



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

27 November 2020

The Department of Defence
Canberra ACT 2600

via email: procurement.asdefcon@defence.gov.au

Dear Sir/Madam

Draft AIC Enhanced Contractual Framework – Australian Standard for Defence Contracting

I provide the following comments on the draft Australian Industry Capability (AIC) enhanced contractual framework that is part of the a review of Australian Standard for Defence Contracting:

- 1. Holistic Framework:** Whilst the document package circulated for comment is identified as a 'contractual framework', it is a contractual suite. Any 'framework' embedded in the suite is obscured by the detail of the provisions and makes analysis of the framework extremely difficult.

Further, the request to provide feedback via a 'dot by dot' spreadsheet will drive those consulted into detailed analysis, rather than commenting on the broad framework and changes to benefit small business suppliers. For instance, there is no analysis of how the new concept of Defence-Required Australian Industry Capabilities (DRAIC) has been incorporated in the provisions of the AIC, nor how it is intended to actually add value over existing approaches.

- 2. Focus on SMEs:** Clause 3.3 of Attachment F provides advice to drafters of the intent to capture elements relevant to lower-tier subcontractors that are not DRAICs. These elements are critical for Small-to-Medium Enterprises (SMEs) in the supply chain, and are arguably the whole point of this exercise. Therefore, this statement should be at the head of the document package and the elements relevant to SMEs built into the DRAICs and clearly addressed in the package.
- 3. Usefulness of ACE:** The new metric of Australian Contract Expenditure (ACE) that measures Australian content is introduced on the basis that it will increase objectivity and reduce administrative burden. However, it is not made clear how ACE is a useful a measure of how AICs are actually delivered and how it will change existing practices.
- 4. Timelines and sequencing:** The document package proposes that the Australian Industry Capabilities will be negotiated only after a successful tenderer is announced. Contractors should commit to what and how they will deliver at time of tender, not after it has been awarded.
- 5. Definitions:** The definitions for Australian Entity, Australian Industry, and Small and Medium Enterprises have not yet been settled. These are critical and the Australian Entity definition in particular must ensure local ownership and activity, not just legal registration or tax status.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Mike Kearney on 02 6121 5876 or at michael.kearney@asbfeo.gov.au.

Yours sincerely

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