the following new clause

**26. Subcontracting**

- (a) The Contractor must not subcontract the whole or part of its obligations under the Contract without the prior written consent of the Commonwealth. Subcontracting the whole or part of the Contractor's obligations under the Contract will not relieve the Contractor from any of its obligations under the Contract.
- (b) The Contractor, if requested by the Contract Officer, shall provide the Contract Officer with names of all Subcontractors and a copy of any Subcontract, which copy need not contain prices. The Contractor acknowledges and shall inform its Subcontractors that the Commonwealth may be required to publicly disclose the subcontractors' participation in the performance of the Contract.