Environmentally Sustainable Procurement Policy Model Clauses

ASDEFCON Environmentally Sustainable Procurement Policy Clauses

The purpose of this document is to provide Department of Defence (Defence) officials with clauses to implement the Environmentally Sustainable Procurement Policy (ESPP) Model Clauses into the relevant [ASDEFCON Suite of Tendering and Contracting Templates](http://drnet/casg/commercial/CommercialPolicyFramework/Pages/ASDEFCON-Templates.aspx). These clauses were based on Department of Climate Change, Energy, the Environment and Water’s (DCCEEW) model clauses, available on the [Sustainable Procurement - DCCEEW](https://www.dcceew.gov.au/environment/protection/waste/sustainable-procurement) webpage.

These model clauses apply to procurements for Construction Services (as defined in the [Commonwealth Procurement Rules](https://www.finance.gov.au/government/procurement/commonwealth-procurement-rules)) at or above $7.5 million. From 01 Jul 2025, these model clauses will also apply to procurements at or above $1 million for:

* furniture, fittings and equipment;
* information and communication technology goods; and
* textiles.

Defence Officials must still conduct their own enquiries and due diligence before inserting these clauses into the relevant draft [ASDEFCON Suite of Tendering and Contracting Templates](http://drnet/casg/commercial/CommercialPolicyFramework/Pages/ASDEFCON-Templates.aspx), including whether this will impact other clauses or documents included in the templates.

When inserting the clauses into the ASDEFCON templates, the ASDEFCON & Contracting Initiatives Team suggests including these clauses in the:

* Policy and Law provision of the relevant draft ASDEFCON Condition of Contract or Deed or as an additional stand-alone clause in the less complex templates; and
* Environmental Management provision of the relevant draft ASDEFCON Statement of Work.

The example clauses provided below are drafted for inclusion in ASDEFCON Strategic Materiel. Appropriate amendments should be made when including the clauses in other ASDEFCON templates.

If you have any questions relating to the ESPP clauses please email the ASDEFCON and Contracting Initiatives team at: procurement.asdefcon@defence.gov.au

If you have any questions relating to the ESPP PCP or policy related questions, please email the Commercial Policy team at procurement.policy@defence.gov.au or DCCEEW at sustainable.procurement@dcceew.gov.au.

**Conditions of Tender**

**Tender Details Schedule**

|  |  |
| --- | --- |
| **Minimum Content and Format Requirements:**(clause 3.2) | Tenders (including all attachments, annexes and supporting documentation), are to be written in English.All measurements in tenders are to be expressed in Australian legal units of measurement unless otherwise specified.Tenders are to include a PDF copy of the Tenderer’s Deed of Undertaking in the form of Annex B to the TDRL duly signed by the tenderer.Tenders are to include a draft Supplier Environmental Sustainability Plan in the form prescribed by the TDR. |

**Clause 3.11 Tender Evaluation Criteria**

|  |  |  |
| --- | --- | --- |
| 1. the suitability of the tenderer to perform the obligations in the draft Contract.
 | 1. the extent to which the tendered Supplier Environmental Sustainability Plan meets the Environmentally Sustainable Procurement Policy.
 | * Draft Supplier Environmental Sustainability Plan, Annex A
 |

**Tender Response Volume 1 – Annex A to Attachment A of Conditions of Tender**

1. Tenderer’s Profile

Note to tenderers: Information on the Environmentally Sustainable Procurement Policy (ESPP), and the Supplier Environmental Sustainability Plan (SESP) template, can be found at:

* <https://www.dcceew.gov.au/environment/protection/waste/sustainable-procurement/toolkit>

The preferred tenderer’s SESP and any negotiated adjustments, will be applied to any resultant Contract. The preferred tenderer will be required to comply with and report against the SESP under any resultant Contract.

* 1. The tenderer is to provide a Supplier Environmental Sustainability Plan (SESP) for the proposed Contract, in the form required by the SESP template.

**Conditions of Contract**

1. Contract Management

Note to drafters: Insert the below clause into clause 11 (Contract Management).

* 1. Commonwealth Access

Note to drafters: Insert the below clause as a purpose for Commonwealth Access at clause 11.7.4.

* + - 1. monitoring and assessing compliance with the Approved Supplier Environmental Sustainability Plan (SESP) in accordance with clause 12.11.1
1. Policy and law

Note to drafters: Insert the below clause into clause 12 (Policy and Law).

* 1. Environmentally Sustainable Procurement Policy
		1. The Contractor shall comply with the Approved SESP.
		2. Where the Contractor fails to comply with the Approved SESP, or anticipates that it is likely to fail to comply with the Approved SESP, it shall notify the Commonwealth Representative in writing as soon as practicable.
		3. The Contractor shall ensure that a notice under 12.11.2 includes details of:
			1. how the Contractor has not complied, or anticipates it will not comply with, the Approved SESP;
			2. reasons explaining the Contractor’s failure to comply or anticipated failure to comply with the Approved SESP; and
			3. measures the Contractor proposes to take to mitigate or prevent any failure to comply or anticipated failure to comply with the Approved SESP.
		4. The Contractor acknowledges and agrees that the Approved SESP and any ESPPR submitted in accordance with clause 9.2.8 of the SOW:
			1. will be recorded in a central database;
			2. may be disclosed to or accessed by Commonwealth entities;
			3. may be made publically available;
			4. may be used by Commonwealth entities for any purpose; and
			5. without limiting clause 13.7, this clause 12.11.4 expressly or by implication shall survive the termination or expiration of the Contract.
		5. The Contractor’s performance of its obligations under this clause 12.11 will be at no additional cost to the Commonwealth.

**Attachment M to Conditions of Contract– Glossary**

| Abbreviation | Description |
| --- | --- |
| 1. ESPP
 | 1. Environmentally Sustainable Procurement Policy
 |
| 1. ESPPR
 | 1. Environmental Sustainable Procurement Policy Report
 |
| 1. SESP
 | 1. Supplier Environmental Sustainability Plan
 |

| Term | Status | Definition |
| --- | --- | --- |
| 1. Environmentally Sustainable Procurement Policy
 | 1. (Core)
 | 1. means the *Environmentally Sustainable Procurement Policy July 2024*, as updated from time to time, available at [www.dcceew.gov.au/sustainable-procurement](http://www.dcceew.gov.au/sustainable-procurement).
 |

**Statement of Work**

1. Health, Safety and Environment

Note to drafters: Insert the below clause into 9.2 (Environmental Management).

* 1. Environmental Management
		1. The Contractor shall further develop, deliver and update a Supplier Environmental Sustainability Plan (SESP) in accordance with CDRL Line Number MGT-1410.
		2. The Contractor shall develop, deliver and update an Environmental Sustainable Procurement Policy Report (ESPPR) in accordance with CDRL Line Number MGT-1420.
		3. Without limiting the respective parties’ rights and obligations under clause 11.7 of the COC:

the Commonwealth Representative may request, in writing**,** evidence verifying any details or informationincluded in the ESPRR submitted by the Contractor in accordance with clause 9.2.8; and

the Contractor shall deliver the evidence as directed by the Commonwealth Representative.

**Contract Status Report**

6.2.1.2(n). a report identifying any problems, risks and issues related to the Contractor’s compliance with the Approved Supplier Environmental Sustainability Plan.

**CDRL**

| CDRL Line Number | Data Item Title | SOW Clause Ref | Ref | Version | Delivery Schedule | Quantity | Delivery Location | Data Item Description Reference | C'wealth Action Period | C'wealth Action Required | Maintenance | Notes |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| a | b | c | d | e | f | g | h | i | j | k | l | m |
| 1. MGT-1410
 | 1. Supplier Environmental Sustainability Plan (SESP)
 | 1. 9.2.7
 | 1. a
 | 1. Final
 | 1. ED+30
 | 1. DMS
 | 1. CR
 | 1. See note.
 | 1. by ED
 | 1. Approval
 | 1. 12M
 | 1. The SESP is to conform to the SESP template available at:
2. [www.dcceew.gov.au/sustainable-procurement](http://www.dcceew.gov.au/sustainable-procurement)
 |
| 1. MGT-1420
 | 1. Environmental Sustainable Procurement Policy Report (ESPPR)
 | 1. 9.2.8
 | 1. a
 | 1. Initial
 | 1. ED+6M
 | 1. DMS
 | 1. CR
 | 1. See note.
 | 1. 10
 | 1. Approval
 | 1. N/A
 | 1. The ESPPR is to conform to the ESPPR template, as updated from time to time, available at:
2. [www.dcceew.gov.au/sustainable-procurement](http://www.dcceew.gov.au/sustainable-procurement)
 |
|  |  |  | 1. b
 | 1. Updates
 | 1. 6 monthly after initial delivery
 | 1. DMS
 | CR | 1. See note
 | 1. 10
 | 1. Approval
 | 1. NA
 | 1. As above.
 |