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# **Productivity Commission Submission Response to Interim Report National Agreement for Skills and Workforce Development Review**

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## **Professional Summary**

My name is David Bradford. I am a VET sector professional located on the north side of Brisbane who brings credible and balanced observations and insights into the present state of VET.

This submission is provided to support the Commission to orient the VET sector into the future.

I am the CEO of Bradford Institute of Advanced Education RTO 45241. I am the former Director of Training for the Departments of Child Safety, Communities and Queensland Health and have served as the Principal Training Officer in Corrections in Queensland. Notably I lectured at QUT for six years and served for five years as a Director on the CSHISC where he was also a TPAC chair for CHC08.

This submission is driven by a desire to improve the VET system at a juncture where there are significant challenges. I have access to a considerable network of VET providers, students, employers and stakeholders nationally. The suggestions offered in this document represent the outcomes of broad consultation and feedback over the last 4 years within these networks. I defer to the commission, naturally. I only hope these insights will serve to better inform and guide discussions that may be occurring at the present time. I encourage the readership of this paper to receive it in the spirit it was written. This is an honest attempt to contribute some constructive discourse to take the VET sector into a new phase as a world class system.

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**This is a non-confidential submission prepared by**

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## Response to the Interim Report

### *Student Vouchers*

Student vouchers could work in the context of an approved provider framework. The student receives the voucher based on a nationally defined set of eligibility criteria to be used only with an approved provider. Approval of a provider does not necessarily transcend their entire scope. Approval should still be based on skills priorities set by Govt in consultation with industry and the demonstrated expertise and quality of training and assessment in a particular qualification or package.

The risk here becomes the triumph of marketing over substance we saw in the VET FEE HELP era. The massive RTO that grows on the back of superior marketing prowess and marketing capacity rather than a proven commitment to quality delivery in a particular area as evidenced by graduate outcomes, trainer profiles, student feedback and robust and extensive industry connections.

For example, my team includes some of the highest credentialed and experienced Community Services and Child Protection practitioners in the country. Our student feedback in this area is routinely exemplary, our industry alignment and networks robust and extensive. Our completion rates are extremely high and our post-graduation employment or transition to Uni rate is above 95%. We have negotiated credit packages with 3 university partners across 6 programs. These are priority skills areas for Government and a key area for employment potential given the current rate of unemployment. In these qualification areas we are a sensible investment for public funds.

However as good as we are in this area, we don't have anything like this kind of profile in our Funeral Services offerings. We have some basic and under developed industry relationships. Satisfactory trainers and due to low student numbers, we haven't yet established a demonstrated track record in this area. We should not be drawing public funds against this qualification when you consider the quality of what we can offer and the ability of others to offer, by all measures, a superior product.

If I elect to use funds from the Community Services area to build quality and capacity in the Funeral area and reach some of the bench marks described above then this can be reviewed. As a responsible RTO operator concerned with quality this is exactly what I should do. I should invest in my own business to raise quality. It should not be on the Government to fund this quality improvement. The standards for RTOs require it and the market should be entitled to expect it. When RTOs rely on government to fund development across the entire scope of an we run the risk of quality improvement only happening if government is paying for it and creating mega RTOs that go on to flood the market with unemployable graduates.

These criteria are industry focused and they create a benchmarking approach of approved RTOs approved for certain courses. This reduces the potential for marketing machines to build enormous low-quality RTOs that exploit Govt funds and ultimately students. Vouchers can work but they should only be used with approved RTOs for approved courses.

### *Duplication and Contradiction*

Currently the states audit many of the same things ASQA does. This is not productive and it wastes time and money. There is no evidence to suggest it leads to better quality or better student outcomes.

In some states we are seeing interstate providers discouraged and excluded regardless of their status as a national provider. This creates issues in continuity of service with large employers and in border regions.

It would be more productive to have ASQA audit the standards for RTOs and the state authorities audit compliance with the funding contract. States should not be auditing assessment processes and outcomes if ASQA are already doing this. It is entirely possible for an RTO to be audited 4 times in one year on the same matters by different jurisdictions. These are public funds paying for all this auditing. In addition to the waste and duplication we have outcomes where one regulator determines compliance another does not. Each invalidating each other and undermining the legitimacy of both. All at a cost to the Australian tax payer.

A business that is consumed with protecting itself from the regulators cannot sustain its focus on quality. A business that cannot trust the durability of a regulatory decision will not make bold steps to address national workforce issues. We need to unshackle the proven quality providers and resource and enable them to take bold steps to create, innovate and take risks to address the current employment situation in Australia.

For the short-term, regulators need to become enablers. They should assist and motivate innovation not intimidate RTOs with loss of their livelihood for small non-compliance's that don't impact students or quality.

### *Consistency and Eligibility.*

Consistency in funding and eligibility criteria would be a significant enhancement. Eligibility criteria varies from state to state in a manner that ensures people don't receive equitable access to funding. If you live in SA or the ACT you have eligibility criteria that make sense to people and can easily be explained to people. The eligibility criteria do not block cross industry transition like other state based criteria does.

In some states eligibility matrices that are difficult to understand and more difficult to explain to students and employers. For example, Community Services is under unprecedented pressure right now with increased calls for service. There are 1000s of jobs on offer right now however;

- In one state, you are ineligible for funding in a Community Services Qualification unless you are already working in the industry.
- You can't work in some parts of the industry without a Community Service's Qualification.

If you are working in a part of the industry where you don't need a qualification and you are eligible for funding you can access funding but some states who are perceived as openly hostile towards RPL and are alleged to intimidate the RTO into avoiding RPL regardless of the student's experience. The RTO is then caught between the NVRA which requires an RTO offer RPL and the state government who actively seek out RPL providers for special focus and additional audit scrutiny. Before you start training you must prove, through payslips you are employed. You can't access the funds in the 1st month of employment. BUT if you are caring for someone on the NDIS you are eligible and you don't need to provide any proof! It is as I say, complicated and difficult to explain or in the current environment, understand.

The Cert IV Ageing Support funds are not available to you unless you have done the Cert III individual support. The Training package doesn't say that, but the state government funding the qualification does.

### *Marketing Restrictions*

Marketing practices that are required in some states are punished in other states. In SA you are required to advertise your Work Ready funding. In ACT you are required to advertise your Skilled Capital funding. In some states you are threatened with loss of your contract if you;

- Advertise the funding
- Refer students to the 2<sup>nd</sup> chance program
- Answer a question on social media about eligibility criteria

So, the criteria is made so complex that students require high levels of assistance to understand it but RTOs are threatened if they provide information about it in their marketing. It is frankly absurd and it is not productive. Third Party providers exist because state departments place arbitrary rules on who can be an approved provider. Rules like a mandatory 5 years of operation as an RTO, force providers to develop 3<sup>rd</sup> party relationships. In many cases, these relationships involve a high quality, industry-based RTO who is unfunded, being forced to create 3<sup>rd</sup> party arrangements with non-industry-based course seller RTOs who have funding. In an extraordinary departure from model litigant status, State departments create the conditions for 3<sup>rd</sup> party RTOs to be necessary and then complain about their existence and apply undue scrutiny to them when they may in fact be the higher quality partner in the relationship.

## *RPL controversy*

RTOS are required to offer RPL under the standards for RTOs 2015. Failure to offer it is a non-compliance. But state departments treat RPL and providers of RPL with suspicion and unreasonable amounts of regulatory vigor.

We need to once and for all resolve RPL in the national system. We either keep it and every state treats it the same way they treat all other forms of training and assessment or we remove it. Telling RTOs they must offer it and then allowing state regulators to target it for aggressive regulatory action is not productive and it is governmental gaslighting. *“We will make you do it and then we will punish you for doing it.”*

If there was a compelling reason for this disproportionate focus, such as a high rate of questionable RPL in a particular industry that led to significant incidents, risk etc the focused would be understandable. In fact, it would be welcome because it would be warranted. States need to substantiate and justify this focus with other regulatory intel that is informing this increased regulatory aggression towards an assessment method that has been part of the Nation VET architecture for decades. It is required by the NVRA and contributes to productivity dividends by manifesting the oldest of adult learning principals, don't waste time and money teaching people something they already know. A focus on RPL by any regulator at this juncture, is unnecessary in the absence of a compelling problem when you consider NCVET have reported the rate of RPL is dropping which, in itself, is a concern. With unemployment in the reporting period under 5% you would hope to see RPL increasing.

We need to take a national position on RPL. Workplace learning including RPL will be significant and important tools moving forward post COVID 19. We need to educate industry about the benefits and legitimacy of RPL and we need the state regulators to stop undermining RPL and by insinuation providers of it must be something wrong simply by offering it. This is negative and punitive attitude towards RPL is doing nothing to raise the credibility and profile of VET.

We need the VET sector and regulators to understand the RPL paradox. If we believe the training package is a contemporary and accurate reflection of the skills and knowledge necessary to function in the workplace then that line of logic should equally follow to accept that the workplace will test and



develop the skills and knowledge required for the qualification. If this is not the case our whole training package development architecture is flawed.

## *Online Learning*

Online learning will be a significant component of the national skilling framework post COVID 19. In some parts of the VET Sector, a strong preference for face to face delivery drives this attitude. Given the geographical spread of our nation this was never a reasonable position to take and it certainly does nothing to ensure equitable access to education. Online learning is now critical to the skilling needs of Australia. Recognising RTOs who are integrating new technology into online learning, engaging learners, diversifying assessment methods and responding to changing learner circumstances will be important moving forward post COVID 19.

## *Formal Learning.*

On page three of the interim report, the commission notes, the VET and Tertiary sector is geared towards younger people with a focus on preparing them to obtain a job rather than Re-Skilling, upskilling, or developing depth. This is accurate, a welcome insight and there are some systemic issues that cause this.

### **Funding Focus**

The focus of funding on reducing unemployment by getting people into jobs is short sighted and demonstrates limited insight into how skills development leads to economic growth. The imperviousness of government departments to industry advice leads to a one industry fits all approach.

If we want to grow our economy, foster creativity and innovation and expand markets that can accommodate more employees, we need to invest in the skills of those in a position to take on such leadership. This growth and development will be driven by a highly skilled, diversely qualified older workforce. Business managers, mid-level and senior managers and executives, leaders of enterprises and logical leaders in the professions who Re-skill, upskill and cross skill will make the difference. As they develop insight and capability, they can develop programs and opportunities that lead to more employment opportunities. As trained leaders move up in organisations they create consequential vacancies for new workers. As they develop practice depth in Health, Aged Care, IT, engineering they open markets and develop products services and programs that grow our economy. They foster innovation that reduce service delivery costs and they can cross skill into areas we may need to consider bringing back onshore post COVID 19.

Our current approach is Labour supply focused, not Labour force development focused. We need to take a human capital approach. The current decision-making process for additions to the VSL list is rigid, process dependent, not accountable and fails to grasp the big picture. A common complaint I hear is public servants disconnected from industry, without accountability and immune from industry intel, make decisions about which qualifications can attract VSL with no appreciation of the bigger picture.

### **A VSL Case Example**

In the past decade we have gone from 35% of the children in state care identifiable as Aboriginal and or Torres Strait Islander to 42%. We need more indigenous child protection workers to turn this around. I don't mean support workers. I mean statutory officers/ decision makers.

The CHC package offers a Graduate Certificate in Statutory Child Protection with a Pre-requisite of the Diploma of Child Youth and Family Intervention. In the NT these quals are accepted as sufficient pre-vocational training to become a statutory officer, a decision maker.

The NT is routinely at crisis point for labour supply. Two submissions to the federal department from citing industry groups, with 16 references, 2 royal commission reports and an ACU research paper all saying the same thing fell on deaf ears. With no explanation. It is such a clear and present need and the evidence supports it. Even if there was no evidence, common sense supports it. This qualification pathway should be funded. At the very least it should be on the VSL list.

### **A VSL Case Example**

The Graduate Certificate Client Assessment and Case Management first appeared in 2008 in the CHC 08 training package. At the time I was The TPAC Chair and a Director on the National Industry Skills Council. I recall the discussion behind the development of this qualification. It was developed originally and redeveloped in 2015 to meet the needs of the aged care and disability workforce where the CSHISC ESCAN had identified a key skills gap in this workforce. The skills gap, was client assessment and case management.

When you look at all the feedback from the NDIS the core issues causing frustration, confusion disagreement, conflict, waste, service failure and delay are client assessment and case management. Again 2 industry driven submissions to the Department to at least have the qualification added to the VSL list fell on deaf ears and resulted in a flat refusal with not cogent explanation.

Aside from the culture of the state and federal education departments, which I will speak to further along in my submission, there is a lack of accountability and an absence of any real understanding of the needs of industry. Peak bodies with agendas and sensitivity to their Government funding sources are sometimes less than frank but are also inclined to maintain a policy and practice focus that relates to the degree qualified professional workforce not VET education.

An open transparent, industry led, evidence-based process for which qualifications are assigned to the VSL list would be a sensible and overdue step in the right direction to address the upskilling, cross skilling and re-skilling needs of workers. Funding in these high needs areas would be even better.

## *Funding Agility*

In light of the unprecedented events of 2020 the eligibility criteria for funded places will need to change. The reality is, a displaced worker with a Diploma in Tourism might struggle to get a job or pay their own way through an alternate Diploma in the current environment.

Our RTO has offered free training to displaced hospitality and tourism workers to assist them to cross skill and change industry. We are 5 months into a global pandemic where the big red buttons on employment and the economy have been well and truly pressed and in some states exclusion criteria based on an assumption all Cert IVs equal a job is still in place. We need to pivot at a policy level to address critical issues in the employment market post COVID 19.

Even before COVID 19 this was a an incorrect assumption. A 20-year-old Cert IV does not an employable person make. We see 100s of ageing trades people who are no longer physically able to work on the tools. But, because they did a Cert IV in business 23 years ago, we can't assist them to transition into care roles. Some of our best youth workers are former tradies. The current criteria in some states is an impediment to cross skilling. Even a partial subsidy would be better than nothing.

## *Cross Skilling*

The VET sector and explicitly it's funders, seems to struggle with the concept of polycontextual skill. WHS is a prime example. Communication and conflict skills another. Regardless of where the knowledge and skill was acquired, a person doesn't suffer an erasure of that knowledge and skill

simply by changing industry. We focus so much on skills for work we forget about upskilling and we haven't begun to think about cross skilling. Hostility towards RPL and a distrust of assessors and RTOs are core elements contributing to this issue. Rigid, fear-based interpretations of the UOC lead to a rejection by many assessors of previously attained knowledge and skill. 20 years ago we had the Mayer Key Competencies which was an attempt to identify core and transferable competence. We also had simpler more streamlined units of competence that spanned training packaged with the application of a range statement. The old VET practice of gap training against a single element has all but vanished as fear or regulatory rigidity drives sound VET practice out of the sector in favour of double and over assessment of students. RTOs over assess to protect themselves from RTO from the regulator. The best contemporary example of this is the Cert IV in TAE. The net effect is time and money are being wasted by forcing students to demonstrate the same competence multiple times with the only changing variable being the RTO and its risk tolerance.

This leads to training and assessment fatigue. We need to train assessors to appreciate the difference between acquisition and application. Knowledge and skills, I acquired working in corrections served me well when applied to working in child protection. It is not productive to continue to fail the Cross-Skilling imperative that will need to be part of an agile VET system post COVID 19. It is equally counter-productive to have auditors auditing below the standards and positioning themselves as a content expert for the sake of challenging assessment decisions.

### *Long Term Reform*

On page 10 of the interim report, The Commission notes the intent of NASWD was to create frameworks for long term reform. The difficulty is, some states are very state centric in their management of the nationally allocated funds. This is leading to border issues and issues continuity issues for national employers.

Some states are considered to show hostility to interstate providers regardless of expertise, quality or the continuity they might bring to a large national employer. The variation between states in eligibility criteria and funding levels causes frequent issues for large national employers and border town employers and citizens.

### *High Volumes of Low-Quality Cert IIIs*

On page 11 of the interim report, The Commission notes the CERT III funding entitlement was available to all RTOs. This is incorrect. States like Vic, QLD, NSW and WA created Pre-Qualified supplier criteria that locked many RTOs out. The criteria based on measures like Head Office Location and years since initial registration did little to ensure quality providers could access the market. As a result, our industry is now flooded with unemployable Cert III graduates in Individual Support who require significant contextualised cross training to make them employable.

On page 12 of the interim report, The Commission notes there are lists of PQS providers in the Cert III market who are very low-quality providers. Non industry-based RTOs with off the shelf offerings who churn out qualified but unemployable students. RTOs who cosy up to a local NGO to appear industry aligned but have no industry credibility.

We need to examine the extent to which an RTO is industry based. Are they enshrined with industry not just selling to them? Are they getting industry representation in their validation and moderation activities? Are they contributing to industry in real and practical ways? Many of the suggestions on page 14 of the interim report related to student information make sense but some there is significant variation between the states as to what you are permitted to provide. In some states, RTOs dare not mention employment outcomes and jobs for fear the department will choose to interpret this as the

RTO promising or offering a job. Many RTOs will avoid mentioning price because the next logical question is eligibility criteria and we are not allowed to talk about that. We have uploaded our price info on MYSkills. Many RTOs have not. It is my view they should not be allowed to use the platform if they are not willing to disclose price.

## *Regulatory Overreach*

On page 17 of the interim report, The Commission notes regulatory overreach and aggression is the opposite arch of the pendulum to regulatory failure. Overreach and failure have equally damaging effects on the VET system. We are in the situation where the pendulum has swung too far.

## *VET Student Loans*

On page 26 of the interim report the Commission makes some welcome remarks regarding the VSL program's significant restrictions. These observations are accurate and indicative of the weight of regulatory overreach restraining the VET system from fulfilling its purpose. In terms of the qualification on the VSL list, they are in fact arbitrary, many lack a clear rationale and they represent some of the clearest evidence, at the federal level of the lack of accountability shown by departmental delegates. These restrictions and the VSL list constitute proof undeniable of the imperviousness of the Department to good advice and their willingness to engage rationally and logically in a discourse around VET's critical contribution to broader socio-economic issues. While the Department of Human Services is trying to manage the burning NDIS and overcome a dearth of assessment and case management skill the Department of Education is deliberately kinking the hose by refusing to add the very qualification the Industry Skills Council designed to prevent the fire in the first place.

Compelling, joint, industry submissions backed by research and evidence of the need to add qualifications to the VSL list were responded to with rejection and silence. Senior bureaucrats behave with impunity and feel entitled to ignore the very sector they serve. The last place the delegation for the VSL list should sit is inside the Department. When FEE HELP (HECS) is available to every domestic Uni student regardless of the course, the least we can do is give industry a seat at the table to inform the VSL list. Ultimately the VSL list should be compiled by capable informed people with strong links to industry. The question is, how long are we going to suffer as a sector for the sins of the few? How long are we going to harm the VET sector, the economy and industry because of the VET FEE HELP rorters? The idea of approving every course and establishing a black list is a far fairer approach. The middle ground would be a truly representative committee of informed industry and VET leaders to make these decisions.

Courses that don't attract a subsidy, that are not on the VSL list will be deemed by the department as not required due to low completion rates without ever once stopping to consider the impact these funding policies have had on participation and completion rates. Perhaps the lack of funding is causing the low completion rates? ICLs could work and the remarks about ICLs and lower quals are accurate. If states are permitted to persist with previous quals as an exclusion criterion to funding, ICLs may support ineligible students into work through access to Cert III and IV programs they are currently shut out of. I agree with the raising of the price caps however this should coincide with price publication requirements on My Skills. This will create greater market choice and transparency and greater ease of regulatory oversight. It may also make it harder for overpriced qualifications to exist. VSL is expensive to administer in its current form and its structure and requirements deny RTO many tax benefits. This aspect needs to be reviewed so more RTOs can take up the scheme without passing the costs onto students.

I agree with the principle of the matters raised on page 27 however reducing the funding for subsidized training could disadvantage many who fear loans. The circumstances of COVID 19 are a

factor here. I doubt too many people would feel confident in taking a loan in the next few years. This could be phased in based on economic performance and employment rates as they reveal themselves over the next 5 years.

## *Training Package Review*

On page 29 of the interim report The Commission notes Training Package changes are very slow. While I agree Training Package review and change could be devolved to IRGs there needs to be a merit-based selection process for IRG members as opposed to the current nominee process in place at the moment. We risk ending up with private agendas running wild in our Training Packages. The current oversights and checks and balances, though they might cause delay also create safety. We need IRG members to be performance managed and we need IRG chairs to have training in managing groups to consensus.

We need an arbitrator just in case there is a log jam and we need a policy framework on the frequency and triggers for Training Package changes.

## *Apprenticeships and Traineeships*

The rate of funding for apprenticeships is a core barrier to accessing traineeships. Employers do not consider apprenticeships and traineeships worthwhile because:

- Payment is too low to be worth it
- The reporting and paperwork are considered not worth the money
- The rate of funding for existing worker traineeships is too low to even contemplate
- The staggering of the payment means employers do not see ROI when someone resigns as most of the expense is upfront.
- Rates of funding have not kept pace with the cost of employment, modern awards, regulatory costs of establishing and maintaining employment relationships, mandatory and legislated induction training and fairwork requirements.
- The high casualisation of some workforce's means they can't access traineeships.
- Some work, is unpredictable and not constant and needs to be casualised.

### **Solutions**

1. The payment has been so low for so long and the cost of onboarding is now so high, you could triple the fee and some employers would still scoff.
2. Some workforces would use traineeships and apprenticeships if they were available to casual worker or long-term casual workers. There are specific industries where an exemption from the permanency requirement would be welcome and appropriate (disability, youth work) Alternatively a middle ground could be struck. Where the employee's employment status might be casual but they have obligation to their end of the training contract.
3. Free external support services to apprentices and trainees would bring value in supporting them to remain engaged.
4. Levies could be applied in the following circumstances;
  - Long term unemployed
  - Unemployed
  - Regional/rural/remote

- EEO target groups
  - Cross training and transitional staff
  - Transition from industries impacted by Macro Socio Economic phenomena like COVID 19
5. Treat an existing worker as a new worker when they get promoted into a new role that requires training. Treat an existing worker as a new worker when they are identified through succession planning to upskill to a higher role and pay the new worker incentive in both cases.

## *Summary of Recommended Solutions*

1. A uniform national set of funding eligibility criteria (Even if it is state administered)
2. A uniform national set of funding rules (Even if it is state administered)
3. A uniform national assessment framework for funded RTOs that is not state managed.
4. A uniform nationally set rate of funding with loading attached for high needs groups, high needs locations and regional levies to correct some of the inequity of the current system.
5. Regulatory frameworks amended to be geared towards fostering innovation and encouraging the development of broader markets.
6. Limit regulatory oversight of marketing to deceptive and misleading conduct. If you have approved and funded the RTO, let them market.
7. Removal of counter-productive conditions such prerequisites not stated in the Training package and eligibility criteria examples like the chicken and egg approach Qld takes to community services.
8. Restore VET in the national discussion as problem solver (EG Child Protection, Youth Crime, NDIS)
9. Establish quality criteria for RTOS that determine their eligibility for funded status and frequency of audit. If an RTO has had two 100% compliant audits leave them be for 5-7 years.
10. Make VSL more attractive and easier to manage for private RTOs.
11. Move the VSL list to an industry representative committee and outside of the Department.
12. Significantly review and update the funding and rules attached to Apprenticeships and Traineeships and make every RTO automatically approved to deliver them.
13. Immediately remove any eligibility criteria for funding for anyone adversely vocationally impacted by COVID 19. If you are unemployed, you are eligible.
14. Implement a special circumstances eligibility criterion for funding based on application for ineligible students who are at risk of unemployment or who are unemployed due to unforeseen circumstances such as bankruptcy of an employer or unexpected closure of an employer, industry downturn or macro socio-economic phenomena such as COVID-19.
15. Delay the implementation of ICLs until after our recovery from COVID -19 otherwise a good idea could die because of the macro socio-economic environment it was introduced in.

16. Return to the focus on truly industry-based RTOs to improve alignment and quality of training and employability of graduates.
17. Immediately establish a national uniform set of marketing criteria so RTOs can communicate transparently with potential students and students are not disadvantaged by paying fee for service for a course they had funding eligibility for.
18. Support regulators and funders at a policy level to enable cooperative approaches with the VET sector as we venture together into some very challenging times.
19. Complete the shift to a single regulator to remove the double audit and contradictory audit phenomena. This will prevent the states auditing the same matters as ASQA.

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