

ASDEFCON (Strategic Materiel) Handbook

GUIDE FOR WORK HEALTH AND SAFETY AND THE SYSTEM SAFETY PROGRAM

Introduction

The *ASDEFCON (Strategic Materiel) Handbook, Guide for Work Health and Safety and the System Safety Program* (this *Guide*) applies to changes made to the *ASDEFCON (Strategic Materiel) Statement of Work (SOW) template*, version 2.3, released under DPPI 3/2013, and subsequently incorporated into V2.4. This Guide supplements the Handbook for the SOW template.

This document provides background information and guidance for the completion of drafting for SOW clauses introduced to *ASDEFCON (Strategic Materiel)* in order to address the introduction of the Work Health and Safety (WHS) Legislation and related updates to the System Safety Program.

Definitions, Acronyms and Abbreviations

Defined terms, abbreviations and acronyms used in this document are defined in either the existing *ASDEFCON (Strategic Materiel) Glossary* or are introduced to the Glossary through the DPPI.

Further assistance

For advice specifically in relation to WHS in procurement activities, please contact:

WHS Procurement Advisory Cell (PAC): WHS.PCSB@defence.gov.au

For advice regarding commercial matters, please refer to:

- a. for drafting, your local Contracting Support Branch representative; and
- b. for template issues, Procurement and Contracting Policy and Practice (PCPP):
procurement.ASDEFCON@defence.gov.au.

For further advice regarding the SOW and other technical elements of the changes, please contact:

DMO Acquisition and Sustainment Technical Policy Directorate, Standardisation Office:
ASDEFCONSOW.Support@defence.gov.au.

Content

This Guide contains the following sections:

- Tender Data Requirement G-10, System Safety
- Draft SOW clause 2.3, Data Management System
- Draft SOW clause 3.17, Resident Personnel
- Draft SOW clause 3.20, Co-operation and Co-ordination
- Draft SOW clause 4.6.6, System Safety
- Draft SOW clause 9, Health Safety and Environment

Note that SOW Annex E, Known Hazards at Commonwealth Premises, contains embedded guidance.

Basic Concepts

The Commonwealth has duties and obligations to workers under the WHS Legislation, and provisions are included in the *ASDEFCON (Strategic Materiel) template* to enable the Commonwealth to satisfy these duties and obligations. Draft Contract requirements must be tailored to reflect the nature and location of the work performed under the Contract (eg, if work will be conducted on Commonwealth Premises) and this has, to a large extent, been addressed by optional clauses.

A primary concept, with respect to the SOW, is how work requirements have been structured under two separate clauses to address, firstly, WHS under the Contract and, secondly, the safety of the future Materiel System.

WHS under the Contract, which includes WHS requirements associated with the Contractor's and Subcontractors' workers, under shared duties and obligations, and Commonwealth Personnel

involved with the Contract (eg, including Resident Personnel, personnel undergoing Training and external service providers), is managed through SOW clause 9, Health Safety and Environment, and COC clause 11.4. Refer to the guidance for clause 9.3, and clause 9 in general, regarding WHS for work performed under the Contract. Some related SOW clauses, such as SOW clause 2.3, are modified to facilitate the implementation of clause 9 requirements.

Safety of the future Materiel System refers to the safety characteristics of the Supplies, which is defined as Materiel Safety. Safety of the Materiel System, including its operation and support, is analysed and managed under SOW clause 4.6.6, System Safety. In this approach, the System Safety program is fully integrated with other System Engineering (SE) and Integrated logistic Support (ILS) activities in order to design, develop, synthesise, implement and Accept an effective, supportable, compliant and safe Materiel System. Refer to the guidance for clause 4.6.6 regarding the safety of the new Materiel System.

The management of Problematic Substances and Problematic Sources is also addressed via the use of clauses 9 and 4.6.6 of the SOW. Problematic Substances and Problematic Sources that are used in work performed under the Contract (ie, which do not form part of the Supplies) are managed in accordance with SOW clause 9. This includes management in accordance with the Contractor's Approved HSMP when one is required under the Contract (a HSMP may not be required if there is no work performed on Commonwealth Premises or if there is no work of an industrial nature¹ performed within Australia).

The management of Problematic Substances and Problematic Sources that are included within the Supplies (ie, that form a part of the Materiel System) are managed under SOW clause 4.6.6. These are identified, and associated hazards and risks are recorded, in the Hazard Log (HL) along with all other hazards and safety risks for the Materiel System. 'Risk acceptance' by the Commonwealth, for Problematic Substances and Problematic Sources, is recorded in the HL, which is subject to Approval by the Commonwealth. In this situation, it is worth noting that some of the Supplies will actually be specified as requiring Problematic Substances (eg, explosives) and/or Problematic Sources (eg, microwave transmitters) in Commonwealth specifications. Additionally, any Government Furnished Equipment (GFE) required to be incorporated into the Supplies will require safety-related information to be provided by the Commonwealth to the Contractor.

Further explanation of the management of Problematic Substances and Problematic Sources within the ASDEFCON (*Strategic Materiel*) template is included in this Guide under clause 9.1.

¹ Work of an industrial nature refers to production, fabrication, construction and installations, or similar work, conducted at the Contractor's premises, Commonwealth Premises or other sites. The intent is to identify when a stand-alone HSMP and a WHS Management System (WHSMS) would be of value, due to the inherent safety risks associated with the type of work. By contrast, if all work that falls under the jurisdiction of the WHS Legislation is performed within an office environment (eg, contract management and computer-aided design), then there may be limited value in requiring a stand-alone HSMP and a WHSMS.

CONDITIONS OF TENDER

Annex G to Attachment A to the COT, System Safety

<u>Sponsor:</u>	DMO Standardisation Office
<u>Status:</u>	Core
<u>Purpose:</u>	To assess the tenderer's ability to integrate a system safety program across the systems and software engineering functions under any resultant Contract.
<u>Policy:</u>	Refer to guidance for SOW clause 4.6.6.
<u>Guidance:</u>	The system safety program ensures that Materiel Safety requirements are achieved, which, in summary, means that the Supplies are, so far as is reasonably practicable, made safe (refer to guidance for SOW clause 4.6.6).

Tender Data Requirement (TDR) G-10 requires tenderers to provide details for a system safety program that will ensure the Materiel Safety of the Supplies; this is a distinct requirement that is managed separately to the WHS requirements for work under the Contract, which is addressed by TDR E-10.

An effective system safety program requires the integration of activities across many functions, including SE, ILS and software engineering. Accordingly, this TDR seeks information regarding tenderers' processes, skills, management and experience for implementing system safety programs. The TDR also seeks information regarding the Problematic Substances and Problematic Sources that are expected to be included in the Materiel System.

The second note to tenderers (after the note to drafters) outlines the scope of offer definition activities (ODA). If ODA are minimal (ie, program planning but no analyses), then the note will need to be amended. If a SOW for ODA has been developed, then the note to tenderers may be deleted.

System Safety Program. Clauses 10.1 to 10.4 seek information about the system safety program under any resultant contract, based on experience, skills and core planning requirements. In particular, clause 10.2 requires tenderers to list the hazard analyses proposed to be undertaken, which will vary with the design maturity of the tendered Materiel System and the availability of extant data. Not all types of analyses (listed in DID-ENG-SOL-HAR) may be required and those that are required may be performed at different times. Accordingly, this requirement outlines when the analyses will be performed and then reported to the Commonwealth in preparation for Mandated System Reviews – this information is to be included in the System Safety Program Plan (SSPP) when drafted. Key Persons details, program interactions and monitoring of system design will also be added to the SSPP, when drafted.

Problematic Substances and Problematic Sources in Supplies. This requirement seeks information regarding particular Problematic Substances and Problematic Sources expected to be included in the Supplies (ie, Mission System and Support System Components). Under any resultant Contract, these will be listed in the HL. Knowledge of such hazards may be limited by the design maturity of the system(s) and the list is, therefore, unlikely to be complete for a developmental system. However, the list provides an indication of tenderers' knowledge of those Problematic Substances and Problematic Sources that are likely to require follow-on analyses conducted during ODA and/or under any resultant Contract.

Requirements and constraints on system design (eg, the need for Australian design registration² or the prohibition of Asbestos Containing Material) must be included in the Function and Performance Specification (FPS) directly or by cross reference to an applicable document.

² Refer to DMSP (LOG) 04-0-003 regarding Australian design registration.

Drafter's Action: Drafters should review TDR G-10 and amend the requirements if necessary. The note to tenderers for ODA should be revised for the scope of the ODA or deleted if an ODA SOW will be included in the RFT. Drafters must ensure that associated constraints on system design are included in the FPS, where necessary.

Related Clauses: COT clause 5.6, Offer Definition Activities.

TDR G-1, Draft Systems Engineering Management Plan, for the integration of all specialty engineering functions.

TDR G-6, Draft Software Management Plan, for safety assurance responses.

Draft SOW clause 4.6.6, which sets out the Contract requirements for the system safety program.

Annex A to the draft SOW, Function and Performance Specification, for specified Materiel System safety requirements.

Optional Clauses: Nil.

STATEMENT OF WORK

Clause 2.3 Data Management System

<u>Sponsor:</u>	DMO Standardisation Office
<u>Status:</u>	Optional
<u>Purpose:</u>	To provide an efficient means to exchange data and share information between the Contractor and the Commonwealth.
<u>Policy:</u>	DI(G) LOG 4-5-003 <i>Defence policy on acquisition and management of Technical Data</i>
<u>Guidance:</u>	DI(G) LOG 4-5-003 establishes the policy framework for the acquisition and management of Technical Data, with the central theme being the increased use of data in approved electronic formats.

A Data Management System (DMS) is used to provide electronic access to, and delivery of, Contract-related data that is managed by the Contractor. The DMS clauses also define support and ancillary functions, including training to use a DMS.

A DMS should provide more efficient access to data for most contracts applying *ASDEFCON (Strategic Materiel)* by reducing the delays and cost associated with the transfer of hard copies and soft copies on physical media, and the duplicated effort of managing and maintaining data configuration by both parties.

In some cases, a data item may be partially submitted via the DMS. For example, data from an engineering database or the risk register, in support of a report delivered in hard copy, or for the detailed procedures supporting a management plan. In this case, the normal delivery would apply, but the applicable DMS data (ie, available on the delivery date) would be considered part of the data item. Where the drafter wishes to specify what portions can be delivered via the DMS, and which cannot, the drafter should add this to the notes for the CDRL line. Use of a DMS should be discussed with the preferred tenderer during contract negotiations or ODA, once their DMS capability is understood.

MIL-STD-974 *Contractor Integrated Technical Information Service (CITIS)* may provide additional background information on the scope and requirements for implementing a DMS.

Data and services to be accessed via the DMS are to be listed under SOW clause 2.3.2.

Work Health and Safety Management System (WHSMS). A WHSMS details the Contractor's management of WHS matters. When required under the Contract, the WHSMS enables the Commonwealth to access Contractor WHS management information in order to facilitate the Commonwealth discharging its duties under the WHS Legislation, including the duty to ensure the health and safety of workers and other persons. Commonwealth access to the Contractor's WHSMS is available via COC clause 10.7, but this method may not always be efficient. Where direct access to the Contractor's WHSMS is of benefit to the Commonwealth, then the DMS clause should be included, and the WHSMS included in the DMS Contract Data. On-line access to the WHSMS should be included where (a) work will be performed by the Contractor on Commonwealth Premises and/or (b) work of an industrial nature (eg, manufacture, assembly, installation) performed under the Contract is subject to the WHS Legislation (eg, work performed in Australia). Refer to the guidance for [SOW clause 9.3](#) regarding when a WHSMS and access via a DMS would be required.

Environmental Management System (ENVMS). Where a DMS is required, and the DMO requires visibility of the Contractor's environmental management activities, the ENVMS should also be included within the scope of the DMS for reasons of efficiency.

Drafter's Action: Determine if a DMS is required for any of the suggested CMS Contract Data in the template, or for another purpose not listed. Tailor the clauses, including the sub-clause list, in accordance with the notes to drafters.

The inclusion or exclusion of this clause 2.3 may also result in the need to change the table and preliminary information in the CDRL at Annex C to the SOW.

Related Clauses:

Draft COC clause 10.7, Commonwealth Access.

Annex C to the draft SOW, CDRL.

Draft SOW clause 2.4, Deliverable Data Items.

Attachment L to the draft COC, Resident Personnel, may require the inclusion of DMS access for Resident Personnel.

Optional Clauses: Nil.

Clause 3.17 Resident Personnel

Sponsor: DMO Standardisation Office

Status: Optional

Purpose: To impose a contractual obligation on the Contractor to provide support to any Resident Personnel who will be collocated at the Contractor's premises during the Contract.

Policy: Refer to the *ASDEFCON (Strategic Materiel) SOW Handbook*.

Guidance: Refer to the *ASDEFCON (Strategic Materiel) SOW Handbook*.

Drafters should note that specific requirements for working conditions of Resident Personnel are included within WHS requirements for all Commonwealth Personnel who will be located on Contractor or subcontractor premises, as detailed in SOW clause 9.3.5 (refer to the guidance for [clause 9.3](#) below).

Drafter's Action: No change to the *ASDEFCON (Strategic Materiel) SOW Handbook*.

Related Clauses: Refer to the *ASDEFCON (Strategic Materiel) SOW Handbook*.

Draft SOW clause 9.3.5, Work Health and Safety of Commonwealth Personnel on Contractor and Subcontractor Premises.

Optional Clauses: Nil.

Clause 3.20 Co-operation and Co-ordination

Sponsor: DMO Standardisation Office

Status: Optional

Purpose: To set out the requirement for the Contractor to co-operate and co-ordinate with Associated Parties (including other Commonwealth agencies and other contractors to the Commonwealth) who may be involved in the integration / interfacing of the new Materiel System, installations, V&V, and/or the provision of items that are supplied to the Contractor as GFE.

Policy: Nil

Guidance: Clause 3.20 requires that the Contractor acknowledge that the new Materiel System may need to interact with Other Capabilities and, as a result, the Contractor may need to consult, co-operate and co-ordinate with Associated Parties. Other Capabilities may include, for example, other Materiel Systems with which the system will interface or interact, or common subsystems integrated on multiple platforms. Associated Parties include the Commonwealth agencies and

other contractors that, for example, are working with or introducing those Other Capabilities, or that may be involved in installations, V&V activities or the supply of items that are, in turn, provided as GFE for incorporation into the Supplies or for another use under the Contract (eg, to support V&V activities).

Clause 3.20.1 requires the Contractor to co-operate with all parties that need to interact or interface with the Contractor and/or the Supplies, such as:

- a. another Commonwealth agency (eg, DMO SPO) or contractor maintaining or managing Other Capabilities, with which the new Materiel System will interface, requiring an exchange of information and, in some cases, modification to the existing systems;
- b. other Commonwealth agencies involved with regulatory or V&V activities, and/or IV&V contractors;
- c. other Commonwealth agencies involved with installations (eg, DSRG, CIOG); or
- d. other Commonwealth agencies and, indirectly, other contractors to the Commonwealth who will be providing equipment (ie, as GFE) for incorporation into the Supplies or for use in performing work (eg, S&TE used during V&V).

These clauses will have general applicability across all projects.

Drafter's Action: No tailoring of these clauses is required.

Related Clauses: Nil.

Optional Clauses: Nil.

Clause 4.6.6 System Safety Program

Sponsor: DMO Standardisation Office

Status: Core

Purpose: To implement a system safety program under the Contract in order to minimise the risks to the health and safety of persons using, supporting, involved with, or otherwise in the vicinity of the Supplies for the in-service and disposal phases of the life-cycle and to facilitate compliance with the requirements of the WHS Legislation.

Policy: WHS Legislation

Defence Corporate Radiation Safety Management System

Defence WHS Manual

DMSP (ENG) 12-3-005 *Developing Function and Performance Specifications*

DMO WHS Management System (DMOSAFE)

AAP 7001.054 *Airworthiness Design Requirements Manual*

ABR 6492 *Navy Technical Regulations Manual (NTRM)*

ABR 6303 *Navy Safety Systems Manual*

TRAMM-L, section 2 *Technical Integrity Requirements - Engineering*

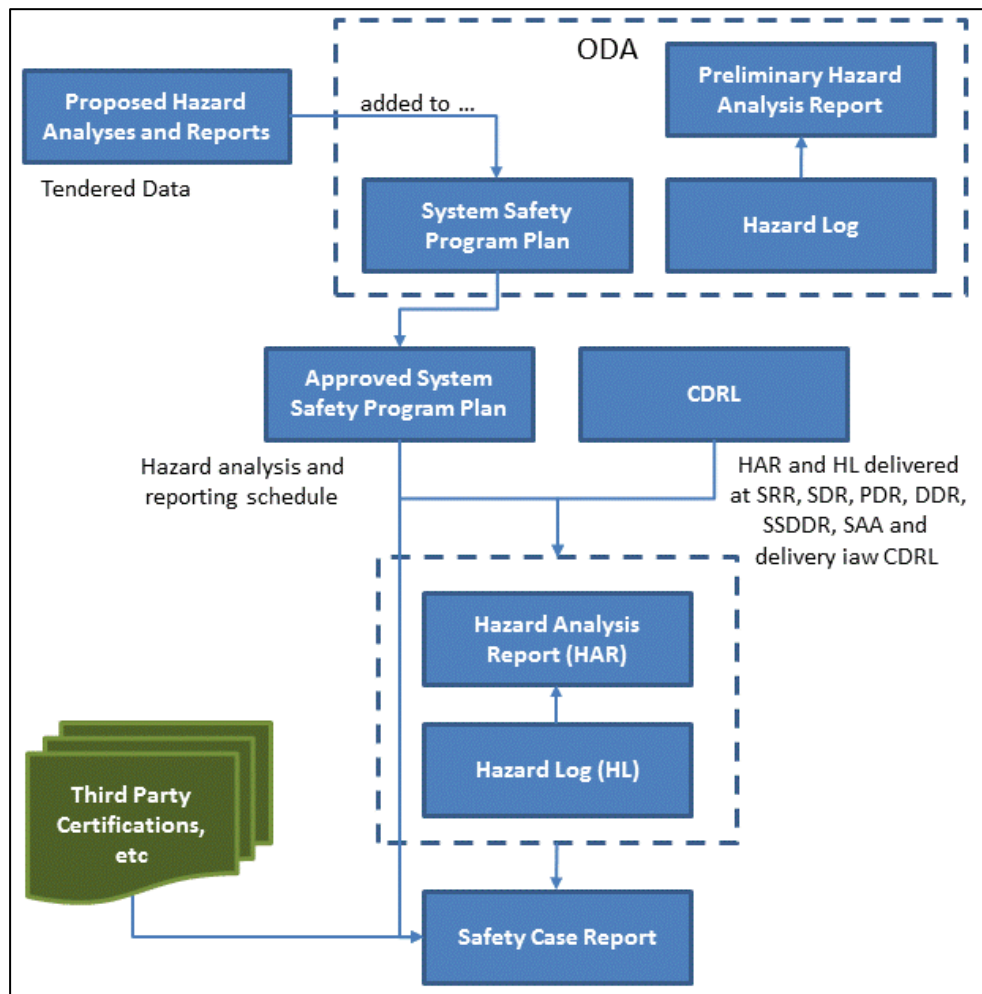
Guidance: The system safety program is a core requirement of the Contract that enables the DMO and Defence to ensure the Materiel Safety of the Supplies, applicable to persons using, supporting, involved with, or in the vicinity of, the Supplies. Results from the system safety program should enable safety certifications to be obtained, where applicable (eg, for design registration and when required by the technical regulatory framework), and provide the information needed to manage the Materiel Safety of the Supplies for the remainder of their life-cycle.

The DMO adopts the approach taken by Defence technical regulatory frameworks, in that all new systems are considered safety critical, or a potential hazard to health and safety, until proven otherwise. The DMO therefore requires the Contractor to define and implement a system safety program to identify, assess and ensure that safety hazards and risks will be adequately addressed. The program also allows the DMO to address legal obligations (including those under the WHS Legislation) to provide safe equipment/plant and safe workplaces, so far as is reasonably practicable.

System Safety Program Process

The system safety program should be conducted in accordance with a suitably tailored standard (such as MIL-STD-882E) that provides a thorough and methodical approach to analysis. This is to enable the program to address specified requirements, the general Materiel Safety of the Materiel System, WHS Legislation, and any other applicable regulations and standards. Initially, program requirements should be defined prior to the RFT by a safety management group, including DMO project staff, TRA representatives and other stakeholders. The scope of the system safety program under the Contract will then depend on the Materiel System, the level of design and development involved, and the availability of existing safety data that is relevant to the configuration, role and environment of the Materiel System. The RFT (refer to [TDR G-10](#)) allows tenderers to scope the program to accord with their tendered proposal.

The system safety program utilises a number of data items to manage, implement and report on the Contractor’s efforts and on the Materiel Safety of the Supplies. The diagram below outlines their relationship.



The diagram can be interpreted as follows:

- Tenderers will propose the hazard analysis activities and the delivery of reports in their tender responses ([TDR G-10](#)), as applicable to their proposals. Their responses must consider the incorporation and re-use of any existing safety-related data.
- During ODA, the SSPP is drafted. This captures and confirms the scope of the analyses and reporting activities proposed in the tender response. A preliminary hazard analysis may also be performed during ODA, with hazard and risk data being entered into the Hazard Log (HL). The HL is a database prepared for this purpose.
- The SSPP is Approved by the Commonwealth at ED (following review during ODA) and maintained under the Contract. The CDRL and the Approved SSPP together identify the delivery of Hazard Analysis Reports (HARs), which are supported by detailed data included in updates to the HL (ie, the CDRL schedules the delivery of the HAR but does not list all of the types of HAR included in each delivery).
- HARs and HL updates are delivered in preparation for Mandated System Reviews (MSRs). The results from more than one type of hazard analysis (eg, system, subsystem, support, etc) may be reported on when the HAR is delivered in preparation for a MSR. All HARs are supported by the HL, which includes detailed hazard and safety risk data.
- The Safety Case Report (SCR) collates and summarises the body of evidence (or 'objective quality evidence') that makes up or 'argues' the 'safety case'. The information in the safety case includes the HARs, HL, Australian design certificates, certifications from third-party suppliers and foreign regulatory authorities, the SSPP, Configuration Management data, and any other relevant source of evidence. The SCR may also refer to Failure Mode Effects and Criticality Analysis (FMECA), design documentation, Acceptance Test Reports and other data items that have been delivered under the Contract.

The process described above enables the Contractor to define an analysis program appropriate to the design maturity and risks of the Materiel System, which is subject to Commonwealth Approval. It also minimises the duplication of data required (between HARs, the HL and SCR) in order to reduce preparation costs and the Commonwealth's review effort. Finally, it provides the evidence needed to demonstrate that Materiel Safety has been achieved.

Specified Requirements

As part of the SOW, clause 4.6.6 defines the requirements for the system safety program, but requirements for the Materiel System itself (including those related to Materiel Safety) are specified in the FPS. Section 3.13 of the FPS (when prepared in accordance with DMSP (ENG) 12-3-005, Annex A) specifies requirements for safety. The requirements are primarily specific to the system without the need to duplicate any standard industrial practices. However, as tenderers, and the design unit of the Contractor, are not always located in Australia, it can be helpful to identify Australian or state/territory specific safety requirements that differ from overseas laws. The following are two examples:

- a. Asbestos Containing Material (ACM). A requirement is that the Supplies shall not contain ACM, as defined in subregulation 5(1) of the *Work Health and Safety Regulations 2011* (Cth). This means that the materials used must contain no Asbestos but, in other countries, materials with less than 1% Asbestos may not be classified as ACM. The requirement in the FPS should make it clear that the Australian definition of ACM (as specified in the WHS Legislation) applies.
- b. Australian design registration. Where applicable, the FPS should specify the need for the registration of plant design for medium and high risk plant (refer to the *Defence WHS Manual*, volume 2, part 3B, chapter 1 and DMSP

(LOG) 04-0-003) and for that plant to be appropriately labelled. Essentially, the FPS should specify that Mission Systems, subsystems (eg, ship's boilers) and Support System Components (eg, forklifts and cranes) that are classified as medium or high risk plant shall have Australian design registration in accordance with Part 5.3 of the *Work Health and Safety Regulations 2011 (Cth)*³. Furthermore, a data plate shall be affixed to the relevant item (or items) of plant with the design registration details, which include: (1) the design registration number; (2) the date of issue; and (3) the Commonwealth, State or Territory regulatory authority that issued it.

Details of the Australian design registration are to be included in the SCR and, where relevant, provided within the safety-related information for the applicable Configuration Item when delivered (see SOW clauses 4.6.6.3.4 and 4.6.6.3.5).

Drafter's Action: An important aspect to defining the system safety program is to specify requirements (often design constraints) for the Materiel System in the FPS. These include FPS requirements for specific civilian certifications (eg, through road, aviation or maritime safety boards) and the abovementioned requirements for the registration of plant design.

Program Objectives. Clause 4.6.6.1 outlines the system safety program objectives. This clause should be reviewed but, in many cases, will not require tailoring.

Planning. Clause 4.6.6.2 requires the Contractor to have a SSPP that is Approved for the purposes of planning and managing the system safety program. Planning begins with tender responses ([TDR G-10](#)) and the SSPP will, preferably, be developed during ODA, or otherwise before ED.

The optional clause 4.6.6.2.2 provides a location for drafters to specify the applicable standards, technical regulatory manuals, and other references to be used when planning the system safety program (ie, excluding any design standards for the Materiel System itself, which should be referenced in the FPS). Drafters should identify the relevant volumes/parts/sections of a technical regulatory manual rather than referring to the manual as a whole. The related DIDs refer to MIL-STD-882E as an appropriate standard, but allow the Contractor to propose alternatives provided that they are suitable to the Commonwealth. Inserting a reference to a standard here would make it the basis for the system safety program under the Contract; however, the project office should expect that existing system safety data for mature subsystems and components may have been prepared using one or more other standards.

Program Activities. Under clause 4.6.6.3, system safety program activities are to be performed in accordance with the Approved SSPP, as per the first sub-clause. The remaining sub-clauses specify deliverable data items that enable the Commonwealth to monitor the program and obtain data for the management of Materiel Safety, as outlined by the diagram above.

Each HAR is prepared in accordance with DID-ENG-SOL-HAR and the Approved SSPP. The DID defines reporting requirements for eight different types of hazard analyses (seven safety and one environmental). The specific hazard analyses to be performed, and when the results are to be reported, are defined in the Approved SSPP. The initial schedule of analyses is included in tender responses and refined in the development of the SSPP. HARs have many common data requirements (eg, system and hazard identification); hence, DID-ENG-SOL-HAR is designed so that the HAR can contain a summary of information while the detailed analysis results are provided through simultaneous deliveries of updates to the HL.

The HL is prepared in accordance with DID-ENG-SOL-HL. It is also known as the 'hazard tracking system' in MIL-STD-882E. The HL is a database that supports

³ Applications for design registration should be made to the relevant Commonwealth, State or Territory regulator, particularly if the plant is not unique to Defence. However, design registration by the Australian Defence Organisation is preserved by the WHS Legislation. Refer to DMSP (LOG) 04-0-003 for further information.

delivery of the HARs and provides evidence for the safety case. The HL should be made available via the DMS (when one is required by SOW clause 2.3) to enable efficient data item delivery and Commonwealth access to evolving safety-related data. It is also delivered at the end of a Contract to allow this information to be maintained in-service.

Included in the HL is the recording of solutions to eliminate identified hazards and eliminate or minimise risks (to achieve Safety Outcomes), including through the incorporation of design alternatives and decisions that eliminate the hazards or otherwise control the associated risks. Based on MIL-STD-882E, the HL includes a process of recording 'risk acceptance' by the Contractor and the Commonwealth as part of the design development and design acceptance process. The use of the word 'acceptance' in 'risk acceptance' **does not** have the meaning of Acceptance under the Contract. Acceptance under the Contract at this stage of the design and development program (prior to Acceptance V&V) would undermine the principle of CAID used in ASDEFCON (refer to the *ASDEFCON (Strategic Materiel) Handbook*, Philosophy Volume) and could result in the Acceptance of systems that do not meet specified requirements. However, risk acceptance related to a Problematic Substance or a Problematic Source, when agreed by the Commonwealth, provides Approval for that Problematic Substance or Problematic Source to be included in that element of the Supplies. Note that Problematic Substances and Problematic Sources brought onto Commonwealth Premises temporarily (eg, for the purposes of installation or V&V activities) are Approved by inclusion in an Annex to the HSMP, through the process described under clause 9.3 of the SOW.

A SCR is prepared in accordance with DID-ENG-SOL-SCR. The SCR collates and summarises the safety case, a larger body of evidence including the HL, HARs, SSPP, and other information used to evaluate the safety of a Materiel System. The SCR is important for the certification of a Mission System and the Materiel System as a whole. Evaluation and certification involves the Defence safety management group and needs to be planned prior to the Contract. Where external (third party) design registration or certification is required (eg, by civil aviation or maritime authorities), this must be included in the FPS (as discussed above) and the registration/certification is presented as evidence for the safety case. DID-ENG-SOL-SCR contains detailed requirements; however, drafters should consult their technical regulatory authority for any additional or changed requirements.

The last clause under the system safety program requires safety information to be delivered for each Configuration Item offered for Acceptance. While safety information for the Materiel System should be included in the SCR, this clause ensures that safety information is provided for Support System Components if the SCR becomes focussed only on the Mission System. Clause 11.4.12 of the COC identifies the information required; this is the information to be provided by suppliers under the WHS Legislation.

Drafters should review clause 4.6.6.3 but, in many cases, the clause will be included without amendment. Drafters should also review the CDRL for the associated data item deliveries.

Related Clauses: Annex G to Attachment A to the COT (TDR G-10).

Draft SOW clause 2.3, Data Management System.

Draft SOW Annex A, for Materiel System safety requirements specified in the FPS.

DID-ENG-MGT-SSPP, which specifies requirements for the SSPP.

DID-ENG-SOL-HAR, which specifies requirements for the HAR.

DID-ENG-SOL-HL, which specifies requirements for the HL.

DID-ENG-SOL-SCR, which specifies requirements for the SCR.

DID-ENG-SOL-DCERT, which specifies requirements for a Design Certificate.

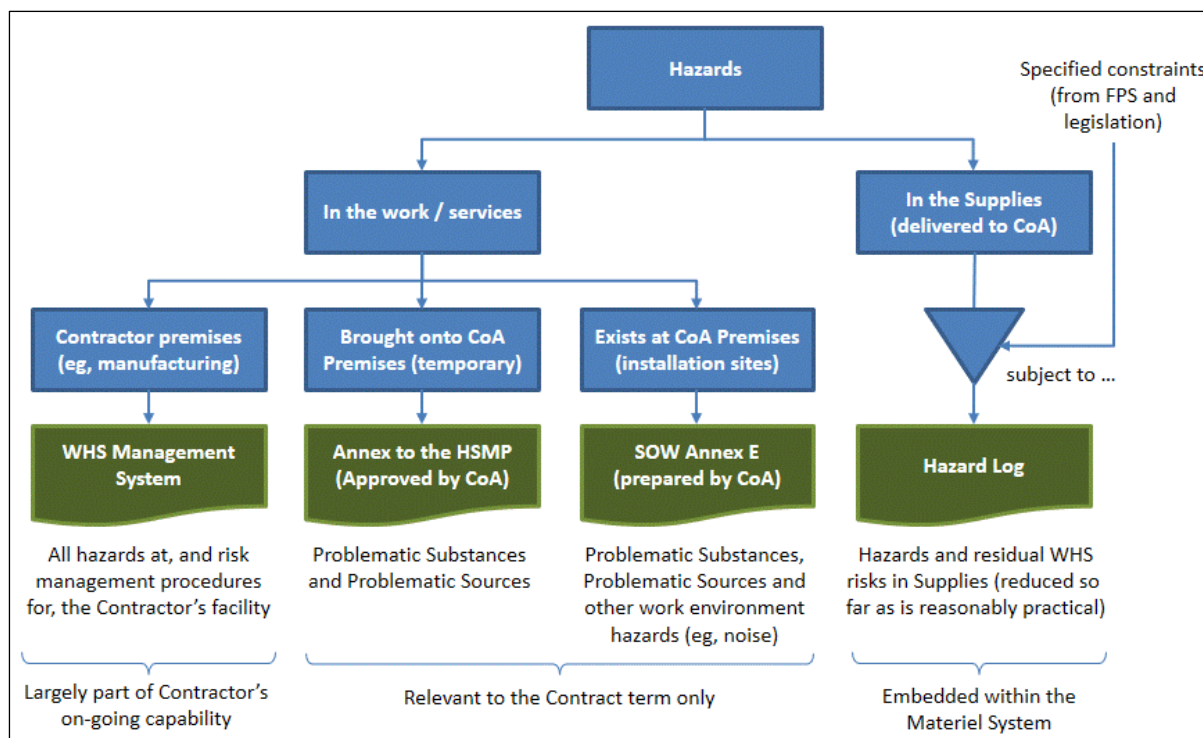
DID-ENG-MGT-SEMP, for the integration of all functional elements of the Systems Engineering program, including the system safety program.

DID-V&V-MGT-V&VP, for the V&V of safety in the design of the Materiel System.

Optional Clauses: Nil.

Clause 9.1 Problematic Substances and Problematic Sources

Sponsor:	WHS PAC and Director General Work Health and Safety
Status:	Core
Purpose:	To define the requirements for the management of Problematic Substances and Problematic Sources for Contract work performed on Commonwealth Premises.
Policy:	<p><i>Work Health and Safety Regulations 2011 (Cth)</i></p> <p><i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i></p> <p><i>Ozone Protection and Synthetic Greenhouse Gas Management Act 1989 (Cth)</i></p> <p><i>Defence Corporate Radiation Safety Management System (RSMS)</i></p> <p><i>Defence WHS Manual</i></p> <p><i>Defence Procurement Policy Manual</i></p>
Guidance:	<p>Clause 9.1 requires that the Contractor and Subcontractors only bring Problematic Substances and Problematic Sources that are Approved onto Commonwealth Premises to perform Contract work and then only for the purpose(s) for which they are Approved. Applicable Contract work includes the installation of equipment on Commonwealth Premises or during phases of the AV&V program.</p> <p>Note that the <i>ASDEFCON (Strategic Materiel)</i> template does not require details of, or the rights to Approve, Problematic Substances or Problematic Sources that the Contractor uses on their own premises (eg, as used in a manufacturing process but not present in the Supplies).</p> <p>Problematic Substances and Problematic Sources represent only a subset of all WHS-related hazards. The following diagram identifies where different hazards are recorded in the context of a contract that uses the <i>ASDEFCON (Strategic Materiel)</i> template.</p>



As illustrated, Approval is required for Problematic Substances and Problematic Sources that will be brought onto Commonwealth Premises to enable work to be

performed under the Contract – the list of Approved Problematic Substances and Problematic Sources is included in and Approved as an Annex to the HSMP.

Note that Problematic Substances and Problematic Sources that form part of the Materiel System (ie, that are within Supplies or are Supplies themselves) will also be delivered to Commonwealth Premises. These are listed in the HL where Approval of the Problematic Substance and/or Problematic Source is recorded on an item-by-item basis (refer to DID-ENG-SOL-HL and [SOW clause 4.6.6](#)). As these have been Approved as part of the Supplies, they do not need to be included (and Approved again) in the HSMP.

If the Contractor will be present at Commonwealth Premises (eg, to perform installations) then, as the diagram identifies, the Contractor must be informed of relevant hazards at those locations through SOW Annex E.

There will also be hazards at the Contractor's premises (eg, chemical processes used in production). Not being an expert in production processes and other Contractor activities, the Commonwealth does not Approve the Problematic Substances or Problematic Sources used in this context (unless they also form part of the Supplies or in-service processes to support the Supplies, and then they are only approved only in that context). Under [SOW clause 9.3](#), when the Contractor is performing work of an industrial nature that is subject to the WHS Legislation, the Contractor is required to have a WHS Management System (WHSMS) that captures WHS risk assessments and therefore identifies the notable Problematic Substances and Problematic Sources being used on Contractor premises. Access to the WHSMS is possible under COC clause 10.7, while on-line visibility can be obtained using the DMS ([SOW clause 2.3](#)).

If the Contractor will occupy Commonwealth Premises for an extended period (eg, under a GFF Licence Deed), additional requirements may apply and advice should be sought regarding the management of WHS on Commonwealth Premises when occupied by the Contractor and/or Subcontractors.

Use of Problematic Substances. SOW clause 9.1.1 contains two options. Option A is used when the Contractor does not perform work on Commonwealth Premises (other than the delivery of Supplies). This option identifies that the WHS requirements under clause 9 do not duplicate the Approval of those Problematic Substances that are included within the Supplies, where Approval is managed as part of the [system safety program](#) and, therefore, listed in the HL.

Option B must be included if Contract work will be performed on Commonwealth Premises, with the first clause also identifying that Problematic Substances within the Supplies do not need to be Approved again under clause 9.

If it can be determined that Contract work will either be or not be performed on Commonwealth Premises, then the applicable option must be selected and the other option deleted. If unsure, a note to tenderers may be inserted before both optional clauses, identifying that the applicable option will be included based on RFT responses as to whether any Contract work will be performed on Commonwealth Premises.

When Option B is selected, Problematic Substances that are Approved (ie, Approved Substances) are to be listed in an Annex to the Approved HSMP (thus Approving the listed Problematic Substances for use on Commonwealth Premises – see guidance for [SOW clause 9.3](#)). Safety Data Sheets (SDSs) that meet the requirements of DID-PM-HSE-SDS are required to be delivered, and are reviewed, with the HSMP. The Contractor must also advise the Commonwealth before an Approved Substance is brought on to Commonwealth Premises – this enables the Commonwealth to update Defence records in *ChemAlert*.

Option B clauses define a process whereby the Contractor notifies the Commonwealth of any new Problematic Substance required or discovered, or a new purpose for an already Approved Substance, and then seeks the appropriate Approval. Discovery refers to a Problematic Substance that is not Approved being

brought onto Commonwealth Premises (eg, by a person who was not informed of the Approval requirement). If the change will be Approved, details of the discovered Problematic Substance, new Problematic Substance, or new use of an Approved Substance, are to be included in a proposed update to the HSMP (annex only), with the applicable SDS(s), and any necessary Authorisations provided as supporting evidence. Note that, in accordance with DID-PM-HSE-SDS, the Contractor does not need to deliver a new SDS if they can uniquely identify that SDS in the ChemAlert database used by the Commonwealth (ie, an SDS is not required when the DMO already has a copy of that SDS).

The final clause in Option B is a general requirement for the Contractor to seek lower-risk substitutes for Approved Substances.

Problematic Sources. The clauses under SOW clause 9.1.2, for Problematic Sources, are optional. These clauses must be included if work under the Contract will be performed on Commonwealth Premises and is known to require the use of a Problematic Source. In this instance, the note to tenderers should be deleted. If it can be determined that no Contract work will be performed on Commonwealth Premises or that no Problematic Source will be required for such work, then the clauses under the heading may be deleted and replaced with a single "Not used". If unsure, the draft clauses and note to tenderers should be retained in the RFT.

If Problematic Sources are to be used, then depending on the types of Problematic Source(s) (eg, non-ionising or ionising radiation, or lasers specifically), drafters should identify the relevant references to the RSMS (and other documents, if applicable) at clause 9.1.2.2 (adding sub-clauses, if preferable). If the types of Problematic Sources cannot be determined, reference to the RSMS as a whole may be inserted in this clause.

Problematic Sources that are Approved are to be listed in an Annex to the Approved HSMP. The Contractor must also advise the Commonwealth if it proposes to bring any new Problematic Source on to Commonwealth Premises, or if the Contractor proposes a new purpose for a Problematic Source that has already been Approved.

Clause 9.1.2.4 requires the Commonwealth to advise the Contractor of Problematic Sources supplied by the Commonwealth to the Contractor. For example, Problematic Sources within items provided as GFE.

Drafter's Action: Drafters should review clause 9.1 and include the optional clauses and notes to tenderers as indicated above.

Related Clauses: Annex E to Attachment A to the COT (TDR E-10).

Draft COC clause 11.4, Work Health and Safety.

DID-PM-HSE-HSMP, which includes an annex of the Problematic Substances and Problematic Sources Approved for work on Commonwealth Premises.

DID-PM-HSE-SDS, which defines requirements for Safety Data Sheets.

Optional Clauses: Nil.

Clause 9.2 Environmental Management

Sponsor: Environment Heritage and Risk Branch, Defence Support and Reform Group (DSRG)

Status: Optional

Purpose: To obtain a description of how the Contractor proposes to manage environmental issues and comply with environmental requirements under the Contract.

Policy: *Environment Protection and Biodiversity Conservation Act 1999* (Cth)

Other environmental legislation, such as the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* (Cth)

DMSP (ENG) 12-8-043 *Materiel Systems Environmental Management*
Defence Procurement Policy Manual

Guidance: Contractors are obliged to comply with relevant legislation, including environmental legislation (see clauses 11.2 and 11.5 of the COC). Accordingly, environmental management requirements will not normally be required in the Contract when work will be undertaken at the Contractor's (and Subcontractors') own facilities. If there are no other special environmental requirements (described below), the clauses under clause 9.2 may be deleted and replaced with 'Not used'.

Note that environmental compliance requirements and characteristics of the Materiel System (and the Supplies) should be identified in the FPS or by reference to another relevant specification.

Any construction of facilities associated with a major project is normally managed through a separate DSRG contract, which will contain the environmental requirements specific to that task. However, if extended occupation of Commonwealth Premises (eg, under a GFF Licence Deed) is expected, then additional environmental issues may need to be managed. Additionally, in some cases, there may be special environmental requirements that exist (eg, ministerial approval may be needed) for work conducted at Contractor premises. Clause 9.2 of the SOW is required where significant environmental issues may be involved for Contract work performed in Australia. In these instances, the template clauses should be considered as a starting point and further advice sought from DSRG.

Clause 9.2, when included, requires the Contractor to plan Environmental management activities through the Project Management Plan (PMP) and have an Environmental Management System (ENVMS). When required, Commonwealth access to Contractor sites for environment-related inspections is possible through the Commonwealth access provisions under clause 10.7 of the COC.

Drafter's Action: Drafters are to determine if there is a need to address any special requirements for environmental management. If not, the clauses under the heading may be replaced with a single "Not used". If required, the clauses should be seen as a starting point and further advice should be sought.

If the Contractor will occupy Commonwealth Premises for an extended period (eg, under a GFF Licence Deed), additional requirements may apply and advice should be sought from DSRG.

Related Clauses: Clause 10.7 of the draft COC, Commonwealth Access.

Clause 11.5 of the draft COC, Environmental Management.

Clause 2.3 of the draft SOW, Data Management System.

DID-PM-STAT-CSR, which defines requirements for Contract Status Reports, including a Health, Safety and Environment report.

Optional Clauses: Nil.

Clause 9.3 Work Health and Safety

Sponsor: WHS PAC and Director General Work Health and Safety

Status: Core

Purpose: To require the Contractor to manage WHS and to enable the Commonwealth to discharge its duties under the WHS Legislation.

Policy: *Defence Work Health and Safety Manual (Defence WHS Manual)*

DMO WHS Management System (DMOSAFE)

WHS Legislation

Codes of Practice approved under section 274 of the *Work Health and Safety Act 2011* (Cth)

Defence Procurement Policy Manual, section 3, chapter 3.17, Work Health and Safety in Procurement

Guidance: Under the WHS Legislation, the Commonwealth bears a duty to ensure the health and safety of workers engaged, or caused to be engaged, by the Commonwealth, or whose work activities are influenced or directed by the Commonwealth. Accordingly, SOW clause 9.3 is a core clause.

Clause 9.3 includes subclauses covering:

- a. the acknowledgement of advice regarding GFE and GFF, if applicable;
- b. the management of WHS; and
- c. additional requirements for Contractor personnel located on Commonwealth Premises and Commonwealth Personnel located on Contractor premises.

Acknowledgement of WHS Advice – GFE. Clause 9.3.1 contains a single option to be included when the Commonwealth provides GFE, such as subsystems or components to be integrated into the Materiel System or S&TE to be used for V&V activities. If no GFE will be provided, the option can be replaced with “Not used”. If the option is required, drafters should ensure that appropriate safety-related supporting information (refer to DMOSAFE requirement 10.5.1) is provided to the Contractor (as GFI or GFD). Details of GFE and supporting information must be included in Attachment E.

Acknowledgement of WHS Advice – Commonwealth Premises. Clause 9.3.2 contains a single option to be included when the Commonwealth provides the Contractor with access to Commonwealth Premises for work to be performed under the Contract (eg, to install equipment or perform part of the AV&V program). If there will be no requirement for Contractor access to Commonwealth Premises, the option can be replaced with “Not used”. In these cases, Annex E to the SOW may also be designated as “Not used”.

If the Contractor will be required to perform work at Commonwealth Premises, the drafter will need to prepare Annex E in order to identify and provide information regarding the WHS hazards at those Commonwealth Premises, including Problematic Substances, Problematic Sources, ACM and other hazards, such as noise and machinery and, with respect to environmental issues such as Problematic Substances that could cause Contamination. Within Annex E, details may be included for one or more Commonwealth Premises – refer to Annex E for additional guidance.

Planning for and Management of WHS Duties. The WHS Legislation requires all Contractors and the Commonwealth to manage WHS. As the Commonwealth’s duty under the WHS Legislation extends to persons caused to be engaged by the Commonwealth, the Commonwealth may share duties to ensure the health and safety of Contractor and Subcontractor personnel. Accordingly, the Contract requires the Contractor to undertake certain functions and provide certain information that enables the Commonwealth to fulfil its obligations under the WHS legislation with respect to those shared duties. These requirements are centred on the need for appropriate planning and management of WHS matters and related risks.

The draft Contract requires certain activities to be performed and that a level of visibility is provided to the Commonwealth, to ensure that WHS is appropriately addressed. The required level of visibility will depend on the requirements of the project, such as whether work is subject to the WHS legislation, with optional clauses selected as appropriate.

While not being prescriptive, the following table compares example contracting situations with the various provisions included in the template that may be used. The examples in the table are not ‘rules’ and each case must be judged on its own

merits. Further advice on the inclusion of various provisions should be sought from the WHS PAC if there is any doubt.

	Work on CoA Premises	Australian work of industrial nature	Australian office work only	Overseas work only (no CoA personnel)	Overseas CoA personnel
COC clause 10.7	●	●	●	●	●
HSMP	●	●	○		○
WHS in PMP			○	●	○
WHSMS	●	●			
WHSMS on DMS	●	●			
SOW Annex E	●				

Key: ● – generally required ○ – optional (HSMP or PMP) CoA – Commonwealth

Explanation:

- COC clause 10.7 provides the Commonwealth with right to access the Contractor premises to view safety policy and practices, and the WHSMS when applicable (this clause is also used to access other information included in Quality Management Systems, etc). This clause applies to and must be included in all contracts.
- The HSMP covers Contract-specific WHS planning when the required level of visibility is high (eg, work on Commonwealth Premises) or the work is subject to the WHS Legislation and is of an industrial nature (eg, the production of the Supplies in Australia). Planning may be rolled-up into the PMP (which may refer to the Contractor's existing company WHS plans accessible to the Commonwealth) if the risks are low (eg, for contract management in Australia and all production overseas). If Commonwealth Personnel are located at the Contractor's overseas premises, the PMP requirement for WHS management may be adequate for Resident Personnel (in an office environment at the overseas production facility) but a stand-alone HSMP may be required if Commonwealth Personnel are actively involved in test programs or extensive Training (eg, for operators and maintenance staff). Hence, "HSMP" and "WHS in PMP" are shown as options in the last column of the table above.
- When required, the WHSMS records details of safety-related procedures, Authorisations and risk assessments that have been conducted. A WHSMS can provide a high level of visibility for managing WHS matters related to work and is included in the Contract for work on Commonwealth Premises and for work of an industrial nature that is subject to the WHS legislation.
- The WHSMS may be made accessible, on-line, to the Commonwealth via a DMS and this ensures that up-to-date WHS information is readily available. Access to the WHSMS via the DMS also reduces the need for significant lower-level detail to be copied into the HSMP (refer to the guidance for SOW clause 2.3).
- SOW Annex E identifies WHS hazards at Commonwealth Premises. It is only required in the Contract when work will be performed on Commonwealth Premises, such as the installation of equipment or for V&V activities.

Accordingly, clause 9.3.3 requires:

- a. planning for work on Commonwealth Premises, if applicable;

- b. delivery of a HSMP, and the application of that plan; and
- c. a WHSMS, if applicable, for work of an industrial nature (including installations of equipment at Commonwealth Premises) that will be subject to the WHS Legislation (eg, when performed in Australia).

The first option (clause 9.3.3.1) is to be included when work will be performed on Commonwealth Premises. In this instance, the drafter will need to identify and insert references to the Defence and any local base or site policies applicable to the Contractor's planning for and work on those premises. If there will be no work performed by the Contractor on Commonwealth Premises, then the optional clause may be deleted.

The optional clauses for planning, clauses 9.3.3.2 and 9.3.3.3, are core options and one of the two clauses must be included in the SOW. If work will be performed on Commonwealth Premises, a stand-alone HSMP (Option A) is required to address the WHS requirements specific to working at those premises (including those listed as references under clause 9.3.3.1), but it may also refer to other Contractor plans and management systems for work conducted at their own premises or on customer sites in general. Where no work is to be conducted on Commonwealth Premises, planning within the PMP (Option B), with references to existing Contractor HSMP(s) for their premises, may be sufficient. The option that is not required must be deleted and drafters must insert the name of the governing plan (ie, HSMP or PMP) into the clause that follows. SOW clause 9.3.3.4 of the template should also be updated for the planning option selected.

Although the WHS Legislation only requires an organisation to have a WHSMS if they are operating a major hazard facility (which is a Prescribed Activity as defined in the Glossary), a WHSMS, as an organised ensemble of WHS-related information (automated or otherwise), is an effective management tool and visibility of the WHSMS facilitates the DMO's ability to satisfy a shared duty of care to the Contractor's workers under the WHS Legislation. Access to a WHSMS can also assist the Commonwealth to fulfil due diligence obligations under section 27 of the *Work Health and Safety Act 2011* (Cth).

A WHSMS (included through clauses 9.3.3.5 to 9.3.3.9 of the template) will be required under the Contract when work of an industrial nature is to be performed under the Contract that is subject to the WHS Legislation. Work of an industrial nature is intended to mean production, fabrication or installations at the Contractor's premises, Commonwealth Premises, or other sites. Conversely, the WHSMS would not be required if the Contractor does not perform work that is subject to the WHS Legislation (eg, the work is performed entirely overseas) or if the Contractor's only Australian-based activity is as a local representative performing contract management functions or computer-aided design in an office environment while all of the major industrial effort is based overseas and not subject to the WHS Legislation.

When a WHSMS is required, drafters need to tailor the first set of WHSMS optional clauses (clauses 9.3.3.5 and 9.3.3.6 in the template, which will re-number after a planning option is chosen). Sub-clause 9.3.3.5b only applies to work on Commonwealth Premises. If there is no work on Commonwealth Premises, the sub-clause may be deleted and sub-clause 9.3.3.5a merged back into the stem. The name of the governing plan (ie, HSMP or PMP) should also be inserted where indicated. Also, note that when a WHSMS is required, access to it will, in most cases, be provided via the DMS under [SOW clause 2.3](#).

Drafters will also need to determine if the Contractor's WHSMS should be, or would benefit from being, certified to the Australian/New Zealand standard. Certification is not mandated by DMO policy but, if required, the second set of WHSMS optional clauses (clauses 9.3.3.7 and 9.3.3.8 in the template) may be included without tailoring.

Work on Commonwealth Premises. Clause 9.3.4 includes requirements applicable to Contract work on Commonwealth Premises. These activities (eg,

safety-related training and induction briefs) are required under the WHS Legislation and the clauses add details specific to the work on Commonwealth Premises. If there will be no work performed on Commonwealth Premises, the clauses under clause 9.3.4 can be replaced with a single "Not used".

Firstly, clause 9.4.3.1 requires that the Contractor's WHSMS (which is required when there is work on Commonwealth Premises) also be applied to the work performed by Subcontractors when on Commonwealth Premises. Note that it is not practicable to have the Contractor's WHSMS applied to all of their individual Subcontractors for other work.

When work will be performed on Commonwealth Premises, further tailoring is required. Clause 9.3.4.2 may be tailored with specific requirements; for example, the types of induction training and/or briefings, approximate durations, schedules, application requests, or reference may be made to the applicable document where these details can be found (ie, included in the RFT package).

Clause 9.3.4.3 details Contractor participation in Defence WHS management programs. For example, the Contractor may be required to inform local WHS representative groups regarding new installations, or have on-going participation in local working groups if an installation will take a lengthy period of time. Drafters should insert the applicable details into the clause. If the Contractor will undertake work at several sites (eg, installation of a system at multiple Defence bases), then the clause may be divided into sub-clauses for each site. If Contractor presence on Commonwealth Premises is minimal, the Commonwealth project office may perform any liaison functions and the clause can be deleted.

Clause 9.3.4.4 defines the process that will apply should additional WHS hazards be discovered on Commonwealth Premises (ie, those not already identified in SOW Annex E). Drafters should review clause 9.3.4.4 but, in most cases, it should be included without change.

Work Health and Safety of Commonwealth Personnel on Contractor or Subcontractor Premises. Clause 9.3.5 sets requirements for ensuring the health and safety of Commonwealth Personnel on Contractor premises, including Resident Personnel, personnel undertaking initial training on new systems, Defence Service Providers, and others.

Clause 9.3.5.1 requires the Contractor to ensure that a suitable standard of work environment is provided to Commonwealth Personnel and includes two subclauses that address (a) locations where the WHS Legislation applies, by referring to the applicable code of practice, and (b) other locations (eg, for teams located overseas), where the Contractor's assistance is required to enable the Commonwealth to fulfil its duty to Commonwealth Personnel.

Clauses 9.3.5.2, 9.3.5.3 and 9.3.5.6 allow for Commonwealth supervision of WHS matters for Commonwealth Personnel through an initial site familiarisation (ie, to confirm WHS-related suitability, access to first aid resources, etc), induction/site specific WHS training/briefings, and on-going visibility of WHS issues applicable to the work areas for the Commonwealth Personnel.

Clause 9.3.5.4 compels the Commonwealth to ensure that Commonwealth Personnel on Contractor / subcontractor premises undertake applicable training / site briefs. This clause reciprocates the obligation under clause 9.3.4.2.

Drafters should review clause 9.3.5 but, in most cases, the clause should be included without change.

Drafter's Action: Drafters should review clause 9.3 as indicated above.

Related Clauses: Annex E to Attachment A to the COT (TDR E-10).

Attachment E, Government Furnished Material.

Draft COC clause 10.7, Commonwealth Access.

Draft COC clause 11.4, Work Health and Safety.

Draft SOW clause 2.3, for the DMS to provide on-line access to WHS plans, procedures, Authorisations and assessments.

Annex E to the draft SOW, for identified hazards at Commonwealth Premises.

DID-PM-MGT-PMP, which defines requirements for the Project Management Plan, including a minimal requirement for WHS planning.

DID-PM-STAT-CSR, which defines requirements for Contract Status Reports, including a Health, Safety and Environment report.

DID-PM-HSE-HSMP, which defines planning requirements when a reasonable level of WHS detail is required, such as for work on Commonwealth Premises.

DID-PM-HSE-SDS, which defines requirements for Safety Data Sheets submitted as supporting information to the HSMP.

Optional Clauses: Nil.

Clause 9.4 Incident Reporting

Sponsor: DMO Standardisation Office

Status: Core, with optional sub-clauses

Purpose: To identify the requirements for WHS and Environment incident reporting.

Policy: *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*
Ozone Protection and Synthetic Greenhouse Gas Management Act 1989 (Cth)

WHS Legislation

Defence WHS Manual, Volume 2, Part 5, Chapter 1 Notification and Reporting

DEFLOGMAN, Part 2, Volume 3, Ozone Depleting Substances and Synthetic Greenhouse Gases Manual

WHS029 Guide to Work Health and Safety Incident Notification (Comcare)

Guidance: This clause creates obligations that enable the Commonwealth to meet the incident notification requirements of the WHS Legislation and the reporting of environmental incidents under the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*.

Notifiable Incidents (WHS). Clause 9.4.1 defines the reporting requirements for Notifiable Incidents. Notifiable Incidents are defined in the WHS Legislation (and the Glossary) to mean the death of a person, a serious injury or illness of a person, or a dangerous incident (eg, a “near miss”). Under the WHS Legislation, these incidents must be reported to the applicable WHS regulator. The regulator may subsequently undertake investigations and issue directives in relation to the Notifiable Incident.

Under the WHS legislation, Defence is required to report Notifiable Incidents to Comcare. The Contractor and Subcontractors are required to report Notifiable Incidents to their respective regulators, which in most cases will be the relevant State or Territory regulator, but for a small number of companies may also be Comcare if they are corporations licensed under the *Safety Rehabilitation and Compensation Act 1988 (Cth)* (non-Commonwealth licensees). Clause 9.4.1 requires that the Contractor and Subcontractors immediately inform the Commonwealth of applicable Notifiable Incidents as the Commonwealth will or may also need to notify Comcare. Applicable Notifiable Incidents that are reportable to Comcare will include those involving Commonwealth Personnel and Commonwealth Premises, and other notifiable incidents that arise out of the conduct of Defence’s business or undertaking (eg, where GFM was relevant to the incident). Clause 9.4.1 also requires that the Commonwealth be provided with copies of any notice(s) or other documentation issued by the relevant Commonwealth, State or Territory regulator.

When applicable, and in addition to the immediate notification required under SOW clause 9.4.1, the Commonwealth is to receive details of all notices and other formal communications (including for Notifiable Incidents) between the Contractor and Subcontractors and their regulator(s), in accordance with clause 11.4 of the COC. WHS issues, including a list of Notifiable Incidents, are also included in the Health Safety and Environment sub-report of the CSR.

For all Notifiable Incidents involving Commonwealth Premises, Commonwealth Personnel and GFM (including within Australia and when overseas), clause 9.4.2 instigates a reporting process in accordance with the *Defence WHS Manual*, volume 2, part 5, chapter 1.

Clause 9.4.3 requires the Commonwealth to report Notifiable Incidents to the Contractor when they involve Contractor personnel on Commonwealth Premises. For example, if an incident were to occur to a member of the Contractor's staff while installing equipment or assisting the Commonwealth with V&V activities. This clause reciprocates the obligation under clause 9.4.1.

Environmental Incidents. Clause 9.4.4 is an optional clause to be included when Environmental management and reporting requirements apply to the Contract; hence, the decision to include this optional clause uses the same criteria for including clause 9.2 (ie, clause 9.2 and clause 9.4.4 are both included, or not included, as a set).

In addition to reporting Environmental Incidents under clause 9.4.4, Environmental issues are reported in the Health Safety and Environment sub-report of the CSR, which includes a summary of any Environmental Incidents for the reporting period.

Clause 9.4.5 should be included in all contracts where CMCA that contains Ozone Depleting Substances (ODSs) or Synthetic Greenhouse Gases (SGGs) will be provided to the Contractor. ODSs and SGGs include chemicals such as some refrigerants and the contents of some fire extinguishers. If no CMCA containing these substances will be provided to the Contractor, then the optional clause may be deleted. Quantities of these chemicals are strictly managed and accounted for and must be reported accordingly. For further information, refer to DEFLOGMAN, Part 2, Volume 3.

Drafter's Action: Drafters should review clause 9.4 and tailor the options as indicated above.

Related Clauses: Draft COC clause 11.4, Work Health and Safety.

Draft COC clause 11.5, Environmental Management.

DID-PM-STAT-CSR, which defines requirements for Contract Status Reports, including a Health, Safety and Environment sub-report.

Optional Clauses: Nil.