



**Australian Government**

**Department of Defence**

# **ASDEFCON (Request for Information) V1.0**

Incorporating:

Covering Letter

Conditions of RFI

Annexes to Conditions of RFI

**Released 27 June 2014**

### **Note to External Agencies**

External agencies intending to use this template will need to tailor it in order to meet their specific procurement requirements (including relevant internal guidance) and should seek appropriate professional guidance as required.

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### **Feedback**

All feedback on this publication and suggestions for improvement should be sent to: [procurement.ASDEFCON@defence.gov.au](mailto:procurement.ASDEFCON@defence.gov.au)

**GUIDANCE ON USE OF ASDEFCON (REQUEST FOR INFORMATION)****Purpose of Requests for Information**

1. In Defence, Requests for Information (RFIs) are commonly used for Major Capital Equipment (MCE) projects to seek information from industry prior to First Pass Approval.
2. While frequently used for these projects, RFIs may also be used for other Defence procurements where the procurement team determines an 'early' need to seek information from industry before progressing to a formal procurement process. In this context, another name sometimes used for an RFI is a 'market sounding'.
3. Where the sole purpose of an RFI is to obtain information from industry, the RFI is not a procurement (does not form part of a formal procurement process) and is therefore not subject to the Commonwealth Procurement Rules.

**When to Use RFIs**

4. RFIs can be useful for gathering information from the market on a wide range of matters, including to assist Defence:
  - a. gain a better understanding of industry capabilities and relevant constraints;
  - b. identify and refine potential capability options / solutions and obtain 'rough order of magnitude' (ROM) costs; and
  - c. for MCE projects, to input into the development of the Acquisition and Support Implementation Strategy (ASIS) and the suite of capability development documentation required for First Pass Approval.
5. More specifically, RFIs may be used to obtain information on:
  - a. available capability options / solutions and relevant technologies;
  - b. the key technical risks and potential mitigation strategies;
  - c. the extent of industry interest in the relevant project, and in particular potential opportunities for Australian industry;
  - d. proposed teaming arrangements and market constraints;
  - e. high level schedule information; and
  - f. ROM costing information.
6. A further benefit of RFIs (and other forms of early industry engagement) is that they provide prospective suppliers advance notice of Defence's potential requirements and time to establish appropriate teaming arrangements for participation in any future procurement process.
7. RFIs are generally not appropriate for seeking detailed pricing from respondents, although ROM costings are frequently requested. For MCE Projects, the level of costing information sought from suppliers in an RFI is that which is required to support First Pass Approval.

**Other Considerations – Selecting respondents and treatment of responses**

8. There is no mandatory requirement for Defence to issue an RFI to industry 'at large'. As a general rule, Defence should issue RFIs to all currently known capable (and potentially interested) suppliers for a project / procurement. In many cases, Defence may already have gathered sufficient information as a result of other market engagement activities (e.g. industry briefings or meetings with potential suppliers) to reliably make a determination of this group of

interested companies. Such an approach is not discriminatory or unfair from a probity perspective provided Defence's decision is based on sufficiently reliable and robust information.

9. Drafters may release an RFI to industry either by AusTender or directly by letter, e.g. where there are a known limited number of potential suppliers.
10. As the purpose of RFIs is to obtain information from industry, responses to an RFI are not comparatively evaluated or used to develop any formal shortlist of suppliers for participation in any future procurement process. However, the information obtained from an RFI can often be a highly valuable source of information to assist Defence select the participants for any future procurement in circumstances where there is no obligation to run an 'open tender' process (refer further below).
11. Given the costs associated with responding to RFIs and the lack of direct and immediate benefit for industry, some companies have a policy of not responding to RFIs, or will respond by providing only existing corporate or product brochures / publications. While this approach obviously creates challenges for Defence in terms of obtaining the tailored or specific information that it needs to progress a project / procurement, a company's decision not to respond, or the lack of detail or the quality of its response, cannot be used as a reason (by itself) to disqualify or exclude that company from participation in any future procurement process.
12. There are many reasons why a company may not respond to an RFI (or issue an inferior response), including the assessed level of resources and costs that would be involved in developing a response in the form required by Defence. A company's failure to respond to an RFI (fully or at all) is not necessarily a reliable or valid indicator of its interest or potential competitiveness in any future procurement process.
13. However, the RFI can (and should) make clear to potential respondents that there is a real risk for a company in choosing not to respond to an RFI. This is because Defence may not otherwise gain a sufficient or accurate awareness or understanding of a company's credentials or product offerings with the result that Defence may develop an ASIS, identify and recommend capability options and / or draft solicitation documentation, that inadvertently excludes a capability and thereby a company from participation, or materially reduces a company's competitiveness, in a future procurement process.
14. For any MCE project for which Defence is not required to conduct an open tender process, it is important to understand that while shortlisting suppliers cannot form part of the formal RFI outcomes, if the RFI process identifies or confirms only a limited number of potential suppliers (or feasible capability options), there is nothing to stop these identified suppliers and / or options from being taken forward to Government for approval and, if approved, forming the basis of any future formal procurement process. While this could be thought of as a form of down-selection, the key distinction between this outcome and shortlisting based on an RFI is that the list of potential suppliers has not been determined through any form of competitive assessment of responses to the RFI (i.e. a process specifically designed to rule in some respondents and to rule others out).

#### **Structure and Format of ASDEFCON (Request for Information)**

15. The Defence approved RFI template is *ASDEFCON (Request for Information)*. While this template has been primarily developed for use in connection with pre-First Pass MCE projects, it should also be a useful starting point for use in relation to other Defence procurements.

16. To minimise the resource burden for both Defence and industry in developing and responding to RFIs, the *ASDEFCON (Request for Information)* has been designed to encourage the project office / procurement team to seek only that information which is necessary and directly relevant to addressing Defence's current information requirements for the project / procurement.
17. *ASDEFCON (Request for Information)* includes the following sections:
  - a. preliminary pages, including a cover page and guidance section;
  - b. covering letter;
  - c. conditions of RFI (note these are limited compared to other ASDEFCON templates as RFIs should not be overly prescriptive or contain tender like conditions); and
  - d. Annex A – Information To Be Supplied By Respondents.
18. It is important to note that the information obtained by Defence from respondents should be used only in accordance with the purpose and requirements set out in the RFI, in particular, the ownership and use of documents provisions at clause 4.2 of the conditions of RFI.