





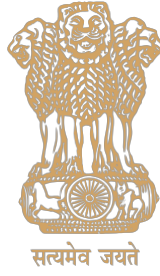


**Government of India, Ministry of Defence**  
**mod.nic.in**









रक्षा मंत्री  
भारत

**MINISTER OF DEFENCE  
INDIA**

### **FOREWORD**

The Defence Procurement Procedure (DPP) is not merely a procurement procedure- it is also an opportunity to improve efficiency of the procurement process, usher change in the mind-sets of the stake holders and promote growth of the domestic defence industry. However, these opportunities are not natural outcomes of merely publishing the DPP and are highly dependent on the manner in which the DPP is implemented. In that sense, DPP should be amply supported by an eco-system of result orientation, commitment to timelines, iterative learning and continuous improvement- involving the active ownership of all stakeholders concerned. Hence the Ministry of Defence (MoD) is determined to treat DPP 2016 as a dynamic and an evolving document and is committed to making improvements based on emerging data and anecdotal evidence, to realize the vision of 'Make in India' in the defence sector.

DPP-2016 has introduced specific provisions that will act as a growth stimulus to the domestic defence industry. In order to promote indigenous design and development of defence equipment, DPP 2016 has introduced the 'Buy-IDDM' category of acquisition and accorded it the top most priority. For the first time ever, provision to procure equipment with enhanced performance parameters, has been accounted for – this will enable the armed forces procure the most advanced weapon systems available in the market. DPP 2016 also provides greater impetus to the MSMEs, with certain category of 'Make' projects reserved exclusively for them. There are also other provisions and procedural measures that have been introduced to make the procurement process more efficient and effective.

The MoD is also keen on generating robust codification data for items and parts that are being procured by the armed forces. This would not only ensure

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standardisation of supply, and effective resources and materials management, but will also enable the domestic defence industry integrate with the global defence equipment supply chain. Hence I urge the industry players to quickly align themselves to globally recognised codification standards.

At this juncture, I would like to emphasise on the importance of two key aspects: probity and trust. It is imperative that the stake holders of DPP 2016 do not lose sight of these aspects while implementing the DPP 2016, and at the same time ensure that best-in-class weapons and equipment are made available to our armed forces at the most competitive prices.

I sincerely hope that the DPP 2016 acts as a catalyst for change, and leads to the outcomes that have been envisaged.

New Delhi

28 March, 2016



(Manohar Parrikar)



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## **DEFENCE PROCUREMENT PROCEDURE**

### **Background**

1. As part of the implementation of the report of the Group of Ministers on reforming the National Security System, new Defence Procurement Management Structures and Systems were set up in the Ministry of Defence (MoD) vide MoD order No SA/01/104/2001 dated 10 September 2001 and No 17179/2001-Def Secy/IC/2001 dated 11 October 2001. In order to implement the provisions laid out in the new Defence Procurement Management Structures and Systems, the procedure for Defence Procurement laid down vide MoD ID No 1(1)/91/PO (Def) dated 28 February 1992 was revised. The Defence Procurement Procedure - 2002 (DPP-2002) came into effect from 30 December 2002 and was applicable for procurements flowing out of 'Buy' decision of Defence Acquisition Council (DAC). The scope of the same was enlarged in June 2003 to include procurements flowing out of 'Buy and Make' through Imported Transfer of Technology (ToT) decision. The Defence Procurement Procedure has since been revised in 2005, 2006, 2008, 2009, 2011 and 2013, enhancing the scope to include 'Make', 'Buy and Make (Indian)' categories, concept of 'Offsets' and Ship Building procedure.

2. In order to achieve enhanced self-reliance in defence manufacturing and to leverage the economic opportunity present in developing the Indian defence industry, MoD constituted a Committee of Experts, to recommend suitable amendments to DPP-2013. The mandate of the committee was as follows:

(a) To evolve a policy framework to facilitate 'Make in India' in Defence manufacturing and align the policy evolved with the Defence Procurement Procedure (DPP-2013).

(b) To suggest the requisite amendments in DPP-2013 to remove the bottlenecks in the procurement process and also simplify/rationalise various aspects of the Defence procurement.

3. The committee interacted extensively with all the stake holders from the Service Head Quarters (SHQs), Department of Defence Production (DDP), MoD (Acquisition Wing), MoD (Finance), Defence Research and Development Organisation (DRDO), Indian and foreign defence industry representatives, legal and tax experts, think tanks, academia etc. The committee made recommendations for incorporation into the extant defence procurement procedure, based on its interactions.

4. Based on Government's experience in the defence procurement process and the recommendations of the Committee of Experts, this version of the Defence Procurement Procedure, which would hereafter be referred to as DPP, has been evolved.

5. The DPP, dealing with acquisition as per the categories listed herein, is set out in this document covering the preamble and its chapters as listed below:

(a) Preamble to the Defence Procurement Procedure.

(b) Chapter I - Operational Context, Acquisition Categories and Acquisition Plans.

(c) Chapter II - Procurement Procedure for Categories under 'Buy' and 'Buy and Make' schemes.

- (d) Chapter III - Procedure for 'Make' Category of Acquisition.
- (e) Chapter IV - Procedure for Defence Ship Building.
- (f) Chapter V - Fast Track Procedure.
- (g) Chapter VI - Standard Contract Document.
- (h) Chapter VII - Strategic Partners and Partnerships (*to be notified separately*).

## **PREAMBLE TO THE DEFENCE PROCUREMENT PROCEDURE**

1. Defence acquisition is not a standard open market commercial form of procurement and has certain unique features such as supplier constraints, technological complexity, foreign suppliers, high cost, foreign exchange implications and geo-political ramifications. While maintaining highest standards of transparency, probity and public accountability, a balance between competing requirements such as expeditious procurement, high quality standards and appropriate costs needs to be established. As a result, decision making pertaining to defence procurement remains unique and complex.

2. Self-reliance is a major corner-stone on which the military capability of any nation must rest. There is also immense potential to leverage the manpower and engineering capability within the country for attaining self-reliance in design, development and manufacturing in defence sector. It is therefore of utmost importance that the concept of 'Make in India' remains the focal point of the defence acquisition policy/procedure. There is a need to institute enabling provisions for utilisation and consolidation of design and manufacturing infrastructure available in the country. A need has also been felt for identifying strategic partners for promoting defence production in the private sector.

3. DPP focuses on institutionalising, streamlining and simplifying defence procurement procedure to give a boost to 'Make in India' initiative of the Government of India, by promoting indigenous design, development and manufacturing of defence equipment, platforms, systems and sub-systems. 'Make' procedure has also been refined to ensure increased participation of the Indian industry. Enhancing the role of MSMEs in defence sector is one of the defining features of DPP. Cutting down permissible timeframes for various procurement activities and institutionalising robust mechanisms to monitor for probity at various stages of the procurement process are the cornerstones of DPP.

4. Defence procurement involves long gestation periods and delay in procurement will impact the preparedness of our forces, besides resulting in opportunity cost. The needs of the armed forces being a non-negotiable and an uncompromising aspect, flexibility in the procurement process is required, which has also been provisioned for. Thus the DPP favours swift decision making, provides for suitable timelines and delegates powers to the appropriate authorities to ensure an efficient and effective implementation of the procurement process, by all stakeholders concerned.





**CHAPTER I**

**OPERATIONAL CONTEXT,**  
**ACQUISITION CATEGORIES**  
**AND**  
**ACQUISITION PLANS**



## **CHAPTER I**

### **OPERATIONAL CONTEXT, ACQUISITION CATEGORIES AND ACQUISITION PLANS**

1. **Aim.** The aim of the DPP is to ensure timely procurement of military equipment, systems and platforms as required by the Armed Forces in terms of performance capabilities and quality standards, through optimum utilisation of allocated budgetary resources; while enabling the same, DPP will provide for the highest degree of probity, public accountability, transparency, fair competition and level-playing field. In addition, self-reliance in defence equipment production and acquisition will be steadfastly pursued as a key aim of the DPP.

2. **Scope.**

(a)<sup>30</sup> Except for medical equipment, the DPP will cover all Capital Acquisitions undertaken by the Ministry of Defence, Defence Services and Indian Coast Guard both from indigenous sources and ex-import. Defence Research and Development Organisation (DRDO), Ordnance Factory Board (OFB) and Defence Public Sector Undertakings (DPSUs) will, however, continue to follow their own procurement procedure.

(b) In the event of enactment of any new legislation or any change or amendment or enforcement of any Act or Law, rules or regulations of Government of India or body such as CVC, which becomes effective after the date of last amendment to this DPP, the same will automatically be deemed as replacement to the one referred to in this DPP.<sup>30</sup>

#### **Capital Acquisitions**

3. Capital Acquisition schemes are broadly classified as, 'Buy', 'Buy and Make' and 'Make'. Under the 'Buy' scheme procurements are categorised as 'Buy (Indian - IDDM)', 'Buy (Indian)' and 'Buy (Global)'. The three categories under the 'Buy' scheme refer to an outright purchase of equipment. Under the 'Buy and Make' scheme, the procurements are categorised as 'Buy and Make (Indian)' and 'Buy and Make'. The two categories under 'Buy and Make' scheme refer to an initial procurement of equipment in Fully Formed (FF) state in quantities as considered necessary, from the appropriate source, followed by indigenous production in a phased manner through comprehensive Transfer of Technology (ToT), pertaining to critical technologies as per the specified range, depth and scope.

4. In decreasing order of priority the procurement of defence equipment, under this procedure are categorised as follows:-

- (a) Buy (Indian - IDDM)
- (b) Buy (Indian)
- (c) Buy and Make (Indian)
- (d) Buy and Make
- (e) Buy (Global)

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<sup>30</sup>Amendment issued vide Enclosure L to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

5. In addition to the above listed categorisation, the 'Make' categorisation, aims at developing long-term indigenous defence capabilities. Depending upon factors such as Indian industry's capability, access to technology, time frame required and available for development, the 'Make' category of procurement would be pursued in isolation, in sequence or in tandem with any of the five categories under 'Buy' or 'Buy and Make' classifications, with a separate heading under Services Capital Acquisition Plan (SCAP) and Annual Acquisition Plan (AAP).

### **Definition of Acquisition Categories**

6. **Buy (Indian-IDDMM)**. 'Buy (Indian-IDDMM)' category refers to the procurement of products from an Indian vendor meeting one of the two conditions: products that have been indigenously designed, developed and manufactured with a minimum of 40% Indigenous Content (IC) on cost basis of the total contract value; Or products having 60% IC on cost basis of the total contract value, which may not have been designed and developed indigenously. Apart from overall IC as detailed above, the same percentage of IC will also be required in (a) Basic Cost of Equipment; (b) Cost of Manufacturers' Recommended List of Spares (MRLS); and (c) Cost of Special Maintenance Tools (SMT) and Special Test Equipment (STE), taken together at all stages, including FET stage.

6.1 The onus of proving that the equipment design is indigenous, rests with the vendor and such vendor claims will be verified by a committee comprising scientists from DRDO and representatives from SHQs, based on documents issued by authorised agencies and presented by the vendors. The process of verifying the availability of indigenous design and development should be completed prior to fielding of Statement of Case (SoC) for categorisation; guidelines pertaining to the same have been issued by Acquisition Wing vide MoD ID No 5(3)/D(Acq)/16 dated 30 Nov 2016.

7. **Buy (Indian)**. 'Buy (Indian)' category refers to procurement of products from an Indian vendor having a minimum of 40% IC on cost basis of the total contract value. Apart from the overall IC as detailed above, the same percentage of IC will also be required in (a) Basic Cost of Equipment; (b) Cost of Manufacturers' Recommended List of Spares (MRLS); and (c) Cost of Special Maintenance Tools (SMT) and Special Test Equipment (STE), taken together at all stages, including FET stage.

8. **Buy and Make (Indian)**. 'Buy & Make (Indian)' category refers to an initial procurement of equipment in Fully Formed (FF) state in quantities as considered necessary, from an Indian vendor engaged in a tie-up with a foreign OEM, followed by indigenous production in a phased manner involving Transfer of Technology (ToT) of critical technologies as per specified range, depth and scope from the foreign OEM. Under this category of procurement, a minimum of 50% IC is required on cost basis of the Make portion of the contract. This implies that in the Make portion of the contract, minimum 50% IC will be required in the total of (a) Basic Cost of Equipment; (b) Cost of Manufacturers' Recommended List of Spares (MRLS); and (c) Cost of special Maintenance Tools (SMT) and Special Test Equipment (STE). The proportion of MRLS to be made/assembled in India, if any should be specified at the time of AoN. Acquisition under this category can also be carried out without any initial procurement of equipment in FF state.

9. **Buy and Make**. 'Buy & Make' category refers to an initial procurement of equipment in Fully Formed (FF) state from a foreign vendor, in quantities as considered necessary, followed by indigenous production through an Indian Production Agency (PA), in a phased manner involving Transfer of Technology (ToT) of critical technologies as per specified range, depth and scope, to the PA. With a view to maximise indigenous production in each procurement case, the AoN according authority would approve either an appropriate ratio of Fully Formed (FF), Completely Knocked Down kits (CKD), Semi Knocked Down kits (SKD) and Indigenous

Manufacture (IM) kits; or a minimum percentage of IC on cost basis for the 'Make' portion of acquisitions under 'Buy and Make' category. Acquisition under this category can also be carried out without any initial procurement of equipment in FF state.

10. **Buy (Global).** 'Buy (Global)' category refers to outright purchase of equipment from foreign or Indian vendors. In case of procurement through foreign vendors, Government to Government route may be adopted, for equipment meeting strategic/long term requirements.

11. **Make.** Acquisitions covered under the 'Make' category refer to equipment/system/sub-system/assembly/sub-assembly, major components, or upgrades thereof, to be designed, developed and manufactured by an Indian vendor, as per procedure and norms detailed in Chapter III of this DPP.

12. **Definition of Indian Vendor.** Unless specifically provided for in a clause/section/chapter or elsewhere of the DPP, an Indian Vendor by whatever nomenclature when referred to means - for defence products requiring industrial license, an Indian entity, which could include incorporation/ownership models as per Companies Act, Partnership Firm, Proprietorship and other types of ownership models including Societies as per relevant laws, complying with, besides other regulations in force, the guidelines/licensing requirements stipulated by the Department of Industrial Policy and Promotion (DIPP) as applicable; and for defence products not requiring industrial license, an Indian entity registered under the relevant Indian laws and complying with all regulations in force applicable to that industry.

13. **Indigenous Content.** For IC on cost basis referred to in Paras 6 - 9(Chapter I), vendor should ensure compliance as detailed in **Appendix A to Chapter I.**

14. The categorisation committees may recommend higher or lower threshold of IC than that stipulated for various categories in Paras 7 and 8 (Chapter I). Detailed justification for the same should be submitted while seeking Acceptance of Necessity (AoN).

15. **Upgrades.** All cases involving upgrade to an in service weapon system/equipment will also be covered by this procedure. Such cases could be categorised under any of the categories as given in the Paras 6 - 11 (Chapter I). The categorisation may be carried out depending on scope of the proposal, availability of indigenous technology and the need for seeking critical technologies from foreign vendors.

### **Procurement Planning Process**

16. Proposals for acquisition of capital assets flow from the defence procurement planning process, which will cover the long-term, medium-term and short-term perspectives as under:-

- (a) 15 years Long Term Integrated Perspective Plan (LTIPP).
- (b) 5 years Services Capital Acquisition Plan (SCAP).
- (c) Annual Acquisition Plan (AAP).

17. Based on the Defence Planning Guidelines, Headquarters Integrated Defence Staff (HQ IDS), in consultation with the Service Headquarters (SHQs), would formulate the 15 years LTIPP for the Armed Forces. The Five Year Defence Plans for the Services would also be formulated, by HQ IDS, which would include requirements for the next five years under the SCAP. The SCAP should indicate the list of equipment to be acquired, keeping in view operational exigencies and the likely availability of funds. The planning process would be under the overall guidance of the Defence Acquisition Council (DAC); its decisions, as approved by the Raksha Mantri, will flow down for implementation to the Defence Procurement Board

(DPB). While LTIPP and SCAP would be approved by the DAC, the AAP, which is a subset of SCAP, would be approved by the DPB.

18. It is important to share the future needs of Armed Forces with the industry; hence based on the LTIPP, HQ IDS will bring out the Technology Perspective and Capability Roadmap (TPCR), covering details of the acquisition plans for a period of 15 years, for use by the industry. This document will be made available on MoD website.

19. HQ IDS/SHQs as the case may be, through regular and structured interactions, will share the details of such schemes, which are considered suitable for 'Make' procedure with the industry; the industry may even be involved at the feasibility stage itself. Draft Preliminary Services Qualitative Requirements (PSQRs), indicative time frame, envisaged quantities of schemes which are to be included as 'Make' schemes in SCAP may also be shared with the industry, to the extent actionable by it.

### **Annual Acquisition Plan (AAP)**

20. AAP of each Service would consist of two sections: (a) a two year roll on plan for capital acquisitions and would consist of the schemes from approved SCAP. (b) a two-year roll on plan for schemes under the 'Make' category. Each section of the draft AAPs would be prepared in two parts. **Part A** would comprise of carry over schemes from the AAP of previous year and schemes for which AoN has been accorded during the year. **Part B** would include the cases likely to be initiated for seeking AoN in the forthcoming year.

21. The draft AAPs would be circulated to respective AM/TM/FM in the Acquisition Wing and thereafter forwarded to HQ IDS by 31<sup>st</sup> of December each year, by SHQs, after clarifying the observations of the Acquisition Wing. HQ IDS will allot a unique identification number to each case and would obtain approval of final AAP from DPB by 15th April of the relevant Financial Year. Part A would be the working document for Acquisition Wing for issue of RFP and subsequent monitoring of the progress of each case. Inclusion of fresh schemes to Part A from Part B of AAP, after accord of AoN, would be a regular process. Proposal not listed in the SCAP may only be processed after due approval of the DAC.

22. In consonance with schemes likely to be included in AAPs, HQ IDS would work out the annual requirement of funds for capital acquisitions of each service taking into account committed liabilities and anticipated cash outflow likely to be incurred on account of the fresh schemes, during the ensuing financial year.

23. The DPB may also carry out amendments to the AAP, if considered necessary, on account of national security requirements, operational urgencies, budgetary provisions or any other exigency based on recommendations made by SHQ/HQ IDS/Department of Defence/Defence (Finance). All proposals that need to be included in the AAP for reasons stated above should be put up to DPB for approval prior to inclusion in the AAP. The Acquisition Wing will process all acquisition proposals incorporated in the AAP under the overall guidance of the DPB.

## **INDIGENOUS CONTENT ASPECTS**

### **Definitions**

1. For the purposes of the DPP, “Indigenous Content”(IC) for an equipment or an item shall be arrived at by excluding from the total cost of that equipment/item the following elements at all stages (tiers) of manufacturing/production/assembly:-

- (a) Direct costs (including freight/transportation and insurance) of all materials, components, sub-assemblies, assemblies and products imported into India.
- (b) Direct and Indirect costs of all services obtained from non-Indian entities/citizens.
- (c) All license fees, royalties, technical fees and other fees/payments of this nature paid out of India, by whatever term/phrase referred to in contracts/agreements made by vendors/sub-vendors.
- (d) Taxes, duties, cesses, octroi and any other statutory levies in India of this nature.

2. Further, “on cost” basis for ‘Buy (Indian IDDM)’, ‘Buy(Indian)’, ‘Buy & Make (Indian)’ and ‘Buy & Make’ cases, shall imply that IC is required as specified under Paras 6 to 9 of Chapter I of DPP, read with additional specific requirements in this regard, if any, mentioned in the RFP.

### **Reporting Requirements**

3. IC as defined in Para 1 and 2 above shall be mandatorily reported by all stages (tiers) of manufacturing/production/assembly to their higher stages (tiers). All stages (tiers) are required to aggregate indigenous content based on certifications and inputs from lower tiers, as well as on the basis of their own procurement actions and manufacturing activities undertaken. The final aggregation of IC shall be undertaken by the prime (main) contractor with whom an acquisition contract is signed by the Ministry/SHQ.

4. All contracts, sub-contracts, agreements and MoUs made by prime (main) contractors (and their lower tier suppliers/vendors) with their business partners/suppliers, insofar as these contracts, agreements or MoUs relate to the main acquisition contract, shall mandatorily incorporate the definition and reporting requirements for IC in terms of Para 3. Similarly, these business partners/suppliers shall sequentially incorporate these definitions and reporting requirements with their next levels of business partners/suppliers and so on, till the lowest tier in the manufacturing/production/assembly chain.

### **Audit**

5. The Ministry of Defence can exercise its right to conduct an audit of all certifications and costs relevant to IC at all or any stages (tiers) of manufacturing/production/assembly, starting from the prime (main) contractor downwards. The audit(s) could be conducted by the Ministry itself and/or by an agency/institution/officer(s) nominated by the Ministry, as may be decided by the Ministry.

6. All contracts, sub-contracts, agreements and MoUs made by prime (main) contractors (and their lower tier suppliers/vendors) with their business partners/suppliers, insofar as these contracts, agreements or MoUs relate to the main acquisition contract, shall mandatorily incorporate the right of Ministry of Defence to conduct an audit in terms of Para 5. Similarly, these business partners/suppliers shall sequentially incorporate these definitions and reporting requirements with their next levels of business partners/suppliers and so on, till the lowest tier in the manufacturing/production/assembly chain.

### **Certification and Payments**

7. All relevant deliveries made under contract shall be accompanied by a certificate of IC issued by the Chief Financial Officer (CFO) of the prime/main contractor. All final deliveries under contract shall be accompanied, in addition to the certificate issued by the CFO of the prime (main) contractor as aforesaid, by its Company Auditor's certificate. An Indigenisation Plan for Buy (Indian-IDD), Buy (Indian), Buy & Make (Indian) and Buy & Make cases will be required to be submitted by the vendor to meet the requirement of IC as specified in Para 6 to 9 of Chapter I of DPP. Further, the equipment offered for trial shall be accompanied with a certificate of IC issued by the CFO of the prime (main) bidder. The format for certification of IC by the CFO/Company Auditor shall be as per **Annexure to this Appendix**.

8. Final payments shall be released only after the submission of a certificate of IC furnished by the CFO of the prime (main) contractor and a certificate from its Company Auditor, in addition to any other requirements specified elsewhere in the DPP or in the contract.

9. Deliveries at each stage of contract must conform to IC requirements and categorisation relevant to that particular stage. The Performance-cum-Warranty Bank Guarantee shall not be released before completing an audit of the IC in all relevant deliveries by the Ministry or its nominated agency/institution/officer(s), if such an audit is ordered.

### **Withholding of Payments and Imposition of Penalties**

10. In case a particular delivery is deficient in achieving mandatory IC for that stage, an amount of 5% of the cost of that stage delivery shall be withheld from payment for that stage. However, if the vendor achieves the mandatory IC on a cumulative basis by the next stage of delivery, the amount so withheld shall be released to the vendor without interest. All such payments withheld above shall be forfeited upon failure to achieve required IC by the stage of last delivery of the relevant product. In addition, the Performance-cum-Warranty Bank Guarantee shall also be forfeited upon failure to discharge IC obligations as per contract.

11. In case mandatory IC is not achieved by a vendor and/or if a false certificate is furnished by a vendor/sub-vendor, the Ministry can initiate proceedings for banning or suspension of business dealings with the erring Indian vendor/sub-vendor and its allied firms for all future contracts for a period upto 5 years. This right can be exercised by the Ministry at any point of time; and initiation of banning or suspension proceedings, if ordered, shall be in addition to any other action that may be taken/ordered by the Ministry against the erring vendor/sub-vendor under any law(s) in force.

### **Miscellaneous**

12. In the event of non-incorporation of the definitions and/or audit requirements laid down under Para 1 to 6 in contracts or agreements vendors with next tier at any stage (tier) of manufacturing/production/assembly, it shall be presumed that items/services provided by that



stage/tier to the next (tier) have no IC for the purposes of the DPP. Similarly, in the event of non-certification of IC at any stage (tier) as required herein, it shall be presumed that items/services provided by that stage/tier to the next stage (tier) have no IC for the purposes of the DPP. In such cases, the Ministry of Defence can take any of the steps under Para 7 to 11 above against erring vendors/sub-vendors.

**Annexure to Appendix A to Chapter I**  
(Refers to Para 7 of Appendix A to Chapter I)

**FORMAT FOR CERTIFICATION OF INDIGENOUS CONTENT**

This is to certify that we, \_\_\_\_\_ (Name of Prime/Main Vendor) have achieved/are offering the following IC in the accompanying delivery under contract/equipment being offered for trials/prototype, as defined under the Defence Procurement Procedure and as required under the RFP/Contract (tick whichever is applicable) No. \_\_\_\_\_ dated \_\_\_\_\_.

**Description of Supplies and Indigenous Content Therein:**

Sl. No.	Description of Supplies	IC achieved/ being offered	IC required to be achieved/ offered as per DPP and as per RFP/Contract
1.			
2.			

Signed by:

1. CFO

----- (Name of Prime/Main Vendor)

2. Statutory Auditor (if required under **Appendix A** to Chapter I)

----- (Name of Prime/Main Vendor)

## **CHAPTER II**

# **DEFENCE PROCUREMENT PROCEDURE FOR CATEGORIES UNDER 'BUY', AND 'BUY AND MAKE' SCHEMES**







## **CHAPTER II**

### **PROCUREMENT PROCEDURE FOR CATEGORIES UNDER ‘BUY’, AND ‘BUY AND MAKE’ SCHEMES**

#### **Acquisition Process**

1. The acquisition process for the five categories of procurement under the ‘Buy’ and ‘Buy & Make’, schemes will involve the following processes:-

- (a) Request for Information (RFI).
- (b) Services Qualitative Requirements (SQRs).
- (c) Acceptance of Necessity (AoN).
- (d) Solicitation of offers.
- (e) Evaluation of Technical offers by Technical Evaluation Committee (TEC).
- (f) Field Evaluation.
- (g) Staff Evaluation.
- (h) Oversight by Technical Oversight Committee (TOC), **if required<sup>12</sup>**.
- (j) Commercial negotiations by Contract Negotiation Committee (CNC).
- (k) Approval of the Competent Financial Authority (CFA).
- (l) Award of contract/Supply Order (SO).
- (m) Contract Administration and Post-Contract Management.

#### **Request for Information (RFI)**

2. The RFI would be published on MoD and SHQ websites for seeking relevant information, on specific procurement schemes. The issue of RFI is not a commitment for procurement.

3. **The main objectives of the RFI are as follows:-**

- (a) To formulate/refine/rationalise the SQRs; this exercise may involve rational combination of different product specifications and should result in a practical, achievable and aspirational product requirement.
- (b) To generate input for structuring the RFP.
- (c) To aid in deciding the acquisition category, based on the Defining Attributes and Decision Flow Charts (as detailed in **Appendix A to this Chapter**).
- (d) To determine the indicative budgetary and cost implications.

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<sup>12</sup>Amendment issued vide Enclosure E to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

4. **The RFI should clearly indicate the following: -**

- (a) Capabilities sought in the equipment/system/platform (draft SQRs/operational requirements).
- (b) Quantity required and anticipated delivery timeframes.
- (c) Tentative time schedule for the acquisition processes (issue of RFP).

5. **The RFI should seek the following inputs from the vendors: -**

- (a) Details for generating/refining/rationalising the SQRs.
- (b) Details that go into determining the cost of the scheme, including factors such as Annual Maintenance Contract (AMC), product support package, training etc.
- (c) Scope, depth and range of ToT and key technologies identified by DRDO.
- (d) Capability of Indian vendors to indigenously design and develop the required equipment.
- (e) Applicable key technologies and materials required for manufacturing of the equipment/system/platform and the extent of their availability or accessibility in case they are not available in India.
- (f) Availability of the equipment/system/platform in the Indian market, level of indigenisation, delivery capability, maintenance support, life time support etc.
- (g) Approximate cost estimation and suggestions for alternatives to meet the same objective as mentioned in RFI.

6. RFI may also be issued in certain cases as advance intimation for the vendors to obtain requisite government clearances. Adequate time should be given to vendors after placing the RFI on the MoD and SHQ websites, for a structured response and interaction.

7. RFI should be formulated by SHQ, in consultation with DRDO, DDP and HQ IDS to ensure that comprehensive response is generated from vendors, to facilitate addressing all aspects of operational requirements and defining attributes. A copy of the RFI will be shared with DRDO, DDP and HQ IDS, for their comments, which should be provided within the stipulated timeframe post which it will be considered as 'nil-comments.' The comments obtained would be duly incorporated. RFI should also ask for details about the vendors as per **Appendix B to this Chapter**.

8. Extensive interactions with the vendors will be planned by the HQ IDS/SHQ, after uploading the broad details of the scheme on MoD and SHQ websites. After interaction, vendors may be given sufficient time to respond to the RFI. Based on general information that is obtained from the vendors, the 'Competency Map' of the participating Indian industry should be updated by DDP.

**Services Qualitative Requirements (SQRs)**

9. **Attributes of SQR.** The RFI process aims to validate the possibility of realising and achieving the broad scope of Qualitative Requirements (QRs), which may be described by a set of Operational Requirements (ORs). The ORs will be determined and developed by the SHQs and will



not be a part of the RFP but will guide in laying down the criteria for the finalisation of SQR parameters for testing and validation.

10. **Characteristics of SQR.** All capital acquisitions will be based on SQRs, which need to lay down the fundamental user requirements in a comprehensive manner. The SQRs need to be detailed, realistic, achievable and verifiable and must avoid ambiguity of any type. SQRs must be broad based and must not be tailored from/for a particular product or service and must result in procurement of the items that best meet the requirements of the forces. As far as possible, SQRs should specify the requirement of military grade, ruggedised and Commercially Off the Shelf (COTS) items. It may not be viable for all vendors to produce a complex and costly equipment precisely customised for unique requirements, within limited time and in limited numbers, for assessment and evaluation at Field Evaluation Trial (FET) stage. Hence the parameters of SQRs, which are generated through RFI process, are classified as under and further detailed as part of the RFP:-

10.1 **Essential Parameters-A.** These are parameters that are generally a part of the contemporary equipment available in the market and form the core of the SQRs; Essential Parameters - A will be tested and validated at FET stage.

10.2 **Essential Parameters-B.** Though not available originally in the equipment fielded for the FET, these parameters can be developed and achieved by the vendors using available technologies. These parameters need to be tested and validated within a specified time frame as stipulated in the contract. These tests for Essential Parameters - B should also validate that there is no adverse effect on any of the Essential Parameters - A. However, vendors should be able to substantiate and need to provide an undertaking, at the bid submission stage, that they will develop and meet the Essential Parameters - B with their existing capabilities, on entering into a contract. In procurement cases involving Essential Parameters - B, an Additional Bank Guarantee valued between 5% and 10% of the contract value of equipment required with Essential Parameters - B, as determined by the AoN according authority, needs to be submitted, in addition to the Performance Bank Guarantee; the quantum of the Additional Bank Guarantee must be stated in the RFP. Failure to meet the Essential Parameters - B after signing of the contract and within the stipulated time frame, will lead to forfeiture of all bank guarantees (Performance Bank Guarantee, Additional Bank Guarantee and Advance Bank Guarantees if any) and attract other penal provisions as may be prescribed by the Government. On meeting the Essential Parameters - B as per contract terms, the Additional Bank Guarantee will be released and returned to the contracted vendor. Essential Parameters - B may<sup>27</sup> be evaluated at the FET stage, if any equipment, as claimed by the vendor(s), can meet them and are willing to get their equipment trial evaluated for Essential Parameters B at FET stage (a written undertaking in this regard will be obtained from the vendor by SHQ)<sup>27</sup>. Essential Parameters - A and Essential Parameters - B (if applicable) are non-negotiable requirements to be met by the vendor, prior to commencement of equipment delivery. The provision to incorporate Essential Parameters - B will be used only when required, with DAC's approval and will not be used when two or more vendors claim to possess the same at the RFI stage. Essential Parameters - B will not be included in ab-initio single vendor cases. Essential Parameters - B may also be incorporated in the SoC, for provision of partial quantities of the items being procured, to meet different/higher specifications for specific operational requirements.

10.3 **Enhanced Performance Parameters (EPP).** EPP are those parameters that enhance the capability of the equipment, vis-à-vis the essential parameters; a SQR may not

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<sup>27</sup>Amendment issued vide Enclosure H to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

contain EPP in all cases. Inability to meet the EPP does not preclude vendors from being eligible for the bidding/bid evaluation. However, if a vendor claims to have equipment meeting the EPP as specified in SQR and RFP, then they must provide details of the same in their technical bids, which have to be tested for compliance during the FET itself. Equipment successfully meeting the EPP parameters will be awarded a credit score of up to 10%, for evaluation of L1, with each individual attribute not exceeding a credit score of up to 3%, as approved by the AoN according authority. Bid evaluation criteria/determination of L1 for categories of cases involving EPP, is as elucidated below:-

10.3.1 In case procurement involves EPP, then the EPP and their credit scores need to be explicitly detailed in the RFP. In such cases, if the equipment supplied by a vendor does not have the EPP, then the commercial quote of the vendor, for the purpose of L1 determination, remains as it is. In cases where a vendor's equipment meets the EPP, the commercial quote will be multiplied by a credit factor less than 1 and greater than or equal to 0.9, based on the additional technical score assigned for the EPP, as detailed in the RFP. For example, if a vendor quotes ₹ 10 Crores for an equipment and meets a certain EPP for which an additional credit score of 2% is being provided, then the commercial quote of this vendor will be considered for L1 determination purpose only, as ₹ 9.8 Crores (10 Crores multiplied by 0.98) and not ₹10 Crores; however, for all purposes other than L1 determination, the value of the commercial quote will be considered as ₹ 10 Crores only.

11. **Preparation.** The SQRs would be drafted by the user directorate at SHQ. In order to make broad based SQRs, information will be sought from defence attaches, internet, defence journals/magazines/exhibitions, previously contracted cases in such category and any other relevant and credible information source; these are in addition to obtaining the required inputs through the issue of RFI. The inputs so obtained should result in the form of a compliance table of SQRs, vis-a-vis technical parameters of equipment available in world market, in as much detail as possible. Draft SQR would be circulated by SHQ to all stakeholders concerned including other possible user directorates, maintenance directorate, HQ IDS, DRDO, DDP, Director General of Quality Assurance (DGQA)/Director General of Aeronautical Quality Assurance (DGAQA)/Director General Naval Armament Inspectorate (DGNAI), Directorate of Standardisation, Technical Managers and any other necessary department for obtaining their views/comments. These agencies will also be represented on the Staff Equipment Policy Committee (SEPC) for approving the SQRs. Records in respect of SQRs will be maintained by the User Service(s). In cases where there is commonality of equipment, HQ IDS will constitute a Joint Staff Equipment Policy Committee (JSEPC) with representation from the services concerned, for the preparation of the Joint Service Quality Requirement (JSQR). If an ab-initio single vendor situation is likely, then the case will progress as per provisions of Para 101 (Chapter II).

12. The resources of SEPC may be augmented by professional technical experts who have extensive knowledge/experience on the equipment/systems under consideration. Their services should be utilised for review, rationalisation and finalisation of the SQRs, prior to accord of approval. HQ IDS/SHQ may maintain a list of such experts from appropriate fields, which may include experts drawn from academia and/or experts from industry, as required.

13. **Approval.** SQRs must be approved by the competent authorities at the respective SHQs. A copy of SQR duly approved by the respective SHQ authorities would be submitted along with the 'Statement of Case' (SoC) for seeking AoN. No changes to the SQR will be permitted after obtaining the AoN. In situations where SQRs need to be amended post the issuance of AoN, a fresh AoN has to be obtained with the amended SQR.

14. **Amendment to SQR Parameters.** Changes pertaining to detection of typographical errors or discrepancies (if any), prior to the issue of RFP, after obtaining AoN, may be permitted with due approval of the AoN according authority, provided that they would neither put any vendor at a disadvantage, nor materially change the character of the RFP.

15. Once the SQRs have been finalised, the sources of procurement of the weapon system/stores shall be ascertained and short-listing of the prospective manufacturers/suppliers carried out by the SHQ, in accordance with guidelines issued by Acquisition Wing from time to time. The short-listed vendors will be Original Equipment Manufacturers (OEMs) or Authorised Vendors or Export Agencies authorised/sponsored by foreign Governments (applicable in the case of countries where domestic laws do not permit direct export by OEMs). In cases involving ToT, the short-listing of the vendors would take into account their ability to transfer requisite technology for indigenous production. Technical Managers may increase the short-listed vendor base, based on vendor capability; Acquisition Wing will maintain a databank exclusively for this purpose. Keeping the security and other relevant aspects in view, appropriate publicity may be given to the proposed procurement with a view to generate maximum competition. In order to generate maximum vendor response the following means would be adopted:

(a) **Vendor Identification Through Internet.** Necessary information derived from operational requirements of the Services would be made available on the MoD and SHQ websites. All vendors desirous of responding to any of the listed proposals would be asked to send their requests to the Technical Managers and SHQ concerned as per the format at **Appendix B** to this Chapter, which would also be uploaded on the website. All the relevant details like the financial status of the company, product structure with specifications, annual report, past supplies/contracts etc., will be included by the prospective vendors. On scrutiny of their response, interested vendors would be included in the vendor database. This database would be product/system specific. The vendor database may be shared with various Industry associations as deemed necessary.

(b) **Case Specific Advertisement on the Internet.** In addition to the method indicated in sub para (a) above, when a case is being processed for seeking AoN, the SoC would also include information regarding the specific procurement, that can be placed on the MoD and SHQ websites to generate larger vendor response. This aspect would be discussed and deliberated by the SCAPCC/SCAPCHC to recommend as to whether or not the information can be placed on the MoD and SHQ websites. For cases which are recommended to be placed on the websites the nature/scope of the information would also be indicated, keeping the security concerns of the services in mind. A draft format indicating nature/scope of information to be provided in such cases is placed at **Appendix E** to this Chapter. After DAC/DPB/SCAPCHC accords approval, the details would be placed on the MoD website by respective SHQ and the vendors would respond to Technical Manager concerned as per the format at **Appendix B** to this chapter.

(c) Expression of Interest (EoI) and advertisements through newspapers may be resorted to in case the measures adopted above do not generate sufficient vendor responses.

(d) Subsequent to the accord of AoN, additional vendors who did not respond to the RFI, may express interest for receipt of RFP and submission of bid, within four weeks from the date of publication of details on the MoD and SHQ websites.

#### **Acceptance of Necessity (AoN)**

16. In order to seek AoN, the SHQs would prepare a SoC and draft RFP as per format at **Appendix C and Schedule I** to this Chapter respectively. The SoC will include assessment of the

acquisition category against the Defining Attributes as given at **Appendix A** to this Chapter. The SoC and draft RFP would be signed, with date, by the Head of the respective User/Plans Directorate/equivalent of the Services. Six copies of the SoC would be prepared, justifying the procurement proposal. One copy each would be forwarded to DDP, DRDO, MoD (Fin), Acquisition Manager, Technical Manager and Administrative Branch of MoD. The SoC would include the total quantities required, the break up based on five years plans and the quantity that is required to be procured in next two years. The quantity vetting would be recommended by the Administrative Branch in consultation with MoD (Fin). The quantities duly vetted along with other comments on the proposal, would be sent back to the SHQ, within the indicated time frame. DRDO and DDP will also forward their comments to SHQ, who would then compile all the comments and give their final views. The SoC along with all the comments would then be forwarded to HQ IDS, which would examine aspects of interoperability and commonality of equipment for the three Services. The SoC would thereafter be placed for consideration of the Categorisation Committees (SCAPCC/SCAPCHC). In cases of equipment/systems/platforms made of technology having short obsolescence cycles, appropriate timelines pertaining to the various stages of procurement must be provided for approval by the AoN according authority, at the time of according AoN.

17. The SCAPCC/SCAPCHC will also invite industry representatives, associations/representatives nominated by industry associations, whenever participation by Indian industry is probable. The representatives so invited would give presentation and clarifications, as required by the Categorisation Committee. The representatives would, however, not be present in the internal discussions and during the decision making process of the Categorisation Committee. Based on the inputs received, the Categorisation Committee will submit its recommendations to the AoN according authority.

18. After evaluating the recommendations of the SHQs/initiating departments, the SCAPCC will refer the cases for according AoN to SCAPCHC for an estimated cost (including all taxes and duties)<sup>42</sup> up to ₹300 Crores<sup>47</sup>. For cases beyond ₹ 300 Crores<sup>47</sup>, the SHQs/initiating departments will refer cases to the SCAPCHC, which will carry out categorisation, based on the recommendations of SHQs/initiating departments and refer the cases upto ₹ 500 Crores<sup>47</sup> to the DPB and beyond ₹ 500 Crores<sup>47</sup> to the DAC for accord of AoN.

19. In order to ensure that AoN according process is completed in a time bound manner, each case would be processed by DRDO/DDP/MoD/MoD (Fin) within four weeks of receipt, so that the proposals are considered by the Categorisation Committee within a 4 to 6 week cycle.

20. Cases in which Transfer of Technology (ToT) is being sought, the appropriate Production Agency (PA) would be approved by the AoN according authority based on the recommendations of the SCAPCC/SCAPCHC. The PA could be selected from any of the public/private firms including a joint venture company based on the inputs from DDP and if required, from DRDO. Cases in which foreign vendors are allowed to select an Indian PA (Para 31(c), Chapter II refers), the eligibility criteria of such PAs, will be provided in the RFP. The eligibility criteria for Indian private firms as PA, shall be promulgated by the DDP.

21. Cases in which the total requirement of equipment/weapon system is spread over two or more plan periods, the AoN will be processed for the entire quantity, clearly indicating the quantities sought during various periods/stages. The AoN once accorded will be deemed to be valid for the subsequent procurements also; however, quantity vetting would be done at each subsequent stage.

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<sup>42</sup>Amendment issued vide Enclosure L to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

<sup>47</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 20.03.2019

22. **AoN Validity.** AoN for categories under 'Buy' and 'Buy and Make' schemes will be valid for six months, AoN will be valid for one year in case of 'Buy and Make (Indian)' category and all Turnkey projects. AoN would lapse for all cases where the RFP for approved quantity is not issued within the original validity period of AoN. In such cases, the SHQ would have to re-validate the case and seek fresh AoN with due justification for not processing the case in time. For cases where the original RFP has been issued within the original validity period of AoN and later retracted for any reason, the AoN would continue to remain valid, as long as the original decision and categorisation remain unchanged, provided the subsequent RFP is issued within a period not exceeding the original validity period of the AoN, from the date of retraction of original RFP. **The validity of AoN would commence from the date of formal issue of Minutes of Meeting of the concerned Categorisation Committee.**<sup>19</sup>

23. Preference will be given to indigenous design, development and manufacturing of defence equipment. Therefore, whenever the required arms, ammunition and equipment are possible to be made by Indian Industry, within the time lines required by the Services, the procurement will be made from indigenous sources. While examining procurement cases, the time required for the procurement and delivery from foreign sources vis-à-vis the time required for making it within India, along with the urgency and criticality of the requirement will be examined before deciding to proceed on categorisation. Accordingly, the Categorisation Committees, while considering categorisation of all capital acquisition under the DPP, will follow a preferred order of categorisation, as detailed in Para 4 (Chapter I).

24. In accordance with the order or preference prescribed at Para 4 (Chapter I). SoCs (including cases under Chapter IV 'Procedure for Defence Shipbuilding' and Chapter V 'Fast Track Procedure') seeking AoN shall contain (**refer Para 6(a) of Appendix C to this Chapter**) a detailed justification for recommending categorisation as well as reasons why each of the higher preferred categorisation have not been considered suitable for the purpose. Considering the merits of the case and the timelines required, DAC may approve any procurement to be pursued under the Fast Track Procedure, at the time of AoN, to ensure expeditious procurement for urgent operational requirements foreseen as imminent or for situations in which a crisis emerges without a prior warning.

25. The Categorisation Committees may recommend higher or lower threshold of IC than those stipulated for various categories in Paras 7 and 8 (Chapter I). Detailed justification for the same should be submitted while seeking AoN.

26. **Procurement from Director General of Supplies & Disposal.** After AoN, for the procurement of common user equipment available at Director General of Supplies & Disposal (DG S&D) rate contracts, has been accorded by DAC/DPB/SCAPCHC, approval of CFA will be sought and orders will be placed directly, by SHQ, on the DG S&D approved source of supply (Rate Contract Holders).

27. **Procurement From SHQ Units.** Products developed by Army Base Workshops, Naval Dockyards and Air Force Base Repair Depots for 'in house' requirements can be procured by the Services from these agencies under 'Buy (Indian-IDDM)' or 'Buy (Indian)' category with the approval of SCAPCHC. The total cost of proposed quantity of each item required by SHQ under this procurement will be within the delegated powers of the SHQ. The costing of such proposals will be vetted by the IFA with the respective Services. SHQ can carry out user trials for the equipment without issue of RFP. Procurement of the equipment will be done by the services by placing indents.

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<sup>19</sup>Amendment issued vide Enclosure N to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

28. **Offset.** The offset clause would be applicable for 'Buy (Global)' or 'Buy and Make' categories of procurements where the indicative cost of acquisition is ₹ 2000 Crores or more, on the date of accord of AoN. However, DAC may consider partial or full waiver of offset clause. In case of a waiver for a particular acquisition case, eligible/selected Indian vendors need to be exempted from the corresponding IC stipulations. The procedure for implementing the offsets provisions is given at **Appendix D** to this Chapter.

### **Solicitation of Offers**

29. Solicitation of offers will be as per 'Single Stage - Two Bid System'. It will imply that a RFP would be issued soliciting the technical and commercial bids together, but in two separate and sealed envelopes.

30. It would be open for the Acquisition Wing in MoD to procure 'Commercially Off The Shelf' (COTS) equipment, not available on DG S&D rate contract as per provisions in Para 26 (Chapter II), on the basis of open tenders.

### **RFP : Vetting And Issue**

31. The procedure for RFP vetting and issue will be as follows:-

(a) All activities internal to SHQ for preparation of RFP, which includes consultation with all agencies concerned such as procurement and maintenance directorates at SHQ, Quality Assurance agencies, DRDO etc. would be completed prior to consideration of the case by SCAPCC/SCAPCHC. All issues identified after internal vetting of draft RFP at SHQ, which merit incorporation in the SoC for AoN, be included in the SoC for consideration by SCAPCC/SCAPCHC.

(b) Concurrent to the circulation of the SoC, a draft RFP will be circulated to AM, TM, FM and other stakeholders. Observations, if any, will be intimated to the SHQ, based on which the SoC and the draft RFP will be amended accordingly. Collegiate vetting of RFP will be done after the accord of AoN.

(c) In cases where ToT is being sought, the nominated PA would prepare the detailed ToT requirements for inclusion in the RFP. In 'Buy and Make' cases where the choice of PA has been left to foreign vendors, the DRDO would prepare the detailed ToT requirements.

(d) Approval of DG (Acq)/VCOAS/VCNS/DCAS/CISC/DG ICG for issue of RFP would be obtained after accord of AoN.

(e) The RFP will be issued by the respective TMs.

(f) No addition to the vendors would be allowed after issue of the RFP.

### **Buy and Make (Indian)**

32. The process of issue of RFI etc. for such cases shall follow standard acquisition processes as per **Paras 2-15** (Chapter II), except that SQRs can be finalised after the issue of AoN, but prior to issue of RFP in 'Buy & Make (Indian)' cases.

33. While seeking AoN under **Paras 16 - 25** (Chapter II), the SHQ shall specify in the SoC the ratio of distribution of technologies required to be absorbed by the Indian vendor, as per categorisation given at **Para 1(k)** of **Appendix G** to Schedule I of this Chapter. These technologies shall be identified in consultation with DRDO. Other technologies to be absorbed shall be

determined by the Indian vendors at their discretion.

34. Preliminary SQRs (PSQRs) shall be appended to the SoC while seeking AoN for 'Buy & Make (Indian)' cases. AoN for such cases shall be valid for a period of one year from the date of accord.

35. Solicitation of offers shall be progressed as per **Paras 29-30** and **43-54** (Chapter II).

36. First stage vendor short-listing by SHQs under **Para 15** (Chapter II) shall be carried out based on PSQRs approved at the AoN stage. However, after accord of AoN but prior to issue of RFP, the SHQ shall hold consultations along with DDP and DRDO representatives with the first stage short-listed vendors. These consultations may relate to PSQRs, delivery timelines and technology absorption aspects.

37. Representatives of DDP and DRDO will be associated with vendor list finalisation under **Para 15** (Chapter II).

38. If required, representatives of DDP and DRDO shall be associated with collegiate vetting of RFP under **Para 31 (b)** (Chapter II).

39. The RFP shall seek an indigenisation and a technology absorption plan in strict accordance with (i) IC requirements at various stages of the delivery schedule and (ii) technology absorption requirements, as detailed in the RFP.

40. Further processing of these cases shall be undertaken as per procedure prescribed for 'Buy and Make' category.

41. Vendors, while responding to the RFP, shall ensure that their foreign partner(s) from whom technology transfer is obtained should be OEMs or their authorised licensees, design agencies or government sponsored export agencies. In addition, such foreign partner(s) should not have been suspended or debarred by the MoD. In case the foreign partner(s) of the vendor are suspended or debarred by MoD, the vendor shall indicate the same with justification for participation of that partner in the procurement case. MoD shall take a call on the matter based on penal provision as under **Para 93** of this Chapter.

42. The Indian vendors participating in such cases shall remain liable to achieve mandatory IC requirements for this category as laid down under **Para 8** (Chapter I).

### **Unsolicited Bids**

43. Bids/response to RFPs shall not be accepted from any vendor, other than those vendors to whom a RFP has been issued.

### **Change of Name of Vendor**

44. Whenever a change in vendor name occurs during any stage of procurement process-from submission of RFI till execution of complete contract-due to any reason such as change in business strategy, merger and acquisitions or any other reason, guidelines/procedure as given at **Appendix F** to this Chapter, are to be followed. Whenever a vendor applies to regulatory authorities for change of name, it must inform the SHQ User Directorate/MoD at the earliest. Notwithstanding the on-going process of change of name of any vendor concerned, the procurement process shall continue. On approval of change of name of vendor by legal authorities and issuance of new certificate of incorporation by Registrar of Companies (ROC)\* or any other relevant authority, all relevant documents, self-authenticated by authorised representative of new vendor (legal entity), must be submitted to the SHQ User Directorate/MoD by vendor at the earliest. Also, an undertaking by the new vendor as applicable has to be submitted as per the format given in **Annexure to Appendix F** to this chapter. Grant of consent for change of name by authorities concerned at SHQ/MoD is subject to



submission of all relevant documents.

\* **Note:** Registrar of Companies (ROC) are appointed as per the applicable provisions of Companies Act, covering various States and Union Territories of India. For the purpose of this paragraph and related appendix and annexure thereof, the term ROC also includes relevant regulatory authorities of different countries in case of foreign vendors.

### **Request for Proposal (RFP)**

45 The RFP will be a self-contained document that will enable vendors to make their offer after consideration of full requirements of the acquisition. A standardised RFP document is attached as **Schedule I** to this Chapter. This will be applicable for all acquisitions. It will generally consist of four parts as under:

(a) The **first part** elaborates the general requirement of the equipment, the numbers required, the time frame for deliveries, the environmental parameters for functioning, conditions of usage and maintenance, requirement for training, Engineering Support Package (ESP), Offset obligations (if applicable) and warranty/guarantee conditions etc. It specifies the prescribed procedure and last date and time for submission of offers.

(b) The **second part** of the RFP incorporates the SQRs describing the technical parameters of the proposed equipment in clear and unambiguous terms. In case equipment is being procured for the first time and needs to be evaluated, the RFP will include the requirement of field evaluation on a 'No Cost No Commitment' (NCNC) basis except in cases under **Para 61** of this Chapter. Compliance of offers would be determined only based on the parameters spelt out in the RFP.

(c) The **third part** of the RFP outlines the commercial aspects of the procurement, including clear statements on Payment Terms, Performance-cum-Warranty Guarantees, and Additional Bank Guarantee in respect of Essential Parameters-B (if applicable) and Guarantees against Warranty Services to be performed by the supplier. It also includes standard contract terms along with special contractual conditions, if any.

(d) The **fourth part** of the RFP defines the criteria for evaluation, trial methodology and acceptance, both in terms of technical and commercial contents. A format will be enclosed for submission along with commercial offer to facilitate preparation of Comparative Statement of Tenders (CST) duly incorporating credit score for EPP wherever applicable and identification of Lowest (L1) vendor. Submission of incomplete details in the format enclosed, along with commercial offer, will render the offer liable for rejection.

46. In cases where ToT is involved, the RFP would include the requirement for indigenous manufacturing under ToT. The RFP should spell out the requirements of ToT in scope, range and depth of the technology required. These could cover technology for repair and overhaul, production from Completely Knocked Down (CKD)/Semi Knocked Down (SKD) kits and production from raw material and component level. Aspects to be included in the RFP, in case production from SKD/CKD/Indigenous Manufacture (IM) Kits is based, are given at **Appendix G** to **Schedule I**.

### **ToT For Maintenance Infrastructure**

47. The provision of ToT to an Indian vendor, for providing Maintenance Infrastructure, would be applicable for 'Buy (Global)' category cases. The decision to apply this clause would be discussed and deliberated in the relevant lower Categorisation Committee meetings on a case to case basis and approved by AoN according authority. In such cases, the vendor would have to transfer technology



for maintenance to an Indian entity which would be responsible for providing base repairs (third line) and the requisite spares for the entire life cycle of the equipment and the cost of MToT is to be borne by Indian private entity or the Government, as the case may be. The Indian entity could be an Indian vendor or entities like OFB/Army Base Workshops/Naval Dockyards/Naval Aircraft Yards/Base Repair Depots of Air Force. This entity would be identified at SCAPCHC/SCAPCC stage and would be included in the recommendations of SCAPCHC/SCAPCC as also in the SoC submitted to the AoN according authority for accord of AoN. Existing technical arrangements if any, of the foreign OEMs with Indian industry, may be taken cognisance of. The RFP would spell out the specific requirements of ToT for Maintenance Infrastructure that could cover the production of certain spares, establishment of base repair facilities including testing facilities and the provision of spares for the entire life cycle of the equipment. Both the vendor and the nominated Indian entity would be jointly responsible for providing the maintenance facilities and support for that equipment. Guidelines pertaining to the selection of Indian private entity, will be promulgated by DDP.

48. The concept of maintenance for all types of equipment should normally be based on estimation of the cost of 'life cycle product support' of the equipment. Towards this end and for all cases above ₹ 100 Crores, the RFP should seek the cost of the Manufacturer's Recommended List of Spares (MRLS), Itemised Spare Parts Price List, optional equipment and the likely consumption rate of the spares based on the exploitation pattern of the equipment. The RFP should also mention that the vendor would have to finalise the terms for the life time product support in the current contract only.

49. Consequent to the issue of RFP, a number of queries relating to the RFP may be raised by the vendors. It should be ensured that all the queries are answered in an acceptable time frame so that the vendors are able to submit their techno-commercial offers by the due date. If necessary, a **pre-bid meeting of all the vendors** may be invited by the User Directorate along with representatives from Weapons Equipment Directorate/ACNS (P&P)/ACAS (Plans), representatives of Defence Offset Management Wing (DOMW) for Offset matters, representatives of PA for ToT/MToT matters, TMs and FMs. The clarifications should be processed by the SHQ and be given in writing to all the vendors by the TMs preferably within 3 weeks of the pre-bid meeting. However, it needs to be ensured that the parameters of RFP (SQRs) should not be changed/amended at this stage.

50. The offers received should be opened on the notified date & time, by the members of a committee chaired by the TMs/SHQs, in the presence of the bidders or their authorised representatives, as may choose to be present. The committee will open the envelope containing the sealed technical and commercial offers. The technical offer will be opened by the committee and sent to SHQ for evaluation by a Technical Evaluation Committee (TEC) and the sealed envelope containing the commercial bid will be sent to the AMs/SHQs, unopened. Offers which do not conform to the prescribed procedure for submission of offers, as laid down in Para 27 of the standardised RFP (Schedule I) or which are received after the scheduled time for submission of offers and unsolicited offers, will not be accepted.

51 In case a **single bid is received at the bid submission stage**, SHQ may proceed with the process and complete the Technical Evaluation without retracting the RFP. Within 4 weeks from the acceptance of the Technical Evaluation Committee (TEC) report, the case must be referred to the AoN according authority. In case it is concluded that there is no scope for change in SQRs and other conditions of the RFP; and that retraction and reissue of RFP is not likely to increase the vendor base, then the case may be progressed with the approval of DAC, provided the vendor agrees to hold the original commercial bid till completion of the procurement process. In such single vendor situation, efforts should be made to complete the acquisition process before expiry of original validity of commercial bid.

52. In case of 'Buy and Make (Indian)' category, situations may arise in which all bids submitted by Indian vendors, indicate a collaboration with a single foreign vendor. Such cases have to be discussed and deliberated by the AoN according authority and if it is concluded that there is no scope for change in SQRs and other conditions of the RFP; and that retraction and reissue of RFP is not likely to increase the vendor base, then the case may be progressed with the approval of the DAC.

53. In case of 'Buy and Make' category, situations may arise in which all bids submitted by foreign vendors, indicate collaboration with a single Indian vendor, where foreign vendors were permitted to select an Indian PA. This may also not be treated as a single vendor situation, as techno commercial arrangement of collaboration for each foreign vendor may be different from those of other vendors.

54. **Extension of Time.** No extension of time will be provided under normal circumstances. However, situations may arise in which it may be appropriate to extend the time allowed for submission of offers. If an extension is being sought by the vendor, the request with justification must be received by the TM concerned from the vendor at least two weeks prior to bid submission date, failing which such requests may not be entertained. The extension so granted should not exceed a period of eight weeks from the original date of submission of offers. Extension of only four weeks could be given by **SHQ<sup>16</sup>** and the approval for further extension **upto four weeks<sup>16</sup>** has to be sought from the **DG(Acq)<sup>16</sup>**.

#### **Technical Evaluation Committee (TEC)**

55. A TEC will be constituted by the SHQ for evaluation of the technical bids received in response to RFPs, with reference to the QRs, under an officer from the SHQ. It will include representatives of the user service, maintenance agency and representatives of QA. In addition, in cases where ToT is involved, TEC may also include representatives of PA and DRDO, as deemed necessary. The TEC will examine the extent of variations/differences, if any, in the characteristics of the equipment offered by various vendors with reference to the QRs as given at **Appendix A** to Schedule I (RFP) and prepare a 'Compliance Statement' short listing the equipment for trials/induction into service, as applicable. TEC will also examine compliance of vendors to provisions of RFP as listed at **Appendix B** to Schedule I (RFP). Non-compliance of vendors to any of the required provisions would lead to rejection of the bid at this stage. Cases where ToT for maintenance infrastructure to an Indian Public/Private entity is sought, the TEC will examine the joint compliance of the OEM and the Indian entity for establishing the required maintenance infrastructure as laid down in the RFP. In cases where an OEM bids, along with other vendors supplying the same product of the OEM, only the bid of the OEM will be accepted. The TEC may invite the vendors for technical presentations/clarifications on technical issues.

56. A technical offer, once submitted, should not undergo subsequent material changes. However, minor variations which do not affect the basic character/profile of the offer may be acceptable, under the following conditions:-

- (a) To ensure fair play, an opportunity to revise minor technical details should be accorded to all vendors in equal measure.
- (b) No extra time to be given to any vendor to upgrade their product to make it SQR compliant; except in case of Essential Parameters-B, as detailed in Para 10.2 (Chapter II).
- (c) No dilution of SQR is carried out.

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<sup>16</sup>Amendment issued vide Enclosure K to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

- (d) The original commercial quote submitted earlier must remain firm and fixed.

57. For MoD cases, approval of the TEC shall be done by the SHQ only in case all vendor(s) are found compliant. However, in case any vendor(s) is found non compliant at the TEC stage, approval of DG (Acq) will be obtained prior to progressing the case further. For delegated powers cases, TEC will be approved by the SHQ<sup>12</sup>. In case of a **single vendor situation, post technical evaluation by TEC**, procurement process will continue as planned without retracting the RFP for this reason, provided the vendor agrees not to revise the commercial bid, during the remaining part of the acquisition process. SHQ will however examine reasons for single vendor situation, record the same in their report and submit the report to the AoN according authority. In case it is concluded that there is no scope for change in SQRs and other conditions of the RFP; and that retraction and reissue of RFP is not likely to increase the vendor base, then the case may be progressed with the approval of the DAC, provided the vendor agrees to hold the original commercial bid till completion of the procurement process. In such single vendor situation, efforts should be made to complete the acquisition process before expiry of original validity of commercial bid.

### **Field Evaluation Trials (FET)**

58. After the acceptance of TEC Report, all selected vendors would be asked to provide their equipment for trials in India, except when trials are to be conducted at vendor premises. FET will be conducted by the User Service on the basis of trial methodology given in the RFP. The trial methodology should be comprehensive and un-ambiguous in its scope. Methodology for evaluation of each parameter should also be clearly detailed in the RFP, so that the vendors fully understand its implications. Parameters which can be evaluated at TEC stage, based on documents or certificates rendered by accredited agencies, may not be included in the field trials. The scope of field trials should be optimised to cover all required parameters and the trial methodology must be approved by the PSO concerned at the SHQ, prior to the inclusion in the RFP.

59. The manufacturers of the short listed equipment shall be asked to send the desired number of units of the equipment/weapon system to India for FET. SHQ will formulate the Trial Directive in conformity with the trial methodology given in the RFP and constitute the Trial Team. The Trial Directive must specify the fundamental points that need to be addressed for validating the essential parameters and EPP along with the evaluation credit scores thereof, as stipulated in SQRs. The SQRs of the equipment would be a part of the trial directive. Parameters not mentioned in the RFP should not be considered for FET. The validation of the support system and maintainability trials, integral to and complimenting the trial programme of the weapon system, should be held simultaneously, wherever feasible. Representatives of DRDO, QA agency may also be part of the FET, based on requirement. A representative of the Acquisition Wing may also participate in the FET as an observer. After each stage of the trials, a debriefing of all the vendors would be carried in a common meeting (wherever feasible) as regards the performance of their equipment. Compliance or otherwise, vis-à-vis the RFP parameters, would be specifically communicated to all the vendors at the trial location itself. It would also be ensured that all verbal communication with the vendors is confirmed in writing within a week and all such correspondences are recorded and documented. FET shall be conducted by the user and a detailed Field Evaluation Report shall be drawn up and sent to SHQ for Staff Evaluation.

60. FET will be conducted by the user, only pertaining to conditions where the equipment is most likely to be deployed. In other conditions where the probability of deployment is not high, appropriate certifications confirming the functional effectiveness under such conditions may be obtained; in cases where applicable, simulations based testing may be resorted to. All weather

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<sup>12</sup>Amendment issued vide Enclosure E to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

testing should be carried out only in cases in which such testing are absolutely essential. All the requirements for FET must be unambiguously stated in the trial methodology included as part of the RFP.

61. When specifically indicated in the RFP for low value items being procured in large quantities, the cost of items that are provided for FET would be reimbursed to the vendors who qualify in the FET. Relevant guidelines for the same will be issued by the Acquisition Wing, in consultation with the SHQ.

62. The requirement of FET/NCNC Trials will not be applicable for procurement cases in respect of acquisition/construction of Ships, Submarines, Yard Craft, Tugs, Ferry Craft and Barges, where there is no prototype available for conduct of NCNC Trials. However, Technical Evaluation and Delivery Acceptance Trials for these will be carried out.

63. The trial team, for equipment being procured for more than one Service, will have representatives of each Service for whom equipment is being procured. Such trial team will be headed by representative from the Service nominated as the lead Service. For trials of equipment involving ToT, representative of PA may be included as an associate member.

64. Single OEM equipment being fielded by multiple Indian vendors may have joint trials if two or more Indian vendors so desire. The Indian vendors who will jointly field the equipment, may place a request and provide an undertaking that they will accept the trial results jointly and severally.

65. FET will normally be conducted on NCNC basis except for cases under Para 61 of this Chapter. There may be cases where trials are not visualised or trials need to be conducted abroad in vendor premises. Where field evaluation is not feasible, there may be possibility of conducting evaluation through computer simulation. In such cases, the exact scope of the trials shall be included in the SoC while seeking the AoN. The SCAPCC/SCAPCHC shall debate the scope of trials and recommend suitable options to be approved by the SCAPCHC/DPB/DAC, as applicable.

66. There may be cases when, during the process of trials in India, it emerges that certain validations need to be carried out abroad in the vendor premises. This may be necessitated due to export restrictions, security related issues, availability of testing infrastructure/platforms or such like reasons. Permission for such validations to be carried out abroad would have to be sought from the **DG(Acq)**<sup>16</sup>. Similar actions as given in Paras 58-65 (Chapter II), would be taken in the cases where Trial Teams are deputed abroad for evaluation purposes.

67. In certain cases, particularly in those involving integration of systems or sensitive equipment, the Acquisition Wing can depute a **Multi-Disciplinary Technical Delegation** abroad for evaluation and an Empowered Committee for negotiation purpose; both could be combined as a Multi-Disciplinary Committee. The Technical Delegation should have representatives, on need basis, from the user service, DRDO, Maintenance agency, QA agency and the TMs. In addition, AMs and FM's or their representatives will be included in the Empowered Committee. Such committee would be constituted after due approval of the DPB.

68. Any vendor failing to produce equipment for trials by due date would normally be given a grace period of 15 days to produce the equipment for trials. An additional grace period of up to 30 days may be **approved within SHQs**<sup>13</sup> keeping in view the practical time period necessary for trials. Equal opportunity would be provided to all vendors while granting such grace period.

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<sup>13</sup>Amendment issued vide Enclosure F to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

<sup>16</sup>Amendment issued vide Enclosure K to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

Vendors, who fail to provide their equipment even after providing 45 days grace period, would be asked to explain the reasons for the delay in producing equipment for trials. **If the reasons for delay furnished by the vendor(s) are found satisfactory by SHQ, case for granting grace period beyond 45 days would be processed by SHQ for approval of DG(Acquisition).**<sup>13</sup> If the equipment is not fielded at the start of trials, then the vendor/equipment would not be considered at a later point of time. Such vendors including those whose reasons for delay as sought above are not satisfactory, may not be considered for subsequent procurement cases. Wherever feasible, the entire trials viz. user, technical, Maintainability Evaluation Trials (MET) and EMI/EMC trials would be conducted simultaneously in order to save time.

69. All evaluations for confirmation/validation of parameters should be completed and accepted prior to commencement of the CNC. In cases where subsequent confirmation/ validation are merited, the same would be approved in the Staff Evaluation Report and duly recorded in the CNC minutes. Approval of CFA would be sought specifically on such issues.

69(a). **Benchmarking by Costing Committee**<sup>23</sup>. On receipt of Trial Report by SHQ, concurrent benchmarking will be carried out by a Costing Committee headed by the Advisor (Cost) and reps of concerned SHQ Directorates. This process will be automatically undertaken once SHQ informs Advisor (Cost) about receipt of Trial Report. Along with this information, SHQ will also provide Advisor (Cost) with details of reps of SHQ Directorates nominated as members of the concerned Costing Committee. The recommendations of the Costing Committee may be accepted as such / deliberated upon by the CNC post approval of GS Evaluation and promulgation of CNC. Till then, the Costing Committee benchmark models and costing data will be kept in a sealed cover.

### **Staff Evaluation**

70. The Staff Evaluation will analyse the Field Evaluation results and shortlist the equipment recommended for introduction into the services. The Staff Evaluation Report will be approved by the SHQs and forwarded to the TMs. Issues, if any, raised by the TMs on the Staff Evaluation Report, should be addressed in a collegiate manner with the SHQ. After due examination, the TMs, will submit the Report to the DG (Acquisition) with recommendations for acceptance or otherwise. For delegated power cases, the Staff Evaluation report will be approved and accepted by the respective CFAs at the SHQs. In case no vendor meets the SQRs in the field evaluations, then the case would be foreclosed on approval of DG (Acquisition), for MoD cases and the respective SHQ authorities for cases under delegated powers and a fresh RFP will be issued after reformulating the SQRs. The TMs would inform the appropriate vendors about result of trials and evaluation, along with reasons for disqualification. Such communication would be done after acceptance of TEC/Staff Evaluation/Technical Oversight Committee Report **(if TOC is held)**<sup>12</sup>.

71. Cases in which bids have been submitted by more than one bidder in a competitive manner and the Staff Evaluation after trials shortlists only one equipment for introduction into service, would not be considered as a single vendor situation, as the techno-commercial offers would have been received before trials and the commercial bids were competitive in nature. Bidders had submitted their offers in an open competition and were not aware of any single bidder getting approved after the trials.

### **Design and Development Cases**

72. Design and Development cases undertaken by DRDO/DPSUs/OFB will be progressed as follows:-

<sup>13</sup>Amendment issued vide Enclosure F to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

<sup>23</sup>Amendment issued vide Enclosure D to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

<sup>12</sup>Amendment issued vide Enclosure E to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018



- (a) SHQs will initiate SoCs for Design and Development cases from LTIPP/SCAP/AAP in consultation with DRDO/DPSUs/OFB.
- (b) AoN for Design and Development cases under 'Buy (Indian-IDDMM)' category, with IC as specified by DRDO/DPSUs/OFB, would be sought by SHQ from the DAC prior to commencing the case. The SoC would include, inter alia, PSQRs; Minimum Order Quantity (MoQ); and timelines upto successful completion of trials and issue of commercial RFP. In certain cases where the quantities are limited and production by industry is not feasible, production could be undertaken by DRDO/DPSUs/OFB with the approval of DAC. **The AoN will be valid till six months from date of approval of SQR (post freezing of PSQR after successful developmental trials / UATT) by relevant SEPC<sup>38</sup>.**
- (c) Design and Development of prototype by DRDO/DPSUs/OFB would be done as per their internal procedures. Competitive procedures shall invariably be followed. Once the prototype is ready, the PSQRs would be frozen and **Commercial RFP would be issued to Development-cum-Production partner of DRDO or the DPSU which has undertaken the Design and Development project or to Production Agency(s) (PA) nominated by them. Indent would be placed on OFB in cases where it has undertaken the Design and Development. These cases would not be treated as single vendor cases.<sup>14</sup>**
- (d) **After issue of Commercial RFP/ placing of indent,<sup>14</sup> post receipt of commercial bids from participating vendors<sup>38</sup>,** User trials of the prototype would then be conducted by SHQ followed by Staff Evaluation to be approved by VCOAS/VCNS/ DCAS/DG ICG. The Staff Evaluation would also recommend validation trials, if felt necessary.
- (e) **CNC would then be conducted for vendors declared successful in GS Evaluation and<sup>14</sup> stages thereafter would be progressed as per provisions of DPP.**

73. **Turnkey Projects.** These are cases where the project involves supply, installation and commissioning of varied machines/equipment for establishing specialised maintenance/ information technology/communication/storage/overhauling facilities (with or without infrastructure) at one or more locations in country. Such products including up-gradation/ modernisation of existing assets may be carried out on Turnkey Basis and may also include setting up of requisite specialised technical infrastructure. The scope of such projects is large and varied involving number of activities, hence there is a requirement of identifying a single agency capable of completing the project on a Turnkey basis. In this context apart from the vendors listed as per Para 15 (Chapter II), reputed integrators would also be considered. Being a Turnkey Project, the trials are not initially envisaged till establishment of the Test Bed and hence it is essential to select the vendors with requisite capabilities prior to issuing RFP, as per the SOP (ID 3(65)/D (Acq)/44) published by MoD, dated 17/10/14 and amended from time to time. For such cases, a Detailed Project Report (DPR) would be worked out by the SHQ concerned. It should lay down the detailed scope of work involved, bill of material, approximate cost estimates and the time frame for project completion. This report should be placed before the GSEPC for ratification. The DPR would be forwarded to the SCAPCC/SCAPCHC and thereafter to SCAPCHC/DPB/DAC as applicable, along with the SoC while seeking the AoN and categorisation. In certain complex cases, the DPR may be outsourced by SHQ, the justification of which may be given in the SoC for seeking the AoN. Consequent to the AoN, a committee would be formed comprising representatives of user directorate, maintenance directorate, DRDO, DDP, Def (Fin), TM and any other agency as deemed necessary, for carrying out the selection of the prospective vendors who would be issued the RFP. The sequence of

<sup>14</sup>Amendment issued vide Enclosure G to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

<sup>38</sup>Amendment issued vide Enclosure H to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

procurement procedure in such cases would be:-

- (a) Making of a Detailed Project Report(DPR).
- (b) Acceptance of Necessity(AoN).
- (c) Selection of Vendors.
- (d) Issue of RFP.
- (e) Technical Evaluations to shortlist the prospective vendors.
- (f) Price Negotiations.
- (g) CFA Approval and Contract conclusion.
- (h) Establishment of Test Bed.
- (j) Project Implementation.

74. **Technical Oversight Committee**<sup>11</sup> It is expected that oversight should be part of the normal process of higher level approvals within SHQ/ Acquisition Wing. TOC, when constituted, must provide expert oversight over the technical evaluation process. The DG(Acq) may constitute a TOC for acquisition cases in excess of ₹ 300 Crores and for any other case recommended by the Defence Secretary/DPB/DAC. Technical Oversight through a special committee would be resorted to in multivendor cases where a complaint has been received and not for Single Vendor Cases and cases where only DPSU(s) / OFB are participating. The TOC will comprise three members drawn from a standing panel of specialists (serving Service Officers, DRDO scientists and DPSU officials). Members of the standing panel should be maintained by the Acquisition Wing for a maximum term of 2 years. Panelist nominated should have adequate seniority and experience and should not have been involved with that acquisition case, in any capacity in the past. The TOC will be tasked to see whether the trials, trial evaluations, compliance to QRs and selection of vendors were done according to prescribed procedures. Mandate of TOC would also include providing oversight on the adopted trial methodology during trials vis-a-vis trial methodology given in the RFP and the trial directive. The TOC will also review and bring out the status of a grievance or complaint, if any existing at this stage, pertaining to acquisition scheme and will have to give its observations and recommendations, based on a majority decision, within 30 days, which may be extended by a maximum period of 15 days, with the consent of the DG(Acq)<sup>39</sup>. In case of complaints, cases may be referred to the nominated IMs. TMs of the Acquisition Wing will provide the secretarial support to the TOC and ensure availability of all inputs from DDP/Acquisition Wing, Def (Fin) and SHQ to the TOC. The SHQ will clarify any queries raised by the TOC. The TOC report will be submitted to the Defence Secretary for approval.

#### **Contract Negotiation Committee (CNC)**

75. The CNC will be constituted after the Staff Evaluation report has been accepted. Initial activities of the CNC shall include deliberation / acceptance of benchmarking recommendations of the Costing Committee<sup>23</sup> and all other activities prior to the opening of commercial bid. In cases where no field evaluation is to be undertaken, no separate costing committee may be constituted and the entire benchmarking activity will be undertaken by the CNC. In such cases the CNC would be constituted within a week of acceptance of TEC Report by the competent authority<sup>23</sup>. The standard composition of the CNC shall be as indicated at Appendix G to this

<sup>11</sup>Amendment issued vide Enclosure D to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

<sup>23</sup>Amendment issued vide Enclosure D to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

<sup>39</sup>Amendment issued vide Enclosure I to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

Chapter. Any change in the composition of the CNC may be effected with the approval of DG (Acquisition) or CFAs. Where considered necessary, a Service officer or any officer other than from the Acquisition Wing of the MoD may be nominated as Chairman of the CNC with the prior approval of RM. The organisations/agencies concerned should ensure that their representatives in the CNC have adequate background and authority to take a decision without any need to refer back to their organisation/agency. The sealed commercial offers of the technically accepted vendors shall be opened by the CNC at a predetermined date and time under intimation to vendors, permitting such vendors or their authorised representatives to be present, only after the acceptance of the TOC report, wherever applicable. The bids of the competing firms shall be read out to all members present and signed by all members of the CNC. The CNC would carry out all processes after opening of commercial bids, till the finalisation of CNC report.

76. In cases, where ToT for Maintenance Infrastructure is being sought, the maintenance contract involving the OEM and the industry receiving the technology would also be negotiated along with the main contract.

77. The contract negotiation process would start with preparation of a 'Compliance Statement' incorporating the commercial terms offered in the RFP and that sought by the vendor(s), analysis of the discordance and the impact of the same. A similar statement would be prepared in regard to deviations noticed in the delivery schedules, performance-cum-warranty/ guarantee provisions, acceptance criteria, Engineering Support Package (ESP), etc. Comprehensive analysis of the commercial offer would form the basis for subsequent decisions.

78. The CNC would prepare a Comparative Statement of Tenders (CST) with a view of evaluating the technically acceptable offers and determine the lowest acceptable offer (L1 Vendor); the methodology detailed in Para 10.3 (Chapter II), will be used wherever applicable.

79. Once the L1 vendor is identified in multi-vendor cases, the contract should be concluded with the vendor and normally there would be no need for any further price negotiations. However, it is important that the reasonability of the prices being accepted for award of contract should be established. In all cases, [benchmarking recommendations of the Costing Committee may be accepted as such / deliberated upon by the CNC post promulgation of CNC<sup>23</sup>](#) and reasonableness of price [be established<sup>23</sup>](#) as a preliminary activity, in an internal meeting before opening the commercial offer. Wherever necessary, services of experts or information from institutional sources may be utilised by the CNC for [revalidating the<sup>23</sup>](#) benchmark price for a given scheme. Once the commercial offers are opened and the price of the vendor is found to be within the benchmark fixed in the internal meeting, there should be no need to carry out any further price negotiations. The RFP in multi-vendor cases should clearly lay down that no negotiations would be carried out with the L1 vendor once the reasonability of the price quoted by the vendor is established. Aspects of advance and stage payments (where applicable) should also be given upfront in the RFP so that it facilitates selection of L1 vendor.

80. In case it is found that the lowest tenderer (L1) is not able to supply the entire quantity within the prescribed time-frame, the CNC will have the authority to divide the quantity amongst other qualified tenderers (L2, L3..... in that order), on the condition that other tenderers accept the price and terms & conditions quoted by the lowest tenderer. In cases, where it is decided in advance to have more than one source of supply, ratio of splitting the supply would be pre disclosed in the RFP.

81. Cases in which contracts have earlier been signed and benchmark prices are available, the CNC would arrive at the reasonable price, taking into consideration the escalation/foreign exchange variation factor. The endeavor should be to conclude the CNC early so that the operational/urgent requirement of the indenting Service is met in a time-bound manner.

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<sup>23</sup>Amendment issued vide Enclosure D to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018



82. For certain category of items, where orders have been placed in the past or involves invoking of the Option Clause, there could be downtrend of prices since the last contract. It would thus be necessary for the CNC to verify that there has been no downward trend since the last purchase and this would have to be kept in mind while arriving at the prices.

82A<sup>40</sup>. In cases where DPSU equipment has been already priced by the Committee constituted under Secretary (DP) for Pricing of DPSU equipment on orders of RM, such price may be adopted by the CNC and the CNC may not furnish reasonability of cost certificate for such DPSU items. Such pricing by said Committee for Pricing shall take into account economies of scales and shall have validity of three years from its date of promulgation.

83. To ensure product support during the assured life cycle of the product, the CNC would finalise the following with the L1 vendor:-

- (a) Assured supply of information on product/technological improvement, modifications and upgrades.
- (b) Obsolescence management and life time purchases.
- (c) An illustrated spares price catalogue with base price and pricing mechanism for long term.

84. In cases involving **Buyer Nominated Equipment (BNE)** being procured from a common single source, whether OFB, DPSU or private vendor<sup>35</sup>, the commercial bid will clearly indicate the cost of BNE as quoted by OFB/ DPSU / private vendor, with documentary proof. L1 in such cases will be determined after deducting the cost of the OFB / DPSU / private vendor<sup>35</sup> supplied BNE, from the total cost quoted by the vendor. However, payment will be made after adding the actual cost of BNE, at the time of purchase from OFB / DPSU / private vendor<sup>35</sup> by the vendor, to the L1 cost determined as mentioned above; the cost of equipment supplied by OFB will be considered minus excise duties and other applicable levies. This provision is applicable only in cases where the BNE has to be procured from a common single source, whether OFB, DPSU or private vendor & BNE rate in such cases would also be separately negotiated<sup>35</sup>.

85. **Fall Clause.** An undertaking would be sought from the bidder that the bidder has not supplied/is not supplying the similar systems or subsystems at a price lower than that offered in the present bid in respect of any other Ministry/Department of the Government of India and if the similar system has been supplied at a lower price, then the details regarding the cost, time of supply and quantities should be included in the commercial offer. If it is found at any stage that the similar system or sub-system was supplied by the Bidder to any other Ministry/Department of the Government of India at a lower price, then that very price with due allowance for quantities and intervening time period would be applicable to the present case and the difference in the cost would be refunded by the Bidder to the Buyer, if the contract has already been concluded.

86. **Return of Commercial Offers.** Situations would arise when the validity of the commercial offers submitted by vendors expire before acceptance of Staff Evaluation report. In such cases, vendors would be given an option to either extend the validity of the commercial offer for a specified period (the period to be decided in consultation with SHQ) or to submit fresh commercial proposals except for cases referred in Paras 51 and 57 of this Chapter. For cases where vendors want to submit fresh commercial proposal, their old proposals would be returned unopened to them by the AMs. However, for the cases where the RFP is retracted after submission

<sup>35</sup> Amendment issued vide Enclosure E to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

<sup>40</sup> Amendment issued vide Enclosure J to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

of the bids or a vendor is rejected at TEC/Trial/Staff Evaluation stage or a vendor unilaterally withdraws from the acquisition process, their commercial offers would be returned unopened to them by the TMs/SHQs.

86A. **Authority for Retraction of RFP.**<sup>8</sup> Cases that are retracted or foreclosed due to change in operational philosophy, change in prioritisation for procurement and budgetary constraints will be approved by AoN according authority. Retractions and foreclosures for reasons other than above including those at GS Evaluation stage (Refer Para 70 above) may be approved by DG(Acq) & VCOAS/VCNS/DCAS/ DGICG for MoD & Delegated powers cases respectively. The case for retraction need not be fielded in SCAP cycle, but directly in the committee which accorded AoN initially.

### **Approval of Competent Financial Authority (CFA)**

87. The CNC should document the selection of vendor using a formal written recommendation report addressed to the relevant approval authority. The report must be complete in all respects and should be checked by the members of the CNC. It should comprehensively elaborate the method of evaluation and the rationale for the selection made. **Vetting of the draft contract may commence once the L1 vendor is declared. The CNC will finalise the contract before seeking CFA approval taking into consideration any other issues that may arise during the course of CNC. The CNC report should also contain the draft Contract Document, duly vetted by all the stakeholders.**<sup>9</sup>

88. All CNC members should sign the recommendation report, in the interest of probity and accountability, as evidence that they concur with the process adopted and the ultimate selection made. Any dissenting view, including the reasons for the same, should also be documented.

89. The report of the CNC should include:-

- (a) A brief background to the requirement.
- (b) Composition of the CNC.
- (c) An explanation of the commercial evaluation process, selection criteria and commercial evaluation matrices, if used.
- (d) Brief description of different phases of the commercial negotiation process.
- (e) **Draft Contract Document, duly vetted by all the stakeholders.**<sup>9</sup>
- (f) A summary of the recommendations.

90. The CNC Report, along with the summary of recommendations, would be processed by the Acquisition Manager/SHQ, as applicable, for obtaining expenditure clearance and CFA approval.

91. **Standard Contract Document.** The Standard Contract Document at Chapter VI indicates the general conditions of contract that would be the guideline for all acquisitions. The date of signing of the contract would be the effective date of contract for all acquisitions, unless

<sup>8</sup>Amendment issued vide Enclosure A to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

<sup>9</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

the contract specifies otherwise. However the date of delivery would be reckoned from the date of release of Advance payment by the Buyer to the Seller (T<sub>0</sub>), provided the Seller submits the documents mandated by the DPP for release of advance by the Buyer within 45 days of signing of contract. In the event of the Seller not submitting the said documents within 45 days of signing of contract, the period between the 45<sup>th</sup> day and actual submission of documents will be excluded from the actual date of advance payment to arrive at the delivery date. In case, no advance is to be paid, the date for reckoning date of delivery would be the date of signing of contract. The above will apply to Fast Track Procedure (FTP) cases also. This clause will not be applicable in cases wherein Advance payment is released after FOPM is successfully validated. In such cases, date of accord of Bulk Production Clearance will be date for reckoning date of delivery<sup>33</sup>. The draft contract would be prepared as per these guidelines. However, for single vendor procurements, if there is a situation where Government of India has entered into agreements with that country regarding specific contractual clauses, then the terms and conditions of such agreements would supersede the corresponding standard clauses of DPP. Consequent to the approval of the CFA, the contract would be signed by the Acquisition Manager/Director (Procurement) concerned in the Acquisition Wing or by an officer authorised by the PSO at the SHQ.

92. **Integrity Pact.** An 'Integrity Pact' would be signed between government department and the bidders for all procurement schemes over ₹ 20 Crores. The Pre Contract Integrity Pact document is placed as **Annexure I** to **Appendix M of Schedule I** (RFP format). In 'Buy' and 'Buy and Make' cases schemes, the Indian or Foreign vendors submitting multiple bids will be required to submit one Integrity Pact and one IPBG.

93. Guidelines for Putting on Hold, Suspension, Debarment and any other penal action on the Entities dealing with Ministry of Defence, as promulgated by Government from time to time, will be applicable on procurement process and bidders.

### **Post Contract Monitoring**

94. While responsibility for contract administration and management would be that of the SHQ concerned, post-contract monitoring would be conducted by the Acquisition Wing. Depending on the degree of complexity of a project, the reviews will be carried out as elucidated below:-

(a) **Simple Projects.** Projects involving one time off the shelf buys, without any design and development, shall be reviewed by the Acquisition Manager/equivalent service officer in the SHQ.

(b) **Complex Projects.** Projects which require design, development and testing in consultation with the users, with likely ToT and have enlarged scope in terms of basic complexities, depth of design and development and consideration of a large number of participants, would be reviewed by a steering committee headed by DG (Acquisition) in the MoD or PSO at SHQ, with members from MoD, MoD (Fin), DRDO, DDP and SHQ. In such cases, the Acquisition Wing will submit quarterly Contract Implementation Reports (CIR) to the DPB.

95. **Equipment Induction Cells (EICs).** EICs will be raised for major projects on a case-to-case basis in SHQ at the discretion of SHQ. The EICs will deal with the induction of major equipment and help in planning the requirement of facilities essential for the serviceability and maintainability aspect of that acquisition.

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<sup>33</sup>Amendment issued vide Enclosure C to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

95(A). **Liquidated Damages (LD)**<sup>26</sup>.

(a) In the event of the Seller's failure to submit the Bonds/ Guarantees/Documents or/and supply/ perform the items/services as per Delivery schedule specified in the contract, the Buyer may, at his discretion, withhold any payment until the completion of the contract. The Buyer may also deduct LD as per Para 6 of Appendix L to Schedule I of Chapter II.

(b) In cases where Seller offers to carry out upgradation/ alteration in the specifications of equipment as concluded in the contract, imposition of LD Clause will be as per Guidelines at Appendix J of Chapter II.

95(B). **Financial Evaluation of Amendments to Contracts under Execution**<sup>26</sup>. In cases of amendment to contracts, the assessments of the financial implications of the proposed contract amendments may be done through a Professional Officers Valuation (POV), including in contracts concluded within the delegated powers of Services. POVs will however be restricted to contract amendment cases involving change of equipment / component or its modification.

**Subsequent Procurement of Already Contracted Equipment (Repeat Order)**

96. For equipment/systems/ platforms already inducted into service, it may be necessary to go back to the OEM/vendors for placing repeat orders. **AoN for repeat orders must be obtained within five years of date of completion of warranty on final delivery against the previous contract**<sup>20</sup>. In such cases it may be ensured that the SQRs of the equipment are as per the previous order. All such cases would not be construed as single vendor cases. In such cases, after seeking AoN, a commercial RFP would be issued to the vendor, for quantity not exceeding 100% of the previous order. Specific approval of DPB (in acquisition cases up to ₹ 500 Crores<sup>47</sup>) or DAC (in acquisition cases excess of ₹ 500 Crores<sup>47</sup>) as the case may be, would be obtained for Repeat Order of quantity exceeding 100% of previous order. Such restriction in Repeat Order would not be applicable for cases categorised as 'Buy and Make'/'Make'/'Design & Development' cases. Repeat order cases may fall under any of the following categories:-

(a) **Additional Quantities**. This may be necessitated to make up for deficiency in the existing scaling or to cater for the requirements due to new raisings/War Wastage Reserves (WWR)/sector stores.

(b) **Replacement Equipment**. This may be necessitated due to equipment declared 'Beyond Economical Repairs' (BER) or damages or loss to the earlier equipment by way of accidents/natural calamities or such like reasons.

(c) Major-assemblies/sub-assemblies/Special Maintenance Tools (SMT)/Special Test Equipment (STE)/maintenance/integration of Buyer Furnished Equipment (BFE).

(d) **Spares for All Levels of Maintenance**. It must, however, be ensured that when spares etc are procured from OEMs of sub-assemblies, the assurances/warranties extended by the OEM for the main equipment retain their validity.

97. Repeat order cases, where equipment has already been inducted into service and thereafter it involves change in SQRs/modifications of minor nature/upgrades of assemblies or sub-assemblies, would have to be decided by AoN approving authority as indicated in **Para 18** (Chapter II).

<sup>20</sup>Amendment issued vide Enclosure A to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

<sup>26</sup>Amendment issued vide Enclosure G to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

<sup>47</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 20.03.2019

98. For repeat orders to be placed on OFB for Capital items included in the AAP, the Acquisition Manager will place indents on OFB.

99. If repeat order is to be placed for equipment/system which have been indigenously developed or for which ToT has been obtained earlier by an Indian vendor, it would not be treated as a 'single vendor' case and only commercial RFP would be issued. It will however be checked prior to placing further orders that the technology absorption levels agreed to while concluding ToT contract have been achieved.

100. If equipment proposed to be procured has already been procured by a sister service, [Border Roads Organisation \(BRO\)](#), other MoD agencies, [Para Military Forces \(PMF\)](#) or [Central Armed Police Forces \(CAPF\)](#)<sup>20</sup> after following due process, then such cases would be treated as repeat order and provisions of paragraphs 96-99 (Chapter II) would apply.

101. **Ab-initio Single Vendor Cases.** If certain state-of-the-art equipment being manufactured by only one vendor, which may not necessarily be a DPSU, is to be procured to attain qualitative edge over our adversary, then such cases should be discussed, deliberated and decided by [the AoN according authority](#)<sup>46</sup>, after proper technology scan is carried out by HQ IDS, in consultation with DRDO.

102. Cases which are being undertaken by DRDO/DPSUs/OFB/Indian private industry as design and development projects, as defined at Para 72 of this Chapter, would not fall in the category of Single Vendor cases. However, approval of DAC for carrying out the design and development need to be sought prior to commencing the design and development process.

103. If DPSUs/OFB/Indian private industry signs a MoU with a foreign firm for co-production/ToT/procurement of equipment to be offered to services with approval of DAC, then such procurements, at a later point of time, would not be considered single vendor cases requiring approval of DAC again. Alternatively, if the DPSUs/OFB/Indian private industry signs a MoU without the approval of the DAC then it would have to compete in a competitive manner for the said procurement.

### **Inter Government Agreement**

104. There may be occasions when procurements would have to be done from friendly foreign countries which may be necessitated due to geo-strategic advantages that are likely to accrue to our country. Such procurements would not classically follow the Standard Procurement Procedure and the Standard Contract Document but would be based on mutually agreed provisions between the Governments of both the countries. Such procurements will be done based on an Inter-Governmental Agreement after clearance from CFA. The following cases would fall under the purview of this provision:-

(a) There are occasions when equipment of proven technology and capabilities belonging to a friendly foreign country is identified by our Armed Forces while participating in joint international exercises. Such equipment can be procured from that country which may provide the same, ex their stocks or by using Standard Contracting Procedure as existing in that country. In case of multiple choices, a delegation may be deputed to select the one, which best meets the operational requirements.

(b) There may be cases where a very large value weapon system/platform, which was in service in a friendly foreign country, is available for transfer or sale. Such procurements

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<sup>20</sup>Amendment issued vide Enclosure A to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

<sup>46</sup>Amendment issued vide Enclosure A to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 20.03.2019

would normally be at a much lesser cost than the cost of the original platform/weapon system mainly due to its present condition. In such cases, a composite delegation would be deputed to ascertain its acceptability in its present condition. The cost of its acquisition and its repairs/modifications would be negotiated based on Inter-Governmental Agreement.

(c) In certain cases, there may be a requirement to procure a specific state-of-the art equipment/platform, however, the Government of the OEM's country might have imposed restriction on its sale and thus the equipment cannot be evaluated on 'No Cost No Commitment' basis. Such equipment may be obtained on lease for a specific period by signing an Inter-Governmental Agreement before a decision on its purchase is taken.

105. In cases of large value acquisitions, especially cases requiring product support over a long period of time, it may be advisable to enter into a separate Inter Government Agreement (if not already covered under an umbrella agreement covering all cases) with the Government of the country from which the equipment is proposed to be procured after the requisite inter-ministerial consultation. Such an Inter-Governmental Agreement is expected to safeguard the interests of the Government of India and should also provide for assistance of the foreign Government in case the contract(s) runs into unforeseen problems.

106. **Procurement on Strategic Considerations.** In certain acquisition cases, imperatives of strategic partnerships or major diplomatic, political, economic, technological or military benefits deriving from a particular procurement may be the principal factor determining the choice of a specific platform or equipment on a single vendor basis. These considerations may also dictate the selection of particular equipment offered by a vendor not necessarily the lowest bidder (L1). Decisions on all such acquisitions would be taken by the Cabinet Committee on Security (CCS) on the recommendations of the DPB.

### **Processing of Procurement Cases**

107. In order to cut down the delays in procurement of equipment and ensure that the procurement system is more responsive to the needs of the Armed Forces, the following steps need to be taken:-

(a) Broad time frame for completion of different procurement activities, given at **Appendix H** should be adhered to. Major deviations from this time frame should be brought to the notice of the DPB, for necessary corrective measures.

(b) Once the SoC is forwarded by SHQ to MoD, consolidated observations/clarifications sought from up to and including the level of JS/AM in the MoD and MoD (Fin) should be clarified in an across the table discussion and minutes of the same recorded on file. All efforts should be directed towards avoiding multi-layered examination of proposals in MoD (Acquisition Wing) and decisions should be taken by AMs/FMs/TMs in a collegiate manner.

### **Deviations from DPP**

108. Any deviation from the prescribed procedure will be put up to DAC through DPB for approval.

109. Situations not foreseen and explained in the DPP may arise; under such circumstances the spirit as explained in preamble would provide the DAC the necessary guidance to determine the appropriate course of action.

## **Conclusion**

110. Defence Procurement Procedure 2016 would be in supersession of Defence Procurement Procedure 2013 and will come into effect from 1<sup>st</sup> April 2016. DPP 2016 will be applicable to all AoNs granted thereafter from the date it comes into effect, except in cases where specific approval has been granted by the Raksha Mantri for AoNs to be processed under the earlier versions of DPP. However, all cases where RFPs have already been issued under earlier versions of DPP would continue to be processed under such earlier versions. The cases for which AoNs have been granted under earlier versions of DPP, but RFPs have not been issued up to 1<sup>st</sup> April 2016, will be processed under the earlier version of DPP concerned; in case the SHQ concerned wants to migrate any such case under DPP-2016, approval of the DAC needs to be sought.

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**DEFINING ATTRIBUTES AND DECISION FLOW CHARTS**

**Note:** *These broad guidelines may be considered for deciding the categorisation.*

1. **Decision Flow Charts.** Following Flow Charts are Annexed to this Appendix:-

- |     |              |   |                             |
|-----|--------------|---|-----------------------------|
| (a) | Annexure I   | - | Buying Priority Chart       |
| (b) | Annexure II  | - | Chart 1-Buy (Indian- IDDM)  |
| (c) | Annexure III | - | Chart 2-Buy Indian          |
| (d) | Annexure IV  | - | Chart 3-Buy & Make (Indian) |
| (e) | Annexure V   | - | Chart 4 -Buy & Make         |
| (f) | Annexure VI  | - | Chart 5-Buy (Global)        |
| (g) | Annexure VII | - | Chart 6-Make Procedure      |

**Defining Attributes of Procurement Categories**

2. **Defining attributes of the ‘Buy (Indian-IDDM)’ category**

(a) The equipment/system/platform is already in service, having been produced by Indian industry based on in-house R&D or through ‘Make’ scheme or developed under Para 72 of Chapter II in the past.

***Or***

(b) The equipment/system/platform is already in service, having been produced by Indian industry based on transfer of technology from a foreign vendor.

***Or***

(c) Though not in service, but is available in Indian industry for some other sector.

***Or***

(d) Though not in service, equipment/system/platform can be produced as all key technologies are available and Indian industry has capability to design, develop, manufacture, test and integrate the system.

***And***

(e) In case of upgrades of in-service equipment/system/platform, Indian industry has the requisite technology and capability to implement the upgrades sought, through one of the means detailed above.

***And***

(f) In each of the above situations, the Indian industry can deliver the equipment/system/platform with the stipulated indigenous content, firstly for trials and secondly for operational use as per indicated time schedule and in requisite numbers.



3. **Defining attributes of the ‘Buy (Indian)’ category**

(a) The equipment/system/platform is already in service, having been produced by Indian industry.

*Or*

(b) Though not in service, but is available in Indian industry for some other sector.

*Or*

(c) Though not in service, equipment/system/platform can be produced as all key technologies are accessible and Indian industry has capability to manufacture, test and integrate the system.

*And*

(d) In case of upgrades of in-service equipment/system/platform, technology is available to Indian industry, which has the capability to implement the upgrades sought, through one of the means detailed above.

*And*

(e) In each of the above situations, the Indian industry can deliver the equipment/system/platform with the stipulated indigenous content, firstly for trials and secondly for operational use as per indicated time schedule and in requisite numbers.

4. **Defining attributes of the ‘Buy and Make (Indian)’ category**

(a) The equipment/system/platform or the required upgrade is available with foreign OEMs (whether in service in foreign country or not)

*And*

(b) The foreign OEMs should be willing to provide Transfer of Technology (ToT) for indigenous manufacturing and provide Maintenance ToT (MToT), pertaining to critical technologies as per the specified range, depth and scope.

*And*

(c) Indian industry can absorb the technology and create the necessary production, test and integration facilities and poise for the up-gradation needed.

*And*

(d) Indian industry can deliver the equipment/system/platform with the stipulated indigenous content, for operational use as per indicated time schedule and in requisite numbers (graded approach for indigenous manufacture i.e. Fully Formed (FF), Semi Knocked Down (SKD) Kits, Completely Knocked Down (CKD) kits, Indigenous Manufacture (IM) kits).

5. **Defining attributes of the ‘Buy and Make’ category**

(a) The equipment/system/platform or the required upgrade is available with foreign OEMs (whether in service in foreign country or not).

*And*

(b) The foreign OEMs should be willing to provide Transfer of Technology (ToT) for indigenous manufacturing and provide Maintenance ToT (MToT), pertaining to critical technologies as per the specified range, depth and scope.

*And*

(c) One or more than one Indian vendor, who can absorb the technology and create the necessary production, test and integration facilities, have been identified as **Strategic Partners (as selected by the procedure elaborated in Chapter VII to be notified separately) or**<sup>28</sup> Production Agencies (PAs). In case more than one PAs are available, foreign OEMs are allowed to select PA **(but not Strategic Partners)**<sup>28</sup>.

<sup>28</sup>Amendment issued vide Enclosure J to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

***And***

(d) The equipment/system/platform with the stipulated indigenous content, as per indicated time schedule and in requisite numbers (graded approach for indigenous manufacture i.e. Fully Formed (FF), Semi Knocked Down (SKD) Kits, Completely Knocked Down (CKD) kits, Indigenous Manufacture (IM) kits), can be effected through the selected Indian PA.

**6. Defining attributes of the ‘Buy (Global)’ category**

(a) The requirement of equipment/system/platform is not of strategic or long term nature which cannot be fulfilled through higher preference category; under this circumstance, the following may be ensured:-

- (i) Buy (Global) on multi or single vendor basis.
- (ii) Fast Track Procedure in case of urgent operational requirements.

***Or***

(b) The requirement is of strategic nature and/or of long term nature. A single foreign vendor or all foreign vendors of the same country can provide equipment/system/platform; under this circumstance, the following may be ensured:

- (i) Buy (Global) under Government to Government arrangement.
- (ii) In case of multiple vendors, product may be selected before approaching the foreign Government.
- (iii) Conclude Inter Governmental Agreement if one does not already exist, as required.
- (iv) Requirement of ToT/MToT as required/likely to be made available may be factored.

***Or***

(c) The requirement is of strategic nature and/or of long term nature. More than one foreign vendors from different countries can provide equipment/system platform; under such circumstance, the following may be ensured:

- (i) Buy (Global) on competitive bidding basis
- (ii) Involve the Govt. of L1 bidder if required.
- (iii) Include ToT/MToT as necessary.

**Note:** *ToT in Buy (Global) category cases is essentially to provide the buyer with leverage during negotiations or even post contract stages. It may cover only certain critical product items such as fuel/warhead contents of a missile or ammunition of gun etc. It need not necessarily be as comprehensive in range, depth and scope as under the ‘Buy and ‘Make (Indian)’ or ‘Buy and Make’ categories.*

**7. Defining attributes for categorisation of procurement under the ‘Make’ category**

(a) The equipment/system/platform or their upgrades or their sub-systems/sub-assembly/assemblies/major components, as the case may be, would be designed and developed based on matured technologies.

***Or***

(b) The equipment/system/platform or their upgrades or their sub-systems/sub-assembly/assemblies/major components, as the case may be, would be developed using matured/proven technologies which are available to the Indian industry through indigenous or foreign sources; however access to technology and other production related dependencies should be under the control of Indian entities only.

*And*

(c) Fundamental research & development (R&D) of core technology or materials is not envisaged.

*And*

(d) Indian industry has or can establish the requisite capability for development, manufacturing, test, integration and production.

*And*

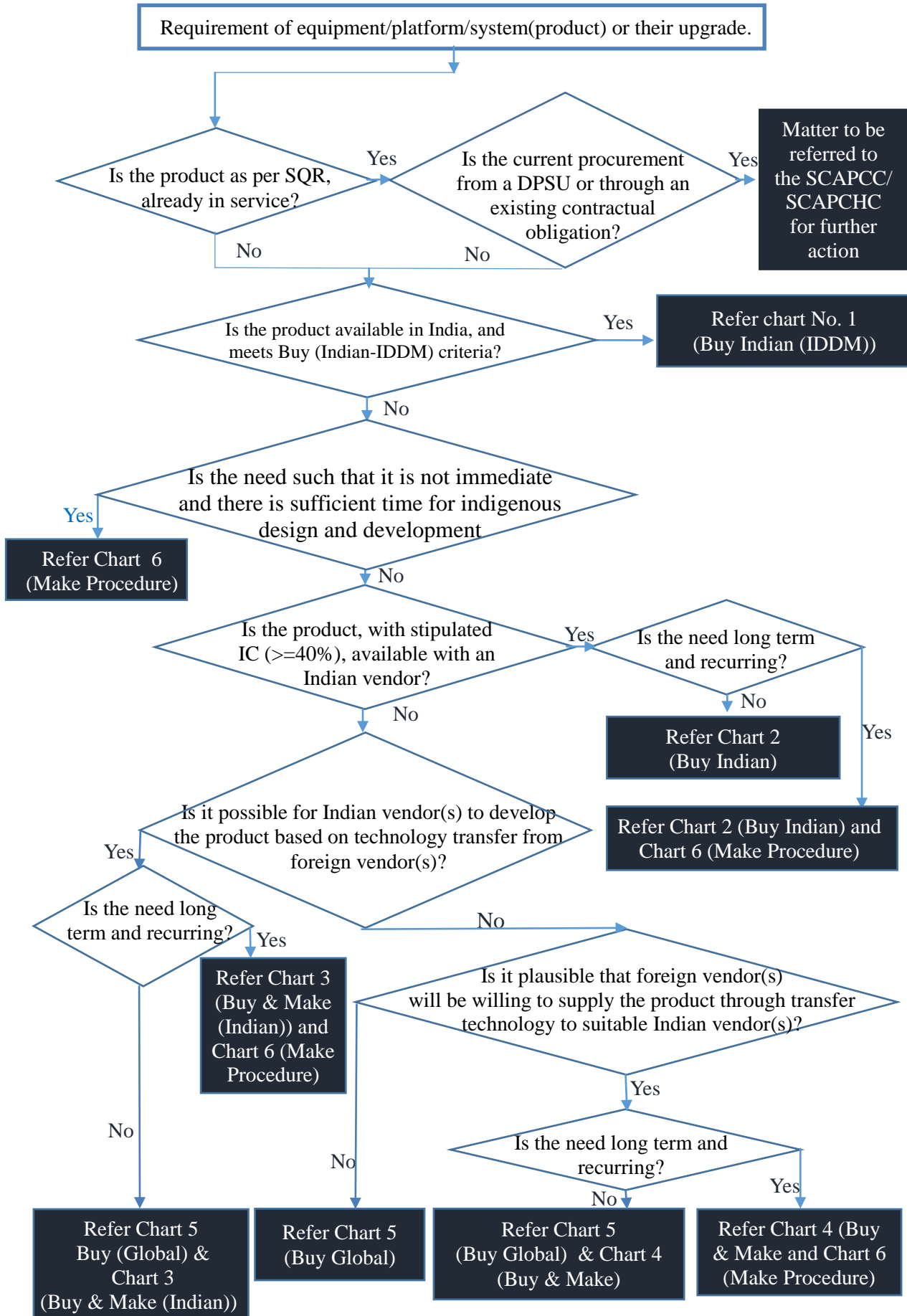
(e) Adequate time is available for induction of capability.

*And*

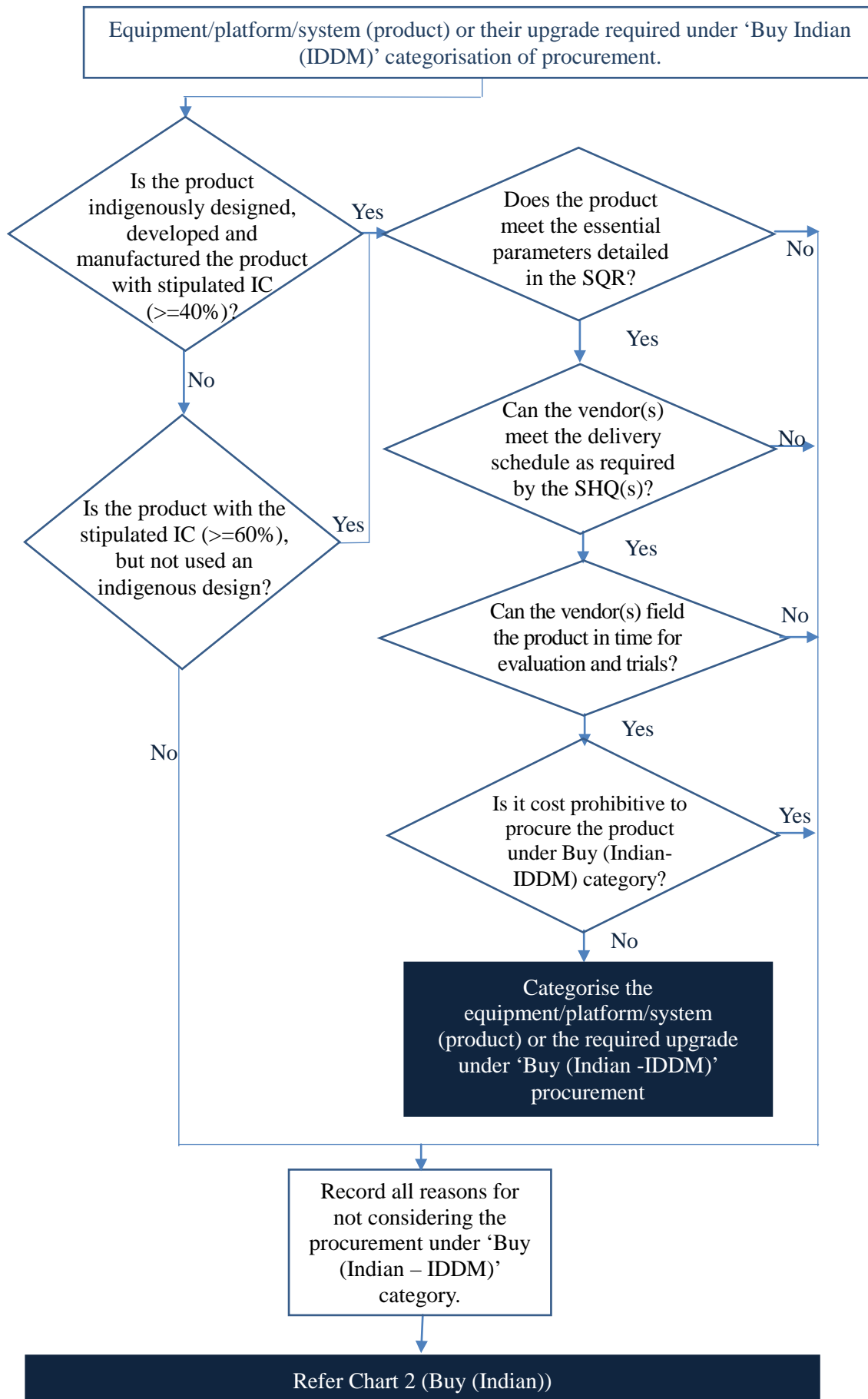
(f) Minimum indigenous content at prototype development and production stages, as stipulated, can be achieved.

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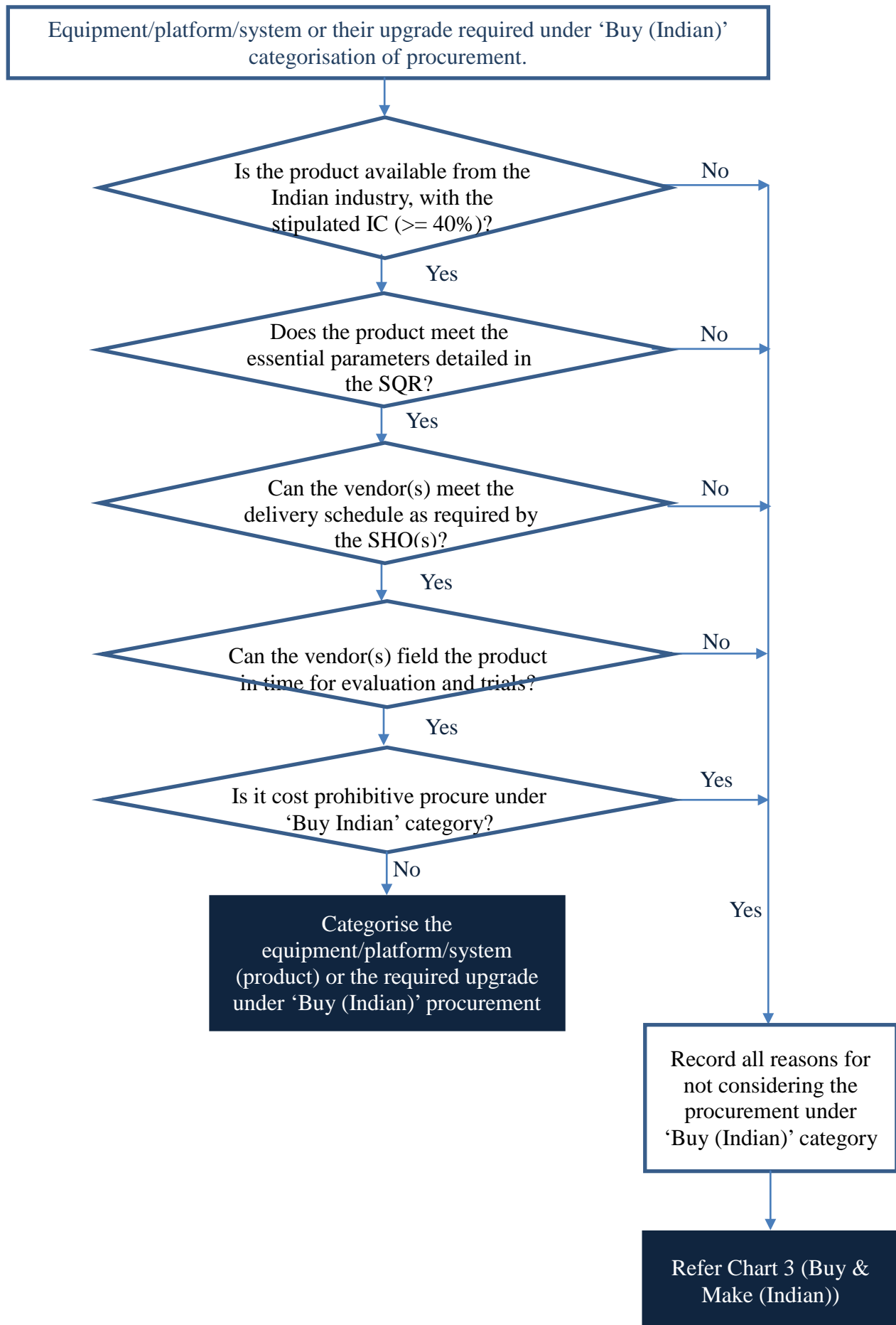
**Buying Priority Chart**



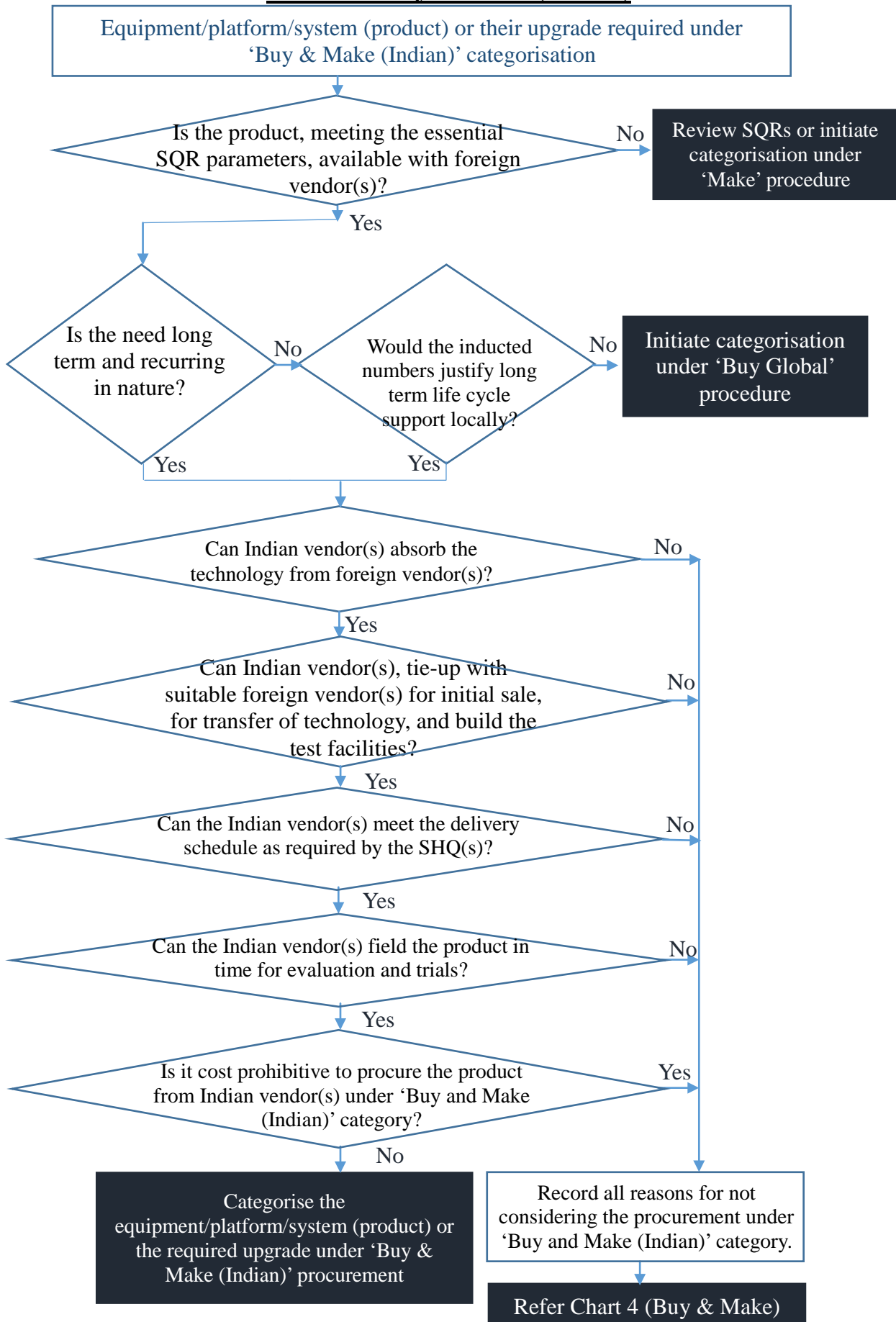
**Chart 1 - Buy Indian (IDDM)**



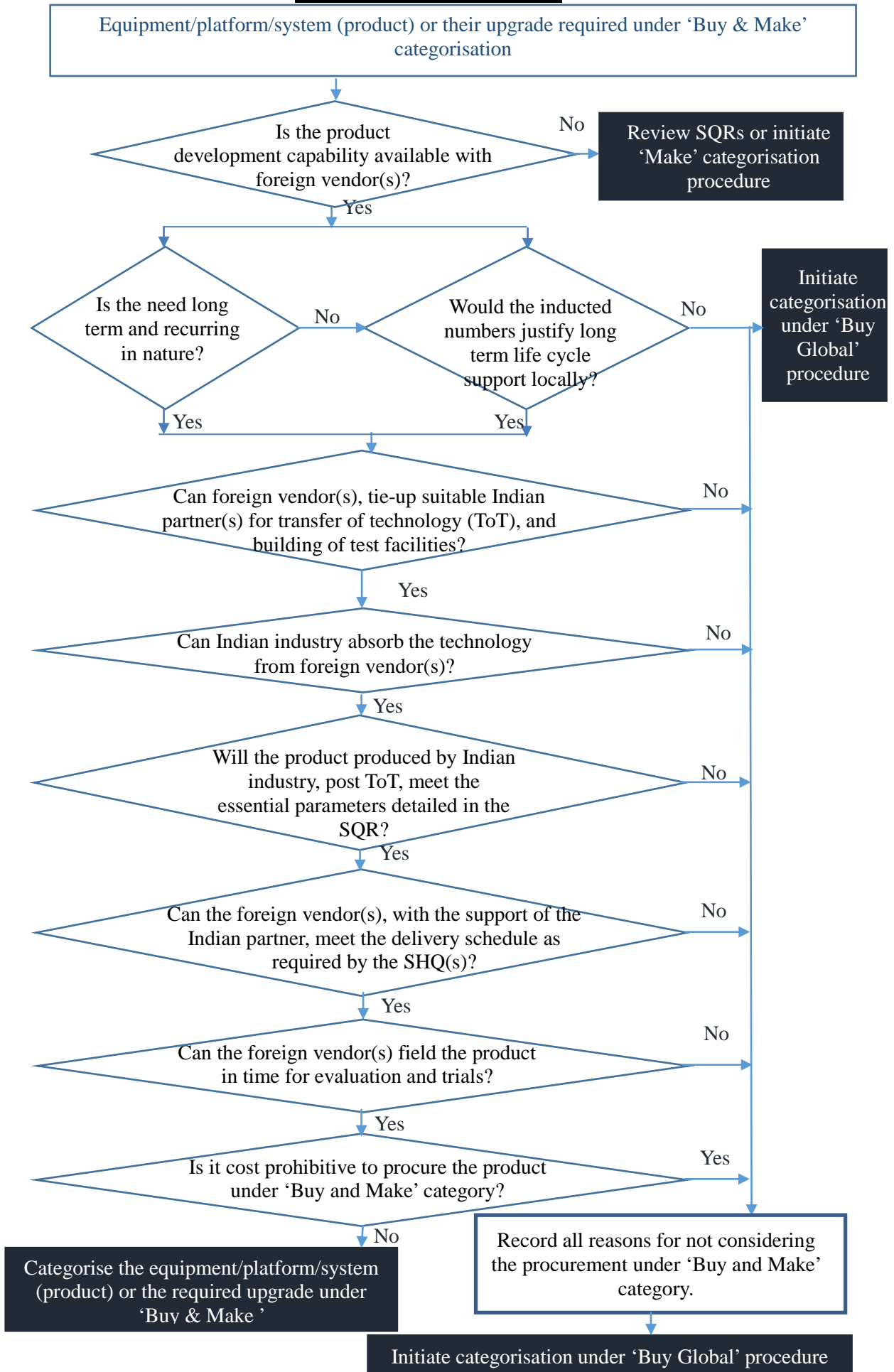
**Chart 2 - Buy Indian**



**Chart 3 – Buy & Make (Indian)**

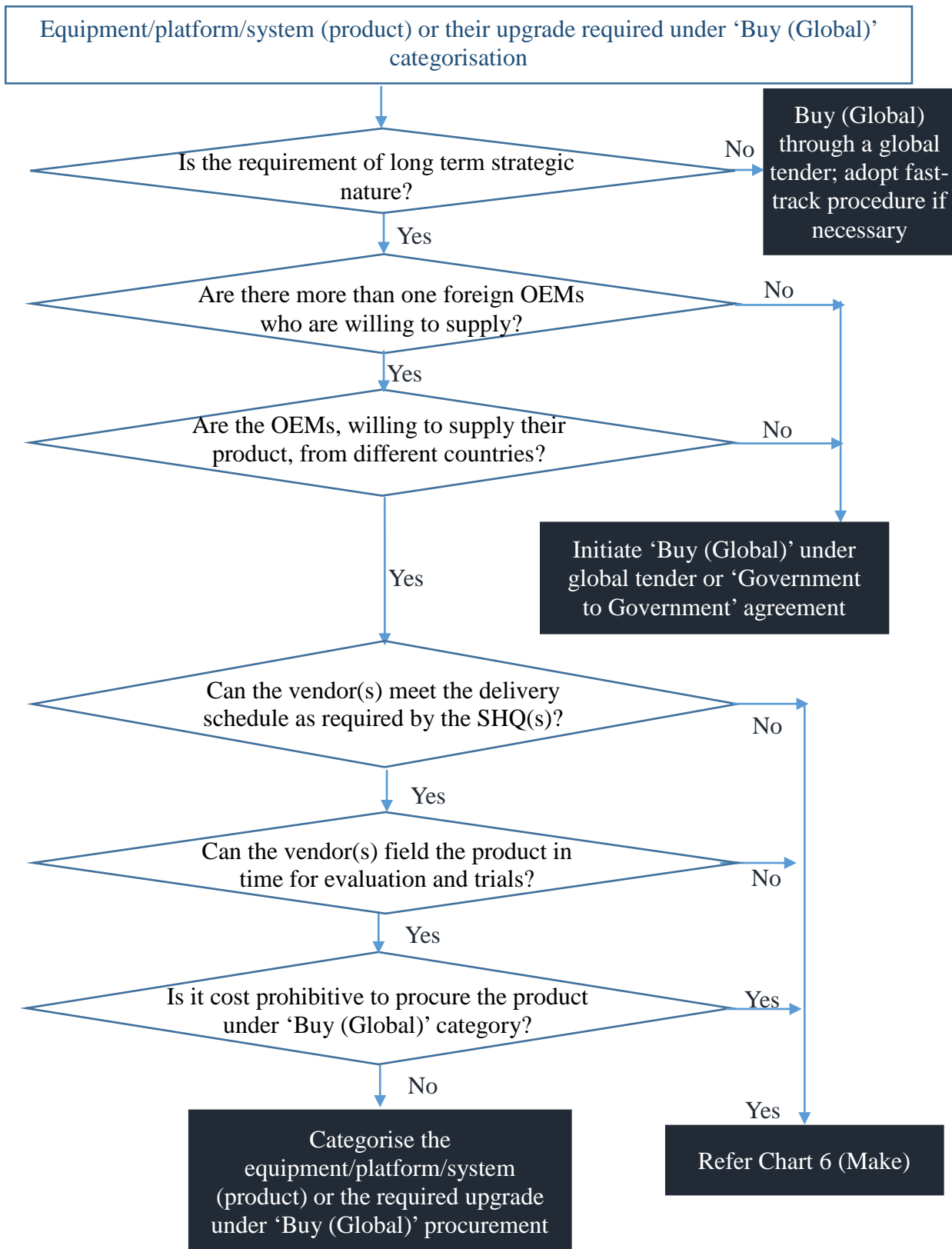


**Chart 4 – Buy & Make**

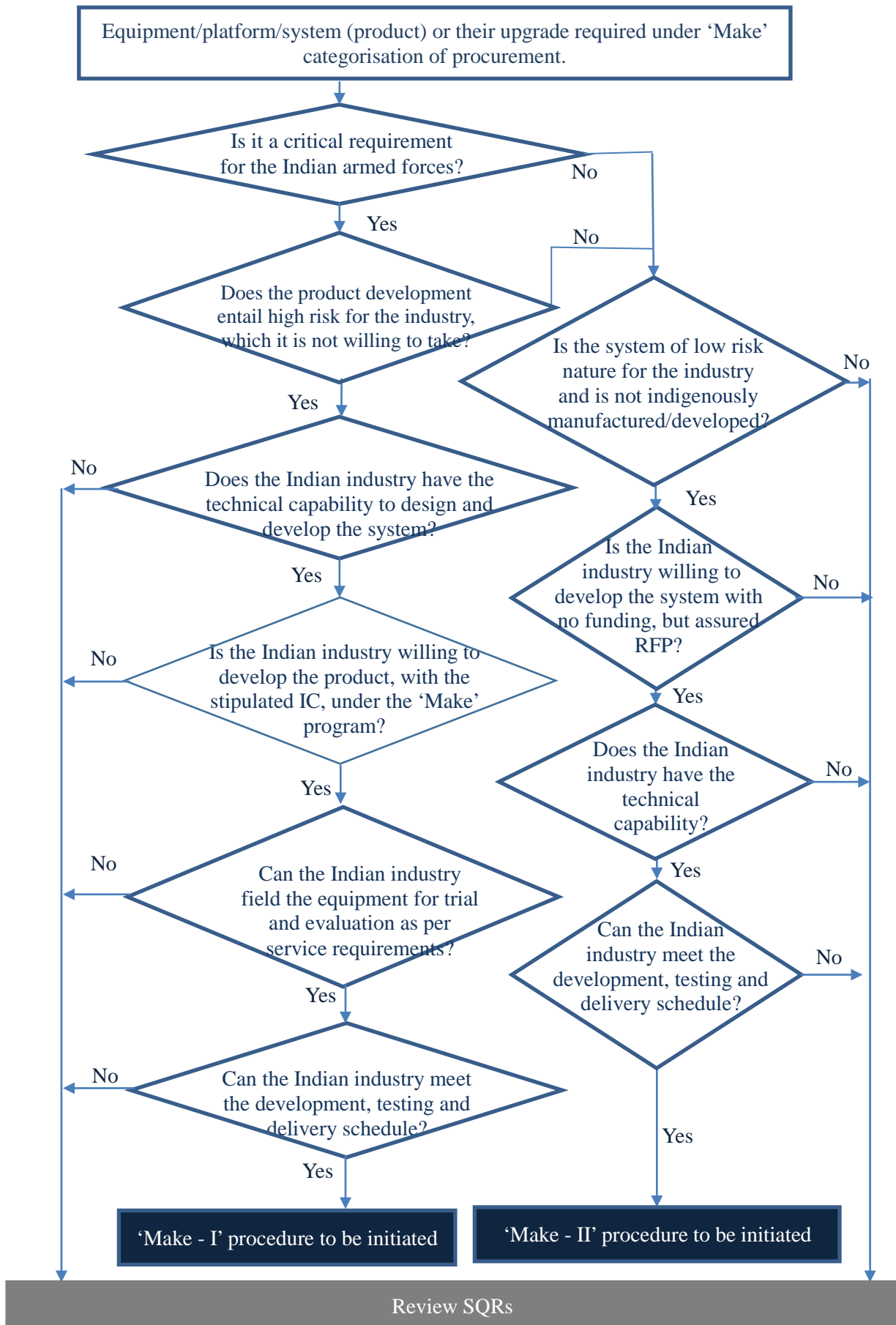




### **Chart 5 – Buy (Global)**



**Chart 6 – Make Procedure**



**INFORMATION PROFORMA (INDIAN VENDORS)**

1. **Name of the Vendor/Company/Firm.**

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---

(Company profile including Share Holding pattern, in brief, to be attached)

2. **Type (Tick the relevant category).**

Original Equipment Manufacturer (OEM)

Yes/No

Authorised Vendor of foreign Firm

Yes/No (attach details, if yes)

Others (give specific details)

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3. **Contact Details.**

**Postal Address:**

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---

City: \_\_\_\_\_

State: \_\_\_\_\_

Pin Code: \_\_\_\_\_

Tele: \_\_\_\_\_

Fax: \_\_\_\_\_

URL/Web Site: \_\_\_\_\_

4. **Local Branch/Liaison Office in Delhi (if any).**

Name & Address: \_\_\_\_\_

Pin code: \_\_\_\_\_ Tel: \_\_\_\_\_ Fax: \_\_\_\_\_

5. **Financial Details.**

(a) Category of Industry (Large/Medium/Small Scale): \_\_\_\_\_

(b) Annual turnover: \_\_\_\_\_ (in INR)

(c) Number of employees in firm: \_\_\_\_\_

- (d) Details of manufacturing infrastructure: \_\_\_\_\_
- (e) Earlier contracts with Indian Ministry of Defence/Government agencies:

Contract Number	Equipment	Quantity	Cost

6. **Certification by Quality Assurance Organisation.**

Name of Agency	Certification	Applicable from (Date & Year )	Valid till (Date & Year)

7. **Details of Registration.**

Agenc	Registration No.	Validity (Date)	Equipment
DGS&D			
DGQA/DGAQA/DGNAI			
OFB			
DRDO			
Any other Government Agency			

8. **Membership of FICCI/ASSOCHAM/CII or other Industrial Associations.**

**Name of Organisation**

**Membership Number**

9. **Equipment/Product Profile (to be submitted for each product separately)**

- (a) Name of Product: \_\_\_\_\_

(IDDM Capability be indicated against the product)

(Should be given category wise for e.g. all products under night vision devices to be mentioned together)

- (b) Description (attach technical literature): \_\_\_\_\_

- (c) Whether OEM or Integrator: \_\_\_\_\_

- (d) Name and address of Foreign collaborator (if any): \_\_\_\_\_

- (e) Industrial Licence Number: \_\_\_\_\_

- (f) Indigenous component of the product (in percentage): \_\_\_\_\_
- (g) Status (in service/design & development stage): \_\_\_\_\_
- (h) Production capacity per annum: \_\_\_\_\_
- (j) Countries/agencies where equipment supplied earlier (give details of quantity supplied):  
\_\_\_\_\_  
\_\_\_\_\_
- (k) Estimated price of the equipment \_\_\_\_\_
10. Alternatives for meeting the objectives of the equipment set forth in the RFI.
11. Any other relevant information: \_\_\_\_\_
12. **Declaration.** It is certified that the above information is true and any changes will be intimated at the earliest.

**Note:** Para 44 and Appendix F to Chapter II may be referred.

*(Authorised Signatory)*

## **INFORMATION PROFORMA (FOREIGN VENDORS)**

1. **Name of the Vendor/Company/Firm.**

---

---

(Company profile, in brief, to be attached)

2. **Type (Tick the relevant category).**

Original Equipment Manufacturer (OEM)	Yes/No
Government sponsored Export Agency	Yes/No (Details of registration to be provided)
Authorised Vendor of OEM	Yes/No (attach details)
Others (give specific details)	_____

3. **Contact Details.**

Postal Address: \_\_\_\_\_  
\_\_\_\_\_

City: \_\_\_\_\_ Province : \_\_\_\_\_

Country: \_\_\_\_\_ Pin/Zip Code : \_\_\_\_\_

Tele : \_\_\_\_\_ Fax : \_\_\_\_\_

URL/Web Site: \_\_\_\_\_

4. **Local Branch/Liaison Office/Authorised Representatives, in India (if any).**

Name & Address: \_\_\_\_\_

City : \_\_\_\_\_ Province : \_\_\_\_\_

Pin code : \_\_\_\_\_ Tel : \_\_\_\_\_ Fax : \_\_\_\_\_

5. **Financial Details.**

(a) Annual turnover: \_\_\_\_\_ USD

(b) Number of Employees in firm \_\_\_\_\_.

(c) Details of manufacturing infrastructure available \_\_\_\_\_.

(d) Earlier contracts with Indian Ministry of Defence/Government agencies:

Agency	Contract Number	Equipment	Quantity	Cost

6. **Certification by Quality Assurance Organisation (If Applicable).**

Name of Agency	Certification	Applicable from (date & year)	Valid till (date & year)

7. **Equipment/Product Profile (to be submitted for each product separately)**

- (a) Name of Product: \_\_\_\_\_  
(Should be given category wise for e.g. all products under night vision devices to be mentioned together)
- (b) Description (attach technical literature): \_\_\_\_\_
- (c) Whether OEM or Integrator: \_\_\_\_\_
- (d) Status (in service/Design development stage): \_\_\_\_\_
- (e) Production capacity per annum: \_\_\_\_\_
- (e) Countries where equipment is in service: \_\_\_\_\_
- (f) Whether export clearance is required from respective Government: \_\_\_\_
- (h) Any collaboration/joint venture/co production/authorised dealer with Indian Industry (give details):  
Name & Address: \_\_\_\_\_  
Tel : \_\_\_\_\_ Fax : \_\_\_\_\_
- (j) Estimated price of the equipment \_\_\_\_\_.

8. Alternatives for meeting the objectives of the equipment set forth in the RFI.

9. Any other relevant information. \_\_\_\_\_

10. **Declaration.** It is certified that the above information is true and any changes will be intimated at the earliest.

**Note:** Para 44 and Appendix F to Chapter II may be referred.

(Authorised Signatory)

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**STATEMENT OF CASE TO BE CONSIDERED BY SCAPCC/SCAPCHC**  
**DPB/DAC FOR CATEGORISATION AND ACCORD OF AON**

NAME OF PROPOSAL	-	
SERVICE	-	
CATEGORISATION STATUS	-	
(a) SCAPCC	-	
(b) SCAPCHC	-	
(c) DAC/DPB	-	
REFERENCE NO ALLOCATED	-	(To be entered by HQ IDS)
(a) SCAPCC	-	
(b) SCAPCHC	-	
(c) DAC/DPB	-	

**BRIEF OF PROPOSAL**

1. **Introduction.**
2. **Proposal.** (Generic in nature and desired capability indicators)
  - (a) Mission Needs.
  - (b) How Mission Currently Undertaken.
  - (c) Deficiency in Capability Observed which Needs Rectification.
  - (d) Whether Changes in Doctrine/Tactics Cannot Overcome the Void without a Material Solution?
  - (e) Material Solution Proposed with Time Frame and Linkage to LTIPP.
    - (i) What is the capability being sought to be inducted?
    - (ii) What additional capability is being generated? How does this mesh with the long term capability requirements?
    - (iii) Is there any other associated induction required subsequently to make the equipment operational?



- (iv) Which equipment is being phased out/replaced? What will be the life cycle of the new equipment?

3. **Detailed Justification.** (The following aspects to be included, where applicable):

- (a) Details of Equipment/Proposal.
- (b) Operational Role and Necessity.
- (c) Quantity Required (This should be vetted by Def (Fin) prior to SCAPCHC meeting).
  - (i) How have the quantities required been worked out? What are the details of quantities required for operational units, training and WWR? What are the details on the scaling of the item?
  - (ii) In case of phased induction of equipment, what are the exact quantities sought during various plan periods/stages?
- (d) Whether Technology is state-of-the-art and ToT considered?
  - (i) In cases where ToT is being sought, which is the PA identified by DDP/Foreign Vendors for the same? What are its capabilities of absorption of ToT/manufacture as per requirements? Does it meet the eligibility as spelt out by DDP (Refer **Para 20** of Chapter II)?
  - (ii) Inputs from SHQ, if any, for selection of PA.
- (e) Whether Item is scaled/not scaled. If scaled, quote Authority.
- (f) **Maintenance Aspects.**
  - (i) How is the Engineering/Maintenance support catered for the full life cycle of the equipment?
  - (ii) Is a ToT proposed for providing Maintenance Infrastructure to an Indian firm? If so, are Indian entities identified based on inputs from DDP?
- (g) **Details of GSQR/JSQR.** (Copy of approved GSQR/JSQR to be appended)
  - (i) In all cases essential capability and corresponding minimum verifiable functional characteristics (Essential Parameters 'A') in a tabulated form be provided. In cases where Essential Parameters 'B' are sought, the quantity of equipment required with these parameters must be clearly spelt out (with due justification for same). In cases where Enhanced Performance Parameters are sought, these must be clearly stated along with the recommended weightage/credit scores for each duly justified.
  - (ii) For all repeat order cases of equipment already inducted into service, are there any changes in SQR, modifications of minor nature or upgrades of assemblies/sub assemblies involved? Would this need a Commercial RFP with validation of modifications/upgrades, or issuing of a fresh techno commercial RFP of a multi vendor basis?
  - (iii) In all cases details of essential verifiable functional characteristics vis-à-vis

technical parameter of the equipment available in the world market, in as much details as possible in a tabulated form be provided.

- (iv) In cases where earlier approved GSQRs have necessitated amendment and revalidation of AoN, detailed justification for each of such amendments be provided in a tabular format.
- (h) Whether Proposal is for Replacement/Upgrade/New Induction making up WWR Deficiency?
- (j) **Trials.** In cases where trials are not envisaged, are envisaged outside India, or through simulation, what is the exact scope for the same? In case SHQ is planning for trials under Para 61 of Chapter II, details may be spelt out.
- (k) Time Schedule for induction (To give full details of induction/delivery schedules).
- (l) Commonality and Interoperability Aspects with other Services.
- (m) **Manpower.** What is the effect of the induction on manpower requirements? How would the surplus/deficiencies be adjusted?
- (n) **Turnkey Projects.** For all major Turnkey Projects, has a Detailed Project Report been prepared/attached by SHQ laying down detailed scope of work involved, bill of material, cost estimates and time frames for project completion?
- (o) **Design & Development Projects.** Has consultation with DRDO/DPSUs/OFB been undertaken for Design and Development case? Has MoQ and timelines upto successful completion of trials been defined?
- (p) **Single Vendor.** In case of a Single Vendor Clearance, which is the vendor and what is the detailed justification for the single vendor option (Para 101 of Chapter II)?
- (q) **Timeline for Procurement.** Are there likely to be deviations to the timelines given at **Appendix H to Chapter II** of DPP? If so, deviations and week-wise targets to be proposed by SHQ with justification (Format of proposed timeline is given at Annexure I and flow chart for proposed Capital Acquisition is given at Annexure II to this Appendix).
- (r) **Option Clause.** In case Option Clause needs to be included, justification for the same be provided.
- (s) Information regarding Procurement that needs to be placed on MoD website/ Central Procurement Portal.

#### 4. **Financial Aspects.**

- (a) To include cost of proposal (including all taxes and duties)<sup>42</sup> and recurring expenditure, if any; the basis of cost estimation and the Base year for which the cost is indicated. The SoC should clearly bring out the future requirements with timeline details to decide whether 'Option Clause' will be economically viable or not.

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<sup>42</sup> Amendment issued vide Enclosure L to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

- (b) Recommendation on method for determining L-1 vendor (wherever applicable).
5. **Annual Acquisition Plan/Budgetary Provisions.**
- (a) Whether the proposal is included in the AAP (include AAP Ser No).
- (b) Availability of necessary budgetary provision for the current year cash outgo.
- (c) In case the project involves cash outgo over one year, confirmation regarding inclusion of budgetary requirements for future years in the five year plan period to be given.
6. **Recommended Mode/Source of Acquisition.**
- (a) Buy (Indian-IDD), Buy (Indian), Buy & Make (Indian), Buy & Make, Buy (Global), 'Make' with justification. (Appendix A to Chapter II may be referred for analysis of Defining Attributes and Decision Flow Charts). Justification for not selecting each of the higher categories may be given.
- (b) Has the time required for the procurement and delivery from foreign source vis a vis the time required for making it within India alongwith urgency and criticality of requirement been examined?
- (c) Justification for Procurement from a Single Vendor (If applicable).
- (d) In case SHQ proposes higher or lower indigenous content, a detailed justification may be given.
7. **Comments of HQ DRDO.**
- (a) (To develop and productionise items and certify lack of capability to meet the needs if above not feasible).
- (b) Offset Clause (Proposals for ₹ 2000 Crores & above). (Recommendation as to the offset amount/percentage or any other comment).
8. **Comments of DDP.**
- (a) (To specify capability to manufacture and supply, provide product support, time frame and approximate costs jointly with the R&D and the resources available to the industry. Also certify if such capability does not exist).
- (b) Offset Clause (Proposals for ₹ 2000 Crores & above) (Recommendation as to the offset amount/percentage or any other comment).
9. **Comments of DoD.**
10. **Comments of MoD (Fin).**
11. **Final Comments of SHQ Based on inputs of DRDO and DDP, DoD and MoD (Fin).**
- (To recommend the quantities to be procured alongwith other comments)
- (Quantity vetting would be recommended by Administrative Branch in consultation with MoD(Fin). (Refer Para 16 of Chapter II of DPP)

12. **Draft RFP.** Draft RFP should accompany the SoC for accord of AoN. (Refer Para 16 of Chapter II of DPP).

13. **Details of Approvals Sought.**

- (a) AoN.
- (b) Categorisation.
- (c) Quantity and Estimated cost (including all taxes and duties)<sup>42</sup>.
- (d) Essential Parameters B (if applicable).
- (e) Weightage/Credit Scores of EPP (if applicable).
- (f) ToT including details of PA.
- (g) MToT including details of PA.
- (h) Trials (Waiver/Vendor Premises/Trials under Para 61 of Chapter II etc).
- (j) Timelines for Trials for Essential Parameters B (if applicable).
- (k) Offsets.
- (l) Option Clause.
- (m) AMC Service.
- (n) Any other aspect that require specific approval.

Sd/- xx  
(Head of User/Plans Dte/equivalent)

Date \_\_\_\_\_

**Note:** Col/Equivalent may sign the SoC provided Noting sheet number with date of approval of Head of User/Plans/Directorate/Equivalent is quoted.

**Details to be Mentioned by HQ IDS**

- 14. Comments of HQ IDS. (The issues of commonality and interoperability will be duly commented upon).
- 15. Recommendation of SCAPCC including Reference No Allotted.
- 16. Recommendation of SCAPCHC including Reference No Allotted.
- 17. Decision of DAC/DPB and Reference No allotted.
- 18. Recommendation for Offset Clause Implementation (if applicable).

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<sup>42</sup>Amendment issued vide Enclosure L to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

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**Annexure I to Appendix C**  
(Refer Para 3(q) of Appendix C)

**PROPOSED TIMELINE FOR PROCUREMENT**

**Note** : This is the proposed timeline unless otherwise spelt out at Para 3(q) of Appendix C.

Ser No	Stage of Procurement	Time Line as per DPP (in weeks)	Time Line as per DPP (Cumulative Time-in weeks)	Proposed Time Line	Remarks/ Reason for variation
1.	Acceptance of Necessity (Date of issue of minutes of DAC/DPB/SCAPCHC meeting)	-	To		
2.	Issue of RFP	08	To+08		
3.	Pre Bid Meeting	06	To+14		
4.	Dispatch of Pre Bid reply	03	To+17		
5.	Receipt of Responses	03	To+20		
6.	Completion of TEC Report	10	To+ 30		
7.	Acceptance of TEC Report	04	To+34		
8.	Completion of Technical Offset Evaluation Committee Report	04-08* (*concurrent activity)	To+34* (*concurrent activity)		Only in case of Offsets
9.	Acceptance of Technical Offset Evaluation Committee Report	04* (*concurrent activity)	To+34* (*concurrent activity)		Only in case of Offsets
10.	Completion of Field Evaluation (Trials)	16-24	To+50-To+58\$		\$ Additional 12 weeks permitted if winter trials are required.
11.	Completion of Staff Evaluation	04	To+54-To+62\$		“
12.	Acceptance of Trials/ Staff Evaluation Report	04	To+58-To+66\$		“
13.	Acceptance of TOC Report (If applicable)	0/04* (*If applicable)	To+58-To+70\$		“

14.	(i) Finalisation of CNC Report  (ii) Finalisation of Offset Contract	(i) Multi-vendor -06  (ii) Resultant Single Vendor 18-26	(i) Multivendor To+64-To+76\$  (ii) Resultant Single Vendor To+76-To+96\$		“
15.	Obtaining of CFA-MoD/MoF/CCS approval		(i) Multivendor - To+68-To+92\$  (ii) Resultant Single Vendor To+80-To+112\$		“
	CFA-MoD	4-8			
	CFA-MoD & MoF	6-12			
	CFA-CCS	6-16			
16.	Signing of Main Contract & Signing of Offset Contract	02	(i) Multi-vendor - To+70-To+94\$  (ii) Resultant Single Vendor To+82-To+114\$		\$ Additional 12 weeks permitted if winter trials are required.

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**Annexure II to Appendix C**  
(Refers to Para 3(q) of Appendix C)

F No.470/Dir (Acq)/07  
Government of India  
Ministry of Defence  
New Delhi  
Dated 12th September, 2007

To:  
The Chief of Army Staff  
The Chief of Naval Staff  
The Chief of the Air Staff  
Chief of Integrated Staff Committee

**DELEGATION OF FINANCIAL POWERS FOR CAPITAL EXPENDITURE**

Sir,

1. I am directed to refer to the following letters of the Ministry of Defence.
  - (a) A/89591/FP-1/1974/2006/D(GS-1) dated 26 July 2006.
  - (b) PL/3221/NHQ/486-S/2006/D(N-IV) dated 19 July 2006 as amended vide Corrigendum No.PL/3221/NHQ/486-S/2006/D(N-IV) dated 25 July 2006.
  - (c) Air HQ/95378/1/Fin P/2431/US(RC)/Air-II/06 dated 14 July 2006, Air HQ/95378/1/Fin P/2520/US(RC)/Air-II/06 dated 20 July 2006 and Corrigendum No. air HQ/96378/1/Fin P/2321/SO(S)/air-II/06 dated 18 October 2006.
  - (d) FP/20135/HQIDS/2350/2006/D(GS-I) dated 8 September 2006 regarding delegation of financial powers to various authorities in the Services for revenue and capital expenditure and to convey the sanction of President to enhancement of powers of the Vice chief of Army Staff/Vice Chief of Naval Staff/Deputy Chief of Air Staff/CISC from ₹ 10 Crore to ₹ 30 Crore for sanctioning capital acquisition schemes for procurement of equipment and stores. These powers will be exercised with the concurrence of the integrated Financial Advisers. The relevant schedules will be deemed to have been amended accordingly. All provisions of MoD Finance letters No. Misc/Addl. FA (M)/06 dated 26.7.2006 and 16.1.2007 would continue to be followed except as amended by this letter.
2. I am also directed to convey the sanction of the President to the following change in the procedure with immediate effect:
  - (a) SCAPCHC will be competent to grant Acceptance of Necessity (AoN), categorisation and Quality Vetting in respect of procurement proposals up to the delegated powers of the Services HQrs, provided such proposals are included in the Five Year Plan. Any change there from would need the approval of the DPB.
  - (b) Participation of Adviser (Cost) would be on actual requirement basis.

(c) The Chairman of the CNC in the Services, to be nominated by the CFA, will not be below the level of Brigadier/equivalent rank. The level of the Finance and other members of the CNC will be decided by the IFA and other agencies concerned.

(d) Where the CNC is attended by Jt.IFA/Dy.IFA or any other representative of Integrated Finance, the recommendations of the CNC will be sent for approval with the concurrence of the IFA.

3. It is also clarified that procurement proposals of items upto ₹ 30 crore which have been approved on the basis of estimated prices as part of the procurement proposal of a main weapon system/platform will be negotiated by CNCs under the delegated powers and provided the cost is within the ceiling limit approved for the item(s) no fresh CFA approval will be required. Acceptance of CNC recommendations and expenditure clearance in such cases will be done by the CFA under the delegated powers. The linkage to the main proposal should be brought to the notice of the CFA under delegated powers.

4. The exercise of the financial powers is also subject to availability of funds in the sanctioned budgetary allotment under the relevant Budget Head.

5. The delegated powers also include procurement from foreign sources provided full rupee backing for the amount is available. Separate approval for release of FFE will not be required and release of FFE will only be noted by the respective Financial Planning Directorates after expenditure angle approval for the purchase has been given by the CFA.

6. Directorates of Financial Planning will keep a record of expenditures incurred under the delegated powers. Financial Planning division of HQIDS will be the nodal agency for compiling data of the three Services. HQIDS as nodal agency will submit the monthly expenditure report to FA (Acq) & AS.

7. All provisions of DPP 2006 not affected by the decisions mentioned above and other orders/instructions/procedures concerning capital procurement will continue to be applicable to procurements under the delegated powers.

8. A flow chart highlighting the various stages of the Acquisition process indicating the concomitant responsibility in respect of SHQ for exercising delegated powers is also enclosed.

9. The procedure set out in this letter will apply to all pending procurement proposals that have not already been approved by the DPB/DAC.

10. This issues with the concurrence MoD(Fin) vide ID No. 1310/FM(LS/07 dated 3.8.2007.

Yours faithfully, (K. K. Kirty)  
Director (Acquisition)

Copyto:

CGDA -20 copies (including an ink signed copy) for circulation

DGADS -5 copies

SO to Defence Secretary

PS to Financial Adviser (Defence Services)

PS to Secretary (Defence Production)



PSs to SA to RM, SS (J), DG (Acq), FA(Acq), AS(N), AS(DP)

All Joint Secretaries in the MoD All Addl FAs & JS in MoD (Fin) All JS & AMs, FMs, TMs,

All IFAs in the Service HQrs

ADG (WE), ACNS (P&P), ACAS(Plans)

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**FLOW CHART FOR PROPOSED CAPITAL ACQUISITION**  
**(DELEGATED POWER CASES)**

<b><u>Stage</u></b>	<b><u>Responsibility</u></b>
QR formulation	Service HQ/Joint Staff
Categorisation/AoN/Qty. Vetting	SCAPCHC-For schemes included in 5 Year Capital Plan. Any change there from -DPB
RFP	* Collegiate Vetting by TM, SHQ and IFA. * Issue of RFP by TM after approval of DCAS/VCNS/VCOAS/CISC
TEC Field Trials Staff Evaluation	Approval through TM by VCOAS/VCNS/DCAS/CISC
CNC	
CFA approval	Not below the level of Brigadier # (as the case may be)
	VCOAS/DCAS/VCNS/CISC/with concurrence of IFA.
Contract monitoring	Service HQ/Joint Staff/IFA

**Notes:-**

(a) Letter No. A/89591/FP-1/1974/D(GS-I) dt. 26.07.2006 of MoD on the subject “Delegation of Financial Powers to Army authorities for Revenue and Capital Expenditure” is addressed to the Chief of the Army Staff.

This letter supersedes the delegation of financial powers laid down in respect of the authorities for the specified purpose in the FRs and Schedules to MoD letter No. A/89591/693/FP-1/2002/D(GS-I) dated 22 Apr 2002 or any other previous orders/instructions on the subject.

The exercise of these financial powers are to be governed by existing orders and instructions on the subject, as amended by the Government from time to time. Standard Operating Procedures (SOPs) relating to the exercise of the financial powers as issued and amended from time to time will be strictly followed. However, where SOPs conflict with the Govt. Rules/Instructions, the later will prevail. Cases not covered by the delegated financial powers will be referred for sanction of the Ministry of Defence.

Appendix and Notes in the Schedules I to XXIII to this order covers the detailed guidelines for exercise of delegated financial powers in the Army.

*# To be read in conjunction with Appendix G to Chapter II, regarding composition of CNC<sup>10</sup>*

<sup>10</sup>Amendment issued vide Enclosure C to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018.

(b) Letter No. PL/3221/NHQ/486-S/2006/D(N-IV) dt. 19.07.2006 of MoD as amended vide Corrigendum dt. 25.07.2006 on the subject “Enhancement of Delegated Financial Powers of Naval Authorities” is addressed to the Chief of the Naval Staff.

Detailed guidelines for exercise of delegated financial powers to various Naval Authorities are given in Enclosures 1 to 3 of this letter. Re-numbering of the Annexure has been given in the Corrigendum to MoD letter No. PL/3221/NHQ/486-S/2006/D(N-IV) dt. 25.07.2006. Certain key areas that require close monitoring have been identified and placed at enclosure 3 of the letter. Standard Operating Procedures (SOPs) relating to the exercise of the financial powers as issued and amended from time to time will be strictly followed. However, where SOPs conflict with the Govt. Rules/Instructions, the later will prevail. Cases not covered by the delegated financial powers will be referred for sanction of the Ministry of Defence.

(c) Letter No. Air HQ/95378/1/Fin P/2431/US(RC)/Air-II/06 dt. 14.07.2006 of MoD on the subject “Delegation of Financial Powers to various Indian Air Force Authorities” is addressed to the Chief of the Air Staff. Amendments to this letter were issued on 20.7.2006 and 18.10.2006. 21 Annexure to these letters indicate in detail the guidelines for exercise of delegated Financial Powers, separately for Capital and Revenue procurement cases. In respect of Capital procurement, Air HQ has to render a Quarterly Report to MoD (Acquisition Wing) on the progress of various schemes under delegated powers, indicating the actual cash outgo against the budgetary projections.

(d) Letter No. FP/20135/HQ IDS/2350/2006/D(G-I) dt. 08.09.2006 of MoD on the subject “Delegation of Financial Powers to the Joint Staff Authorities” is addressed to CISC.

The delegated financial powers to the CFAs are to be read in conjunction with the financial instructions and orders issued by the three Services in the form of Army instructions/orders, Naval instructions/orders and Air Force instructions/orders and SOPs for any clarification or reference, until issuance of Joint Staff Orders/SOPs. Powers conferred for Projects specifically sanctioned by the Government will also continue to be operative for the duration of such projects and these would be applicable for the Joint Staff Organisations/Inter-Service organisations under HQ IDS.

Detailed guidelines for exercise of delegated financial powers are given in the enclosures 1 & 2 of this letter. The procurement policy to be followed by the Joint Staff Organisation and certain key areas that require close monitoring are given at enclosure 3 of this letter.

(e) MoD (Fin) ID No. Misc/Addl. FA(M)/06 dated 26.07.2006 on the subject “Delegation of Capital Acquisition Powers to the Services” is addressed to VCOAS, VCNS, CISC, DCAS and officers of Acquisition Wing. This letter gives the details of delegation of powers at the level of SHQs/IDS for Capital Schemes/projects costing upto ₹ 10 Crores. Detailed procedures have also been laid down in the form of a Flow Chart showing the various stages of Acquisition process.

(f) MoD (Fin) ID No. Misc/Addl. FA(M)/06 dated 16.01.2007 is in partial modification of the letter referred to at (e) above regarding Quantity Vetting and composition of CNC.

Government of India  
Ministry of Defence  
(Acquisition Wing Secretariat)

Dated 28th July, 2008

**OFFICE ORDER No. 413/Dir (Acq)/07**

**Subject: Delegation of Financial Power to Defence Secretary for sanction of schemes/projects/acquisition of non-scaled and new items under Capital budget.**

\*\*\*\*\*

In pursuance to the decision taken by the Defence Acquisition Council (DAC) under the Chairmanship of Raksha Mantri in its meeting held on 9th July, 2008, the revised Financial Power of Defence Secretary for sanction of schemes/projects/acquisition of non-scaled and new items from indigenous and foreign sources under Capital budget, will be above ₹ 50 Crore and upto ₹ 75 Crore. These orders will supersede all the existing orders/instructions on the above subject.

2. All cases will be submitted to Defence Secretary for financial approval accordingly with immediate effect.
3. These powers will be exercised in consultation with FA (DS).
4. This has the concurrence of MoD (Fin.) vide their ID No.3114/FA(DS) dated 23 July, 2008.

(G.S. Arora)  
Under Secretary (Acq)

To: CISC/VCOAS/VCAS/VCNS  
Addl. FA(A)/JS(E)/JS(G/Air)/JS(O/N) All JS & AMs/FMs/TMs  
CGDA  
DGADS

Copy to: PS to RM PS to RRM  
PS to RURM  
SO to Defence Secretary  
PS to Secretary (DP) PS to Secretary (R&D) PS to SS(R)  
FA(DS) FA(Acq)

\*\*\*\*\*

No.470/Dir (Acq)/07  
Government of India  
Ministry of Defence New Delhi

Dated 28th July, 2008

To:

The Chief of Army Staff

The Chief of Naval Staff

The Chief of the Air Staff

Chief of Integrated Staff Committee

**DELEGATION OF FINANCIAL POWERS FOR CAPITAL  
EXPENDITURE**

Sir,

In pursuance to the decision taken by the Defence Acquisition Council (DAC) under the Chairmanship of Raksha Mantri in its meeting held on 9th July, 2008, I am directed to convey the sanction of the President to the enhancement of delegation of financial powers of the Vice chief of Army Staff/Vice Chief of Naval Staff/Deputy Chief of Air Staff/CISC from ₹ 30 Crore to ₹ 50 Crore for sanctioning capital acquisition schemes for procurement of equipment and stores. These powers will be exercised with the concurrence of the integrated Financial Advisers.

2. In respect of cases of Coast Guard the delegation of financial powers to DG Coast Guard will remain ₹ 10 Crore.

3. The guidelines given in Government Order issued vide MoD Order No.470/Dir (Acq)/07 dt. 12th September, 2007 and 5th December, 2007 would continue to be followed in respect of delegation of financial powers to Service Headquarters/CISC/DG Coast Guard.

4. This has the concurrence of MoD (Fin.)A vide their ID No.3114/FA (DS) dated 23 July, 2008.

Yours faithfully,  
(K .K. Kirty)  
Director (Acquisition)

Copy to:

CGDA -20 copies (including an ink signed copy) for circulation

DGADS -5 copies

SO to Defence Secretary

PS to Financial Adviser (Defence Services)

PS to Secretary (Defence Production)

PSs to SA to RM, SS(R), DG (Acq), FA (Acq), AS (N), AS(DP)

All Joint Secretaries in the MoD All Addl FAs & JS in MoD (Fin) All JS & AMs, FM, TMs,

All IFAs in the Service HQrs

ADG (WE), ACNS (P&P), ACAS (Plans)

\*\*\*\*\*

No.25/1/2013-Finance (ND)  
Government of India  
Ministry of Defence  
(Finance/N/Acq)  
New Delhi

Dated 20th March, 2013

To

The Chief of Army Staff  
The Chief of Naval Staff  
The Chief of the Air Staff  
Chief of Integrated Staff Committee

**Sub: Delegation of Financial Powers for Capital Expenditure. (Ref: MoD letter  
No.470/Dir(Acq)/07 dated 28th July, 2008)**

Sir,

In pursuance of the approval accorded by the Cabinet Committee on Security at its meeting held on 10.1.2013 to the proposal of MoD for enhancement of Financial Powers of the Services Headquarters for sanctioning capital acquisition proposals, I am directed to convey the sanction of the President to the enhancement of powers delegated to the VCOAS, VCNS and Deputy Chief of Air Staff, CISC and Director General (Coast Guard) from ₹ 50 Crore to ₹ 150 Crore. These powers will be exercised with the concurrence of the Integrated Financial Advisers.

2. The revised delegation of powers will be effective from 01 April, 2013.
3. The guidelines contained in MoD Order No.470/Dir(Acq)/07 dated 12th September, 2007 and 5th December, 2007 would continue to be followed in accordance with the applicable DPP i.e. DPP-2011. Any consequential changes would be notified separately.
4. This issues with the concurrence of MoD (Fin/MO) ID No.533/Addl. FA (RK)  
Dated 15.03.2013.

Sd/-  
(K.V. Krishna Kumar)  
Deputy Financial Adviser (Navy/Acquisition)

\*\*\*\*\*

**File No. 25(1)/2013-ND**  
Government of India  
Ministry of Defence  
(Finance Division)

South Block, New Delhi  
Dated 28<sup>th</sup> March, 2017

**Subject:- Exercise of financial powers by Finance Minister for sanction of capital acquisition proposals covered in the Services Capital Annual Acquisition Plans.**

Reference is invited to M/o Defence (Finance Division) Order of even No dated 8<sup>th</sup> February, 2017 conveying the approval of Cabinet Committee on Security (CCS) to the proposal of the Ministry of Defence for delegation of financial powers to Defence Secretary, and enhancement of existing delegation of financial powers of Raksha Mantri and Finance Minister for sanction of capital acquisition proposals covered in the Services Capital Annual Acquisition Plans, as follows:-

- (i) Above Rs 150 crore and upto Rs 300 crore - Defence Secretary.
- (ii) Above Rs 300 crore and upto Rs 2000 crore - Raksha Mantri.
- (iii) Above Rs 2000 crore and upto Rs 3000 crore - Finance Minister.
- (iv) Beyond Rs 3000 crore - CCS.

2. Now, since Finance Minister is also holding the additional charge of the Raksha Mantri, it has been decided with the approval of Hon'ble Finance Minister that capital acquisition proposals falling within the delegated financial powers of the Finance Minister, as mentioned above, shall be submitted for approval to the next higher authority i.e. Cabinet Committee on Security (CCS), for the period of dual charge.

The above instructions will come into force with immediate effect.

Sd/ x x x x x  
(K.V. Krishna Kumar)  
Director (Fin/N. Acq)  
Tele No : 2301 6303

**To**

VCOAS, VCNS, VCAS, CISC  
All Additional Secretaries in Ministry of Defence including AS & FA (Acq)  
DG(ICG)  
All Joint Secretaries in the DOD/JS & Addl FAs, FMs, TMs  
JS (Pers), Department of Expenditure, M/o Finance

File No. 20(11)/2015-D(GS-IV)  
Government of India  
Ministry of Defence  
Acquisition Wing (Land System)

South Block, New Delhi  
Dated, the 19<sup>th</sup> February 2019

**Office Memorandum**

Subject: Delegation/enhancement of existing delegation of financial powers or sanction of Capital Acquisition proposals covered in the Services Capital Annual Acquisition Plans.

In modification of MoD(Fin) IDs No. 25(1)/2013-Finance(ND) dated 20.03.2013 and 25(1)/2013-ND dated 08.02.2017, the Cabinet Committee on Security (CCS) has approved the proposal of the Ministry of Defence for enhanced delegation of financial powers to Services HQrs and Defence Secretary for sanction of capital acquisition proposals covered in the Services Capital Annual Acquisition Plans, as follows:-

- (i) Upto Rs 300 Crore - Service Headquarters.  
[to be exercised by VCOAS, VCNS, DCAS, CISC and DG(CG)]
- (ii) Above Rs 300 Crore and upto Rs 500 Crore - Defence Secretary.
- (iii) Above Rs 500 Crore and upto Rs 2000 Crore - Raksha Mantri.
- (iv) \*Above Rs 2000 Crore and upto Rs 3000 Crore - Finance Minister.
- (v) \*Beyond Rs 3000 Crore - CCS.

\*There is no change in the existing financial powers of Finance Minister and CCS.

2. The enhanced financial powers will apply to all capital acquisition cases included only in the Services Capital Annual Acquisition Plans, except indents for Ordnance Factories, where, as per existing practice, approval of the Raksha Mantri would be sufficient. Accordingly, there will be no changes in the existing delegation for Land Acquisition/Works Proposals, Development Projects, Projects of DRDO/DDP.

3. The enhanced delegation of financial powers will come into force with immediate effect.

Sd/ xxx  
(Rajender Kalwani)  
Deputy Secretary to Government of India  
Tele - 23011455

To  
VCOAS, VCNS, VCAS, CISC  
All Additional Secretaries in the Ministry of Defence including AS&FA (Acq)  
DG(ICG)  
All Joint Secretaries in the DoD/JS & Addl FAs, FMs, TMs  
JS(Pers), Department of Expenditure, M/o Finance.



## **DEFENCE OFFSET GUIDELINES**

The provisions in the Defence Procurement Procedure concerning offsets will be implemented as set out in succeeding paragraphs.

### **1. Objective of Defence Offsets**

1.1 The key objective of the Defence Offset Policy is to leverage the capital acquisitions to develop Indian defence industry by (i) fostering development of internationally competitive enterprises, (ii) augmenting capacity for Research, Design and Development related to defence products and services and (iii) encouraging development of synergistic sectors like civil aerospace and internal security.

### **2. Quantum and Scope of Offsets**

2.1 These provisions will apply to all Capital Acquisitions categorised as 'Buy (Global)', i.e. outright purchase from foreign/Indian vendor, or 'Buy and Make' categories of procurements where the estimated cost of the acquisition proposal is ₹ 2000 Crore or more as on the date of accord of AoN. They will apply to Indian firms or their Joint Ventures under "Buy (Global)" procurements as explained in Para 5.10.

2.2 30 percent of the estimated cost of the acquisition in 'Buy (Global)' category acquisitions and 30 percent of the foreign exchange component in 'Buy and Make' categories of procurements will be the required value of the offset obligations. In respect of Shipbuilding cases on competitive basis (Section B, Chapter IV), for the purpose of calculating offset obligation, the total cost shall include basic cost of the vessel, cost of Base and Depot (B&D) spares and the modification cost. Offset obligations may be discharged with reference to eligible products and eligible services as described in **Annexure VI to Appendix D**.

2.3 The DAC may, consider partial or full waiver of offset clause. In case of a waiver for a particular acquisition case, eligible/selected Indian vendors need to be exempted from the corresponding IC stipulation.

2.4 The offset condition will form a part of the RFP and subsequently of the main contract. A separate offset contract will be executed simultaneously with the main contract.

2.5 **These provisions will not apply to** (i) procurements under the Fast Track procedure and (ii) procurements under the 'Option clause' where an offset obligation was not stipulated in the original contract. In respect of procurements under the 'Option clause', where an offset obligation was stipulated in the original contract, the offset guidelines prevailing at the time of signing of the original contract would be applicable.

### **3. Avenues for Discharge of Offset Obligations**

3.1 For the purpose of defence capital acquisitions, offset obligations may be discharged by any one or a combination of the following methods:

- (a) Direct purchase of, or executing export orders for, eligible products manufactured by, or services provided by Indian enterprises, i.e. DPSUs, OFB and private and public sector

Indian enterprises. The list of products and services eligible for discharge of offset obligations is at **Annexure VI to Appendix D**.

(b) Foreign Direct Investment in joint ventures with Indian enterprises (equity investment) for the manufacture and/or maintenance of eligible products and provision of eligible services. Such investment would be subject to the guidelines/licensing requirements stipulated by the Department of Industrial Policy and Promotion(DIPP).

(c) Investment in 'kind' in terms of ToT to Indian enterprises for the manufacture and/or maintenance of eligible products and provision of eligible services. This could be through joint ventures or through the non-equity route for co-production, co-development and production or licensed production of eligible products and eligible services. The investment in kind in terms of ToT must cover all documentation, training and consultancy required for full ToT (civil infrastructure and equipment is excluded). The ToT should be provided without license fee and there should be no restriction on domestic production, sale or export.

(d) Investment in 'kind' in Indian enterprises in terms of provision of equipment through the non-equity route for the manufacture and/or maintenance of eligible products and provision of eligible services (excluding ToT, civil infrastructure and second hand equipment).

(e) Provision of equipment and/or ToT to Government institutions and establishments engaged in the manufacture and/or maintenance of eligible products and provision of eligible services, including DRDO (as distinct from Indian enterprises). This will include augmenting capacity for Research, Design and Development, Training and Education but exclude civil infrastructure.

(f) Technology Acquisition by the DRDO in areas of high technology listed in **Annexure VIII to Appendix-D**.

3.2 Foreign vendors could consider creation of offset programmes in anticipation of future obligations through offset banking as per guidelines in Para 5.8.

#### 4. **Indian Offset Partner (IOP)**

4.1 Indian enterprises and institutions and establishments engaged in the manufacture of eligible products and/or provision of eligible services, including DRDO, are referred to as the Indian Offset partner (IOP).

4.2 The IOP shall, besides any other regulations in force, also comply with the guidelines/licensing requirements stipulated by the DIPP as applicable.

4.3 The OEM/vendor/Tier-I sub-vendor will be free to select the IOP for implementing the offset obligation provided the IOP has not been barred from doing business by the MoD.

4.4 The agreement between the OEM/vendor/Tier-1 sub vendor and the IOP shall be subject to the laws of India.

## **5. Discharge of Offset Obligations**

### **Vendor Responsibility**

5.1 The Vendor of the equipment under the main procurement contract will be responsible for the fulfilment of offset obligations. The Vendor may allow his Tier-1 sub-vendors under the main procurement contract to discharge offset obligations, to the extent of their work share (by value), on behalf of the main/prime vendor. However, overall responsibility and liability for the full discharge of offset obligations shall continue to remain with the main/prime vendor. Any shortfall by the Tier-1 sub-vendor shall be made good by the main/prime vendor, failing which the vendor shall be liable for penalty and debarment as stipulated in the offset guidelines.

### **Period for Discharge**

5.2 Offset obligations are to be discharged within a time frame that can extend beyond the period of the main procurement contract by a maximum period of two years. The period of the main contract includes the period of warranty of the equipment being procured under the main contract.

### **Performance Bond**

5.3 Where the period for discharge of offset obligations exceeds the period of the main procurement contract, the vendor will be required to furnish an additional Performance Bond to Defence Offset Management Wing (DOMW) in the form of a Bank Guarantee covering the full value of the un-discharged offset obligations falling beyond the period of the main procurement contract. This Performance Bond shall be reduced annually, until full extinction, based on the pro rata value of the discharged offset obligation accepted by DOMW. The additional Performance Bond shall be submitted six months prior to expiry of the main Performance-cum-Warranty Bond.

5.4 In cases where the main procurement contract is signed on the basis of an Inter-Governmental Agreement (IGA) under Para 104 of Chapter II (e.g.) through Foreign Military Sales (FMS) by the US Government, but offset contract is signed with the OEM/vendor, the OEM/vendor shall be required to furnish a Performance Bond equal to 5 percent of the offset obligation which is required to be fulfilled during the period of the main procurement contract. An additional Performance Bond would be required in case the period for discharge of offset obligation exceeds the period of the main procurement contract as indicated in Para 5.3 above.

### **Mandatory Offsets**

5.5 A minimum 70 percent of the offset obligation must be discharged by any one or a combination of Paras 3.1(a), (b), (c) and (d).

5.6 Where the discharge of offset obligations is proposed in terms of Para 3.1(d), the vendor will be required to buyback a minimum 40 percent of the eligible product and/or service (by value) within the permissible period for discharge of offset obligations.

### **Offset Credits for ToT**

5.7 Where the discharge of offset obligations is proposed in terms of Para 3.1(c), the offset credit for ToT shall be 10 percent of the value of buyback during the period of the offset contract, to the extent of value addition in India.

## **Offset Banking**

5.8 Pre-approved banked **offset credits** will be considered for discharge of offset obligations subject to a maximum of 50 percent of the total offset obligation under each procurement contract. The banked offset credits shall remain valid for a period of seven years from the date of acceptance by DOMW. Banked offset credits will not be transferable except between the main vendor and his Tier-1 sub-vendors within the same procurement contract. The main vendor will be required to submit a list of such Tier-1 sub-vendors along with the technical and commercial offset proposals. Banking of offset credits shall be permissible only in respect of offsets stipulated in Paras 3.1(a), (b), (c) and (d) of the Defence Offset guidelines. Guidelines for banking offset credits are at **Annexure VII to Appendix D**.

## **Value Addition**

5.9 The concept of value addition will apply only for direct purchase/export of eligible products. Value Addition will be determined by subtracting (i) value of imported components (i.e.) import content in the product and (ii) any fees/royalty paid.

## **'Buy (Global)' Procurements**

5.10 For 'Buy (Global)' category procurements, if an Indian firm including a Joint Venture between an Indian Company and its foreign partner is bidding for the proposal, the clause relating to offset obligation will not be applicable if the IC in the product is 30 percent or more (by value). In case the IC in the product is less than 30 percent, the Indian firm or the Joint Venture has to ensure that offset obligations are fulfilled to the tune of '30%-(minus) IC percentage'(IC is to be declared upfront at the time of submission of bid).

**Note:** IC aspects are as given at Para 6-8 and Appendix A to Chapter I

## **Multiplier for Micro, Small and Medium Enterprises (MSME)**

5.11 In the discharge of offset obligations under Para 3.1(a), (b),(c) and (d), a multiplier of 1.50 will be permitted where Micro, Small and Medium Enterprises are IOPs. For the purpose of offsets, Micro, Small and Medium Enterprises are defined as follows:

- (a) In the case of enterprises engaged in manufacture of goods:
  - (i) A micro enterprise is that where investment in plant and machinery does not exceed ₹ 2.5 million;
  - (ii) A small enterprise is that where investment in plant and machinery is more than ₹ 2.5 million but does not exceed ₹ 50 million; and
  - (iii) A medium enterprise is that where investment in plant and machinery is more than ₹ 50 million but does not exceed ₹ 100 million;
- (b) In the case of enterprises engaged in providing services:
  - (i) A micro enterprise is that where investment in equipment does not exceed ₹ 1 million;
  - (ii) A small enterprise is that where investment in equipment is more than ₹ 1 million but does not exceed ₹ 20 million; and

- (iii) A medium enterprise is that where investment in equipment is more than ₹ 20 million but does not exceed ₹ 50 million.

**Note:** The above monetary limits shall be subject to change as maybe notified by Department of Micro, Small and Medium Enterprises, Government of India from time to time.

### **Multiplier for Technology Acquisition by DRDO**

5.12 In the discharge of offset obligations under Para 3.1(f) relating to technology acquisition by DRDO, a multiplier up to 3 will be permitted. Guidelines for this purpose are at **Annexure IX to Appendix D**. Multipliers for technology acquisition by DRDO will be assigned as under:-

- (i) Multiplier of 2.0 will be applicable when the technology is offered for use by Indian Armed Forces only but without any restriction on the numbers that can be produced.
- (ii) Multiplier of 2.5 will be applicable when the technology is offered for use only in Indian Market but for both military and civil applications and without any restriction on the numbers that can be produced.
- (iii) Multiplier of 3.0 will be applicable when the technology is offered without any restriction and with full and unfettered rights, including right to export.

### **Valuation of Offsets**

5.13 Only Contracts for direct purchase or export of eligible products or services or investments made in eligible products or services after signing of the main procurement contract shall be reckoned for discharging offset obligations. For the purpose of these offset guidelines, the date of discharge of offset obligations under Para 3.1(a) shall be reckoned as the date of invoice or the date of final payment whichever is later. In case of equity investment under Para 3.1(b) or other investments or ToT and Technology Acquisition covered under paras 3.1 (c), (d), (e) and (f), the date of completion of the transaction, based on documentary evidence shall be reckoned as the date of discharge of offset obligation. The value of the offset components for which offset credits are sought would have to be supported by documentary evidence. Only transactions undertaken after signing of the offset contract will be reckoned for discharging offset obligations (excluding Offset Banking).

## **6. Management of Offsets**

### **Acquisition Wing**

6.1 The Acquisition Wing in the Department of Defence will be responsible for (i) technical and commercial evaluation of offset proposals received in response to RFPs and (ii) conclusion of offset contracts.

### **Defence Offsets Management Wing(DOMW)**

6.2 DOMW under the Department of Defence Production will be responsible for formulation of Defence Offset Guidelines and all matters relating to post contract management. The functions of DOMW will include:-

- (a) Formulation of Defence Offset guidelines

- (b) Monitoring the discharge of offset obligations, including audit and review of yearly progress reports received from vendors;
- (c) Participation in Technical and Commercial evaluation of offset proposals as members of TOEC and CNC;
- (d) Implementation of Offset Banking guidelines;
- (e) Administration of penalties under offset contracts in consultation with Acquisition Wing;
- (f) Assisting vendors in interfacing with Indian industry; and
- (g) Other responsibilities assigned under the offset guidelines or entrusted by the Government.

6.3 The DOMW may avail the assistance of any appropriate entity to discharge its functions.

6.4 The DOMW will work in close collaboration with Acquisition Wing for smooth implementation of the Offset guidelines.

## 7. **Submission of Offset proposals**

7.1 Para 45 of Chapter II read with Schedule I to Chapter II prescribes the standard RFP document. Para 10 of the RFP format will apply when offsets are attracted. At the stage of submission of the techno-commercial proposal, the vendor will submit a **written undertaking** in the format at **Annexure I to Appendix D** to the effect that he will meet the offset obligations laid down in the RFP as per the Defence Offset Guidelines. This undertaking will be included in the envelope containing the vendors' technical bid. It will be binding on the vendor and will clearly state that failure on the part of the vendor to comply with the offset guidelines at any stage may result in disqualification of the vendor from any further participation in the tender/contract. It may also result in imposition of penalties indicated in Para 8.13 and render the vendor liable for debarment from participating in future procurement contracts for a period up to five years as indicated in Para 8.14. Failure to submit the undertaking in Annexure I to Appendix D shall render the bid non responsive and liable to be rejected.

7.2 The Technical and Commercial offset proposals have to be submitted by the vendor by a date to be specified in the RFP, which would normally be 12 weeks from the date of submission of the main technical and commercial proposals. Exact date as calculated and given in the RFP or intimated later by the Technical Managers will be binding. The technical and commercial offset proposal should be submitted in two separate sealed covers to the Technical Manager of Acquisition Wing. The Technical Offset proposals and the Commercial Offset proposal should be submitted as per formats at **Annexure II and Annexure III to Appendix D** respectively. The commercial offset proposal must provide details of the business model for proposals relating to Paras 3.1(c) and (d), of the offset guidelines in case offset credits are being sought under these specific provisions. The Technical and Commercial Offset proposal for Technology Acquisition by DRDO under Para 3.1(f) of the Offset Guidelines will be forwarded by the Technical Manager to DRDO. In case any offset credits are claimed under Para 3.1(f) of the Offset Guidelines, the Technical and Commercial Proposals should be submitted in a separate envelope as per format at **Annexure IX to Appendix D**. Failure to submit offset proposals within the stipulated time frame shall render the bid non-responsive and liable to be rejected. The technical and commercial offset proposals will be forwarded by the TM to the concerned SHQs and Acquisition Manager respectively.

## 8. Processing of Offset Proposals

### Technical Evaluation

8.1 The Technical Offset Evaluation Committee (TOEC) will be constituted by the TMs with approval of the DG (Acquisition). The TOEC will include representatives of the SHQ, Def(Fin), DRDO and DOMW. The Committee may also include experts, as may be deemed necessary, with approval of the DG (Acquisition). The TOEC will be chaired by a representative of the SHQs. The Member Secretary shall be nominated by SHQ. The TOEC Report will be forwarded to the TM with approval of the concerned PSO of SHQ. The TMs will process the TOEC report for acceptance by DG (Acquisition).

8.2 The TOEC will scrutinise the technical offset proposals (excluding proposals for Technology Acquisition by DRDO as per Para 8.3) to ensure conformity with the offset guidelines. For this purpose, the vendor may be advised to undertake changes to bring his offset proposals in conformity with the offset guidelines. During TOEC, the vendor is expected to provide details pertaining to IOP wise work share, specific products and supporting documents indicating eligibility of IOPs in addition to conformity with other clauses in the offset guidelines. If the vendor is unable to provide these details at the time of the TOEC, the same may be provided to DOMW either at the time of seeking offset credits or one year prior to discharge of offset obligations through that IOP.

(a) If the vendor submits the required documents at the time of seeking offset credits, DOMW will establish eligibility of IOP, product and offset discharge avenue along with other compliance issues and if found ineligible on any count, penalty will be imposed by treating the transactions as invalid.

(b) If the vendor submits the required documents one year prior to discharge of offset obligations through a particular IOP, the final decision regarding admissibility of proposal shall be intimated by DOMW within three months of receipt of complete documents. If the proposal is found ineligible the vendor incurs the risk of re-phasing with consequent enhancement of 5% in obligations, in case, the annual commitments change due to such ineligibility.

The TOEC will be expected to submit its report within 4-8 weeks of its constitution.

### Technology Acquisition

8.3 Offset Proposals relating to Para 3.1(f) will be assessed by a Technology Acquisition Committee (TAC) to be constituted by the DRDO with the approval of Scientific Advisor to Raksha Mantri. The assessments will cover both technical as well as financial parameters, including valuation of technology and also indicate the time frame and strategy for utilising the technology. The TAC will send its recommendations, duly approved by SA to RM, to the TM within a period of 4-8 weeks of its constitution, for incorporation in the TOEC Report. Guidelines for processing Technology Acquisition proposals are at **Annexure IX to Appendix D**.

### Commercial Evaluation

8.4 The Commercial Offset Offer will contain the detailed offer specifying the value of the total offset commitment components, with a breakdown of the details, phasing, IOPs and banked offset credits if any proposed to be utilised. The commercial offset offer will be opened along with the main commercial offer after the TOEC report has been accepted by the DG (Acquisition). The commercial offset offer will have no bearing on determination of the L-1 vendor.

8.5 The CNC for the main procurement case will verify that the Commercial Offset Offer meets the stipulated offset obligations. Only the commercial offset offer of the L-1 vendor in the main procurement proposal will be evaluated by the CNC. The L-1 vendor may amend the commercial offset offer at this stage, to align the proposal with the technical offset proposal, if required. For evaluation of the commercial offset proposals, the CNC will include a representative of DOMW as member. Representatives of DRDO, DPSUs, OFB or other Government institutions will be co-opted as members, as required, with approval of the DG (Acq). The commercial valuation of Technology Acquisition by TAC (refer Para 8.3) will be incorporated in the CNC Report.

#### **Approval Authority**

8.6 All Offset proposals will be processed by the Acquisition Manager and approved by Raksha Mantri, regardless of their value. Offset proposals will also be incorporated in the note seeking approval of Competent Financial Authority (CFA) for the main procurement proposal for information of the CFA. The offset contract will be signed by the Acquisition Manager after the main procurement proposal has been approved by the CFA. Signed copies of the offset contract will be made available to DOMW.

#### **Model Offset Contract**

8.7 A model Offset Contract is at **Annexure IV to Appendix D**. It may be varied depending on the facts and circumstances of each case. However, any deviation from the standard terms considered necessary by the CNC should be highlighted by the Acquisition Manager while seeking approval of the Raksha Mantri. The offset contract shall be subject to the laws of India.

#### **Six Monthly Reports**

8.8 The vendor shall submit six monthly reports in the format in **Annexure V to Appendix D** to the DOMW. DOMW may conduct an audit by a nominated officer or agency to verify the actual status of implementation.

#### **Assignment of Offset Credits**

8.9 Offset credits shall be assigned by DOMW after scrutiny of six monthly reports.

#### **Re-phasing of Offset Obligations**

8.10 A vendor may, giving reasons, request re-phasing of the offset obligations within the period of the offset contract. JS(DOMW) may allow the request, if justified, with the approval of Secretary (Defence Production). Re-phasing will not be permitted beyond the period stipulated in Para 5.2 of the guidelines.

#### **Change in IOP or Offset Component**

8.11 DOMW may recommend change in offset partner or offset component on being convinced that the change is necessary to enable the vendor to fulfil offset obligations. Any change in IOP/offset component of a Tier-1 sub-vendor will have to be forwarded to DOMW through the main/prime vendor. The overall value of offset obligations shall, however, remain unchanged. Any change in the IOP and offset component shall be approved by the Secretary (Defence Production).



### **Offset Contract Amendment**

8.12 Any amendments to the offset contract due to changes in Paras 8.10 and 8.11 shall be incorporated by the JS(DOMW) in the offset contract through a Supplementary Contract. JS(DOMW) shall intimate such changes to the concerned Acquisition Manager immediately after they have been approved.

### **Penalties**

8.13 If a vendor fails to fulfil the offset obligation in a particular year in accordance with the annual phasing as agreed in the offset contract, a penalty equivalent to five percent of the unfulfilled offset obligation will be levied on the vendor. The unfulfilled offset value will thereafter be re-phased over the remaining period of the offset contract. The penalty may either be paid by the vendor or recovered from the bank guarantee of the main procurement contract or deducted from the amount payable under the main procurement contract or recovered from the Performance Bond of the offset contract. The overall cap on penalty will be 20 percent of the total offset obligation during the period of the main procurement contract. There will be no cap on penalty for failure to implement offset obligations during the period beyond the main procurement contract. The penalties will be administered by DOMW in consultation with Acquisition Wing, as required.

### **Debarment**

8.14 Any vendor failing to implement the offset obligations will be liable for action under Para 93 of Chapter II.

### **Clarifications**

8.15 Any clarifications relating to offset proposals at the pre-contract stage will be provided by the Acquisition Wing in consultation with DOMW as required. Any clarifications at the post-contract stage will be provided by DOMW in consultation with Acquisition Wing as required.

8.16 Any differences or disputes with vendors will be settled through discussion. The decision of the Acquisition Wing and of the DOMW in respect of matters relating to offsets within their respective jurisdiction shall be final.

### **Annual Reporting to the Defence Acquisition Council**

8.17 The Acquisition Wing will submit an annual report to the DAC in June each year regarding the details of offset contracts signed during the previous financial year. DOMW will also submit an annual report to the DAC in June each year regarding the status of implementation of all ongoing offset contracts during the previous financial year.

### **Miscellaneous Provisions**

8.18 It is clarified that any general term/clause that is not included in the offset contract but is included in the main procurement contract (e.g. Force Majeure, Arbitration, jurisdiction of Indian Courts, use of undue influence, Agents etc.) would ipso facto apply to the offset contract.

8.19 Defence Offset Guidelines will apply in harmony with and not in derogation of any rules and regulations stipulated by various agencies of the Government of India, including DIPP, DG Foreign Trade and Ministry of Finance, etc.

8.20 These Defence Offset Guidelines shall come into force with effect from 01 Apr 2016.

\*\*\*\*\*

**UNDERTAKING TO COMPLY WITH OFFSET OBLIGATIONS**

1. The Bidder -----( name of the company) hereby
  - (a) Undertakes to fulfil the offset obligation as stipulated in the Request for Proposal and Defence Offset guidelines at Appendix-D to Chapter-II of DPP.
  - (b) Undertakes to ensure timely adherence to fulfilment of offset obligations failing which the vendor will be liable for penalties as per the Defence Offset Guidelines.
  - (c) Accepts that any failure on the part of the vendor to meet offset obligations may result in action under Para 93 of Chapter II.
  - (d) Undertakes to furnish technical and commercial offset proposals as per formats at Annexure II and III of Appendix-D within the time period stipulated in the RFP.

**Note:** *Failure to submit the Undertaking along with the main Technical Bid shall render the bid non-responsive and liable to be rejected.*

\*\*\*\*\*

**Annexure II to Appendix D**  
(Refer to Para 7.2 of Appendix D)

**FORMAT FOR SUBMITTING TECHNICAL OFFSET OFFER**

1. The bidder .....hereby offers the following offsets in compliance with the technical offset obligations in the RFP: -

SI No	Eligible Offset Products/Services Being Offered	Avenue for discharge (quote sub Para of 3.1)	Multiplier applicable (quote applicable Para)	Percentage of Total Offsets	IOP/agency for discharge	Time Frame for Discharge of Offsets	Whether Main Equipment Being Supplied (Yes/No)	Remarks
1								
2								

**Note:** Vendor to provide following along with technical offset offer: -

- (a) Undertaking that IOP is an eligible offset partner as per applicable guidelines.
- (b) Company profile of IOP/agency.
- (c) Details with quantities of the proposed offset.
- (d) Letter of IOP/agency confirming acceptance of the offset project in case of direct purchase or investment.
- (e) In case banked offsets are planned to be utilised, their details certified by DOMW.
- (f) List of Tier-1 sub-contractors, if any, through whom offset obligations are proposed to be discharged, with percentage of discharge.
- (g) Proposals for Technology Acquisition by DRDO under Para 3.1(f) of Appendix D should be submitted separately in the format at Annexure IX to Appendix D.

\*\*\*\*

**Annexure III to appendix D**  
(Refer to Para 7.2. of Appendix-D)

**FORMAT FOR SUBMITTING COMMERCIAL OFFSET OFFER**

1. The bidder .....hereby offers the following offsets in compliance with the commercial offset obligations:

Sl No	Eligible Offset Products/Services Offered	Avenue for Discharge (quote Sub Para of 3.1)	Multiplier Applicable (quote applicable Para)	Percentage of Total Offsets	Value of Offset	IOP/Agency for Discharge	Time Frame for Discharge of Offsets	Whether Related To Main Equipment Supplied (Yes/No)	Remarks
1									
2									

**Note:** Vendor to provide following along with commercial offset offer: -

- (a) Undertaking that IOP is an eligible offset partner as per applicable guidelines.
  - (b) Company profile of IOP/agency.
  - (c) Details with values of the proposed offset, including details of Tier-1 sub-contractors, if any.
  - (d) Letter of IOP/agency confirming acceptance of the offset project in case of direct purchase or investment.
  - (e) In case banked offsets are planned to be utilised, their details certified by DOMW.
  - (f) Value of investment “in kind” supported by documentary evidence.
  - (g) Details of the business model for proposals relating to Para 3.1(c) and (d) of the offset guidelines at Appendix D to Chapter II should be indicated, as applicable
2. This annexure will also be used by the vendor to submit proposals for banking of offsets (Para 2 of Annexure VII of Appendix-D). In such cases Note (e) above will not be applicable.

\*\*\*\*\*

**OFFSET CONTRACT**

Contract No. \_\_\_\_\_ Dated \_\_\_\_\_

This Offset Contract entered into this day of \_\_\_\_\_ hereinafter referred to as the “Effective Date”, is by and between

(a) The President of India represented by the Joint Secretary and Acquisition Manager (Land Systems/Maritime Systems/Air) Ministry of Defence, Government of India, New Delhi, hereinafter referred to as the “Buyer” on the one part and

(b) M/s (Name of the Vendor) duly represented by \_\_\_\_\_ and incorporated under the laws of \_\_\_\_\_ having its registered office at \_\_\_\_\_ hereinafter referred to as “Seller” on the other part.

Whereas, the Seller has been awarded a Contract, Contract Number \_\_\_\_\_ dated \_\_\_\_\_ for the Project titled \_\_\_\_\_, and the Procurement Contract stipulates a total amount of \_\_\_\_\_ to be paid by the Ministry of Defence, Government of India for the provision of the seller’s goods and/or services and

The Seller clearly understands and agrees to the Offset Clause given in the RFP and the Defence Offset Guidelines at Appendix D of Chapter II of the DPP, referred to as the Defence Offset guidelines.

Now, therefore, the Buyer and the Seller agree as follows:-

- (1) The Seller understands and agrees that the Procurement Contract No \_\_\_\_\_ dated \_\_\_\_\_ is subject to the fulfilment of the offset obligations laid down in the RFP. The total amount of this Offset Obligation is \_\_\_\_\_ which is (specified) percent (# %) of the supply contract value.
- (2) In the event that the Procurement contract value is increased or reduced, the Seller’s Offset Obligation shall be adjusted proportionately.
- (3) The Offset start date applicable to the Offset Obligations hereunder shall be the effective date of Procurement contract number \_\_\_\_\_ dated \_\_\_\_\_.
- (4) The Seller agrees and promises to discharge its Offset Obligations in accordance with the Offset Schedule attached to this contract. The Offset Schedule may not be changed or amended in any way without the prior written agreement of the Defence Offsets Management Wing (DOMW).
- (5) Within ninety (90) calendar days from the Effective Date of this contract, the Seller shall, in writing, provide the DOMW, Department of Defence Production, with a copy of the offset programme contracts entered into with Indian offset partners and a list of the Company’s official contact persons for all matters related to this agreement and the performance of the Seller’s Offset Obligation. The list shall specify the name, mailing address, street address, telephone and facsimile numbers of the official contact and shall be limited to three (3) official contacts. Any and all communications and correspondence by the DOMW with any of the said

official contacts shall be deemed as if by the Ministry of Defence with the Seller.

(6) In the event of force majeure, representative of the DOMW and the Seller's representative will meet to assess progress under the programme prior to the date of the force majeure event and determine a mutually agreeable manner and schedule for fulfilment of the Seller's remaining Offset obligations.

(7) This Contract and any and all matters relating to the fulfilment of the Seller's Offset Obligations and performance under the programme, shall be interpreted and be subject to the Laws of the Republic of India.

(8) The provisions in the main Procurement Contract No. \_\_\_\_\_ dated regarding arbitration will be applicable to the offset contract.

(9) It is clarified that any general term/clause that is not included in the offset contract but is included in the main Procurement contract (e.g. Force Majeure, jurisdiction of Indian Courts, use of undue influence, Agents etc.) would ipso facto apply to the offset contract.

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**SIX MONTHLY REPORT ON FULFILMENT OF OFFSET OBLIGATIONS**

**REPORT FOR HALF YEAR ENDING 31ST DECEMBER/30TH JUNE (TO BE  
RENDERED BY 30TH JANUARY AND 30TH JULY OF EACH CALENDAR YEAR)**

1. MAIN CONTRACT NO AND EFFECTIVE DATE \_\_\_\_\_
2. BANKING PROJECT ID NO (In case of banking) \_\_\_\_\_
3. INDIAN OFFSET PARTNER \_\_\_\_\_
4. OFFSET CONTRACT NUMBER (not required in case of banking) \_\_\_\_\_
5. PRODUCT NUMBER AND NAME \_\_\_\_\_
6. SCHEDULE OF OFFSET OBLIGATIONS AND FULFILMENT

No	Eligible Products/ Services Offered	Value of Offset Committed	Date by Which to be Fulfilled (4)	Actual Value fulfilled by reporting date (5)	Remarks including penalties, if any (6)
(1)	(2)	(3)			

7. Explanatory notes, if any
8. Supporting enclosures with respect to column 5 above for actual value fulfilled.
9. Utilisation of Banked Offset credits, if any, shall be specifically indicated under column 5.
10. Value of investment “in kind” must be supported by documentary evidence.
11. In respect of Technology Acquisition proposals under Para 3.1(f) of Defence Offset Guidelines, copy of this report may also be sent to DIITM/DRDO.

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**LIST OF PRODUCTS AND SERVICES ELIGIBLE FOR DISCHARGE  
OF OFFSET OBLIGATIONS**

**1. Defence Products**

- (a) Small arms, mortars, cannons, guns, howitzers, anti tank weapons and their ammunition including fuzes.
- (b) Bombs, torpedoes, rockets, missiles, other explosive devices and charges, related equipment and accessories specially designed for military use, equipment specially designed for handling, control, operation, jamming and detection.
- (c) Energetic materials, explosives, propellants and pyrotechnics.
- (d) Tracked and wheeled armoured vehicles, vehicles with ballistic protection designed for military applications, armoured or protective equipment.
- (e) Vessels of war, special naval systems, equipment and accessories to include following: -
  - (i) Design, manufacture or upgrade of weapons, sensors, armaments, propulsion systems, machinery control systems, navigation equipment/instruments other marine equipment and hull forms of warships, submarines, auxiliaries.
  - (ii) Facilities and equipment required for testing, certification, qualification and calibration of hull forms, platform, propulsion and machinery control systems, weapons sensors and related equipment including enhancement of stealth features and EMI/EMC studies for warships, submarines and auxiliaries.
  - (iii) Software specially designed, developed and modified for design of all types of warships, submarines and auxiliaries or their hull forms.
  - (iv) Setting up of maintenance and repair facility for equipment/weapons and sensors and other marine systems including related technical civil works.
- (f) Aircraft, unmanned airborne vehicles, aero engines and aircraft equipment, related equipment specially designed or modified for military use, parachutes and related equipment.
- (g) Electronics and communication equipment specially designed for military use such as electronic counter measure and counter measure equipment surveillance and monitoring, data processing and signalling, guidance and navigation equipment, imaging equipment and night vision devices, sensors.
- (h) Specialised equipment for military training or for simulating military scenarios, specially designed simulators for use of armaments and trainers and training aids viz. Simulators, associated equipment, software and computer based training modules.

- (i) Forgings, castings and other unfinished products which are specially designed for products for military applications and troop comfort equipment.
- (j) Miscellaneous equipment and materials designed for military applications, specially designed environmental test facilities and equipment for the certification, qualification, testing or production of the above products.
- (k) Software specially designed or modified for the development, production or use of above items. This includes software specially designed for modelling, simulation or evaluation of military weapon systems, modelling or simulating military operation scenarios and Command, Communications, Control, Computer and Intelligence (C4I) applications.
- (l) High velocity kinetic energy weapon systems and related equipment.
- (m) Direct energy weapon systems, related or counter measure equipment, super conductive equipment and specially designed for components and accessories.

## 2. **Products for Inland/Coastal Security**

- (a) Arms and their ammunition including all types of close quarter weapons.
- (b) Specialised Protective Equipment for Security personnel including body armour and helmets.
- (c) Vehicles for internal security purposes including armoured vehicles, bullet proof vehicles and mine protected vehicles.
- (c) Riot control equipment and protective as well as riot control vehicles.
- (e) Specialised equipment for surveillance including hand held devices and unmanned aerial vehicles.
- (f) Equipment and devices for night fighting capability including night vision devices.
- (g) Navigational and communications equipment including secure communications.
- (h) Specialised counter terrorism equipment and gear, assault platforms, detection devices, breaching gear etc.
- (i) Specialised equipment for Harbour Security and Coastal Defence including seabed/maritime surveillance sensor chains, sonars, radars, optical devices, AIS.
- (j) Vessel Traffic Management Systems (VTMS/VATMS) and appropriate vessels/crafts/boats.
- (k) Miscellaneous maritime equipment for undertaking investigations, Boarding, Search and Seizure of ships/vessels.
- (l) Software specially designed, developed and modified for all types of Coastal and Maritime security domain awareness, operations and data exchange.

(m) Training Aids viz simulators, associated equipment, software and computer based training modules.

3. **Civil Aerospace Products**

(a) Design, Development, Manufacture and Upgrade of all types of fixed wing and rotary wing aircraft or their airframes, aero engines, avionics, instruments and related components.

(b) Composites, forgings and castings for the products.

(c) Training Aids viz. Simulators, associated equipment, software and computer based training modules.

(d) Guidance and Navigation equipment.

(e) Test facilities and equipment required for testing, certification, qualification and calibration of the above products.

(f) Software specially designed, developed or modified for the above products.

4. **Services (Related to Eligible Products)**

(a) Maintenance, repair and overhaul.

(b) Up gradation/life extension.

(c) Engineering, design and testing.\*

(d) Software development.\*

(e) Research and Development services (from government recognised R&D facilities).

\* For services at serial 4 (c) and (d) above, a capping at 20 % of the total offset obligation with provision of Random Audit to verify the value of offset contracts and additional requirement of CMMi (Capability Maturity Model Integration) certification of minimum 4 and above category for the IOPs where discharge is envisaged above 5% of offset obligation.

**Note:** *Investment in civil infrastructure is excluded from the list of eligible products and services, unless specifically indicated.*

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**GUIDELINES FOR OFFSET BANKING**

1. Banking of offset credits shall be permissible only in respect of offsets stipulated in Para 3.1 (a), (b), (c) and (d) of Appendix D.
2. The proposals for banking of offsets will be submitted to DOMW by the vendor in the format at Annexure III to Appendix D. The vendor shall be required to apply for banking offset credits within one year of completion of the transaction.
3. A unique Project Identification Number will be allotted to each proposal by DOMW.
4. Banked offset credits are non-transferable except between the main contractor and his Tier-I sub- contractors within the same procurement contract.
5. Offset credits will be assigned for banking of offsets only after completion of the transaction. Date of completion of transaction will be the date of invoice or the date of payment whichever is later, in case of purchase of goods/services; date of financial transaction in case of equity investment; and date of commissioning of equipment/technology in India in case of investment “in kind” supported by documentary evidence. Banked offsets will be credited based on the foreign exchange value at the time of completion of the transaction.
6. Banked offset credits will be valid for a period of seven years from the date of acceptance by DOMW.
7. If a vendor is able to create more offsets than his obligation under a particular contract, the surplus offset credits can be banked and would remain valid for a period of seven years from the time surplus credits are recognised and accepted by DOMW.
8. Applications for banking of offset credits shall normally be disposed off by DOMW within 8 weeks.

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**LIST OF CRITICAL DEFENCE TECHNOLOGY AREAS AND TEST FACILITIES FOR ACQUISITION BY DRDO THROUGH OFFSETS**

**(To be reviewed periodically)**

**Critical Technology Areas\***

- MEMs based sensors, actuators, RF devices, Focal Plane arrays.
- Nano Technology based sensors & displays.
- Miniature SAR & ISAR technologies.
- Fiber Lasers Technology.
- EM Rail Gun technology.
- Shared and conformal Apertures.
- High efficiency flexible Solar Cells technology.
- Super Cavitations technology.
- Molecularly Imprinted Polymers.
- Technologies for Hypersonic flights (Propulsion, Aerodynamics and Structures).
- Low Observable technologies.
- Technologies for generating High Power Lasers.
- High Strength, High Modulus, Carbon Fibers, Mesophase pitch-based fiber, Carbon Fiber production facility.
- Pulse Power network technologies.
- THZ technologies.
- Surface Coated Double Base (SCDB) Propellant
- FSAPDS Technologies.
- HESH Ammunition technologies.
- Muzzle Reference System.
- Composite sabot manufacturing technology.
- MET projectiles.
- Titanium casting, forging, fabrication and machining.
- Precision Guided munitions.
- Shock Hardened Sensors.
- Gun Barrel Technologies.
- Advanced Recoil system

❖ Auth. DRDO letter No DRDO/DISB/Offset Technology/2013 dated 07 Jun 2013.

\*Visit DRDO website ([www.drdo.org](http://www.drdo.org)) for more details.

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**GUIDELINES FOR TECHNOLOGY ACQUISITION**

1. Technology Acquisition (TA) proposals are a valid method for discharge of offset obligations under Para 3.1(f) of Appendix-D.
2. All offset proposals will be submitted by the vendors to the concerned Technical Manager in Acquisition Wing as per Para 7.2 of the Defence Offset guidelines. Proposals submitted under Para 3.1(f) of Appendix-D will be clearly indicated by the OEM and submitted in a separate envelope in the format appended to this Annexure.
3. The Directorate of Industry Interface and Technology Management (DIITM) in the DRDO will be the nodal agency for all matters related to Technology Acquisition by DRDO. All TA proposals will be forwarded by the Technical Manager to the DIITM/DRDO. Each proposal under this category will be given a unique identification number by DIITM/DRDO prefixed by “TA” to indicate Technology Acquisition.
4. DRDO will establish a Technology Acquisition Committee to be serviced by DIITM. The TAC will be a multi-disciplinary technology evaluation committee, comprising domain experts from the concerned laboratories, other national S&T laboratories, Service Headquarters, HQ IDS, members from academia and research institutions, Additional Financial Adviser (DRDO) and other organisations as deemed necessary, specific to each proposal received. TAC could seek the services of professional bodies for valuation of technology, if required.
5. TAC will process cases acceptable as valid offset proposals after initial screening. If the TAC in its assessment feels that the technology so indicated is already available and/or is of no further use by the DRDO, it may reject the proposal and intimate the Technical Manager. Recommendations of TAC will be incorporated in the TOEC report under Para 8.1 of the Offset Guidelines.
6. The TAC may call for a presentation and detailed technical discussions with the OEM/vendor to understand various aspects of the proposal. Where necessary, the TAC may visit the vendors’ premises to make an assessment of the technology offered.
7. TAC will make its recommendations based on viability of the proposal, the technology implications, options for availability of the technology, range and depth of acquisition indicated, absorption capability in the country, status of IP before, on and after acquisition and a fair assessment of the cost of technology. The TAC will recommend a multiplier up to 3, with detailed justification, as indicated in Para 5.12 of the Offset guidelines.
8. Recommendations of TAC will include the following:-
  - (i) Merits of the Technology Acquisition proposal, including time frame for absorption, with phasing.
  - (ii) Value of offset credits to be assigned for the proposal with detailed justification.
  - (iii) Indicate the time frame, modalities and potential for utilisation of the technology.

9. Offset credits will be assigned by DOMW after completion of TA, as certified by DRDO.
10. TAC will forward its recommendations to the Technical Manager after approval by SA to RM within a period of 4-8 weeks of its constitution.

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**FORMAT FOR SUBMISSION OF**  
**TECHNOLOGY ACQUISITION PROPOSALS**

The format for submission of Technology Acquisition proposals should address the following aspects:

- The proposal should clearly state that it is under Technology Acquisition category.
- Background of the proposal.
- Technology offered with key elements of technology indicated.
- Components of technology and the nature of transfer.
- Basic infrastructure required for absorption including technical manpower.
- Patents held and status of IPs.
- Development status and contemporary nature of the technology.
- Status of requisite government approvals.
- Present use of said technology in home country and its Armed Forces.
- Possible applications.
- Offset credits claimed.
- Any other relevant aspect.

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**DRAFT FORMAT: NATURE/SCOPE OF INFORMATION REGARDING CASES  
WHICH ARE RECOMMENDED TO BE PLACED ON MoD WEBSITE**

*(THIS IS A STANDARDISED FORMAT FOR GUIDELINES. IT MAY BE VARIED DEPENDING ON USER REQUIREMENTS, TYPE/COMPLEXITY OF EQUIPMENT/MACHINERY/TEST EQUIPMENT AND OPERATIONAL IMPERATIVES. SHQ MAY ALTER IT AS PER THEIR SERVICE REQUIREMENTS)*

1. The Ministry of Defence, Government of India, intends to procure .....  
(generic nomenclature of equipment and approximate quantity).
2. This Request for Response (RFR) consists of two parts as indicated below:-
  - (a) **Part I.** The first part of the RFR incorporates operational characteristics and features that should be met by the equipment. Few important technical parameters of the proposed equipment are also mentioned.
  - (b) **Part II.** The second part of the RFR states the methodology of seeking response of vendors. Submission of incomplete response format will render the vendor liable for rejection.

**PART-I**

- 3 **The Intended Use of Equipment (Operational Requirements).** To be decided by SHQ keeping in view security considerations.
4. **Important Technical Parameters.** To be decided by SHQ keeping in view security considerations.
5. Vendors should confirm that following conditions are acceptable:-
  - (a) The solicitation of offers will be as per 'Single Stage-Two Bid System'. It would imply that a 'Request for Proposal' would be issued soliciting the technical and commercial offers together, but in two separate sealed envelopes. The validity of commercial offers would be at least 18 months from the date of submitting of offers.
  - (b) The technical offers would be evaluated by a Technical Evaluation Committee (TEC) to check its compliance with RFP.
  - (c) The equipment of all TEC cleared vendors would be put through a trial evaluation in India on a 'No Cost No Commitment' basis. A staff evaluation would be carried out by SHQ to analyse the result of field evaluation and shortlist the equipment for introduction into service.
  - (d) Amongst the vendors cleared by GS evaluation, a Contract Negotiations Committee would decide the lowest cost bidder (L1) and conclude the appropriate contract.

(e) Vendor would be bound to provide product support for time period specified in the RFP, which includes spares and maintenance tools/jigs/fixtures for field and component level repairs.

(f) The vendor would be required to accept the general conditions of contract given in the Standard Contract Document at Chapter VII of DPP placed on www.mod.nic.in.

(g) **Offset (if applicable)**. The vendor has to undertake offset contracts amounting to \_\_\_\_% of the value of commercial proposals (**Refer Appendix D to Chapter II**).

(j) **Integrity Pact (if applicable)**. An integrity pact along with appropriate IPBG is a mandatory requirement in the instant case (**Refer Annexure I to Appendix M of Schedule I**).

(k) **Performance-cum-Warranty Bond**. Performance-cum-Warranty Bond both equal to 5% value of the contract is required to be submitted after signing of contract.

(l) **ToT (if applicable)**. GOI is desirous of license production of equipment after acquiring ToT in the case.

## **PART-II**

### **6. Procedure for Response**

(a) Vendors must fill the form of response as given in **Appendix B to Chapter II**. Apart from filling details about company, details about the exact product meeting other generic technical specifications should also be carefully filled. Additional literature on the product can also be attached with the form.

(b) The filled form should be dispatched at under mentioned address (concerned Technical Manager):-

\_\_\_\_\_  
\_\_\_\_\_

Fax:

Email ID:

(c) Last date of acceptance of filled form is \_\_\_\_\_(to be decided by SHQ). The vendors short listed for issue of RFP would be intimated.

7. The Government of India invites responses to this request only from Original Equipment Manufacturers (OEM)/Authorised Vendors/Government Sponsored Export Agencies (applicable in the case of countries where domestic laws do not permit direct export by OEMs). The end user of the equipment is the Indian Armed Forces (name of user service).

8. This information is being issued with no financial commitment and the Ministry of Defence reserves the right to change or vary any part thereof at any stage. The Government of India also reserves the right to withdraw it should it be so necessary at any stage. The acquisition process would be carried out under the provisions of DPP.

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**“GUIDELINES TO BE FOLLOWED WHEN CHANGE OF NAME OF VENDOR IS INVOLVED WHILE PARTICIPATING IN THE PROCUREMENT PROCESS”**

1. Whenever, the vendor participating in the defence procurement process, initiates the process for change of name with corporate regulatory authorities, due to change in business strategy, merger/acquisition or any other reason resulting in losing its original legal identity, it must inform the MoD/User Directorate at the earliest about its intent to change name on its official letter head signed by the authorised representative. If, at any stage of the defence procurement phase, approval of merger/amalgamation/acquisition is granted by courts/regulatory authorities, resulting in change of name, then the vendor should submit self authenticated relevant documents such as new certificate of incorporation issued by an appropriate Registrar of Companies (ROC) along with Novation Agreement, an undertaking by the new company whose format is given at Annexure to this Appendix, at the earliest after grant of approval by ROC. If any foreign company is involved in the ‘merger and acquisition’ and if documents are in languages other than English, then a self-certified/official/legal translation of the document along with the original as well as RBI approval should also be submitted. **The onus of submitting all relevant, self-authenticated, authentic documents lies with the vendor affected.**

2. User Directorate/MoD shall process the change of name of vendor case for consent of the approving authority concerned. On grant of consent, vendor would be informed and he would have to submit new Pre-Contract Integrity Pact (PCIP), Integrity Pact Bank Guarantee (IPBG) and any other applicable financial instruments/documents bearing the new entity name.

**Approving Authorities for the Change of Name of Vendor while Participating in the Procurement Process**

3. The approving authorities for change of name of vendor in all cases will be as follows:-

(a) **Pre-Contract Stage.** Case is to be processed by SHQ. Consent is to be given by DG (Acq) for schemes granted AoN by DPB/DAC and VCOAS/VCNS/DCAS/CISC/DG ICG for schemes granted AoN by SCAPCHC (i.e. for all schemes under delegated powers).<sup>6</sup>

(b) **Post-Contract Stage.** The case has to be processed by SHQ/Acquisition Wing for consent of Raksha Mantri or VCOAS/VCNS/DCAS/CISC/DG ICG (in case of delegated power cases). On obtaining consent, a corrigendum to the sanction letter reflecting the change in name of vendor is to be issued.

**Checklist for Vendor**

4. Whenever the company applies to the regulatory authorities for ‘change of name of company’, it must inform User Dte/MoD through a letter about proposed change of name and reason for the same.

5. When change of name is approved by regulatory authorities, the following documents must be submitted to User Dte/MoD at the earliest:-

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<sup>6</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Pt. II dated 11.01.2018

(a) **Before Submission of Response to RFP**

- (i) Information Proforma for Vendors as given at **Appendix B to Chapter II** of DPP.
- (ii) New certificate of incorporation issued by the appropriate Registrar of Companies in case of Indian vendors or an equivalent organisation in country from where new entity would be operating in case of foreign company.
- (iii) Copy of RBI Approval in case of merger/acquisition between Indian and foreign company(s).

(b) **If Response To RFP Submitted Or The Contract Has Been Signed**

- (i) Information Proforma for Vendors as given at **Appendix B to Chapter II** of DPP.
- (ii) New certificate of incorporation issued by the appropriate Registrar of Companies in case of Indian vendors or an equivalent organisation in country from where new entity would be operating in case of foreign company.
- (iii) Copy of RBI Approval in case of merger/acquisition between Indian and foreign company(s).
- (iv) Undertaking/Novation agreement by new company (as per the format given at **Annexure to Appendix F to Chapter II** )

6. On grant of consent to the case of change of name by the User Dte/MoD, the following documents bearing the new entity name will be submitted by vendor:-

- (a) New Pre-Contract Integrity Pact (PCIP)
- (b) Integrity Pact Bank Guarantee (IPBG)
- (c) Advance Bank Guarantee/Bank Guarantee and
- (d) Any other applicable financial instruments/documents bearing the new entity name.

7. In case the documents are in languages other than English then a self-certified/official/legal translation of original documents must be submitted.

**Steps To Be Followed By User Directorate/MoD**

8. Whenever the Company informs of its intent to change of name, the name will be flagged in the vendor database as it has to submit subsequently, the documentary approvals by regulatory authorities.

9. If the vendor is participating in the procurement process, notwithstanding the vendor's ongoing process of change of name, the procurement process shall continue.

10. Ascertain that vendor has submitted all documents mentioned para 5, as applicable, are self authenticated by the authorised representative of the vendor.

11. Process the 'change of name case' for ***obtaining consent*** of Raksha Mantri or DG (Acq) or VCOAS/VCNS/DCAS/CISC/DG ICG as applicable.
12. Once the consent is granted inform vendor and solicit additional documents as mentioned in Para 6. Case be monitored till all documents, as applicable are submitted by vendor.
13. All cases involving change of name of vendor not covered by these guidelines shall be brought to the DAC through DPB for consideration.

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**Note:** *If change of name is due to rectification or due to change of business strategy, the terms Transferor and Transferee will be replaced by Old name and new name respectively and all applicable paragraphs will only be included.*

**FORMAT FOR UNDERTAKING OR NOVATION AGREEMENT FOR NEW ENTITY**

The \_\_\_\_\_ (Transferor), a company duly organised and existing under the laws of India with its principal office in \_\_\_\_\_ (Address) with ROC Number\* \_\_\_\_\_, The \_\_\_\_\_ (Transferee) a company duly organised and existing under the laws of India with its principal office in \_\_\_\_\_ (Address) with ROC Number\* \_\_\_\_\_ and the President of India represented by Joint Secretary and Acquisition Manager (Land Systems/Air/Maritime Systems), Ministry of Defence, Government of India, South Block, New Delhi hereafter referred to as BUYER enter into this Agreement as of \_\_\_\_\_ *[insert the date of transfer of assets became effective under applicable law]*

\* **Note:** *A unique company identification number issued by Registrar of Companies or an equivalent regulatory authority in case of foreign company.*

1. The parties agree to the following facts:-
  - (a) The BUYER has entered into a contract \_\_\_\_\_ *[insert the contract identifications]* with the Transferor/The transferor has submitted response to the RFP \_\_\_\_\_ *[insert the RFP identifications]*
  - (b) As of \_\_\_\_\_ (date) the Transferor has transferred to the Transferee all the assets to the Transferor by virtue of \_\_\_\_\_ *[Insert term descriptive of legal transaction involved]* between the Transferor and the Transferee.
  - (c) The Transferee has acquired the assets of the Transferor in respect of Contract/Response to the RFP.
  - (d) The Transferee has assumed all obligations and liabilities of the Transferor under the contract/response to the RFP by the virtue of above transfer.
  - (e) The Transferee is in a position to fully perform all the obligations that may exist under the contract/response to the RFP.
  - (f) Evidence of the above transfer has been filed with the BUYER.
2. In consideration of the above mentioned facts, the parties agree that this Agreement:-
  - (a) The Transferor confirms the transfer to the Transferee and waives any claims and rights against the BUYER that it now has or may have in future in connection with contract/response to the RFP.
  - (b) The Transferee agrees to be bound by and to perform each item/Article in the contract/response to the RFP in accordance with the conditions contained in the

contract/response to the RFP. The transferee also assumes all obligations and liabilities of and all claims against, the Transferor under the contract/response to the RFP as if the Transferee were original party to the contract/response to the RFP.

(c) The Transferee ratifies all previous actions taken by the Transferor with respect to the contract/response to the RFP, with the same force and effect as if the action had been taken by the transferee.

(d) The BUYER recognises the Transferee as the Transferor's successor in interest and to the contract/response to the RFP. The Transferee by this agreement becomes entitled to all rights, titles and interests of the Transferor in and to the contract/response to the RFP, as if the Transferee were the original party to the contract/response to the RFP. Following the effective date of this Agreement, the term "SELLER" as used in the contract/response to the RFP shall refer to the Transferee.

(e) Except as expressly provided in this Agreement, nothing in it shall be construed as a waiver of any rights of the BUYER against the Transferor.

(f) All payments and reimbursements previously made by the BUYER to the Transferor and all other previous actions taken by the BUYER under the contract/response to the RFP, shall be considered to have discharged those parts of BUYER'S obligations under the contract/response to the RFP.

(g) The Transferor guarantees payment of all liabilities and the performance of all obligations that the Transferee: -

(i) Assumes under this Agreement; or

(ii) May undertake in the future should this contract/response to the RFP be modified under their terms and conditions. The Transferor waives notice of and consents to, any such future modifications.

(h) The contract/response to the RFP shall remain in full force and effect, except as modified by this Agreement. Each party has executed this Agreement as of the day and year first above written.

**BUYER**

**By** .....

**Title** .....

**[ Office Seal ]**

**Transferor**

**By** .....

**Title** .....

**[Corporate Seal]**

**Transferee**

**By** .....

**Title** .....

**[Corporate Seal]**

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**STANDARD CNC COMPOSITION**

**A. FOR SERVICES & COAST GUARD-ABOVE ₹ 300 CRORE**<sup>47</sup>

1. Acquisition Manager - Chairman.
2. Technical Manager.
3. Finance Manager.
4. Advisor (Cost).
5. DGQA/DGAQA/DGNAI Representative.
6. Procurement Agency Representative.
7. User Representative.
8. Representative of Contract Management Branch at SHQ.
9. Repair Agency Representative.
10. Under Secretary concerned.
11. Member Secretary to be nominated by the Chairman.

**Notes:**

- (i) *If with ToT-rep of DDP, DRDO and Production Agency to be included as member*
- (ii) *Participation of Adviser (Cost) is not required in every CNC and it has to be on actual requirement basis, as determined by the Chairman.*
- (iii) *If the CNC is chaired by a Service Officer in category A above, then reps may be nominated in place of officers mentioned at Serial no. 1,2,3 of A above.*
- (iv) *If Offset included, then rep of Defence Offset Management Wing (DOMW) to be included as member*
- (v) *In the absence of the designated member, the authorised representative would be deemed to be suitably empowered to take decisions.*
- (vi) *Approval of DG (Acquisition) to be solicited for any change in the compositions mentioned above.*

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<sup>47</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 20.03.2019



**B. FOR SERVICES & COAST GUARD-UPTO ₹ 300 CRORE<sup>47</sup>**

1. Officer nominated by VCOAS/VCNS/DCAS/CISC/DG ICG (as per under mentioned norms)<sup>10</sup> - Chairman

(a) Cases above Rs 50 Crore and upto Rs 300 Crore<sup>47</sup> to be chaired by Major General / Equivalent.<sup>10</sup>

(b) Cases upto Rs 50 Crore to be chaired by officer not below the Rank of Brigadier / Equivalent.<sup>10</sup>

2. PIFA<sup>47</sup> / IFA(Capital) in respect of Army/Navy/Air Force/CG for CNCs above ₹ 50 Crore and upto ₹ 300 Crore<sup>47</sup> and reps of PIFA<sup>47</sup> / IFAs for CNCs upto ₹ 50 Crores; Rep of PIFA / IFA<sup>47</sup> not to be<sup>47</sup> below the rank of Deputy Secretary.

3. Representative of TM

4. Representative of ADGWE/ACNS (P&P)/ACAS (P)

5. Representative of DGQA/DGAQA/DGNAI

6. Representative of Repair Agency

7. Representative of Contract Management Branch at SHQ/ICG.

8. Representative of Advisor (Cost).

9. Representative of User Directorate.

10. Member Secretary to be nominated by the Chairman.

**Notes:**

(i) *If with ToT-rep.of DDP, DRDO and Production Agency to be included as member.*

(ii) *Participation of Rep of Costing Cell is not required in every CNC and it has to be on actual requirement basis as determined by the Chairman.*

(iii) *In the absence of the designated member, the authorised representative would be deemed to be suitably empowered to take decisions.*

(iv) *Member of any other agency apart from the prescribed members can be associated with the approval of VCOAS/VCNS/DCAS/CISC/DG ICG.*

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<sup>10</sup>Amendment issued vide Enclosure C to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

<sup>47</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated \_\_\_\_\_

## Appendix H to Chapter II

(Refers to Para 107 (a) of Chapter II)

### **BROAD TIME FRAME FOR PROCUREMENT ACTIVITIES**

<b><u>Ser No</u></b>	<b><u>Stage of Procurement</u></b>	<b><u>Time (in weeks)</u></b>	<b><u>Cumulative Time (in weeks)</u></b>	<b><u>Offset Activity</u></b>	<b><u>Time (In Weeks)</u></b>	<b><u>Cumulative Time (in weeks)</u></b>
1.	Acceptance of Necessity (Date of Issue of minutes of DAC/DPB/SCAPC HC meeting)	---	To	--	---	---
2	Issue of RFP	08	To+08	-	08	08
3.	Pre Bid Meeting	06	To+14	-	-	-
4.	Dispatch of Pre Bid reply	03	To+17	-	-	-
5.	Receipt of Responses	03	To+20	Receipt of Offset Compliance	12	20
6.	Completion of TEC Report	10	To+30	Submission of Technical and Commercial Offset proposals	12	32
7	Acceptance of TEC Report	04	To+34	Acceptance of TOEC report by DG (Acq)	8-12	40-44
8.	Completion of Technical Offset Evaluation Committee Report	04-08* (*concurrent activity)	To+34* (*concurrent Activity)	-	-	-
9.	Acceptance of Technical Offset Evaluation Committee Report	04* (*concurrent activity)	To+34* (*concurrent activity)	-	-	-
10.	Completion of Field Evaluation (Trials)	16-24	To+50-To+58\$			\$ Additional 12 weeks permitted if winter trials are required.
11.	Completion of Staff Evaluation	04	To+54-To+62\$	-	-	“

12.	Acceptance of Trials/Staff Evaluation Report	04	To+58-To+66\$	-	-	“
13.	Acceptance of TOC Report (If applicable)	0/04* (*If applicable)	To+58-To+70\$	-	-	“
14.	(i) Finalisation of CNC Report  (ii) Finalisation of Offset Contract	(i) Multi vendor-06  (ii) Resultant Single Vendor 18-26	(i) Multivendor To+64-To+76\$  (ii) Resultant Single Vendor To+76-To+96\$	Evaluation of Commercial Offset Offers will be done concurrently by CNC	Concurrent with other negotiations	74-114
15.	Obtaining of CFA-MoD/MoF/ CCS approval		(i) Multivendor To+68-To+92\$  (ii) Resultant Single Vendor To+80-To+112\$			
	CFA-MoD	4-8				
	CFA-MoD & MoF	6-12				
	CFA-CCS	6-16				
16.	Signing of Main Contract & Signing of Offset Contract	02	(i) Multivendor To+70-To+94\$  (ii) Resultant Single Vendor To+82-To+114\$			\$ Additional 12 weeks permitted if winter trials are required

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**GUIDELINES ON PROCEDURE FOR IMPOSING LIQUIDATED DAMAGE (LD)  
IN UPGRADATION/ ALTERATION CASES<sup>26</sup>**

1. These Guidelines lay down the procedure to be followed for determining the applicability of imposing Liquidated Damage (LD) in cases where the Seller wishes to upgrade/ alter the specifications of the equipment already contracted on account of change in manufacturing procedures, indigenisation or obsolescence.
2. Para 6.2 of the Standard Contract Document (Chapter VI of DPP-2016) inter alia states that “The SELLER, in consultation with the BUYER, may carry out technical upgradation/ alterations in the design, drawings and specifications due to change in manufacturing procedures, indigenisation or obsolescence. This will, however, not in any way adversely affect the end specifications of the equipment.” This provision in the Contract enables a Seller to make changes in specifications of the equipment as given in the contract with equipment/ sub assemblies which are upgraded/ modified/ altered/ indigenised, promotes the local defence manufacturing industry, increases self reliance and is in consonance with the Make in India vision of the Government.
3. Since the Standard Contract Document also stipulates that the upgradation/ alteration should not adversely affect the end specification of the equipment, it becomes necessary to check, at the Limited Validation Trials stage, all parameters which may get affected due to the said alteration. This further needs to be accepted by the competent authority, and may have a financial effect which needs to be determined by a Professional Officers Valuation (POV) if required. These approvals are time consuming and may lead to delays which may result in non delivery of the equipment within the delivery schedule spelt out in the Contract, due to which the Seller is liable to be imposed LD on account of non adherence to the contract conditions. Imposition of LD on a vendor who is trying to achieve indigenisation, that too for no delay on his part, needs to be addressed.
4. The procedure to be followed in all such cases is enumerated in subsequent Paras. In cases where specifications are better or equivalent, vendor may be permitted without imposition of LD subject to successful conduct of evaluation.
  - (a) If the Seller wishes to upgrade/ alter the specifications of the equipment after the contract gets awarded, he will submit a written application to SHQ specifying the equipment/ sub assemblies proposed to be changed and the list of RFP parameters which are likely to be affected by this change. The application for initiating the proposal must be submitted by the vendor within a maximum period of 3 months/ 20% of Delivery schedule (whichever is earlier) from the date of award of contract and minimum indigenisation percentage for initiating a proposal may be laid down as 10%. It may be informed ab-initio to the vendor that no changes in original delivery schedule beyond six months would be acceptable; else LD would be applicable if same is violated due to Seller’s proposal. Written application from seller proposing Upgradation/ Alteration of equipment must also include the following:-
    - (i) Timelines required for supply of item for limited evaluation trial after acceptance of offer.
    - (ii) Effect on delivery timelines.

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<sup>26</sup>Amendment issued vide Enclosure G to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

- (iii) Details of internal validation trials done by the Seller for the proposed changes.
  - (iv) Changes envisaged in SMTs/ STEs/ Test Jigs/ MRLS.
  - (v) Effect on overall cost of project.
- (b) SHQ, in consultation with other stakeholders, will analyse the upgrades/ alterations offered by the Seller and the approximate time required for carrying out the Limited Validation Trial of the upgrades/ alterations. The vendor on his part must ensure that mere forwarding the proposal does not impact the original delivery schedule. An undertaking may be sought from the vendor at this stage that LD would be imposed on him if any delay occurs due to failing of proposed modification in equipment during limited validation trials or due to non-cooperation by the vendor in sharing data. Maximum time limit for analysis of proposal would be 4 weeks from date of receipt of the proposal from the vendor.
- (c) If the time required for the acceptance of GS Evaluation/ POV is assessed to be more than six months (cumulative time for preparation of equipment after upgradation, fielding upgraded equipment for trials, completion of validation trials alongwith evaluation), upgradation/ alteration offered by the Seller on account of change in manufacturing procedures, indigenisation or obsolescence in the present contract need not be accepted on grounds of likely delay in the current procurement, and should be deferred to subsequent contracts (like Option Clause or Repeat Order). The time period of six months may be extended on a case to case basis depending on the duration of original delivery schedule, if accepted by the competent authority (PSO and equivalent in other services). POV (if applicable) should be carried out simultaneous with validation trials.
- (d) If the time required for the same is less than six months, the offer may be accepted at the level of PSO in SHQ.
- (e) If the time assessed by the SHQ was less than six months and the proposal was accepted by the SHQ, but thereafter the time taken by the Buyer in acceptance of GS Evaluation/ POV exceeds six months, then the reasons of delay would need to be analysed and decision of imposing LD should be based on attributability identified. GS Evaluation/ POV may get delayed due to non-cooperation by the vendor in sharing data, in these cases delay to be attributable to the vendor and LD to be imposed. Exemption from LD would be applicable only if the delay is attributable to the Buyer. The vendor, at the time of contract signing, would give a comprehensive list of upgrades which he wishes to make, and no further upgrades in that contract would be allowed.
- (f) If the time assessed by the SHQ was less than six months and the proposal was accepted by the SHQ, but thereafter the Seller fails the Limited Validation Trials, LD should be imposed for delays, if any. The Vendor while proposing any upgradation should be reasonably confident of an acceptance. LD would be imposed if delivery schedule is delayed by 06 months or more.
- (g) There is a need for financial evaluation wherever material variation in any of the terms or conditions in a contract becomes unavoidable. The benefit of downward trend, if established by the POV, would necessarily have to be passed on to the Buyer even in the ongoing contract. However, if the POV establishes a cost escalation due to proposed upgradation/ alteration, same could be factored in the subsequent contracts, with the value of ongoing contract remaining unaltered.

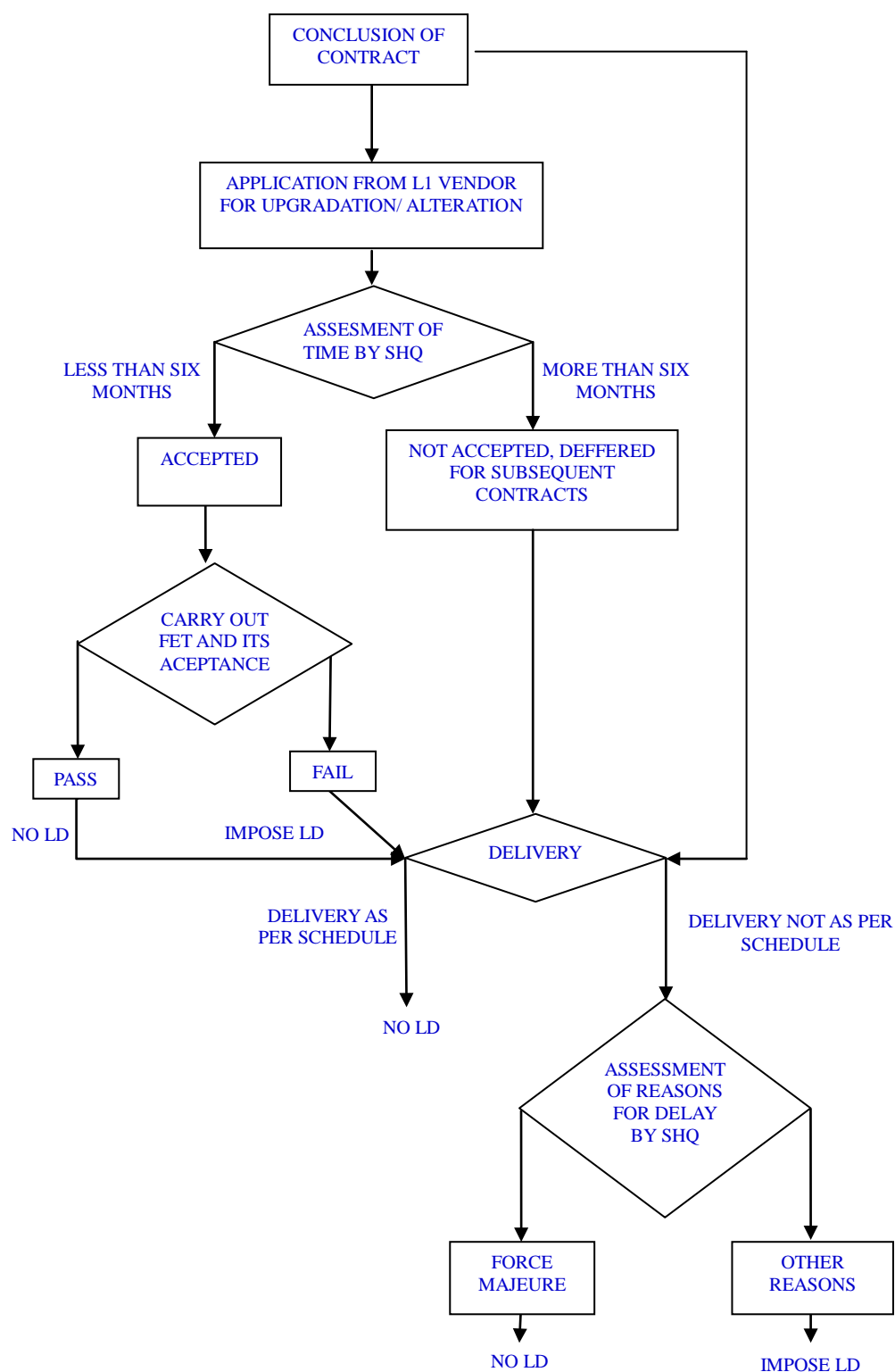
(h) If the offer of upgradation/ alteration has been applied for by the Seller, in the intervening period, he should continue to supply the equipment as per the original delivery schedule with the original equipment/ sub assemblies till such time its acceptance is intimated to him.

(j) Waiver of upto maximum six months of delay in delivery period by PSO in SHQ may be only considered post evaluation of proposal and confirmation of acceptance to the Seller. However LD provision will be applicable for any delays beyond Revised Delivery Schedule. The delivery schedule will not be changed beyond six months and LD would be imposed if the same is violated. This would be done on a case to case basis upon a written request from the Seller.

(k) Diagrammatic Work Flow for implementation of LD in Upgradation/ Alteration cases is given at Annexure I to this Appendix.

5. These Guidelines are issued with the approval of the DAC and are to be adopted with immediate effect.

**WORK FLOW FOR IMPOSITION OF LIQUIDATED DAMAGE (LD)**  
**IN UPGRADATION/ ALTERATION CASES<sup>26</sup>**



<sup>26</sup>Amendment issued vide Enclosure G to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018





# **SCHEDULE I TO CHAPTER II**

## **RFP FORMAT**





**Schedule I to Chapter II**  
(Refers to Para 45 of Chapter II)

(THIS RFP PROVIDES A STANDARDISED FORMAT FOR GUIDELINES. IT MAY BE VARIED DEPENDING ON USER REQUIREMENTS, TYPE/COMPLEXITY OF EQUIPMENT/MACHINERY/TEST EQUIPMENT AND OPERATIONAL IMPERATIVES. SHQ MAY ALTER IT AS PER THEIR SERVICE REQUIREMENTS)

Tele: \_\_\_\_\_  
E-mail: \_\_\_\_\_

File No: \_\_\_\_\_  
Technical Manager (\_\_\_\_\_) \_\_\_\_\_  
New Delhi-110011  
\_\_\_\_\_ (Date)

To \_\_\_\_\_

**REQUEST FOR TECHNICAL AND COMMERCIAL PROPOSAL FOR  
(GENERIC NOMENCLATURE OF EQUIPMENT) CATEGORY:**

Dear Sir/Madam,

1. The Ministry of Defence, Government of India, intends to procure \_\_\_\_\_ (generic nomenclature of equipment and quantity). This Request for Proposal (RFP) consists of four parts as indicated below:

- (a) **Part I.** The first part consists of the general requirement of the equipment, the numbers required, the time frame for deliveries, the environmental parameters for functioning, conditions of usage and maintenance, requirement for training, Engineering Support Package (ESP), Offset obligations and warranty/guarantee conditions, etc. It includes procedure and last date and time for submission of offers.
- (b) **Part II.** The second part of the RFP incorporates the aspects of SQRs describing the technical parameters of the proposed equipment. The operational characteristics and features that should be met by the equipment are elucidated at **Appendix A** to this RFP and the Compliance Table at **Appendix B** to this RFP. The Supplier would be required to offer the equipment for field evaluation on a “No Cost No Commitment” basis. For cases where Para 61 of Chapter II is invoked for low value items being purchased in large quantities, appropriate clause may be inserted from the guidelines issued by Acquisition Wing.
- (c) **Part III.** The third part of the RFP consists of the commercial clauses and Standard clauses of contract. The bidders are required to give confirmation of their acceptance of these clauses.

(d) **Part IV.** The fourth part of RFP gives the process of evaluation and acceptance of technical and commercial bids. Submission of incomplete details in Price bid format will render the offer liable for rejection.

2. The Government of India invites responses to this request only from Original Equipment Manufacturers (OEM) or Authorised Vendors or Government Sponsored Export Agencies (applicable in the case of countries where domestic laws do not permit direct export by OEM) subject to the condition that in cases where the same equipment is offered by more than one of the aforementioned parties, preference would be given to the OEM. The end user of the equipment is the Indian Armed Forces.

3. For the purposes of this RFP and the acquisition contract (if any) signed by the Ministry of Defence with a successful vendor, indigenous content shall be as defined under **Para 1** and **2** of **Appendix A** to **Chapter I** of **DPP 2016**. In addition, reporting requirements for prime (main) vendors (and for sub-vendors reporting to higher stages/tiers) shall be as prescribed under **Para 3** and **4** thereof. The right to audit vendors/sub-vendors shall vest in the Ministry of Defence as prescribed under **Para 5** and **6**; and aspects of delivery, certification, payments, withholding of payments and imposition of penalties shall be as prescribed under **Para 7** to **12** thereof. Furthermore, vendors in 'Buy (Indian IDDM)', 'Buy (Indian)', 'Buy and Make (Indian)' and 'Buy & Make' (if applicable) will be required to submit their indigenisation plan in respect of indigenous content as stipulated in **Para 7** of **Appendix A** to **Chapter I** and **Para 39** of Chapter II of DPP 2016.

4. The Firm / Company / Vendor will submit an undertaking that they are currently not banned / debarred / suspended from doing business dealings with Government of India / any other government organisation and that there is no enquiry going on by CBI / ED / any other government agencies against them. In case of ever having been banned / debarred / suspended from doing business dealings with Government of India / any other government organisation, in the past, the Firm / Company / Vendor will furnish details of such ban / debarment alongwith copy of government letter under which this ban / debarment / suspension was lifted / revoked<sup>41</sup>. The vendor shall also<sup>41</sup> declare that their sub-contractor(s)/supplier(s)/technology partner(s) are not Suspended or Debarred by Ministry of Defence. In case the sub-contractor(s)/supplier(s)/ technology partner(s) of the vendor are Suspended or Debarred by Ministry of Defence, the vendor shall indicate the same with justification for participation of such sub-contractor(s)/supplier(s)/ technology partner(s) in the procurement case.

5. Subsequent to submission of bids if any sub-contractor(s)/supplier(s)/technology partner(s) of the vendor is Suspended or Debarred by Ministry of Defence, the vendor shall intimate the Ministry of Defence regarding Suspension or Debarment of its sub-contractor(s)/ supplier(s)/technology partner(s) within two weeks of such order being made public.

## **PART I : GENERAL REQUIREMENTS**

6. **Year of Production.** Supplies should be of latest manufacture, conform to the current production standard and should have 100% of the defined life at the time of delivery. Deviations if any should be clearly brought out by the vendor in the Technical Proposal.

7. **Delivery Schedule.** *(The acceptable range of delivery schedule of the equipment must be indicated clearly in the RFP. Option for the supplier to indicate earliest delivery schedule must be given only in unavoidable cases).*

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<sup>41</sup>Amendment issued vide Enclosure J to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

8. Once the contract is concluded and the delivery schedule is established, the supplier shall adhere to it and ensure continuity of supply of items and their components under the contract.
9. **Warranty.** The goods supplied shall carry a warranty for \_\_\_\_\_ months/years/operational hours (**not to be left blank**) from the date of acceptance or from date of installation and commissioning, whichever is later/earlier (as applicable on case to case basis). Warranty Clause is given at **Appendix C** to this RFP.
10. **Offset (If applicable).** Offset obligation shall be discharged by the Vendor in accordance with provisions of DPP 2016. The vendor has to undertake Offset contracts amounting to \_\_\_\_\_ % or (as approved by the DAC) of the value of the commercial proposal. The technical offer should include a written undertaking to this effect. Failure to discharge this undertaking at any stage will result in disqualification of the vendor from further participation in the evaluation process and the offer will be treated as null and void. The terms and conditions of Offset are given at **Appendix D** to this RFP (The procedure for implementation of the offset obligation is placed at **Appendix D** to Chapter II of DPP 2016).
11. **Engineering Support Package (ESP)/Annual Maintenance Contract (AMC) (if required).** After the specified warranty period, Indian technicians would be required to repair and maintain the equipment during its exploitation. To enable this process, an appropriate ESP would be required to be provided by the supplier. For this purpose, the general concept of repair and maintenance of equipment followed by the Services/ICG is given at **Appendix E** to this RFP. The information on Engineering Support Package that is required to be provided is enclosed at **Annexure I to IV to Appendix E** to this RFP. In case equipment is already in usage, the spare parts requirement must be specific based on the consumption pattern, rather than being based on MRLS [*If post warranty AMC is also being sought from the OEM, the level of AMC required (with spares/without spares/repair rate contract) must clearly be indicated*]. The details of AMC proposals must also be submitted separately by the vendor with technical aspects being included in the technical offer and commercial aspects being included in the commercial offer.
12. The vendor is required to provide Itemised Spare Parts Price List (Prices to be indicated only in the commercial offer), list of optional equipment and the likely consumption rate of the spares based on the exploitation pattern of the equipment. The vendor would have to finalise the terms for the life time product support in the current contract only. **(To be read in conjunction with Para 48 of Chapter II of DPP 2016 for cases above ₹ 100 Crore.)**
13. The customer would have the option to amend the MRLS proposed by the seller within \_\_\_\_\_ years of the expiry of the warranty period. The sellers would either 'Buy Back' the spares rendered surplus or exchange them on cost to cost basis with the spares as required by the customer. The said spares would be purchased/replaced by the seller, based on the prices negotiated in the contract.
14. **In Service Life/Shelf Life.** The In Service/Shelf Life of the equipment (as applicable) shall be stipulated in the offer. In case of shelf life the relevant storage conditions should be clearly specified. The vendor is required to give details of reliability model, reliability prediction and its validation by designer/manufacture to ensure reliability of stores throughout Service/shelf life. The efficacy of reliability model/prediction/validation would be verified during technical and environmental evaluation as indicated in Para 30 of this RFP.
15. **Product Support.** The vendor would be bound by a condition in the contract that he is in a position to provide product support in terms of maintenance, materials and spares for a minimum period of \_\_\_\_\_ years. Even after the said mandatory period, the vendor would be bound to give at least two years notice to the Government of India prior to closing the production line so as

to enable a Life Time Buy of all spares before closure of the said production line. The said aspect would also form an integral part of the contract. All upgrades and modifications carried out on the equipment during the next \_\_\_\_\_ years or during its life cycle (as per requirement) must be intimated to the SHQ.

16. **Training of Crew and Maintenance Personnel.** (SHQ to give broad details of the training sought).

17. **Government Regulations.** It may be confirmed that there are no Government restrictions or limitations in the country of the supplier or countries from which subcomponents are being procured and/or for the export of any part of the system being supplied.

18. It may be further confirmed that all national and international obligations relevant to transfer of conventional arms of the country of the supplier or countries from which parts and components are being procured, have been taken into account for the duration of the contract. Accordingly, thereafter there would be no review, revocation or suppression of Defence export licence and other related clearance issues to the supplier for the contract that could impinge on the continuity of supply of items and their parts or components under the contract.

19. **Agents.** (Applicable in case of foreign vendors only) The vendor is required to disclose full details of any such person, party, firm or institution engaged by them for marketing of their equipment in India, either on a country specific basis or as a part of a global or regional arrangement. These details should include the scope of work and responsibilities that have been entrusted with the said party in India. If there is non-involvement of any such party then the same also be communicated in the offers specifically. The information is to be submitted as per the format placed at **Appendix F** to this RFP. Without prejudice to the obligations of the vendor as contained in various parts of this document, appointment of an Agent by vendors will be subjected to the following conditions:-

(a) Details of all Agents will be disclosed at the time of submission of offers and within two weeks of engagement of an Agent at any subsequent stage of procurement.

(b) The vendor is required to disclose termination of the agreement with the Agent, within two weeks of the agreement having been terminated.

(c) MoD reserves the right to inform the vendor at any stage that the Agent so engaged is not acceptable whereupon it would be incumbent on the vendor either to interact with MoD directly or engage another Agent. The decision of MoD on rejection of the Agent shall be final and be effective immediately.

(d) All payments made to the Agent 12 months prior to tender submission would be disclosed at the time of tender submission and thereafter an annual report of payments would be submitted during the procurement process or upon demand of the MoD.

(e) The Agent will not be engaged to manipulate or in any way to recommend to any functionaries of the Govt of India, whether officially or unofficially, the award of the contract to the Seller or to indulge in corrupt and unethical practices.

(f) The contract with the Agent will not be a conditional contract wherein payment made or penalty levied is based, directly or indirectly, on success or failure of the award of the contract.

(g) On demand, the vendor shall provide necessary information/inspection of the relevant

financial documents/information, including a copy of the contract(s) and details of payment terms between the vendor and the Agent engaged by him.

20. If the equipment being offered by the vendor has been supplied/contracted with any organisation, public/private in India, the details of the same may be furnished in the technical as well as commercial offers. The vendors are required to give a written undertaking that they have not supplied/is not supplying the similar systems or subsystems at a price lower than that offered in the present bid to any other Ministry/Department of the Government of India and if the similar system has been supplied at a lower price, then the details regarding the cost, time of supply and quantities be included as part of the commercial offer. In case of non disclosure, if it is found at any stage that the similar system or subsystem was supplied by the vendor to any other Ministry/Department of the Government of India at a lower price, then that very price, will be applicable to the present case and with due allowance for elapsed time, the difference in the cost would be refunded to the Buyer, if the contract has already been concluded.

21. **Patent Rights.** The vendor has to confirm that there are no infringements of any Patent Rights in accordance with the laws prevailing in their respective countries.

22. **(An Integrity Pact would be signed between MoD and the bidders for schemes exceeding ₹ 20 Crores, irrespective of the value of the commercial bids submitted by bidders).** In the subject RFP, the vendor is required to sign and submit Pre Contract Integrity Pact (PCIP) given at **Annexure I** to **Appendix M** to this RFP and shall also deposit ₹\_\_\_\_\_ Crores/Lakhs (as applicable) as Integrity Pact Bank Guarantee (IPBG) through any of the instruments mentioned therein. This would be submitted in a separate envelope clearly marked as 'IP and IPBG' at the time of submission of Technical and commercial offers. **The Beneficiary Bank Details for furnishing IPBG are as follows<sup>15</sup>:-**

**(IFSC Code - SBIN0000691)**

**State Bank of India**

**New Delhi Main Branch**

**C Block, 11 Parliament Street**

**New Delhi, Pin: 110001**

23. **Transfer of Technology (ToT) (If applicable).** The Govt of India, Ministry of Defence is desirous of licensed production of **(generic name of equipment)** under ToT. Aspects of ToT which are to be fulfilled by the vendor are given at **Appendix G** to this RFP. Govt reserves the right to negotiate ToT terms subsequently but the availability of ToT would be a pre-condition for any further procurements. If negotiations for ToT are not held as a part of the negotiations for equipment, then subsequent and separate ToT negotiations would continue from the stage where the equipment has been selected.

**Note:**

*(The RFP in such cases would spell out the requirements of ToT depending upon the scope & depth of the technology which is required and whose range could cover technology for repair and overhaul; production from CKD/SKD kits and production from raw material and components level. Aspects which are to be included in the RFP in case production from CKD/SKD/IM kits are given at Appendix G to Schedule I. Care should be taken to spell out the selection criteria clearly. The nominated Production Agency (PA) for the receipt of technology or DRDO (in case PA is to be selected by Foreign Vendor as per Para 20 of Chapter II of DPP) will be closely associated in the preparation of RFP).*

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<sup>15</sup>Amendment issued vide Enclosure H to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018



24. **Transfer of Technology for Maintenance Infrastructure (As applicable).** The Govt of India, Ministry of Defence is desirous that the depot level maintenance (third line) and the life time support for the \_\_\_\_\_ (generic name of the equipment) be carried out through an Indian private/public firm. The vendor is required to select an Indian entity which would be responsible for providing base/depot level repairs (third line) and the requisite spares for the entire life cycle of the equipment. For this purpose the vendor is required to set up maintenance infrastructure and facilities for third line repairs in India at the premises of the selected Indian firm as per the terms and conditions laid down in **Appendix H** to this RFP.

25. Any queries/clarifications to this RFP may be sent to this office by \_\_\_\_ (date). A copy of the same may also be sent to **(address of the user directorate)**. (Replies to queries received from vendors upto the pre-bid meeting would be sent by SHQs to the office of TMs within two weeks of Pre- bid meeting and TMs should send the response to vendors within one week thereafter).

26. A pre-bid meeting will be held at \_\_\_\_\_hrs on \_\_\_\_\_(date) at \_\_\_\_\_(venue) to answer any queries or clarify doubts regarding submission of proposals. The vendor or his authorised representative is requested to attend. Necessary details may be sent a week in advance to \_\_\_\_\_ (user directorate), to facilitate obtaining of security clearance.

27. The Technical and Commercial Proposals should be sealed separately (the envelope should clearly state this letter No and the type of equipment) and submitted together along with 'IP and IPBG' to the undersigned at the following address by \_\_\_\_ hours on \_\_\_\_ :-

As applicable { **O/o Technical Manager (Land Systems)**  
**Room No 30, D-2 Wing**  
**Sena Bhawan**  
**New Delhi-110011**  
**Fax No: 23792414**

28. The Technical Offer will be opened at \_\_\_\_ hrs on \_\_\_\_\_ at the same venue as indicated at Para 27 above. The vendor or his authorised representative is welcome to be present at the opening of the proposals. Necessary details may be sent a week in advance to facilitate obtaining of security clearance.

29. The Technical Offer will be evaluated by a Technical Evaluation Committee (TEC) to confirm that the equipment being offered meets the Essential Parameters and Enhanced Performance Parameters (EPP) (where applicable) as elaborated subsequently in this RFP at **Appendix A**. For cases where Essential Parameters 'B' are involved, TEC will confirm that the vendor has submitted the undertaking to this effect (Refer **Para 10.2** of Chapter II) as per the format given at **Annexure to Appendix A** to this RFP. For cases where ToT for licence production/maintenance infrastructure is sought, the TEC will examine the compliance of the vendor as per the stated requirements of RFP. Thereafter, the vendor of the short listed equipment would be asked to provide the equipment (\_\_\_\_ Nos) for trial evaluation as per trial methodology given at **Appendix J** to this RFP, in India at 'No Cost No Commitment' basis and for trials under **Para 61** of Chapter II of DPP 2016, as per guidelines issued by Acquisition Wing.

**Note:** The details/scope of the trials, if other than NCNC trials in India to be included as per the decisions during AoN by the DAC/DPB/SCAPCHC.

30. For an equipment to be introduced in service, it is mandatory that it successfully clears all tests/trials/evaluations. The trial evaluation process comprises of the following phases. **(SHQ may amend this paragraph as per the requirement of the proposal):-**

- (a) User Trials.
- (b) Technical and Environmental Evaluation.
- (c) Maintainability Evaluation Trial (MET).
- (d) EMI/EMC Evaluation.
- (e) Secrecy Grading (**if applicable**).

**Note1:** Cases involving equipment that need to undergo secrecy grading must incorporate details that the vendors need to provide as part of the technical offer. These details can be sought by SHQ<sup>1</sup> based on a Proforma to be given by HQ DRDO<sup>1</sup>.

**Note 2:** Trials for Essential Parameters 'B', (if specified at **Appendix A**) would generally<sup>27</sup> be conducted only after the signing of the contract. However if any vendor(s) claims that the equipment fielded by them for FET can meet Essential Parameters 'B' and such vendors are willing to get their equipment trial evaluated for Essential Parameters B at FET stage (a written undertaking in this regard will be given by such vendor(s) to SHQ prior to date of commencement of FET) the same may be trial evaluated by SHQ for such vendor(s) during FET stage<sup>27</sup>.

31. Commercial offers will be opened only of the vendors whose equipment is short-listed, after technical trials and evaluation and who have also submitted the offset offers (**if applicable**) and these have been accepted technically. In other words, the equipment would be required to be trial evaluated and found suitable prior to commencement of any commercial negotiations. (**If trials are not proposed then the words 'trials and' may be deleted**). Cases involving Essential Parameters 'B' would be trial evaluated after the signing of the contract as provided in **Para 10.2** of Chapter II of DPP 2016. However Trials for Essential Parameters 'B', (if specified at **Appendix A**) may be conducted at the FET stage, if any vendor(s) claims that the equipment fielded by them for FET can meet Essential Parameters 'B' and such vendors are willing to get their equipment trial evaluated for Essential Parameters 'B' at FET stage (a written undertaking in this regard will be given by such vendor(s) to SHQ prior to date of commencement of FET)<sup>27</sup>.

## **PART II: TECHNICAL PARAMETERS**

32. **Operational Characteristics and Features.** The broad operational characteristics (Including Essential Parameters 'A' and 'B' (if applicable) and Enhanced Performance Parameters along with respective Credit Scores (if applicable)) and features that are to be met by the equipment are elucidated at **Appendix A** to this RFP. Essential Parameters 'B' would be tested and validated within \_\_\_\_ (days/weeks/months) of signing of the contract. {except in cases where vendor(s) claim that the equipment fielded by them for FET can meet Essential Parameters 'B' and such vendors are willing to get their equipment trial evaluated for Essential Parameters 'B' at FET stage wherein trials on Essential Parameters 'B' will be conducted as per Para 31 above (a written undertaking in this regard will be given by such vendor(s) to SHQ prior to date of commencement of FET)}<sup>27</sup>.

33. **Technical Offer.** The Technical Offer must enable detailed understanding of the functioning and characteristics of the equipment as a whole and each sub system independently. It must include the performance parameters as listed at **Appendix A** to this RFP and any other information pertaining to the technical specifications of the equipment considered important/

<sup>1</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/16 dated 27.01.2017

<sup>27</sup>Amendment issued vide Enclosure H to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

relevant by the vendor. The technical proposal should also include maintenance schedules to achieve maximum life and expected life of each assembly/subassembly (or Line Replaceable Unit (LRU)/Shop Replaceable Unit (SRU)), storage conditions/environment condition recommended and the resultant guaranteed in-service/shelf life.

34. **Para Applicable Only for M-ToT Cases.** The detailed scope of the maintenance infrastructure and the conditions are elaborated at **Appendix H** to this RFP. A separate proposal for the third level maintenance and life cycle product support should be submitted along with the technical proposal. The proposal should clearly lay down the maintenance approach that has been worked out in coordination with the selected Indian entity. It should give compliance or otherwise to the conditions that have been elaborated at **Appendix H** to this RFP for establishing the maintenance infrastructure.

35. If there is any associated optional equipment on offer that should also be indicated separately along with the benefit that are likely to accrue by procuring such optional equipment. Should the vendor be contemplating any upgrades or modifications to the equipment being offered, the details regarding these should also be included in the Technical Proposal.

36. **Technical Details.**

(a) The technical details should be factual, comprehensive and include specifications of the offered system/equipment against broad requirements listed in **Appendix A** to this RFP. In cases where a vendor claims to have equipment meeting the EPP, details of the same will be provided in the technical bid. EPP details not provided in technical bids, will not be allowed to be claimed subsequently.

(b) Insufficient or incomplete details may lead to rejection of the offer. Mere indication of compliance may be construed as incomplete information unless system's specific technical details are available in the offer. A format of the compliance table for the technical parameters and certain important commercial conditions of RFP is attached as **Appendix B** to this RFP.

37. The technical offer should have a separate detachable compliance table as per format given at **Appendix B** to this RFP stating specific answers to all the parameters as listed at **Appendix A** to this RFP. It is mandatory to append answers to all the parameters listed in **Appendix A** to this RFP. Four copies of the Technical Proposal should be submitted (along with one soft copy), however only one copy of the commercial proposal is required.

38. The firm is required to submit a '**Malicious Code Certificate**' (*only for Electronic items and Software*) along with the Technical Proposal. The format is placed at **Appendix K** to this RFP.

39. The vendor is requested to confirm his willingness to provide the equipment for trial evaluation in India on "No Cost No Commitment" basis when so requested. (The details/ scope of the trials, if other than NCNC in India including cases under **Para 61** of Chapter II of DPP 2016, are to be included in RFP as per the AoN accorded by the SCAPCHC/DAC/DPB).

40. Before the contract is finalised, the vendor would be required to provide Quality Assurance Plans (QAP) i.e. tests undertaken to assure quality & reliability and provide the Standard Acceptance Test Procedure (ATP). Director General of Quality Assurance (DGQA)/DGAQA/DGNAI (or the concerned Quality Assurance agency, as applicable) reserves the right to modify the

ATP if necessary. The equipment supplied by the vendor would be accepted subject to evaluation and clearance by the DGQA. The vendor would be required to provide all test facilities at OEM premises for acceptance inspection by the DGQA team as also train their team. The details in this regard will be coordinated during the negotiation of contract.

### **PART III : COMMERCIAL ASPECTS**

#### **Commercial Offer**

41. Commercial offers will be opened only of the vendors whose equipment is short-listed, after technical trials and staff evaluation. The Commercial Offer must be firm and fixed and should be valid for at least 18 months from the date of submission of offer (period may be amended, if required).

42. The Commercial Offers will be opened by a committee and if supplier desires he may depute his representative, duly authorised in writing, to be present at the time of opening of the offers. The committee will determine the lowest bidder (L1). In cases where EPP are involved, L1 would be decided based on the credit scores earned by the vendor. (Such parameters and respective credit scores for each should be given in the RFP) No negotiations would be carried out with the L1 vendor once the reasonability of the price quoted by him is established (*This provision would be applicable only in multi vendor cases. For such cases the aspects of advance/stage payments if any and all requisite details for the vendor to formulate a comprehensive commercial proposal be indicated upfront in the RFP so that selection of L1 is facilitated*) The date, time and venue fixed for this purpose will be intimated separately after the evaluations are completed.

43. The vendor is requested to take into consideration the **Commercial Clauses** given at **Appendix L** to this RFP while formulating the Commercial Offers.

#### **Additional Aspects**

44. **Standard Clauses of Contract.** The Government of India desires that all actions regarding procurement of any equipment are totally transparent and carried out as per established procedures. The bidder is required to accept our standard clauses regarding Agents, penalty for use of undue influence and Integrity Pact, access to books of accounts, arbitration and clauses related to Law, which would be incorporated in the contract. The text of these clauses is at **Appendix M** to this RFP. The Standard Contract Document at **Chapter VI** of DPP 2016 indicates the general conditions of contract that would be the guideline for all acquisitions. The draft contract would be prepared as per these guidelines.

45. **Option Clause (As applicable).** The format of option clause is placed at **Appendix N** to this RFP.

### **PART IV: EVALUATION AND ACCEPTANCE CRITERIA**

#### **Evaluation and Acceptance Process.**

(a) **Evaluation of Technical Proposals.** The technical proposals forwarded by the firms will be evaluated by a Technical Evaluation Committee (TEC). The TEC will examine the extent of variations/differences, if any, in the technical characteristics of the

equipment offered by various vendors with reference to the QRs and prepare a “Compliance Statement” for shortlisting the vendors. The shortlisted vendors shall be asked to send the desired units of the equipment/weapon system to India for Field Evaluation in varying climatic, altitude and terrain conditions. Field Evaluation would be conducted for Essential Parameters-A and EPP. A staff evaluation will be carried out, which will give out the compliance of the demonstrated performance of the equipment vis-à-vis the requirements. The compliance would be determined only on the basis of the parameters specified in the RFP. The staff evaluation will analyse the field evaluation results and shortlist the equipment recommended for introduction into service.

***Note:** Essential Parameters-B, when tested after signing of contract <sup>27</sup>, will be evaluated as per the terms of the contract. The tests for Essential Parameters-B would also validate that there is no adverse effect on any of the Essential Parameters-A.*

(b) **Evaluation of Commercial Bid.** The Commercial bids of only those bidders will be opened, whose technical bids have been cleared by TEC; equipment has been shortlisted after Field Evaluation(Trials)/Technical Trials and Staff Evaluation; and whose offset offers have been accepted technically, wherever applicable. Comparison of bids would be done on the basis of Evaluation criteria given in **Appendix O** to this RFP. The bidders are required to quote their price in Price bid format given in **Appendix O** to this RFP. The L-1 bidder would be determined by Contract Negotiation Committee (CNC) on the basis of **Appendix O** to this RFP. If EPP is applicable, L1 determination would be as per Para 10.3.1 of Chapter II. Only L-1 bidder would be invited for negotiations by CNC.

(c) **Contract Conclusion/Placement of Order (As applicable).** The successful conclusion of CNC will be followed by contract conclusion/placement of order (As applicable).

47. This RFP is being issued with no financial commitment; and the Ministry of Defence reserves the right to withdraw the RFP and change or vary any part thereof or foreclose the procurement case at any stage. The Government of India also reserves the right to disqualify any vendor should it be so necessary at any stage on grounds of National Security.

48. Please acknowledge receipt.

Yours faithfully

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<sup>27</sup>Amendment issued vide Enclosure H to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

## **Appendix A to Schedule I to Chapter II**

(Refers to Para 1(b), 29, 32,  
33, 36 (a) & 37 of Schedule I)

### **OPERATIONAL CHARACTERISTICS AND FEATURES**

1. This information would be different for various equipments. As such only the guide lines for formulating this Appendix have been stated here. The information provided here flows from the SQR and must contain the following:

(a) The purpose for which this equipment is needed or in broad outlines the capabilities that are needed. For example, in the case of WLR;

“The WLR should be able to provide accurate location of enemy guns, mortars and rocket launchers (in all types of terrain) to enable own fire delivery means to engage them effectively. In addition it should also provide location of own shell burst to enable correction of fire.”

(b) **Technical Parameters.** All technical parameters listed in the SQR in terms of size, weight, performance, operating environment, power, torque, preservation, utility life, storage, shelf life etc, should be specified. These Parameters may be divided into **Essential Parameters-A**, **Essential Parameters-B** (if applicable) and **Enhanced Performance Parameters** (if applicable) along with respective credit scores.

(c) **Additional Features.** If any, should also be explained.

2. Based on above guide lines, this Appendix should be formulated very carefully for each type of equipment.

#### **Note:**

(i) *For repeat order cases the reference of the earlier contract/supply order should be given.*

(ii) *The specifications/parameters of the equipment given here should be as per the approved GSQR/DPR/OR and no changes/amendments be done there to.*

\*\*\*\*

**Annexure to Appendix A to Schedule I**  
(Refers to Para 29 of Schedule I)

**UNDERTAKING TO COMPLY WITH ESSENTIAL PARAMETERS-‘B’**

1. The Bidder \_\_\_\_\_ (Name of the Company) hereby
- (a) Undertakes to develop and meet all the requirements of Essential Parameters B as given at Appendix \_\_\_\_ of RFP for the procurement case of \_\_\_\_\_ issued on \_\_\_\_\_.
  - (b) Undertakes to produce the equipment for trials of Essential Parameters ‘B’ within the specified time frame as stipulated in the contract.
  - (c) Accepts that failure to meet the Essential Parameters B after signing of the contract and within the stipulated time frame, will lead to forfeiture of all bank guarantees (Performance Bank Guarantee, Additional Bank Guarantee and Advance Bank Guarantee) and attract other penal provisions as may be prescribed by the Govt.

**Note:** *Failure to submit the undertaking along with the Technical Bid shall render the bid invalid and will be rejected.*

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**Appendix B to Schedule I to Chapter II**  
(Refers to Para 1(b), 36 (b) & 37  
of Schedule I)

**COMPLIANCE TABLE**

For \_\_\_\_\_ (Equipment name)

Ser No	Requirement as per the RFP	Compliance/ Partial Compliance	Indicate references of Paras/Sub Paras of the Main Technical Document
<b>Technical Parameters as per Appendix A</b>			
	Essential Parameters 'A'		
	Essential Parameters 'B' (if applicable)		
	Enhanced Performance Parameters (if applicable)		
<b>Commercial Parameters as per RFP</b>			
	Performance-cum-Warranty Bond as per Para ____ of RFP		
	Advance Bank Guarantee Bond as per Para ____ of RFP		
	Integrity Pact Bank Guarantee as per Para ____ of RFP (indicate amount of IPBG)		

\*\*\*\*



**Appendix C to Schedule I to Chapter II**  
(Refers to Para 9 of Schedule I)

**WARRANTY CLAUSE**

**(To be amended as per requirement and no blanks to be left)**

1. The **SELLER** warrants that the goods/services supplied under this contract conform to technical specifications prescribed and shall perform according to the said Technical Specifications.
2. The **SELLER** warrants for a period of \_\_\_\_\_ months/years/operational hours from the date of acceptance of stores by Joint Receipt Inspection or date of installation and commissioning whichever is later/earlier (as applicable on case to case basis), that the goods/stores/services supplied under this contract and each component used in the manufacture thereof shall be free from all types of defects/failures.
3. If within the period of warranty, the goods/services are reported by the **BUYER** to have failed to perform as per the specifications, the **SELLER** shall either replace or rectify the same free of charge, maximum within \_\_\_\_ days of notification of such defect by the **BUYER** provided that the goods are used and maintained by the **BUYER** as per instructions contained in the Operating Manual. Warranty of the equipment would be extended by such duration of **downtime**. Record of the down time would be maintained by user in log book. Spares **and all consumables** required for warranty repairs shall be provided free of cost by **SELLER**. The **SELLER** also warrants that the special oils and lubricants required for the warranty repair of the equipment shall be provided by the **SELLER** himself. **All activities including diagnosis, rectification, calibration, transportation etc, required for making equipment serviceable and available would be the SELLER's responsibility.** The **SELLER** also undertakes to diagnose, test, adjust, calibrate and repair/replace the goods/equipment arising due to accidents by neglect or misuse by the operator or damage due to transportation of the goods during the warranty period, at the cost mutually agreed to between the **BUYER** and the **SELLER**. The **SELLER** shall intimate the assignable cause of the failures.
4. **SELLER** hereby warrants that necessary service and repair backup during the warranty period shall be provided by the **SELLER** and he will ensure that the **cumulative downtime period for the equipment does not exceed \_\_\_\_\_ of the warranty period.**
5. If a particular equipment/goods fails frequently and/or, the cumulative down time exceeds \_\_\_\_\_% of the warranty period **or a common defect is noticed in more than \_\_\_\_\_% of the quantity of goods with respect to a particular item/component/sub-component, that complete item/equipment shall be replaced free of cost by the SELLER within a stipulated period of \_\_\_\_\_days of receipt of the notification from the BUYER duly modified/upgraded through design improvement in all equipment supplied/yet to be supplied and ESP supplied/yet to be supplied.**
6. **SELLER shall associate technical personnel of maintenance agency and QA of BUYER during warranty repair and shall provide complete details of defect, reasons and remedial actions for averting recurrence of such defects.**
7. In case the complete delivery of the Engineering Support Package is delayed beyond the period stipulated in this contract, then the **SELLER** undertakes that the warranty period for the goods/stores shall be extended to that extent.

**8. The SELLER warrants that the goods supplied will conform to the Temperature and Humidity conditions as mentioned at Appendix A to RFP.**

**Note:** *Wherever applicable the clause related to MTBF related warranties may be added as part of this Appendi).*

\*\*\*\*\*

**Appendix D to Schedule I to Chapter II**  
(Refers to Para 10 of Schedule I)

**TERMS AND CONDITIONS OF OFFSETS**

1. The Procedure for implementing Offset provision given at Appendix D and relevant Annexures to Chapter II of DPP (available at [www.mod.nic.in](http://www.mod.nic.in)) will be followed. Terms and conditions for submission of technical and commercial offset offer are given in succeeding paras.

2. **Submission of Written Undertaking to Meet the Offset Obligation.** You are required to give a written undertaking to the effect that you will meet the offset obligation as laid down in the RFP. This undertaking in the format at **Annexure I** will be included in the envelope containing your technical offer which is to be submitted by \_\_\_\_\_ (specify the date). This undertaking is binding on you and that failure at any stage, on your part to meet the offset obligation specified in the RFP will disqualify you from any further participation in the contract and render your offer as null and void.

3. **Submission of Technical and Commercial Offset Offers.**

(a) The Technical and Commercial offset offers would have to be submitted by \_\_\_\_\_ (12 weeks from the date of submission of the technical and commercial offers of the main proposal). **Exact date as calculated and given in the RFP or intimated later by the Technical Managers will be binding.** These offset offers would have to be submitted together in two separate sealed covers to the Technical Manager at the following address:-

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) The technical offset offer would contain details of the products, services and investment proposals indicating relative percentages, proposed Indian partners for offset investment and other relevant information in the format given at Annexure II. Details of Banked offset credits as discharged offset obligations will also be indicated. The commercial values of the offset proposals are not to be indicated in this technical offset offer.

(c) The Commercial Offset Offer, format in **Annexure III**, will contain the detailed offer specifying the absolute amount of the offset with a breakup of the details, phasing, Indian partner and banked credits as discharged obligations.

(d) The model formats at **Annexure II and Annexure III** may be amended by the vendor without however deviating from the mandatory offset requirements prescribed.

\*\*\*\*\*

**UNDERTAKING TO COMPLY WITH OFFSET OBLIGATIONS**

1. The Bidder \_\_\_\_\_(name of the company) hereby
- (a) Undertakes to fulfil the offset obligation as laid down in the Request For Proposals.
  - (b) Undertakes to ensure timely adherence to fulfilment of offset obligations.
  - (c) Accepts that any failure on the part of the Company to meet offset obligations will render disqualification from any further participation in the contract and render ibid offer as null and void.
  - (d) Undertakes to furnish technical details of offset obligations indicating products and services and corresponding Indian Industry partner(s) for the same when so required to by Ministry of Defence, Government of India, after being found to satisfy the SQRs.
  - (e) Undertakes to translate the detailed technical offset offer given at Para (iv) above into a business implementation plan now furnishing complete commercial details of investments, products and services, Indian Industry partners, amount, phases and time plan for the same in the form of a commercial offset offer as and when so required to by MoD, GoI.

\*\*\*\*

**Annexure II to Appendix D**  
(Refers to Para 3(b) of Appendix D)

**FORMAT FOR SUBMITTING TECHNICAL OFFSET OFFER**

1. The Bidder ----- hereby offers the following offsets in compliance with the technical offset obligations in the RFP.

S. No.	Eligible Offset Products /Services Being Offered	Avenue for discharge (quote sub Para of 3.1 of Appendix D to Chapter II)	Multiplier applicable (quote applicable Para)	Percentage of Total Offsets	IOP/ Agency for discharge	Time Frame for Discharge of Offsets	Whether Related to Main Equipment Being Supplied (Yes/No)	Remarks
(a)								
(b)								
(c)								

**Note:** Vendor to provide following along with technical offset offer:-

- (i) Undertaking that IOP is an eligible offset partner as per applicable guidelines.
- (ii) Company profile of IOP/agency.
- (iii) Details with quantities of the proposed offset.
- (iv) Letter of IOP/agency confirming acceptance of the offset project in case of direct purchase or investment.
- (v) In case banked offsets are planned to be utilised, their details certified by DOMW.
- (vi) List of Tier-1 sub-contractors, if any, through whom offset obligations are proposed to be discharged, with percentage of discharge.
- (vii) Proposals for Technology Acquisition by DRDO under Para 3.1(f) of Appendix D to Chapter II should be submitted separately in the format at Annexure IX to Appendix D to Chapter II.

\*\*\*\*

**Annexure III to Appendix D**  
(Refers to Para 3(c) of Appendix D)

**FORMAT FOR SUBMITTING COMMERCIAL OFFSET OFFER**

1. The Bidder ----- hereby offers the following offsets in compliance with the technical offset obligations in the RFP.

S. No	Eligible Offset Products /Services Offered	Avenue for Discharge (quote sub Para of 3.1) (Appendix D to Chapter II )	Multiplier applicable (quote applicable Para)	Percentage of Total Offset	IOP/ Agency for discharge	Time Frame for Discharge of Offsets	Whether Related to Main Equipment Being Supplied (Yes/No)	Remarks
(a)								
(b)								
(c)								

**Note** : Vendor to provide following along with commercial offset offer:-

- (i) Undertaking that IOP is an eligible offset partner as per applicable guidelines.
- (ii) Company profile of IOP/agency.
- (iii) Details with values of the proposed offset, including details of Tier-1 sub-contractors, if any.
- (iv) Letter of IOP/agency confirming acceptance of the offset project in case of direct purchase or investment.
- (v) In case banked offsets are planned to be utilised, their details certified by DOMW.
- (vi) Value of investment “in kind” supported by documentary evidence.
- (vii) Details of the business model for proposals relating to Para 3.1(c) and (d) of the offset guidelines at Appendix D to Chapter II should be indicated, as applicable.

2. This annexure will also be used by the vendor to submit proposals for banking of offsets (**Para 2 of Annexure VII of Appendix D to Chapter II**). In such cases Note (v) above will not be applicable.

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### **REPAIR AND MAINTENANCE PHILOSOPHY**

**Note:** *The Repair and Maintenance Philosophy is only indicative and pertains to a particular service. SHQ concerned may amend this as per their requirement. No blanks to be left.*

1. The various levels of repairs are explained in succeeding paras. ***(However, all levels may not be applicable to all types of equipment. As such the type of repair facility required for the equipment for which the RFP is being issued should be stated clearly by modifying the succeeding paras).***

#### **Unit Repairs**

2. These are repairs carried out within the unit holding this equipment with tools generally held within the unit or supplied by the manufacturer with each equipment or as per scaling of 1:10 or any other scaling recommended by the manufacturer as per population held in the unit.

3. These pertain to cleaning, lubrications, minor repairs and replacement of components and minor assemblies that can be carried out in field without any sophisticated tools or test equipment.

4. For carrying out such repairs, the manufacturer is required to provide the following:

- (a) Table of Tools and Equipment (TOTE) with each equipment including operators manual.
- (b) Scaling of special tools and spares as explained at Para 2 above including Maintenance manual.

#### **Field Repairs**

5. These are repairs carried out in the field by technicians specially trained for this purpose and where the required special tools and spares have to be provided. These repairs comprise replacement of major assemblies and other components beyond the scope of unit level repairs. Normally a field work shop that carries out such repairs looks after three to four units holding the said equipment.

6. The manufacturer is required to provide the following:

- (a) Quantity and specification of spares that need to be stocked for a population of equipment.
- (b) Special Maintenance Tools (SMTs) and Special Test Equipment (STE) that need to be provided to each such field workshop. ***(The total number of such facilities would also have to be stated based on deployment pattern of the concerned equipment to carryout total costing).***
- (c) All necessary technical literature.

- (d) Miscellaneous aspects, if any (viz. All necessary technical literature).

### **Intermediate Repairs**

7. These are extensive or special repairs carried out for a few equipment in the field to reduce the down time. *(Include this only if applicable for the equipment being procured and state the action required from the manufacturer).*

### **Base Repairs**

8. The Services/ICG would like to avoid dependence on the manufacturer in terms of factory repair. Thus all repairs including repairs to components, subassemblies and overhaul of the complete equipment are carried out by this facility.

9. Depending on the population of the equipment, one to five such facilities may be established in India for this purpose *(The actual No would have to be stated for costing)*. The manufacturer is required to provide the following:

- (a) All Special Maintenance Tools, jigs, fixtures and test equipment for carrying out repairs up to component level.
- (b) Quantity and specification of spares, sub-assemblies as per population expected to be maintained.
- (c) Oils and lubricants necessary for overhaul.
- (d) All necessary technical literature.
- (e) Calibration facilities for test equipment.

### **Manufacturer's Recommended List of Spares (MRLS)**

10. Based on the explanation given above, you are requested to provide MRLS to sustain the equipment for a period of \_\_\_\_ years for various levels of repair as per format given at **Annexure I** to this Appendix. You will be required to provide these both with Technical and Commercial proposals. *(In case where the equipment has been in usage, the spares would be sought by SHQ, on the recommended list to be furnished by the maintenance agency, based on the exploitation of the equipment and NOT as per MRLS)*

11. While with the commercial proposal, the actual costs of each component/spare will be provided, in the case of Technical Proposal these will be reflected as Low Cost/Medium Cost/High Cost. A guideline for this purpose is as under:

(a)	<b><u>Low Cost.</u></b>	Less than 2 % of the unit cost of the equipment/sub system.
(b)	<b><u>Medium Cost.</u></b>	2 to 10% of the unit cost of the equipment/sub system.
(c)	<b><u>High Cost.</u></b>	Greater than 10 % of the unit cost of equipment/subsystem.



12. If the complete equipment comprises a number of different sub systems, for eg it is coming mounted on a vehicle or is provided with a stand for mounting or is inclusive of a generator or an air conditioner or has a sight, the MRLS must be provided separately for each such sub system.

### **Special Maintenance Tools (SMTs) and Sepcial Test Equipment (STE)**

13. This is to be formulated in a similar manner as explained for MRLS. A suggested format is given at **Annexure II** to this Appendix and is to be included in both Technical and Commercial Proposals. The cost column may be left blank in the Technical Proposal.

### **Technical Literature**

14. The details of technical literature to be supplied with the system should be listed as per the suggested format at **Annexure III** to this Appendix. This should be provided with both Technical and Commercial Proposals. The cost column may be left blank in the Technical Proposal.

### **Miscellaneous Aspects (Applicable only when trials are required)**

15. In cases where the equipment is required to undergo trials, the equipment will also be put through Maintenance Evaluation Test. Based on this evaluation and in consultation with the supplier, the MRLS may be refined.

16. During user trials it may be brought out that the equipment is acceptable subject to carrying out certain modifications/improvements.

17. **Maintainability Evaluation Trials (MET).** This is carried with a view to facilitate provisioning of effective engineering support during life cycle of the equipment. This would involve stripping of the equipment and carrying out recommended tests and adjustments and establishing adequacy of maintenance tools, test equipment and technical literature. To facilitate this process the supplier is required to provide the following:

(a) **Technical Literature.**

(i) User Handbook/Operators Manual in English and Hindi.

(ii) Design Specifications.

(iii) **Technical Manuals.**

(aa) **Part I.** Tech description, specifications, functioning of various systems.

(ab) **Part II.** Inspection/Maintenance tasks repair procedures, materials used, fault diagnosis and use of Special Maintenance Tools (SMTs)/Special Test Equipment (STE).

(ac) **Part III.** Procedure for assembly/disassembly, repair up to component level and safety precautions.

(ad) **Part IV.** Part list with drawing reference and List of SMTs/STE Test Bench.

- (iv) Manufacturers Recommended List of Spares (MRLS).
  - (v) Illustrated Spare Parts List (ISPL) and along with the prices in the Commercial Offer.
  - (vi) Technical Manual on STE with drawing reference.
  - (vii) Complete Equipment Schedule.
  - (viii) Table of Tools & Equipment (TOTE) & carried spares.
  - (ix) Rotable list, norms of consumption, mandatory/non mandatory spares list for each system.
  - (x) Interactive Electronic Training Manuals (IETMs) of Class III or IV.
- (b) One set of Gauges
  - (c) One set of Special Maintenance Tools (SMTs).
  - (d) One set of Special Test Equipment (STEs).
  - (e) Servicing Schedule.
  - (f) Condemnation limits.
  - (g) Permissive repair schedule.
  - (h) Packing specifications/instructions.
  - (j) Design Specifications.
  - (k) Any additional information suggested by the OEM.

18. Vendors quoting lesser ESP/MRLS in terms of range and depth will have to make good the deficiency. The vendors quoting surplus items in ESP/MRLS should agree to buy back the surplus spares as per Para 13 of the RFP.

19. The following may also be noted:

- (a) The requirement of training and associated equipment must be clearly specified in Part I and details should be placed as per **Annexure IV** to this Appendix.
- (b) The costs for aggregates and training must only be indicated in the commercial proposal.
- (c) **Sufficiency clause** in terms of installation material and spares should also be included (as suggested by the SHQ).

\*\*\*\*\*

**MANUFACTURER'S RECOMMENDED LIST OF SPARES (MRLS)**

EQUIPMENT: \_\_\_\_\_

Original Equipment Manufacturer (OEM): \_\_\_\_\_

Ser No	Manufacturer's Part No	Source of Supply	Nomenclature	Nos fitted in one equipment	Illustrated spare Part List (ISPL) Reference	Unit Cost	Recommended scale for _____ qty Eqpt for two years				Total Cost				Remarks
							Unit Repair	Field Repair	Intermediate Repair	Base Repair	Unit Repair	Field Repair	Intermediate Repair	Base Repair	
Total Cost															

**Note:**

- Maintenance spares/stores like lubricants, sealing compound, gases should be given separately giving source of supply.*
- Spares for component repairs should be included under the column of nodal repair & Base Repair as suggested by OEM.*
- In 'Remarks' column following information (if applicable) be given:*
  - If an item has a shelf/operational life it be marked as 'G' and life indicated.*
  - Matching set of components be indicated.*
  - Item which can be locally manufactured should be marked 'LM'.*
  - Items which cannot be manufactured in India due to sophisticated design/technology may be marked as 'SI' (Special Item).*

*(e) If a component/assembly is common to other similar equipment offered by the OEM earlier these should be marked 'CM' and name of the equipment be indicated.*

- 4. MRLS should be drawn out of the 'Part List' of the equipment, which should be separately given as part of Technical Manual Part IV*
- 5. If the main equipment consists of other equipment then MRLS should be prepared for them under proper heads.*
- 6. MRLS be prepared as per the maintenance concept of the customer ( **Appendix E** to this RFP)*
- 7. Items provided along with the equipment as spares should also be included in MRLS.*
- 8. Modules/Shop Replaceable Unit (SRU)/assemblies should be listed and their components should be included under them so as to relate each item of spare to their module/SRU/assembly.*
- 9. Complete MRLS should be costed separately for Field, Nodal and Base repairs as it is required to be included as part of 'Total Costed Engineering Support Package' (ESP). OEM may give cost details in confidence to Contract Negotiation Committee (CNC), but other details as above be provided during Maintainability Equipment Trial (MET).*
- 10. MRLS for test equipment should also be provided on the similar format.*

\*\*\*\*\*

**Annexure II to Appendix E**  
(Refers to Para 13 of Appendix E)

**LIST OF SMT/STEs, JIGS, FIXTURE AND INFRASTRUCTURE**

EQUIPMENT: \_\_\_\_\_

Original Equipment Manufacturer (OEM): \_\_\_\_\_

Ser No	Manufacturer's Part No	Designation	Unit Cost	Nos Required				Brief Purpose	Remarks
				Unit Repair	Field Repair	Intermediate Repair	Base Repair		

**Note:**

- (i) Prepare separate sheet for each type of equipment.
- (ii) Specify in remarks column whether the Special Test Equipment (STE)/Special Maintenance Tools (SMTs) can be used as general purpose equipment on any other kind of equipment.
- (iii) For Nodal Repairs/Base repairs quantity required should be for repair of 10 equipments at a time.
- (iv) If test equipment is commercially available ex India, the source of supply be specified.
- (v) Test equipment for calibrating the STEs should be included in the list above.
- (vi) Test equipments which are required to be provided by the customer should also be included in the list above.

\*\*\*\*

**Annexure III to Appendix E**  
(Refers to Para 14 of Appendix E)

**TECHNICAL LITERATURE**

EQUIPMENT: \_\_\_\_\_

Original Equipment Manufacturer (OEM): \_\_\_\_\_

<u>Ser No.</u>	<u>Technical Literature</u>	<u>Unit Cost</u>	<u>Scale For</u> <u>equipment</u>	<u>Total Cost</u>	<u>Remarks</u>
1.	User Handbook/operators Manual				
2.	Design Specifications				
3.	Technical Manual. (a) <u>Part I.</u> Tech description, specifications, functioning of various Systems. (b) <u>Part II.</u> Inspection/Maintenance tasks, Repair procedures, materials used, fault diagnosis and use of Special Maintenance Tools (SMTs)/Special Test Equipment (STEs). (c) <u>Part III.</u> Procedure assembly/disassembly, repair up to component level, safety precautions. (d) <u>Part IV.</u> (i) Part list with drawing reference (ii) List of SMTs/STEs with Test Bench				
4.	Manufacturer's Recommended List of Spares (MRLS)				
5.	Illustrated Spare Part list (ISPL)				
6.	Technical Manual on STE with drawing reference.				
7.	CDs on the above Tech literature				
8.	Any other (specify)				

**Total Cost:**

**Note:** (i) In case any additional equipment is used their tech literature will be included.  
(ii) If certain technical literature is being provided free of cost it should be indicated in the remarks column.

\*\*\*\*\*

**Annexure IV to Appendix E**  
(Refers to Para 19(a) of Appendix E)

**TRAINING AGGREGATES**

EQUIPMENT: \_\_\_\_\_

OEM: \_\_\_\_\_

<u>Ser. No.</u>	<u>Description of Training Aggregate</u>	<u>Scale for</u> <u>(qty) Eqpt.</u>	<u>Unit Cost</u>	<u>Total cost</u>	<u>Remarks</u>
1.	Complete Equipment	2			
2.	Sectionised Equipment	1			
3.	Shop Replaceable Units (SRU)/PCB/Modules/Assemblies as under: (a) (b) (c)	One each			
4.	Computer based training package based on interactive multimedia to include (a) Full graphics, animation, text and sound (b) Symptoms-fault correlation (expert system).	One set			
5.	Training Aids to include (a) Charts (b) Slides (c) Training Brochures (d) Training Work models (e) Blow up diagram (f) Video films	One set			
6.	Cost of training ____ operators and ____ technicians in country of OEM				
7.	Any other				

**Total Cost:**

\*\*\*\*\*

**Appendix F to Schedule I to Chapter II**  
(Refers to Para 19 of Schedule I)

**INFORMATION PROFORMA**  
**Engagement of Agent by Foreign Vendor**  
(Separate sheets to be filled in case of multiple Agents)

1. Procurement Case .....
2. Has the vendor engaged/proposes to engage any Agent  
[Yes/No] :
3. If Yes, Details of Engaged Agent:  
Name of the Firm/Individual .....  
Address .....  
.....  
Registration No .....- 4. Date of Engagement .....
- 5. Period of Engagement .....
- 6. Scope of Work and Responsibilities .....  
.....
- 7. Payment Details :-  
Payments made in last 12 months .....  
Brief Terms of Payment .....  
.....  
.....
- 8. Any other details .....  
.....
- 9. Declaration. It is certified that the above information is true. Any change in the information, including termination of an Agent, will be intimated within two weeks of occurrence. Details of further payments will be intimated annually.

Place:

Date:

(Authorised signatory)  
Vendor Name and Address

\*\*\*\*



***(THIS PAPER LAYS OUT GENERAL GUIDELINES. MAY BE AMENDED IN  
CONSULTATION WITH PRODUCTION AGENCY AND OTHER AGENCIES INVOLVED  
TO MAKE IT EQUIPMENT SPECIFIC)***

**TRANSFER OF TECHNOLOGY (TOT) (FOR SKD/CKD/IM KIT BASED)**

1. **Preamble.**

(a) ToT shall be provided to the designated Production Agency(s) (to be decided prior to issue of RFP). The key technologies for ToT should be identified prior to issue of RFP jointly by the designated production agency, Defence Research and Development Organisation and Ministry of Defence.

(b) Technology used shall be current, State-of-the-art as used in the contemporary systems. Critical technology aspects having bearing on ToT evaluation need to be specified on a case to case basis.

(c) The ToT shall be comprehensive, covering all aspects of design, manufacturing know-how and detailed technical information which will enable the Production Agency to manufacture, assemble, integrate, test, install and commission, use, repair, overhaul, support and maintain the license product from SKD/CKD/IM Kit. Design data shall include the details that are needed to give design disposition during production on deviation/concession; modify/upgrade the license product and substitute parts and systems of the license product as required by the certifying agency and the production agency.

(d) The OEM is required to provide the latest version of Configuration Control Document which will provide detailed breakdown of the product structure in terms of lower level subsystems/assemblies/sub-assemblies/modules/detail parts/PCBs/wiring diagrams etc with their latest modification status. All updates during the term of the Agreement should be provided as and when issued free of cost. Consolidated list of updates during the year should be provided during the first quarter of the subsequent year.

(e) Vendor should submit an undertaking that he would provide and support complete ToT for phased manufacture to the buyer or his authorised Indian Organisation for the System and its sub-systems, modules, assemblies and detailed parts/components. Support will be provided for a minimum period of 20 years on long term basis after the last unit is produced under the present proposal.

(f) The vendor should provide total support and facilitate ToT of the sub- systems from his sub-vendors/OEMs if desired by the buyer.

(g) (To be included on as required basis) Vendor should submit an undertaking not to exceed\* budgetary price for the Transfer of Technology covering the following parameters:-

- (i) License fee.

- (ii) Documentation.
- (iii) Technical Assistance.
- (iv) Training.
- (v) Materials.
- (vi) Spares.
- (vii) Tooling.
- (viii) Special Tools.
- (ix) Standard tools.
- (x) Ground Support & Test Equipment.
- (xi) Programme Management.
- (xii) Special Infrastructure facilities deemed necessary to support the operations.

**\*Note:** Above ‘not to exceed’ budgetary quotes are to be provided for both Licensed production and Repair/Overhaul separately. Vendor may note that this ‘not to exceed’ budgetary price will be used for commercial evaluation. Vendor selected after technical & commercial evaluation will enter into detailed contractual negotiations on various aspects of the Transfer of Technology to the buyer or his authorised Indian organisation based on the “Not to exceed” budgetary quotes.

(h) It is likely that some of the assemblies/sub-assemblies/modules/PCBs used in the realisation of higher level assemblies/sub-systems and systems are manufactured by the OEM’s vendors/sub-contractors either based on Engineering documentation provided by the OEM or developed by the OEM’s vendors/sub-contractors based on procurement specifications provided by the OEM. Further, as a result of multiplicity of technologies involved and for reasons for price competitiveness arising due to economies of scale, some of the items used in the manufacture of licensed product may be bought out by the OEM from vendors as ‘fully finished’ against the procurement specifications provided by him.

(j) Although, not desirable, some of the components/process specifically developed by the OEMs for use in the manufacture of licensed product may be classified by them as ‘Proprietary’ and not included within the scope of ToT offered to the Production Agency.

(k) To bring in a fair comparison between the ToT offered by various OEMs as also to have a fair assessment of the depth of technology being transferred, OEMs are required to identify each item (system/sub-system/assembly/sub-assembly/module/detail parts/PCB etc) in the product structure under the following categories, as may be applicable and provide information on the relative price for each of the items in the product structure as percentage of product cost:-

- (i) **Category -1.** Items, for which complete ToT, i.e., Engineering and Manufacturing documentation to enable the Production Agency carryout fabrication, assembly and test of the item from CKD/IM Kit level as the case may be, is being provided by the OEM, may be classified under the head “CToT”.

(ii) **Category -2.** Items which are manufactured by the OEM's Subcontractors based on engineering documentation provided by the OEM and these Engineering Documentation are being provided by the OEM to the Production Agency, may also be classified under the head "CToT".

(iii) **Category -3.**

(aa) Items in respect of which development and manufacture by the OEM has been subcontracted to its vendors/sub-contractors based on only the procurement specifications provided by him and the OEM is not in a position to provide any additional technical information to the Production Agency except the procurement drawings/specifications provided by him to his vendors/sub-contractors, may be classified under the head Single Vendor "Subcontract". For the purpose of evaluating the depth of ToT, it will be presumed that the ToT in respect of these items for indigenous manufacture is not provided. OEM shall ensure authorisation to its vendors/sub-contractors to supply items, manufactured against OEM's specifications to the Production Agency against its purchase orders.

(ab) However in such case, the OEM in collaboration with his vendor/subcontractor, is required to provide the Production Agency, maintenance Documentation, the recommended list of spares for repair and overhaul as may be applicable and maintenance training at the vendor's/subcontractor's premises, then such vendor items are may be classified under the head 'Limited ToT for maintenance support', i.e, "M-ToT".

(iv) **Category-4.**

(aa) Items including catalogue/standard items sourced by the OEM against his procurement specifications as 'Fully Finished', may be classified as "Bought Out". Evidently ToT for such items for indigenous manufacture will not be available and the OEM will be able to provide only the procurement drawings/specifications, sources of supply. OEM has to ensure the availability of such items or its equivalents during the life cycle of the product. However, in respect of some of the selected items in this category, if the OEM, in collaboration with his vendor, is able to provide the Production Agency documentation for maintenance, recommended list of spares for repair and overhaul as may be applicable and maintenance training in the vendor's premises, then such items may also be classified under the head 'limited ToT for maintenance support' i.e. "M-ToT".

(ab) OEM shall ensure periodical review of obsolescence, study of the Bill of Items (BOIs) and provide a retrieval scheme for a minimum period of 15/20 years from the production of last unit under the present proposal.

(v) **Category -5.** Some of the items for which the ownership of Design and Manufacturing Documentation is available with the OEM, but the OEM is not willing to transfer the technology to the Production Agency may be classified under the head 'Proprietary' items. The list of such items shall be far and few and generally restricted to components/processes specifically developed by the OEM for the licensed product. No item in the product structure which is critical either from the technology point of view or from the point of view of significant value addition or

which constitutes a significant relative percentage of the product cost (say > 10%), will be acceptable under the head “Proprietary items”. Further, at any stage during the life cycle of the Product, if the OEM intends to discontinue the production of Proprietary items, the complete technical documentation in respect of these items available with the OEM or his subcontractors will be passed on to the Production Agency to enable indigenous manufacture or establish alternative routes of meeting the requirement. Also, a base price for such items with an escalation formula for future supplies shall be given for slab quantities by OEM.

(l) The OEMs have to ensure that the depth of Technology being transferred shall enable the Production Agency achieve value addition commensurate with a minimum 30% of the relative cost of the licensed Product through indigenous manufacture in case of CKD kit based ToT and a minimum of 60% of the relative cost of the licensed product through indigenous manufacture in case of IM Kit based ToT (Percentage of indigenous value addition may vary based on the product).

(m) No single sub-system/assembly/sub-assembly, which constitutes more than 10% of the cost of Licensed product, shall be without ToT option to the Production Agency. In case, such a sub-system/assembly belongs to the ‘bought out’ category, then the OEM as a prime bidder of the licensed product shall bid in consortium with the concerned vendors with separate ToT proposal for which items included in the bid directly from the relevant vendor. The bid for supplied/ToT in such a case shall be evaluated as an integrated composite proposal.

(n) OEM shall assist the production agency and take the lead to obtain maintenance related ToT to the maximum extent possible in respect of items covered under category 3 and 4, from his vendor/sub-contractors.

## 2. **Evaluation of ToT**

### **For CKD Kit based ToT**

(a) The vendor not offering the key specified technologies for ToT for categories 1 and 2 and maintenance technologies for category 3 (Single source vendor assemblies) will not be eligible for further evaluation.

(b) In the technical bid, the depth of ToT being provided will be evaluated for comparison purpose as given below:-

- |  |   |  |
|--|---|--|
| <p>(i) Relative Percentage of cost of Category 1 items (individual &amp; composite)</p>  | } | <p>Not less than 60% after excluding the corresponding CKD kit cost resulting in value addition of not less than 30%</p> |
| <p>(ii) Relative Percentage of cost of Category 2 items (individual &amp; composite)</p> |   |  |

- |       |  |   |                   |
|-------|--|---|-------------------|
| (iii) | Relative Percentage of cost of Category 3 items (individual & composite) | } | Not more than 25% |
| (iv)  | Relative Percentage of cost of Category 4 items (individual & composite) |   |                   |
| (v)   | Relative Percentage of cost of Category 5 items (individual & composite) | } | Not more than 15% |

(c) Total %age of (i) to (v) should be 100%.

(d) Bids of Vendors with relative percentage of cost of items manufactured indigenously based on ToT minus CKD Kit cost being higher than the minimum specified 30% during the IM Phase will only be considered further for commercial evaluation. (minimum specified percentage may vary based on the product).

### **For IM Kit based ToT**

(a) The vendor not offering the key specified technologies for ToT for categories 1 and 2 and maintenance technologies for category 3 (Single source vendor assemblies) will not be eligible for further evaluation.

(b) In the technical bid, the depth of ToT being provided will be evaluated for comparison purpose as given below:

- |       |  |   |   |
|-------|--|---|---|
| (i)   | Relative Percentage of cost of Category 1 items (individual & composite) | } | Not less than 60% after excluding the corresponding CKD kit cost resulting in value addition of not less than 30% |
| (ii)  | Relative Percentage of cost of Category 2 items (individual & composite) |   |   |
| (iii) | Relative Percentage of cost of Category 3 items (individual & composite) | } | Not more than 25%   |
| (iv)  | Relative Percentage of cost of Category 4 items (individual & composite) |   |   |
| (v)   | Relative Percentage of cost of Category 5 items (individual & composite) |   |   |
|       |  | } | Not more than 15%   |

(c) Total %age of (i) to (v) should be 100%.

(d) Bids of Vendors with relative percentage of cost of items manufactured indigenously based on ToT being higher than the minimum specified 60% during the IM Phase will only be considered further for commercial evaluation. (Minimum specified percentage may vary based on the product).

3. **Phased Manufacturing Programme.**

(a) Based on the phased ToT absorption planned by production agency, quantity\_\_\_\_\_ will be supplied as Fully Finished during Phase-0, quantity \_\_\_\_\_ as SKD Kit during Phase1, quantity \_\_\_\_\_ as CKD Kit during Phase-2 and quantity \_\_\_\_\_ as IM Kit during Phase3, as the case may be. Illustrative phase definitions are given below:

(i) **Phase-0.** Shall be based on supply of Fully Formed and tested product by the OEM.

(ii) **Phase-1.** Shall be based on supply of Semi Knocked Down (SKD) Kits provided by the OEM. The Semi Knocked Down Kit will consist of subsystems, assemblies, sub- assemblies, modules etc assembled and tested by the OEM and/or his vendors/sub- contractors. The Production Agency will perform the final level assembly and testing of the product.

(iii) **Phase-2.** Shall be based on supply of Completely Knocked Down (CKD) Kits provided by the OEM in the form of unassembled Bill of Materials. CKD Kit may include certain components/sub-assemblies commercially available “Off The Shelf” (COTS) from multiple vendors as fully finished items. Production Agency will carry out assembly and test of individual PCBs/Modules/Subassemblies/Assemblies /Sub-systems etc from component level and then carry out final assembly and testing of the product.

(iv) **Phase-3.** Shall be based on supply of proprietary items (IM Kit) by the OEM. Production Agency will perform procurement of all the components/raw materials and carry out complete fabrication, assembly and testing of the product from raw-materials/component stage through various stages of manufacture. (Phase 3 applicable only for IM Kit based ToT).

(b) The time frame for completion of supplies by the OEM for various phases of manufacturing is provided at **Annexure 1**. Conformance of the vendor to the time schedule provided in **Annexure 1** will be one of the important Evaluation Criteria and the bids of OEM's not meeting the time schedules are liable to be rejected.

(c) OEM shall provide complete configuration of SKD, CKD and IM Kits, as the case may be, to the Production Agency to realise the Fully Finished Product. CKD Kits required to meet the spares requirement may be furnished separately. The OEM shall also provide estimated man- hours required for various stages of fabrication, assembly and test to realise the Licensed Product from SKD Kit during Phase-1, CKD kit during Phase-2 and IM kit during Phase-3. Based on experience in his plant supplier shall also provide “Production Mortality” of SKD/CKD/IM kit parts required for realisation of final finished product.

(d) OEM shall permit the production agency to sub contract components/ assemblies to sub contractors of Production Agency. ToT shall be such that the production agency is able to procure components/sub-assemblies/test equipment directly from OEM's Sub-contractors/ Vendors.

4. **Itemised Price List (IPL).** The OEM shall provide Itemised parts list in the Technical Bid and itemised price list (IPL) totaling to end product unit cost in Commercial Bid. Man- hours required during various phases of manufacture to realise the fully finished product shall also be provided. The prices of components, fabricated parts, standard items, bought out items,

proprietary items as may be relevant shall be provided for various phases of manufacturing programme. The list shall include the source of supply of components, standard items, BOIs and the ToT shall include authorisation to production agency to procure these items directly from the sources without going through OEM. (While this information may be possible for less complex products, it may not be possible if the itemised price list is very voluminous, e.g., aircraft to be manufactured under ToT. Therefore this Para of the draft procedure may have to be suitably modified on a case to case basis).

## 5. **Supply of Documentation.**

(a) The ToT Documentation to be provided by the OEM shall be in English language and include documentation under the following heads:- (In case of procurement from Russian or other foreign vendors, they may be asked to quote translation charges separately to enable the production agencies to decide whether to undertake the translation themselves or to seek the English version of the documentation from the vendor).

- (i) Engineering documentation
- (ii) Software documentation and Firm ware support manual for embedded software including source code.
- (iii) Manufacturing documentation.
- (iv) Test documentation.
- (v) Technical Manuals.
- (vi) General documentation including Company standards, National and International standards and specifications
- (vii) Additional documentation for repairs centre.
- (viii) Illustrated parts catalogue.
- (ix) Design data- stress, fatigue, performance, qualification, environmental test, life (calendar/total/overhaul), where applicable.
- (x) Source identification for BOIs and subcontracted items; standard parts, consumables etc.
- (xi) Spares parts lists and price catalogue for Operator (O), Intermediate (I) and Depot (D) level maintenances.
- (xii) Recertification/requalification test plan, series test, special category test due to change in venue of manufacture, where applicable.
- (xiii) “Red band” units, calibration stands where applicable.
- (xiv) Quality procedures, plans, ESS, Special tests during production other than ATP.
- (xv) Data on reliability-FMECA, MTBF, MTBO, MTBUR, MTBR.

(b) The details/definition of Documentation to be provided by the OEM under the above heads is enclosed at **Annexure II**.

(c) The OEM is required to furnish 'Compliance Statement' in respect of each type of detailed documentation requirement listed at **Annexure II**. Non-compliance by the OEM against any of the documentation requirements depending upon its criticality will have an adverse bearing in the evaluation of ToT proposal.

(d) The documentation to be supplied by the OEM shall be that which is used by the OEM or its sub contractors for the purpose of manufacturing, assembly and testing of the licensed product in their plant. The OEM will ensure completeness and exhaustiveness of the documentation for the purpose and work to be performed by the Production Agency for manufacturing, assembling, testing, installation and commissioning, maintenance and overhaul of the licensed product in his plant. Wherever approval of certification agency is relevant, approved documents will be provided. Certification standards as far as possible will be relevant Military (MIL) Specifications or as mutually agreed with the User's Certification Agency.

(e) Documentation as detailed in **Annexure II** to enable the Production Agency procure, manufacture, operate and maintain the SMTs, STEs, Tools, Jigs and Fixtures required for the FF/SKD/CKD/IM kits manufacturing phase, shall be provided. Wherever software is used, details of the software as per documentation listed at Annexure II including Source Code and Firmware Support Manual shall be provided.

(f) The OEM shall also provide the data in respect of MTBF, MTBO, MTBR and Reliability of the product being offered.

6. **Product Upgrades.** Technical data including relevant Documentation update in respect of any modifications/improvements/upgrades undertaken by the OEM in the licensed product during the entire life cycle of the product/license Agreement shall be provided to the Production Agency at no additional cost during the entire life- cycle of the product.

7. **Training**

(a) As part of ToT, Industrial Training required by the Production Agency to realise the Fully Finished Product from SKD, CKD and IM kits, as the case may be, during various manufacturing phases and for providing component level maintenance support to the Customer shall be provided by the OEM. The Industrial Training shall be in English language, comprehensive, covering all aspects of design, manufacture, software, installation and commissioning, system integration and checkout and component level maintenance of the product down to sub-assembly, modules and PCB level. Apart from classroom training covering the critical aspects, due emphasis will be given to on-the-job training.

(b) All aspects of software are to be comprehensively covered during the software training module with a view to enable Production Agency's software engineers undergoing training to acquire skills in the use, maintenance and update of the software.

(c) Industrial Training shall be in OEM's plants and/or in the plants of its subcontractors, associates, principals and subsidiaries as the case may be. OEM shall ensure that such training is organised at the time when OEM has the product under production in its plant or in the plant of its vendors.



(d) OEM shall provide complete details of Industrial Training programme, which will include scope, location, number of trainees and the duration for each phase of training in terms of instructor man weeks. Such Industrial Training programme shall be mutually agreed upon between OEM and Production Agency.

(e) Details of the training shall be sub divided into batches with the date of start for each batch, duration of training etc, as will be agreed upon by OEM and Production Agency subject to over all training schedule. Operation and Maintenance training for end user shall also be provided.

(f) Details of Industrial and User Training Programme recommended by the OEM shall be provided as an annexure to the technical proposal. OEM shall provide details regarding the training aids and simulators required at the production agency and at user locations. Long term training of production agencies at the design departments of OEMs shall also be included to give a complete exposure to them on design practices of OEM. This will help in design liaison support including upgrade Modifications/Troubleshooting/Concessions during the entire life cycle of the product.

8. **Technical Assistance.** As part of ToT, OEM shall provide requisite technical assistance to the production agency during the phased manufacturing programme of the product in India. The details of such technical assistance considered necessary by the OEM shall be provided as an annexure to the technical proposal. The total technical assistance package shall be in number of man weeks spread over number of missions. OEM shall provide question/answer service and modification advices during the life cycle of the product at no additional cost.

9. **Special Maintenance Tools (SMTs) and Special Test Equipment (STEs).**

(a) OEM shall provide complete technical data of the SMTs and STEs used in the production, assembly, test and maintenance of product. This information shall also include the data for manufacture and maintenance of the SMTs and STEs. Details on manufacturing hours and cost details are to be provided.

(b) Details of special category test (recertification, production series testing) along with test Rig/test set up shall also be provided. Wherever software is used, details of the software including Source Code and Firmware Support Manual for embedded software shall be provided.

(c) OEM shall provide details of calibration and periodicity of calibration in respect of SMTs and STEs. Details of master tester and associated special facilities required for this purpose (with source of supplies) will be provided by the OEM.

10. **Consumables.** List of consumables required for the manufacture/maintenance of product along with cost, source details and life data shall be provided.

11. **Special Technologies/Processes.** The OEM shall mention in the ToT proposal about special technologies and special coatings and treating processes along with details of plant and machinery/running cost etc vis-à-vis specific components/assemblies.

12. **Product Support.** OEM shall ensure that the product support including supply of spares and management of obsolescence for a minimum of 20 years from the time the last unit is produced under the present proposal, shall be available to the production agency/its customer. OEM shall also provide a proposal for transferring the complete product support to the production agency in a phased manner.

13. **Commercial Proposal.** The commercial proposal should be submitted in a separate sealed cover.

14. **Transfer of Technology (ToT).** OEM shall provide commercial offer for providing complete Know-How and documentation for the manufacturing of product from SKD, CKD Kits and IM phase, as the case may be, Industrial Training and Technical Assistance and the required rights, licenses and authorisation to manufacture, use and sell the product. For the Industrial Training and Technical Assistance phase, man week rate for providing training/technical assistance in OEM's own plant(s) or in India may be separately provided.

15. **Supplies**

(a) **FF, SKD, CKD and IM Kits.** OEM shall provide itemised price list for supply of FF, SKD, CKD and IM Kits, as the case may be, inclusive of the production mortality used by the OEM during manufacture of product in its plants. Itemised price break-up up to component level is to be provided at the time of signing of the Technical Collaboration Agreement (TCA).

(b) **SMTs, STEs, Tools, Jigs and Fixtures.** OEM shall also provide complete list with itemised prices for SMTs, STEs, Tools, Jigs and Fixtures required for the SKD, CKD and IM manufacturing phase, as the case may be. In case of Tools, Jigs & Fixtures where large quantities are involved, category-wise prices may be provided. OEM shall also provide prices for 'O' level, 'I' level and 'D' level maintenance facilities of PRODUCT by the User/Customer.

(c) **Bought Out/Outsourced/Subcontracted Items.** OEM shall provide the complete list of items, which are bought out/outsourced/subcontracted for use in the manufacture of PRODUCT along with itemised prices and details of the sources for procurement. Authorisation for direct procurement by the production agency from these sources shall be given so that no development cost or NRE charges are incurred. In case where suggested sources decline to supply the components/materials, OEM shall take responsibility for supply of same or suggest alternate sources for the procurement of suitable equivalent components/materials during the term of the agreement.

(d) **Life-Cycle Cost.** OEM shall provide the estimated LIFE-CYCLE COST of the product and the basis thereof. Factors such as operational hours/year, MTBF, requirement of maintenance spares, mandatory replacements during preventive maintenance schedules etc may be considered for arriving at life cycle cost.

(e) **Spares.** The OEM shall provide itemised price list of spares required as per three levels of maintenance of PRODUCT as follows:-

(i) **'O' level:** \_\_\_\_\_ set per \_\_\_\_\_ {product} (total \_\_\_\_\_ {product} sets) at field units:

(ii) **'I' level:** \_\_\_\_\_ set each for a group of \_\_\_\_\_ {product} (\_\_\_\_\_ sets for \_\_\_\_\_ {product}) at Intermediate level of maintenance; and

(iii) **'D' level:** \_\_\_\_\_ set for \_\_\_\_\_ {product} at Depot level maintenance.

16. **Payment Terms.** OEM shall provide the terms of payment for all supplies including ToT forming part of its commercial proposal. Specimen Format for Providing Prices is at **Annexure III**. (needs to be formulated by the OEM for specific products based on identified milestones).

17. **Delivery Schedule.** OEM shall provide complete schedule for transfer of documentation, providing of Industrial Training and Technical Assistance, supply FF, SKD, CKD and IM Kits, as the case may be, Spares, SMTs, STEs, Tools, Jigs and Fixtures to match the overall delivery requirement for manufacture and supply of FF product by the Production Agency. The Documentation for a specific phase shall be provided one month prior to the commencement of training for that phase to enable the trainees study documentation prior to the training. Specimen format for providing delivery schedule is at **Annexure I**.

18. **Liquidated Damages.** OEM shall undertake to complete its obligations in accordance with the contractual delivery schedule. For delay in delivery of FF, SKD, CKD and IM Kits, as the case may be, Spares, SMTs and STEs and delays in the implementation of PMP caused by or attributable to the OEM, the Production agency shall be entitled to claim liquidated damages.

19. **Warranty.**

(a) **Documentation.** OEM shall warrant that the documentation supplied shall be identical, complete and of equal quality as the documentation used by him in its own activities and shall be accurate and complete for manufacturing, assembling, integrating and testing of the product and shall provide updates including modifications/improvements during the life cycle of the product/tenure of the License Agreement.

(b) **Material/Equipment/Kit Supply.** Items supplied should be free from any defects arising from faulty material, design or workmanship and should be guaranteed for quality/satisfactory performance for a period of minimum 24 calendar months from the date when the stores are delivered to Production Agency. During this warranty period, defects arising from faulty material, design or workmanship, shall be remedied by OEM at his own cost. If it becomes necessary, the OEM should replace any defective portion of the goods or replace the material/equipment as a whole without any additional cost to production Agency.

(c) All supplied software should be verified & validated by OEM for use of the designated Production Agency.

20. **Infringement.** OEM shall indemnify and protect at its own cost, the production agency in respect of cost/claims/legal claims/liabilities arising from third party claim with regard to the existence of any patent or intellectual & industrial property right of any such parties in India or from other countries.

21. **Performance Guarantee.** OEM shall guarantee the performance of the product to design specifications at the production agency/end customer locations.

22. **Validity.** The proposal will be kept valid for acceptance for a minimum period of ~~12~~18 months from the date of submission.

23. **Technical Collaboration Agreement (TCA).** After the CNC is concluded, the OEM shall enter into a detailed Technical Collaboration Agreement (TCA) with Production Agency incorporating mutually agreed terms and conditions.

24. **Offsets.** The vendor should agree to provide an offset as per the details given in the RFP.
25. **Global Rights.** OEM shall clearly indicate the extent of global rights of sales, which they would be willing to offer to the Indian production agency.

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**Annexure I to Appendix G**  
(Refer to Para 3(b) of Appendix G)

**SPECIMEN FORMAT FOR PROVIDING DELIVERY SCHEDULE**

<b>Sl. No.</b>	<b>Description</b>	<b>Qty</b>	<b>Month after effective date</b>	<b>Remarks</b>
1.	Documentation Transfer in lots for each phase*			
2.	Training including Final assembly of SKD/CKD/IMs to FF for each phase			
3.	Operation and maintenance course training			
4.	Test equipment delivery			
5.	First system FAT and Delivery			
6.	Spare Parts delivery (“O” level spares)			
7.	Spare Parts delivery (“T” level spares)			
8.	Spare Parts delivery (“D” level spares)			
9.	Test equipment delivery for SKD and CKDs			
10.	SKD Kits delivery (____kits per month)			
11.	CKD Kits delivery (____kits per month)			
12.	IM Kits delivery **(____kits per month)			

\* Documentation for each phase shall be supplied one month prior to start of training of that phase.

\*\* Applicable for IM Kit based ToT.

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**Annexure II to Appendix G**  
(Refers to Para 5(b), (c) & (e) of  
Appendix G)

**DOCUMENTATION DETAILS TO BE PROVIDED BY OEM**

1.	<b><u>Engineering Documentation</u></b>
(a)	Structure Breakdown list
(b)	Part List.
(c)	Part Electrical Lists.
(d)	Part Drawings.
(e)	Assembly drawings.
(f)	Cable looking diagram including its part list, connectors and end preparation details.
(g)	Configuration Control Document.
(h)	Stress Reports (static/fatigue), performance reports, type test Schedule/records, type test certificate.
(j)	For Coils and Transformer: winding details, mechanical drawing, purchased parts specification, details of special processes, moulding tools etc.
(k)	Drawings of castings/forgings with material details, vendor information, heat treatment details.
(l)	Details of vendor items specifically developed by the OEM for the Licensed Product.
(m)	For PCB Cards: Schematics, general assembly drawings, assembly instructions, SMD location processing files including CAE/CAM files.
(n)	Engineering change proposals covering details of modifications.
(o)	Wiring List and details including schematics of sub-assembly/modules/drawers/racks.
(p)	List of components where trace-ability records are important.
(q)	Details of environment tests carried out on equipment and its sub-systems.
(r)	With respect to FPGAs the following details are required: ACTEL or SRAM (depending on the manufacture) design files and the complete schematic with i/o details- in the form of a timing diagram of .sim files.
(s)	* Bill of materials and Ordering Specifications with Vendors addresses including OEMs specifying MIL grade details.

(t)	*Details of non-MIL grade components and their screening procedures.
(u)	*Full technical details of ASICS and Hybrid Micro-circuits including manufacturing documents.
(v)	*Full technical details of proprietary items, if any (including manufacturing documents).
(w)	*Material data sheets-chemical composition/mechanical-properties -for all metallic/non- metallic materials/consumables.
2.	<b><u>Software Documentation.</u></b> (As per IEEE 12207/MIL-STD-498/DO178B)
(a)	Software Requirement Specification.
(b)	Interface design document.
(c)	Software change proposals.
(d)	Firmware support manual for embedded software.
(e)	Software environment/tools including third party proc elements.
(f)	Software test procedure.
(g)	Software User Manual.
(h)	Software installation procedure including user settings of pass words, site specific data and any customisation code/key or encryption.
(j)	IV & V details (independent verification & validation).
3.	<b><u>Manufacturing Documentation.</u></b>
(a)	Details of B/FPGA programming and testing with co-ordinate detail for placement. Programming file (fuse file in the standard format), programming platform configuration-tools and associated version control document, verification document with check sum details.
(b)	Process Sheets including details of special processes and finishes as may be applicable.
(c)	Complete set of drawings for tooling, jigs and fixtures as may be applicable.
(d)	Photographs of wiring harness/bundling level.
(e)	List of shop consumables with details of specifications; source of procurements, data on shelf life.
(f)	Assembly tree/sequence, assembly process sheets including assembly settings and checks, assessments to be made, matching subassemblies, markings.

(g)	Any special manufacturing facilities to be set up indicating plant and machinery, test equipment and their vendor details and cost.
(h)	Estimated man-hour requirements for assembly and testing at sub-system level.
(j)	Inspection stages, quality plan, details of inspection equipment, gauges with sources of supply, etc.
(k)	Calibration procedures for inspection equipment, gauges, heat treatment & process equipment (furnace/baths).
(l)	*Operation Sequence Sheets.
(m)	* Programme for Production (e.g. NC Tapes/S/W as applicable).
4.	<b><u>Test Documentation.</u></b>
(a)	Factory Test specification, procedure and acceptance test specification, procedure for PCBs, modules and equipment with detailed instructions on test set up, user of test and/or simulation equipment and software, execution of test with recording of results.
(b)	Complete set of drawings for manufacture of test jigs including ATE fixtures, programmes as applicable.
(c)	Complete set of drawings for special to test equipment. This will include manufacturing details as well as software documents.
(d)	Special category test details (recertification, production series testing, quality assurance testing.
(e)	'Red band' units, calibration procedures for test rigs/equipment.
5.	<b><u>Technical Manuals.</u></b>
(a)	User handbook detailing operational use of equipment.
(b)	Installation and commissioning manual
(c)	Technical description of PCB, Modules, drawers, racks, etc., with details of block diagram, schematic general assembly drawing, timing details, PROM etc. schematic general assembly drawing, timing details, PROM etc.
(d)	Maintenance Manual covering.
(e)	Permissible worn-out dimension limits, acceptance test procedure and Acceptance limits of overhauled product.
(f)	Repair/salvage schemes, mandatory replacement parts.
(g)	Periodic maintenance.



(h)	Trouble shooting and fault diagnosis manual. Testing and repair procedure for faulty PCBs up to component level and peripheral equipment received from the customer.
(j)	Structural breakdown list for complete equipment.
(k)	Recommended Spares List, site supply and depot stocking.
(l)	The Maintenance Manual shall cover the product for which the file of drawings/documents is given as well as all vendor items which are part of Licensed Product.
(m)	Overhauling manuals including details, tests, adjustment, calibration tuning etc., for all levels of equipment.
6.	<b><u>General Documentation (including Standards and Specifications).</u></b>
(a)	Standard inspection method (inward goods in-process and final acceptance).
(b)	Process standards/procedures.
(c)	Workmanship standards/procedures.
(d)	Quality standards/procedures including incoming inspection procedures, quality manuals.
(e)	General procedures as may be applicable.
(f)	Qualified Vendor Lists as may be applicable.
(g)	Standard tools, jigs and fixtures as may be applicable.
(h)	Company standards.
(j)	ISO 9001 certification of OEM, vendors & subcontractors/ISO 14000 certification.
(k)	Material/component and product standards including general fasteners and consumables.
7.	<b><u>Additional Documentation.</u></b> Repair center documents including details of Test Instruments, jigs, fixtures etc., for the End User.
8.	Documentation shall be provided in the form of hard copy, in microfilm/microfisch and magnetic media, including that required for making copies of technical manuals as specified by the customer. Documentation shall be provided in English Language.
* Applicable for IM Kit based ToT.	

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**Annexure III to Appendix G**  
(Refers to Para 16 of Appendix G)

**SPECIMEN FORMATS FOR PROVIDING PRICE INFORMATION**

ToT			
<b><u>S No.</u></b>	<b><u>Item</u></b>	<b><u>Price</u></b>	<b><u>Remarks</u></b>
1	Know-how and documentation	USD _____	Payment shall be subject to deduction of taxes in India as per Double Taxation Avoidance Agreement in accordance with the following schedule (depending on the product, various stages of payments should be included without indicating the quantum of payment) :-  1. Stage 1.--  2 .Stage 2.--  3. Stage 3.--
2	<b><u>Training.</u></b> (a) Industrial Training covering all aspects for ToT at OEM's facility.	USD __ *Instructor man day/week rate	
	(i) FF Phase ____working days/week		Upto ____trainees Max.
	(ii) SKD Phase ____working days/week		Upto ____trainees Max.
	(iii) CKD Phase ____working days/week		Upto ____trainees Max.
	(iv) IM Phase ____working days/week#		Upto ____trainees Max.
	(v) Training on design liaison, design practices, design disposition on concessions/ deviation.		Upto ____trainees Max.
	(b) Operational/Field Maintenance Training		
	(i) ____working days/week in ____and		Upto ____trainees and ____Customer trainees Max.
	(ii) ____working days/week in India		Upto ____trainees and ____Customer trainees Max.

3	Technical Assistance in OEM's Plant to be availed as required	USD _____ * (Man day/ week rate)	Maximum No. of man weeks _____ spread over No. of mission
		TOTAL	

\* Minimum mandatory Training and Technical Assistance, which can be provided at no additional cost to be indicated.

# Applicable for IM Kit based ToT.

<b><u>COST OF FE, SKD, CKD AND IM KITS, AS THE CASE MAY BE, SPARES AND SMTs/STEs</u></b>					
<b><u>S. No</u></b>	<b><u>Item</u></b>	<b><u>Unit Price in USD</u></b>	<b><u>Qty</u></b>	<b><u>Total Price in USD</u></b>	<b><u>Remarks</u></b>
1.	_____ -System				
	(a) Fully Finished System				
	(b) SKD Kits				
	(c) CKD Kits				
	(d) IM Kits#				
2.	<b><u>Spares.</u></b>				
	(a) 'O' Level				
	(b) 'I' Level				
	(c) 'D' Level				
3.	<b><u>SMTs/STEs.*</u></b>				
	(a) Test Jigs/Software for 'O' level maintenance				
	(b) Test Jigs/ Software for 'I' level maintenance				
	(c) Test Jigs/Software for 'D' level maintenance				
	(d) Test Jigs and software for manufacture under ToT				
	* Excluding Standard Test Equipment				
	<b>TOTAL</b>				

<b><u>Itemised SKD Kit Price</u></b>					
<u>Part No</u>	<u>Description</u>	<u>Qty</u>	<u>Price in USD</u>		
<b><u>Itemised CKD Kit Price</u></b>					
<u>Part No</u>	<u>Description</u>	<u>Qty</u>	<u>Price in USD</u>		

<b><u>LIST OF SPECIAL MAINTENANCE TOOLS (SMTs) AND SPECIAL TEST EQUIPMENT (STEs)</u></b>						
<u>Part no.</u>	<u>Description</u>	<u>Model</u>	<u>Mfr.</u>	<u>Qty</u>	<u>Price In usd</u>	<u>Remarks</u>
(a) SMTs and STEs required for Maintenance						
(b) ToT Test Equipment						
<b><u>LIST OF SINGLE SOURCE VENDOR ASSEMBLIES/ COMPONENTS AND PROPRIETARY ITEMS</u></b>						

<u>Components</u>	<u>P/N</u>	<u>Price in USD</u>	<u>Vendor</u>
(a) SMTs and STEs required for Maintenance			
(b) ToT Test Equipment			

**SPARES.**

(a) **‘O’ Level Spares Parts Lists ( Set Per)**

<u>No.</u>	<u>Item Description</u>	<u>Qty. per set</u>	<u>Item Price in USD</u>	<u>Total Price in USD</u>
	Total			

(b) **'T' Level Spares Parts Lists (Set Per)**

<u>No.</u>	<u>Item Description</u>	<u>Qty. per set</u>	<u>Item Price in USD</u>	<u>Total Price in USD</u>
	Total			

(c) **'D' Level Spares Parts Lists (Set Per)**

<u>No.</u>	<u>Item Description</u>	<u>Qty. per set</u>	<u>Item Price in USD</u>	<u>Total Price in USD</u>
	Total			

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**GUIDELINES AND CONDITIONS FOR ESTABLISHING MAINTENANCE  
INFRASTRUCTURE WITH AN INDIAN FIRM**

**Note:** *These guidelines and conditions are indicative. These may vary as per the type of service/equipment and the intended requirements. SHQ concerned may amend these as per their requirement. No blanks to be left.*

1. The Govt of India, Ministry of Defence is desirous that the depot level maintenance (third line) and the life time support for the \_\_\_\_\_ (**generic name of the equipment**) be carried out through an Indian private/public firm. (These firms would normally be DPSUs/OFB/Army Base Workshops/Naval dockyards/Naval Aircraft Yards/Base Repair Depots of Air Force or any other firm as recommended by SCAPCHC and approved by DPB/DAC).

2. **Scope of Maintenance.** It is desired that the Indian entity selected should be able to accomplish the following towards providing maintenance support for the life cycle of the equipment:

(a) Carry out depot level repairs to include repair of major assemblies, sub assemblies and of the equipment.

(b) Provision of spares for the unit level, field level and intermediate level repairs for the entire life cycle of the equipment. The scope of these repairs is elaborated subsequently. You are required to take into consideration these aspects while preparation of your maintenance plans. Initially the spares would be in the form of MRLS for a period of years. The provision of spares subsequently would be through the identified Indian entity through a separate contract.

3. **Maintenance Infrastructure.** To enable the Indian entity to provide life time maintenance support in terms of spares and depot level, it is essential that the facilities, as given in the subsequent paras, are established/available in India at the premises of the selected Indian entity.

**Note:** *The following is just for the guidelines and would vary on case to case basis. The SHQ will have to work out the exact details prior to issuing out the RFP.*

4. **General.**

(a) ToT shall be provided to the designated Maintenance Agency for “D” level maintenance of aircraft including:-

(i) Airframe

(ii) Engines

(iii) Accessories (Equipments)

- (b) Full ToT for the following systems for overhaul and repair is mandatory:
- (i) Air Frame including metallic and composite structures, empennage,
  - (ii) Canopy, Radome, Special process, Casting & Forgings
  - (iii) Flight Control Systems including FBW hardware and software
  - (iv) Landing Gear system including all castings and forgings
  - (v) Electrical and Avionics systems including Cockpit display systems
  - (vi) Instruments, Communication and Navigation equipment, Power generation and distribution systems.
  - (vii) Power Plant System including FADEC, Engine accessories, Turbine, NGV and compressor blades
  - (viii) Hydraulic System including pumps, servo actuators along with its spool & sleeve
  - (ix) Wheels and brakes system
  - (x) Fuel System including in flight refuelling
  - (xi) Environment system including OBOX, Pneumatic system
  - (xii) Ejection Seat
  - (xiii) Weapon Systems Integration, hardware and software.
- (c) The ToT shall be for “D” level maintenance to cover Airframe, Engines, Avionics and other aggregates. It shall be comprehensive and shall cover all aspects of maintenance up to the lowest level which will enable the Maintenance Agency to, repair, overhaul, support and maintain the license product. ToT shall include the details that are needed to give disposition during the maintenance on deviation/concession; modify/upgrade the license product and substitute parts and systems of the license product as required by the certifying agency and the maintenance agency.
- (d) The OEM is required to provide the latest version of configuration control document which will provide detailed breakdown of the product structure in terms of lower level subsystems/assemblies/sub-assemblies/modules/detail parts/PCBs/wiring diagrams etc with their latest modification status.
- (e) Vendor should submit an undertaking that he would provide & support complete ToT for maintenance to the buyer or his authorised Indian Organisation for the System and its subsystems, modules, assemblies and detailed parts/components.
- (f) Vendor should submit an agreement that the buyer or his authorised Indian organisation reserves the right to approach directly the OEMs of the Sub- Systems for similar ToT agreements and that as a Main Contractor he will be the nodal agency to provide total support and facilitate such ToT agreements.

5. **Documentation.**

(a) The ToT Documentation to be provided by the OEM shall be in English language in Electronic and hardcopy formats and include documentation under the following heads:- (If required vendors may quote translation charges separately to enable the production agencies to decide whether to undertake the translation themselves or to seek the English version of the documentation from the vendor).

- (i) “D” level Maintenance documentation in ATA100/ATA iSpec 2200.
- (ii) Engineering documentation including special process.
- (iii) Software documentation including source code, build environment and utilities.
- (iv) Details of Special tools and Test equipments, Jigs & Fixtures.
- (v) OEM’s Standard Technical Manuals.
- (vi) Illustrated parts catalogue with price list.
- (vii) Source identification for BOIs and subcontracted items; standard parts consumables etc.
- (viii) Mandatory spares replacement lists and price catalogue for O, I and D level maintenance.

(b) The OEM is required to furnish 'Compliance Statement' in respect of each type of Documentation listed above. Non-Compliance by the OEM against any of the documentation requirements depending upon its criticality will have an adverse bearing in the evaluation of ToT proposal.

(c) The documentation to be supplied by the OEM shall be that which is used by the OEM or its sub contractors for the purpose of maintenance of the licensed product in their Plant. The OEM will ensure completeness and exhaustiveness of the documentation for the purpose and work to be performed by the maintenance agency for maintenance/overhaul of the licensed product in his plant. Wherever approval of certification agency is relevant, approved documents will be provided. Certification standards as far as possible will be relevant MIL Specs or as mutually agreed with the User’s Certification Agency. All the certification documents generated for obtaining certification in the country of origin to be supplied. Further, vendor should supply such documentation as may be required by the Indian Certification Authorities.

(d) The OEM shall also provide the data in respect of MTBF, MTBO, MTBR and Reliability of the product being offered.

(e) **Labour Hours.** OEM should indicate their stabilised labour hours and Turnaround time for each 3 levels of maintenance clearly indicating the learning curve adopted.

6. **Special Technologies/Processes.** The OEM shall mention in the ToT proposal about special technologies and special coatings and treating processes along with details of plant and machinery vis- à-vis specific components/assemblies. For identifying the augmentation needs to



plant and machinery available with the production agency, if required vendor specialists shall visit production agency before submission of technical and commercial bid.

7. **Capital Investment.** OEM to provide their assessment of plant and machinery required including floor space required for the 3 levels of maintenance assuming that this project will be handled as an ab-initio green field project.

8. **Special Maintenance Tools (SMTs) and Special Test Equipment (STEs).**

(a) OEM shall provide complete technical data of the SMTs and STEs used in the Maintenance of Product. This information shall also include the data for manufacture and maintenance of the SMTs and STEs. Details on manufacturing hours are to be provided.

(b) Details of special category test equipments along with test rig/test set up shall also be provided. Wherever software is used, details of the software including Source Code shall be provided.

(c) OEM shall provide details of calibration and periodicity of calibration in respect of SMTs and STEs. Details of master tester and associated special facilities required for this purpose (with source of supplies) will be provided by the OEM.

(d) OEM shall provide complete technical data of Ground handling and Ground support equipment used in the production assembly, test and maintenance of product. This information shall also include the data for manufacture and maintenance of the same. Details on manufacturing hours are to be provided.

9. **Standard Tooling and General Industrial Requirement.** OEM to provide list/Technical details of standard tooling and general industrial requirement for carrying out “D” maintenance.

10. **Training of Indian Engineers/Technicians.**

(a) As part of ToT, industrial training required by the production agency to realise the fully finished product from SKD, CKD and IM kits and for providing component level maintenance support to the Customer shall be provided by the OEM. The Industrial Training shall be in English language, comprehensive, covering all aspects of “O”, ‘I and ‘D’ level maintenance of the product down to sub-assembly, modules and PCB level. Apart from classroom training covering the critical aspects, due emphasis will be given to on-the-job training.

(b) All aspects of software including usage of source code, its build environment and utilities, are to be comprehensively covered during the software training module with a view to enable maintenance agency’s software engineers undergoing training to acquire skills in the use, maintenance and update of the software.

(c) Industrial training shall be in OEM’s plants and/or in the plants of its subcontractors, associates, principals and subsidiaries as the case may be. OEM shall ensure that such training is organised at the time when OEM has the product under production in its plant or in the plant of its vendors.

(d) OEM shall provide complete details of industrial training programme which will include scope, location, number of trainees and the duration for each phase of training in terms of instructor man weeks. Such Industrial Training programme shall be mutually agreed upon between OEM and Maintenance Agency.

(e) Details of the training shall be sub divided into batches with the date of start for each batch, duration of training etc, as will be agreed upon by OEM and Maintenance Agency subject to over all training schedule.

(f) Details of industrial and user training programme recommended by the OEM shall be provided as an Annexure to the technical proposal. OEM shall provide details regarding the training aids and simulators required at the Maintenance agency and at user locations.

11. **Technical Assistance.** As part of ToT, OEM shall provide requisite technical assistance to the Maintenance Agency during the maintenance programme of the product in India. The details of such technical assistance considered necessary by the OEM shall be provided as an Annexure to the technical proposal. The total Technical Assistance package shall be in number of man weeks spread over number of missions. OEM shall provide question/answer service and modification advices during the life cycle of the product at no additional cost.

12. **Spare Parts list.** OEM based on their experience may provide the 10 off spares requirement for the 3 levels of maintenance separately. Spares which are to be mandatorily replaced during the 3 levels of maintenance should be identified and highlighted. For standard spares “NATO” codes may be provided against the respective spares.

13. **Raw Materials and Consumables.** OEM to provide list of raw material and consumables required during the 3 levels of maintenance programme.

14. **Delivery Schedule.** OEM shall provide complete schedule for transfer of documentation, providing of Training and Technical Assistance, supply of Spares, SMTs, STEs, Tools, Jigs and Fixtures ordered on OEM to match the overall maintenance programme. The documentation for a specific phase of training shall be provided one month prior to the commencement of training for that phase to enable the trainees study documentation prior to the training. Specimen format for providing delivery schedule is at Annexure 1.

15. **Life Cycle Cost.** OEM shall provide all the details like Operating cost, Maintenance cost, Overhaul cost, training cost etc per squadron of aircraft, required to estimate the Life cycle cost of the aircraft.

16. **Long Term Product Support.** OEM shall ensure that the product support including supply of spares and management of obsolescence for the life of the product (minimum 30 years from the date of delivery of the last aircraft by the production agency) shall be available to the Maintenance agency/its customer.

17. **Warranty.**

(a) **Documentation.** OEM shall warrant that the documentation supplied shall be identical, complete and of equal quality as the documentation used by him in its own activities and shall be accurate and complete for the 3 levels of maintenance and shall provide updates including modifications/improvements during the life cycle of the product/tenure of the licence agreement.

(b) **Material/Equipment/Kit Supply.** Items supplied should be free from any defects arising from faulty material, design or workmanship and should be guaranteed for quality/satisfactory performance for a period of minimum 12 calendar months/360 flying hours whichever is later, from the date when the stores are delivered to Production Agency.

During this warranty period, defects arising from faulty material, design or workmanship, shall be remedied by OEM at his own cost. If it becomes necessary, the OEM should replace any defective portion of the goods or replace the material/equipment as a whole without any additional cost to Production Agency.

18. **Performance Guarantee.** OEM shall guarantee the performance of the product to design specifications at the production agency/end customer locations.

19. **Global Rights.** OEM should clearly indicate the extent of global rights which they would be willing to offer to the Indian production agency.

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**TRIAL METHODOLOGY**

Trial Methodology for checking SQRs (Essential Parameters-A, Essential Parameters-B (if applicable) and Enhanced Performance Parameters (if applicable)) as given in the RFP should be formulated and mentioned in this Appendix by SHQ.

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**CERTIFICATE: MALICIOUS CODE**  
(To be rendered on the Company Letter head)

1. This is to certify that the Hardware and the Software being offered, as part of the Contract, does not contain embedded malicious code that would activate procedures to:-

- (a) Inhibit the desired and designed function of the equipment.
- (b) Cause physical damage to the user or equipment during the exploitation.
- (c) Tap information resident or transient in the equipment/networks.

2. The firm will be considered to be in breach of the procurement contract, in case physical damage, loss of information or infringements related to copyright and Intellectual Property Rights (IPRs) are caused due to activation of any such malicious code in embedded software.

(Signed)

Designation/Name/Address of firm

Date:

Place:

## **COMMERCIAL CLAUSES**

### **1. Payment Terms**

#### **1.1 INCOTERMS for Delivery**

1.1.1 For multi-vendor cases in 'Buy Global' category, the delivery of goods will be based on INCOTERMS-2010.

1.1.1.1 **For Foreign Bidders.** CIP INCOTERMS-2010, Maximum cover and consigned to \_\_\_\_\_ (Port/Airport) with the ultimate consignee as \_\_\_\_\_

1.1.1.2 **For Indian Bidders.** DDP with ultimate consignee as \_\_\_\_\_

1.1.2 (**Note:** For other cases, depending upon the nature of proposal, any of the following INCOTERMS-2010 may be used-EXW, FCA, CPT, CIP, DAT, DAP & DDP.)

#### **1.2. Currency of Payment**

1.2.1 Foreign bidders should submit their bids in US Dollars/Euros/Pounds Sterling or any other currency.

1.2.2 Indian bidders should submit their bids in Indian Rupees.

#### **1.3. Payment to Foreign Bidders**

1.3.1 **Advance Payment.** Fifteen (15%) of the contract price shall be paid within thirty (30) days of signing of Contract through Direct Bank Transfer (DBT) and upon submission of claim and a Bank Guarantee (BG) for equivalent amount. The seller is required to furnish BG for advance payment from banks of international repute and the details of the bank have to be furnished in the commercial bid. Buyer reserves the right to consult Parliament Street branch of State Bank of India, New Delhi as to whether to get the BG from a foreign bank confirmed. The Advance Payment Bank Guarantee (APBG) will be deemed to be proportionately and automatically reduced until full extinction along with and prorata to value of each delivery, as evidenced by corresponding copy of document proving delivery and invoices of goods/services supplied/provided. The date of delivery would be reckoned from the date of release of Advance payment by the Buyer to the Seller (T<sub>0</sub>), provided the Seller submits the documents mandated by the DPP for release of advance by the Buyer within 45 days of signing of contract. In the event of the Seller not submitting the said documents within 45 days of signing of contract, the period between the 45<sup>th</sup> day and actual submission of documents will be excluded from the actual date of advance payment to arrive at the delivery date. In case, no advance is to be paid, the date for reckoning date of delivery would be the date of signing of contract. This clause will not be applicable in cases wherein Advance payment is released after FOPM is successfully

validated. In such cases, date of accord of Bulk Production Clearance will be date for reckoning date of delivery<sup>33</sup>.

1.3.1.1<sup>34</sup> In cases where Export License is required to be submitted by the Seller to the Buyer prior to release of Advance Payment, a copy of vendor's application for export license to their government may be provisionally accepted in lieu of export license, for release of Advance Payment with the caveat that the vendor should submit the requisite Export License prior to release of next payment from the Buyer.

1.3.2 **On Dispatch.** (*Note: The percentages for this stage can be fixed in the RFP on merits of case*). \_\_\_\_% of the Contract Price of the Goods shipped shall be paid through Irrevocable Letter of Credit (LC). The payment will be arranged through any Public / Private Sector Indian bank authorized for government transactions by RBI<sup>32</sup> (as decided by the Buyer), to the Bank of the Foreign Seller. The Seller will give a notification to Buyer about the readiness of goods for dispatch at least 45 days prior to delivery of goods. Letter of Credit will be opened by the Buyer within expiry of this period of 45 days provided the Performance-cum-Warranty Guarantee for full value of contract has been received. The Letter of Credit will be valid for \_\_\_\_days from the date of its opening. In case the delivery is in multiple consignments and there is a long delivery schedule, then Revolving LC can be opened. Paid shipping documents are to be provided to the Bank by the Seller as proof of dispatch of goods as per contractual terms so that the Seller gets payment from LC. The Bank will forward these documents to the Buyer for getting the goods/stores released from the Port/Airport. Documents will include- (*Note: The list given below is illustrative. The documents that may be required, depending upon the peculiarities of the procurement being undertaken, may be included/excluded in RFP*).

1.3.2.1 Clean on Board Airway Bill/Bill of Lading (Original)

1.3.2.2 Commercial Invoice (Original)

1.3.2.3 Certificate of Conformity

1.3.2.4 Acceptance Test Certificate at PDI.

1.3.2.5 Certificate of Origin, duly stamped from Seller's Chamber of Commerce.

1.3.2.6 Certificate of Quality and current manufacture from OEM.

1.3.2.7 Dangerous Cargo Certificate.

1.3.2.8 Phyto-sanitary/Fumigation Certificate.

1.3.2.9 Packing List

1.3.2.10 Insurance and freight documents

1.3.2.11 Training certificate issued by the Buyer.

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<sup>32</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

<sup>33</sup>Amendment issued vide Enclosure C to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

<sup>34</sup>Amendment issued vide Enclosure D to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

**1.3.3 Stage-wise Payments** *(Note: This Para may be included if the Buyer wants to release payments other than Advance into different stages. The number of stages, their activities and documents required for payment may be framed keeping in view the unique requirements of the case. In such cases, Paras 1.3.2 above will get replaced by Para 1.3.3)*

1.3.3.1 The payments will be done in stages as under:-

- First stage-\_\_\_% on completion of \_\_\_\_
- Second stage-- \_\_\_% on completion of \_\_\_\_
- Third stage-\_\_\_% on completion of \_\_\_\_
- .....

1.3.3.2 For stages mentioned above, payments will be released based upon the Completion certificate given by Buyer's representative for all activities mentioned therein. For all milestone payments, Bank Guarantee for same amount will have to be furnished by the Seller before release of payments.

**1.3.4 On Final Acceptance and Installation/Commissioning.** *(Note: The percentages for this stage can be fixed in the RFP on merits of case)* \_\_\_\_% of the Contract Price of Goods received shall be paid within thirty (30) days of receipt of Goods upon submission of claim supported by the Acceptance Certificate issued by the Buyer. The mode of payment could be either LC as mentioned above or through DBT. Payment through DBT will be made within 30 days of receipt of Original invoice, User Acceptance report and other relevant documents as mentioned above for final payment, but such payments will be subject to the deductions of such amounts as the Seller may be liable to pay under the agreed terms of the Contract.

**1.3.5 Part-Dispatch/ Part-Shipment.** *(Note: Depending upon merits of case, this Para can be included).* Part-dispatch or part-shipment of goods is permitted and corresponding payment will be released to the Seller. However, where permitted, the minimum quantity for using this facility on each occasion will not be less than \_\_\_\_\_. No trans-shipment of goods will be allowed.

**1.3.6 AMC Payments.** *(Note: This Para may be included if there is AMC clause in RFP. Choice of Quarterly/Half-yearly/Annually may be decided as per merits of the case)* Quarterly/Half-yearly/Annually payments will be made by PCDA/CDA on submission of User clearance certificate through DBT.

1.3.7 Payments through LC and DBT will be subject to the instant Uniform Customs and Practice for Documentary Credit (UCPDC) of the International Chamber of Commerce. The LC will be confirmed at Seller's cost, if requested specifically by the Buyer. Banking charges will be paid by the Buyer and Seller in their respective countries. Where extension of LC is necessitated, the Banking charges for extension shall be borne by the Party whose default causes such an extension.

#### **1.4 Payment to Indian Bidders.**

1.4.1 **Advance Payment.** Fifteen (15) % of the total contract price shall be paid within thirty (30) days of signing of Contract and upon submission of claim and a Bank Guarantee for the equivalent amount. Bank Guarantee should be from Public Sector Banks **or Private Sector Banks authorised by RBI<sup>17</sup>**. The Advance Payment Bank Guarantee (APBG) will

<sup>17</sup>Amendment issued vide Enclosure L to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018



deemed to be proportionately and automatically reduced until full extinction along with and prorated to value of each delivery, as evidenced by corresponding copy of document proving delivery and invoices of goods/services supplied/provided. The date of delivery would be reckoned from the date of release of Advance payment by the Buyer to the Seller (T<sub>0</sub>), provided the Seller submits the documents mandated by the DPP for release of advance by the Buyer within 45 days of signing of contract. In the event of the Seller not submitting the said documents within 45 days of signing of contract, the period between the 45<sup>th</sup> day and actual submission of documents will be excluded from the actual date of advance payment to arrive at the delivery date. In case, no advance is to be paid, the date for reckoning date of delivery would be the date of signing of contract. This clause will not be applicable in cases wherein Advance payment is released after FOPM is successfully validated. In such cases, date of accord of Bulk Production Clearance will be date for reckoning date of delivery<sup>33</sup>.

1.4.2 **On Dispatch.** (*Note: The percentages for this stage can be fixed in the RFP on merits of case*) \_\_\_\_\_ % of the contract price shall be paid on proof of dispatch of stores to the consignee and on production of an inspection note issued by the buyer designated inspection agency. Number and date of the Railway/Road/Air Transport receipt under which the goods charged for in the bill are dispatched by rail/road/Air and the number and date of letter with which such receipt is forwarded to the consignee, should be quoted on the bill. The payment will be made by PCDA/CDA \_\_\_\_\_ through cheque/Electronic Fund Transfer (EFT) on submission of following documents- (*Note-The list given below is illustrative. The documents that may be required, depending upon the peculiarities of the procurement being undertaken, may be included/excluded in RFP*).

1.4.2.1 Ink-signed copy of Seller's bill.

1.4.2.2 Ink-signed copy of Commercial invoice.

1.4.2.3 The relevant Transport Receipt.

1.4.2.4 Inspection Acceptance Certificate of Buyer's QA agency demonstrating compliance with the technical specifications of the contract.

1.4.2.5 Packing List.

1.4.2.6 Certificate of Origin.

1.4.2.7 Claim for statutory and other levies to be supported with requisite documents/proof of payment, as applicable.

1.4.2.8 Exemption certificate for taxes/duties, if applicable.

1.4.3. **Stage-wise Payments.** (*Note: This Para may be included if the Buyer wants to release payments other than Advance into different stages. The number of stages, their activities and documents required for payment may be framed keeping in view the unique requirements of the case. In such cases, Para 1.4.2 above will get replaced by Para 1.4.3*)

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<sup>17</sup> Amendment issued vide Enclosure L to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

<sup>33</sup> Amendment issued vide Enclosure C to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

1.4.3.1 The payments will be done in stages as under:--

- First stage-\_\_\_% on completion of \_\_\_\_
- Second stage-- \_\_\_% on completion of \_\_\_\_
- Third stage-\_\_\_% on completion of \_\_\_\_
- .....

1.4.3.2 For stages mentioned above, payments will be released based upon the Completion certificate for all activities mentioned therein given by Buyer's representative. For all milestone payments, Bank guarantee for same amount will have to be furnished by the Seller before release of payments.

1.4.4 **On Final Acceptance and Installation/Commissioning.** (*Note: The percentages for this stage can be fixed in the RFP on merits of case*)-The remaining \_\_\_\_% of the Contract Price shall be paid within thirty (30) days after the date of the Acceptance Certificate & Certified Receipt Voucher (CRV) issued by the Buyer and other relevant documents as mentioned above for final payment, but such payments will be subject to the deductions of such amounts as the Seller may be liable to pay under the agreed terms of the Contract. The concerned PCDA/CDA will release the payment through cheque/EFT.

1.4.5 **Part-Dispatch/Part-Shipment.** (*Note: Depending upon merits of case, this Para can be included*). Part-dispatch or part-shipment of goods is permitted and corresponding payment will be released to the Seller. However, where permitted, the minimum quantity for using this facility on each occasion will not be less than \_\_\_\_\_. No transshipment of goods will be allowed.

1.4.6 **AMC Payments.** (*Note: This Para may be included if there is AMC clause in RFP. Choice of Quarterly/Half-yearly/Annually may be decided as per merits of the case*). Quarterly/Half-yearly/Annually payments will be made by PCDA/CDA on submission of User clearance certificate through issue of cheque/ECS.

1.4.7 **Payment of Taxes and Duties.** Payment of taxes, duties and statutory levies will be made on submission of requisite documentary proof to Paying authority. Reimbursement of taxes and duties will be as per rates and amounts indicated in the commercial bid/contract or as per actuals whichever is lower.

1.4.8 **Exchange Rate Variation.** Exchange Rate variation shall be applicable for Rupee contracts with Indian Vendors, based on RFPs issued under all categories of capital acquisitions mentioned at Para 6 to 11 of Chapter I of DPP. The indigenous & import components as also the various currencies (of the import components) for ERV purposes, must be determined in advance. The guidelines on protection of Exchange Rate Variation are given at **Annexure I to this Appendix.**

1.4.9 **Payment by Letter of Credit (LC).** For Capital Acquisition, Category "Buy Global" (other than Defence PSUs in *ab initio* Single Vendor Cases or as a nominated production agency), Indian vendors can exercise option to take payment either through Letter of Credit (LC) or Bank Transfer. The payment terms would be regulated as given below:-

Clause	Where Supplier opts for payment through Letter of Credit	Where Supplier opts for payment through Bank transfer
1	The Accounting and Payment currencies shall be Rupees only. However, Exchange Rate Variation (ERV), as per ERV provisions contained in Annexure I to Appendix L of RFP, where permissible, shall be paid, only in INR.	
2	<p>The components of total contract price are as follows:-</p> <ul style="list-style-type: none"> <li>(a) Value of goods supplied - Basic cost of Goods including ESP, as per the Contract.</li> <li>(b) Freight and Insurance - As per the Contract.</li> <li>(c) Training charges and technical literature.</li> <li>(d) Reimbursable expenses - Taxes and duties as admissible under the Contract.</li> <li>(e) AMC charges-As per the Contract.</li> <li>(f) Installation and Commissioning charges- As per the Contract.</li> </ul>	
3	<p>The total contract price referred to in Article 1 of the contract shall be paid as follows:-</p> <ul style="list-style-type: none"> <li>(a) <b><u>Advance Payment.</u></b> ____% of total value of goods supplied being ₹----- shall be paid to the SELLER, through Bank Transfer, within 30 days of the receipt of the following documents: <ul style="list-style-type: none"> <li>(b) Advanced Bank Guarantee as per Article 3B of the Contract.</li> <li>(c) Performance cum Warranty Bond as per Article 4 B of the Contract.</li> <li>(d) Any other specific document (like proforma invoice) if required.</li> </ul> </li> </ul> <p><i>(Note: The second stage advance payment after completion of specific milestone may also be paid through Bank Transfer.)</i></p>	
4	For the second/next stage payment the SELLER has the option to seek payment either through Bank transfer from the O/o of PCDA _____ or through Letter of Credit.	

5	<p>Where the SELLER opts for payment through LC, all payments except for the first stage payment as per clause 3 above shall be made by LC, as per following conditions:-</p> <p>(a) The SELLER will give a notification to the BUYER about the readiness of goods for dispatch 45 days prior to the delivery of the consignment.</p> <p>(b) Consequent on receipt of the above notification, the BUYER shall open the Letter of Credit through PCDA before expiry of this period of 45 days provided a 5% Performance cum Warranty Bond for the Full value of the Contract has been received.</p> <p>(c) The Letter of Credit will be opened with a <b>Public / Private Sector Indian bank authorized for government transactions by RBI<sup>32</sup></b>, for _____% of the Contract value with the SELLER's Bank, i.e. _____ &amp; Seller's Account No. _____. It will be valid for a period of _____ days/months from the date of opening.</p> <p><b><i>Note:</i></b> Since the LC charges are fixed on per quarter basis, it may be ensured that LC validity is fixed in multiples of 90,180,270 days/months depending upon the delivery schedule. In case the delivery is in multiple consignments and there is a long delivery schedule more than one LC or revolving Letter of Credit can be opened.</p> <p>(d) The payment against LC shall be made to the SELLER against presentation of the documents specified.</p> <p>(e) In the event of delay in opening the Letter of Credit (reasons for which are solely attributable to Buyer), the delivery date will automatically stand extended to that extent. Formal amendment/certification from Buyer will be required as shipment date would have to be amended in SWIFT form accordingly.</p>	<p>Where the SELLER opts for payment through Bank Transfer payment shall be made as per following conditions:-</p> <p>(a) The SELLER will give a notification to the BUYER about the readiness of goods for dispatch 45 days prior to the delivery of the consignment.</p> <p>(b) Once a Supplier opts for payment through Bank Transfer, no changes in mode of payment would be permitted.</p>
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<sup>32</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

	<p>(f) All expenses connected with establishment of the Letter of Credit in India will be borne by the SELLER.</p> <p>(g) Where the extension of the validity of Letter of Credit is necessitated, the Bank charges for extension shall be borne by the party whose default causes such an extension.</p> <p>(h) Once a Supplier opts for payment through LC, no mid-way changes in mode of payment are permitted.</p> <p>(j) The Letter of Credit shall be subject to and shall be governed by the instant Uniform Customs and Practices for Documentary Credits issued by the International Chamber of Commerce.</p> <p>(k) Any amendment in LC terms will be subject to Buyer's approval.</p>	
6	All payments will be carried out with reference to the number of this contract.	
7	<p>The Second/next Stage payment comprising _____% of the value of goods supplied and full freight and insurance (where admissible) thereon, shall be paid to the Seller on submission of the following documents, in six copies each:</p> <p>(a) Commercial invoices in original.</p> <p>(b) Contractor's bill in original.</p> <p>(c) Certificate of Conformity and Acceptance test report at the Pre Despatch Inspection signed by BUYER's and the SELLER's Quality Assurance Department. In case BUYER's representative do not attend the PDI, then certificate issued by the BUYER that it does not wish to attend the PDI and Inspection and acceptance certificate issued by the SELLER.</p> <p>(d) Proof of Despatch (original copies of RR, P. Way bill of Lading, Airway bill as applicable).</p> <p>(e) Packing List.</p> <p>(f) Warranty certificate from the supplier.</p> <p>(g) Certificate of current manufacture from OEM.</p> <p>(h) Insurance documents for 110% of the cost of consignment, except where the supply is Ex-Works.</p> <p>(j) Proof of Duty/Tax paid/reimbursable like deposition receipt/challan etc.</p> <p><b><u>Note:</u></b></p> <p>(i) <i>The Invoice and Contractor's bill must show the contract reference number, break-up of costs in terms of unit costs, total costs, exchange rate element, percentage rates of taxes and duties and amount payable/paid, in complete detail.</i></p> <p>(ii) <i>Three copies of SELLER's Commercial Invoices, proof of dispatch, packing list and the specifications will be sent by courier and fax by the SELLER to the BUYER (Wing of Service HQ to be specified) within 3 days after the</i></p>	

	<i>equipment has been shipped. Intimation may also be forwarded to Ministry of Defence, South Block, New Delhi (Wing to be specified).</i>	
8	<p>Payment of other components of contract-</p> <p>(a) <u>Training</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative that training program has been completed.</p> <p>(b) <u>Reimbursable Expenses</u>. Based on documentary proof of actual payment against the contract, issued by relevant statutory authority. Suppliers may ensure submission of same with details of contractual obligations completed and payments received. <b>This clause shall form part of LC.</b></p> <p>(c) <u>Installation and Commissioning Charges</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative. <b>Documents in proof of rates claimed shall need to be annexed.</b></p> <p>(d) <u>AMC Charges</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative.</p>	<p>Payment of other components of contract-</p> <p>(a) <u>Training</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative that training program has been completed.</p> <p>(b) <u>Reimbursable Expenses</u>. Based on documentary proof of actual payment against the contract, issued by relevant statutory authority. Suppliers may ensure submission of same with details of contractual obligations completed and payments received.</p> <p>(c) <u>Installation and Commissioning Charges</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative.</p> <p>(d) <u>AMC Charges</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative.</p>
9	<p><b>Balance Payment.</b> The balance payment for ____% shall be paid to the SELLER against presentation of following documents:-</p> <p>(a) Copies of invoices (three copies).</p> <p>(b) Copy of JRI and acceptance certificate issued by the BUYER.</p> <p>(c) Contractor's bill</p> <p>(d) Extended bank guarantee wherever required</p>	
10	<p>SELLER's bankers address and account number: -</p> <p>Bank Name:</p> <p>Branch Name:</p> <p>Account No.:</p> <p>Sort Code:</p> <p>SWIFT Code:</p> <p>IFSC Code</p> <p>RTGS No</p>	<p>SELLER's bankers address and account number:-</p> <p>Bank name:</p> <p>Branch name:</p> <p>Bank account No.:</p> <p>IFSC Code</p> <p>MICR Code</p>

11	Where admissible, tax deduction at source will be done <b>by the Bank releasing payment against LC.</b>	Where admissible, tax deduction at source will be done <b>by PCDA.</b>
12	Payment/recovery in terms of the Contract will be made <b>by the Bank releasing payment against LC.</b> All documents under the LC shall be delivered by the Bank to PCDA (through Trade Finance CPC, New Delhi).	Payment/recovery in terms of the Contract will be made <b>by PCDA.</b>

1.5 **Payments to DPSUs.** Whenever the cases with DPSUs are processed on Single Vendor/PAC basis, payment terms would be either as per the latest MoU in vogue with the concerned DPSU or as per the payment terms catering the requirements of specific case. In such cases, Para 1.4 above may be replaced by payment terms as mentioned in MoU. In competitive tendering cases, the payment terms for DPSUs will be the same as of Indian bidders, as mentioned in Para 1.4 above

2. **Performance-cum-Warranty Bank Guarantee Clause.** A Performance-cum-Warranty Bank Guarantee (PWBG) of 5 % of value of the Contract would be furnished by the Seller in the form of a Bank Guarantee. The PWBG shall be submitted by the Seller within one month of signing of contract and shall be valid for a period, until three months beyond the warranty period, as specified in the RFP.

2.1 In case of foreign Sellers, Bank guarantee will be from a **First class Bank** of international repute. Details of the bank are to be furnished in the commercial offer. Buyer reserves the right to consult Parliament Street branch of State Bank of India, New Delhi as to whether to get the BG from a foreign bank confirmed.

2.2 In case of Indian Sellers, the PWBGs are required to be furnished from Public Sector Banks **or Private Sector Banks authorised by RBI<sup>17</sup>**. Confirmation of the same from SBI **or any other Bank<sup>17</sup>** is not required.

3. **Additional Bank Guarantee in Cases Where Essential Parameters -B are Incorporated.** An Additional Bank Guarantee of \_\_\_\_ % of contract value of the equipment required with Essential Parameters B would be furnished by the L1 vendor in the form of a Bank Guarantee. Additional Bank Guarantee would be submitted after declaration of L1 by the CNC and shall be valid for a period, until \_\_\_\_ months after signing of the contract. **However, in cases where the equipment fielded by the vendor emerging L1 has already been trial evaluated for Essential Parameters B and found compliant to same, the vendor may not furnish an Additional Bank Guarantee for Essential Parameters B<sup>27</sup>.**

4. **Indemnity Bond.** (*Note - This para is to be included only in the Single Vendor/PAC cases with DPSUs. In competitive bidding cases, Para 2 above will be applicable to DPSUs also*). DPSUs may furnish Indemnity Bonds instead of Bank Guarantees towards Advance Payment Guarantee and Performance-cum-Warranty Guarantee as given in **Annexure II to Appendix L.**

5. **Inspection.** Pre Dispatch Inspection (PDI) would be at the discretion of the Buyer. In addition Joint Receipt Inspection (JRI) may also be carried out. If it is PDI, the Seller should intimate at least 45 days prior to the day when the equipment is to be offered for PDI to enable Buyer's QA

<sup>17</sup>Amendment issued vide Enclosure L to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

<sup>27</sup>Amendment issued vide Enclosure H to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

personnel to be available for inspection. In case of JRI, the representative of the Seller may be present for inspection after the equipment reaches the concerned destination. The Seller would be informed of the date for JRI.

6. **Liquidated Damages (LD)**<sup>45</sup>. In the event of the SELLER's failure to submit the Bonds, Guarantees and Documents, supply the stores/ goods, perform services, conduct trials, installation of equipment, training and MET as per schedule specified in this contract, the BUYER may, at his discretion withhold any payment until the completion of the contract. The BUYER may also deduct from the SELLER as agreed, liquidated damages to the sum of **1/100** of the **delay percentage** {Delay percentage = (Period of Delay in Delivery in Weeks) x 100 / (Delivery Period in weeks as per contract)} of the contract price of the delayed/ undelivered stores/ services mentioned above for every week of delay or part of a week, subject to the maximum value of the Liquidated Damages being not higher than **10%** of the contract price of the value of delayed stores/ services (Any extension given by the buyer for delay attributable to buyer or Force Majeure Clause to be factored in delivery period).

7. **Denial Clause**<sup>22</sup>. In case the delay in delivery is attributable to the seller or a non-force majeure event, the Buyer may protect himself against extra expenditure during the extended period by stipulating a denial clause (over and above levy of LD) in the letter informing the supplier of extension of the delivery period. In the denial clause, any increase in statutory duties and/or upward rise in prices due to the Price Variation Clause (PVC) and/or any adverse fluctuation in foreign exchange are to be borne by the seller during the extended delivery period, while the Buyer reserves his right to get any benefit of downward revisions in statutory duties, PVC and foreign exchange rate. Thus, PVC, other variations and foreign exchange clauses operate only during the original delivery period. The format for extension of delivery period/performance notice under the Denial clause is at Annexure III to Appendix L to Schedule I of Chapter II.

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<sup>22</sup>Amendment issued vide Enclosure C to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

<sup>45</sup>Amendment issued vide Enclosure O to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

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**Annexure I to Appendix L**  
(Refers to Para 1.4.8 of Appendix L)

**GUIDELINES OF PROTECTION OF EXCHANGE RATE VARIATION IN CONTRACTS**

1. Parameters to be kept in view while formulation ERV Clause.

(a) In contracts with Indian Vendors in all categories of capital acquisitions where there is an import content, ERV clause will be provided. However, ERV clause shall not be applicable to contracts in following conditions:-

- (i) The delivery period is less than one year; or
- (ii) The rate of exchange variation is within the band of +/- 2.5%.

(b) ERV clause will be framed according to the specific requirements of the contract. While calling for information at the RFP stage/formulation of ERV clauses in the contracts, the following factors are to be taken into consideration depending upon the requirements of the individual contracts:-

- (i) Year wise and major currency wise import break up is to be indicated.
- (ii) Detailed time schedule for procurement of imported material and their value at the FE rates adopted for the contract is to be furnished by the vendor as per the format given below:-

YEAR	TOTAL COST OF IMPORTED MATERIAL (In rupees)	FE CONTENT-OUT FLOW (equivalent in rupees ₹ in crore)			
		DOLLAR DENOMINATED	EURO DENOMINATED	POUNDS DENOMINATED	OTHER CURRENCIES DENOMINATED
					(as applicable)

(iii) ERV clause will not be applicable in case delivery periods for imported content are subsequently to be refixed/extended unless the reasons for delivery period extension are attributable to the buyer.

(iv) For purposes of ensuring uniformity, the Base Exchange Rate on the ERV reckoning date will be adopted for each of the major foreign currencies. The Base Exchange Rate will be the BC Selling Rate of the Parliament Street Branch of State Bank of India, New Delhi. The ERV reckoning date will be the last date of

submission of commercial bids as per RFP. In cases where Option Clause is exercised, the date of reckoning of ERV will be the last date of submission of bids for the RFP of the Original Procurement Case<sup>24</sup>.

(v) ERV clause in the contract is to clearly indicate that ERV is payable/refundable depending upon exchange rate as prevalent on the date of transaction with reference to Base Exchange Rate on the ERV reckoning date.

(vi) Other issues which are peculiar to the contract.

## 2. **Methodology For Claiming ERV**

“The prices finalised in the contract are based on the base exchange rates indicated in the contract. The year-wise amount of foreign exchange component of the imported items as indicated in the contract shall be adjusted for the impact of exchange Rate Variation of the Rupee based on the exchange rate prevailing on the date of each transaction, as notified by the SBI, Parliament Street Branch, New Delhi. The impact of notified Exchange Rate Variation shall be computed on an yearly basis for the outflow as tabulated in Annexure..... - (The table at Para 1(b) (ii) is to be an Annexure to the contract) and shall be paid/refunded before the end of the financial year based on the certification of Finance Head of the concerned Division.....”.

3. Paying authority is to undertake a pre-audit of the documents before payment.

4. **Documentation for Claiming ERV.** The following documents would need to be submitted in support of the claim on account of ERV:-

- (a) A bill of ERV claim enclosing worksheet.
- (b) Banker's Certificate/debit advice detailing Foreign Exchange paid and Exchange rate as on date of transaction.
- (c) Copies of import orders placed on the suppliers.
- (d) Invoice of supplier for the relevant import orders.

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<sup>24</sup>Amendment issued vide Enclosure E to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

**INDEMNITY BOND FOR PERFORMANCE-CUM-WARRANTY**

1. This deed made on this \_\_\_\_\_ day of \_\_\_\_\_ by M/s \_\_\_\_\_, a company registered under The Companies Act 2013 having its registered office at \_\_\_\_\_ and acting through its corporate office at \_\_\_\_\_ hereinafter referred to as the "SELLER").
2. Whereas MoD, New Delhi acting on behalf of the President of India (hereinafter referred to as "BUYER") has placed a Contract No \_\_\_\_\_ dated \_\_\_\_\_.
3. And whereas, the SELLER has agreed to execute this Indemnity Bond for performance-cum-warranty on the terms and conditions appearing hereinafter.
4. It is hereby agreed and declared by the SELLER that:-
  - (a) The SELLER shall duly and faithfully perform its obligation under the said contract and comply with the conditions in the said contract.
  - (b) The SELLER shall, in as much as with its control, refrain from such actions or actions as may cause loss, injury, damage to the BUYER.
  - (c) In the event of breach/default by the SELLER in complying and in case the breach/default is not remedied by the SELLER up to period of the notification of the breach/default by the BUYER, the SELLER shall indemnify to the BUYER, to the extent of { \_\_\_\_\_ (₹ \_\_\_\_\_ only) being \_\_\_\_\_ % of the contract value of { \_\_\_\_\_ (₹ \_\_\_\_\_ only) of any direct losses or damages suffered by the BUYER due to failure of the SELLER.
  - (d) The SELLER shall be fully discharged of its obligations under this bond on meeting its liability as per Para c above which shall be restricted to the limit as provided at Para c above.
  - (e) The SELLER shall not be liable for any breach/default arising out of force majeure situation or due to any default, action, inaction or failure on the part of the BUYER. The liability of the SELLER under this bond shall remain and in full force until the fulfilment of the obligations of the SELLER under the said Contract.
  - (f) The SELLER hereby expressly, irrevocably, and unreservedly undertake and guarantee that in the event that the beneficiary submits a written demand to SELLER stating that they have not performed according to the warranty obligations for the PRODUCTS as per said Contract, SELLER will pay BUYER on demand and without demur any sum up to maximum amount of \_\_\_\_\_ % of the contract value. BUYER'S written demand shall be conclusive evidence to SELLER that such repayment is due under the terms of the said contract. SELLER undertakes to effect payment within \_\_\_\_\_ days from receipt of such written demand.
  - (g) The amount of warranty/guarantee shall not be increased beyond \_ %. Unless a demand under this warranty/guarantee is received by SELLER in writing on or before the

expiry date (unless this warranty/ guarantee is extended by the SELLER) all rights under this guarantee shall be forfeited and SELLER shall be discharged from the liabilities hereunder. This warranty/guarantee is personal to the BUYER and not assigned to a third party without prior written permission.

5. This Indemnity Bond for Performance-cum-Warranty guarantee shall be governed by Indian Law.

For -----

Signature:

Name:

Witness

Signature :

Name :

1.

2.

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**FORMAT FOR EXTENSION OF DELIVERY PERIOD/PERFORMANCE NOTICE**<sup>22</sup>

Name of the Procuring Entity.....

Extension of Delivery Period/Performance Notice

To

M/s (name and address of firm)

Sub: Contract No..... dated.....for the supply of.....

Ref: Your letter no. .... dated: .....

Dear Sir,

1. You have failed to deliver {the (fill in qty.) of Stores/the entire quantity of Stores} within the contract delivery period [as last extended up to] (fill in date). In your letter under reply you have asked for [further] extension of time for delivery. In view of the circumstances stated in your said letter, the time for delivery is extended from (fill in date) to (fill in date).

2. Please note that notwithstanding the grant of this extension in terms of Clause (fill in clause number) of the subject contract an amount equivalent to ..... % (..... per cent) of the delivered price of the delayed goods for each week of delay or part thereof (subject to the ceiling as provided in the aforesaid clause) beyond the original contract delivery date/the last unconditionally re-fixed delivery date (as & if applicable), viz., (fill in date) will be recovered from you as liquidated damages. You may now tender the Stores for inspection [balance of the Stores] in terms of this letter. Stores if any already tendered by you for inspection but not inspected will be now inspected accordingly.

3. You are also required to extend the validity period of the performance guarantee for the subject contract from (fill in present validity date) to (fill in required extended date) within 15 (fifteen) days of issue of this amendment letter.

4. The above extension of delivery date will also be subject to the following Denial Clause:-

(a) That no increases in price on account of any statutory increase in or fresh Imposition of customs duty, GST or on account of any other taxes/duty, including custom duty), leviable in respect of the Stores specified in the said contract which takes place after (insert the original delivery date) shall be admissible on such of the said Stores, as are delivered after the said date; and,

(b) That notwithstanding any stipulation in the contract for increase in price on any other ground including foreign exchange rate variation, no such increase which takes place after (insert the reckoning date as per DPP 2016) shall be admissible on such of the said Stores as are delivered after the said date.

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<sup>22</sup>Amendment issued vide Enclosure C to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

(c) But nevertheless, the Buyer shall be entitled to the benefit of any decrease in price on account of reduction in or remission of customs duty, GST or on account of any other Tax or duty or on any other ground as stipulated in the price variation clause or foreign exchange rate variation which takes place after (insert the original delivery date).

5. All other terms and conditions of the contract remain unaltered. This is without any prejudice to Buyer's rights under the terms and conditions of the subject contract.

6. Please intimate your unconditional acceptance of this amendment letter within 10 (ten) days of the issue of this letter failing which the contract will be cancelled at your risk and expense without any further reference to you.

Yours faithfully,  
(Authorised Officer)  
Duly authorised,  
for and on behalf of  
The President of India

**Note:** Select one option within { } brackets; delete portion within [ ] brackets, if not applicable; fill in ( ) brackets. Brackets and this note are not to be typed.

Substitute following first para instead of first para in format above, for issuing a performance notice.

1. You have failed to deliver {the (fill in qty.) of Stores/the entire quantity of Stores} within the contract delivery period [as last extended up to] (fill in date). In spite of the fact that the time of delivery of the goods stipulated in the contract is deemed to be of the essence of the contract, it appears that (fill in the outstanding quantity) are still outstanding even though the date of delivery has expired. Although not bound to do so, the time for delivery is extended from (fill in date) to (fill in date) and you are requested to note that in the event of your failure to deliver the goods within the delivery period as hereby extended, the contract shall be cancelled for the outstanding goods at your risk and cost.

**Appendix M to Schedule I to Chapter II**  
(Refers to Para 44 of Schedule I)

**STANDARD CLAUSES OF CONTRACT**

**LAW**

1. The present Contract shall be considered and made in accordance to the laws of Republic of India.

**ARBITRATION**

(For Foreign Vendors)

2.1 All disputes or differences arising out of or in connection with the present Contract, including the one connected with the validity of the present Contract or any part thereof, shall be settled by bilateral discussions.

2.2 Any dispute, disagreement or question arising out of or relating to this Contract or relating to construction or performance (except as to any matter the decision or determination whereof is provided for by these conditions), which cannot be settled amicably, shall within sixty (60) days or such longer period as may be mutually agreed upon, from the date on which either party informs the other in writing by a notice that such dispute, disagreement or question exists, will be referred to the Arbitration Tribunal consisting of three arbitrators.

2.3 Within sixty (60) days of the receipt of the said Notice, one arbitrator shall be nominated in writing by SELLER and one arbitrator shall be nominated by BUYER.

2.4 The third arbitrator, who shall not be a citizen or domicile of the country of either of the parties or of any other country unacceptable to any of the parties shall be nominated by the parties within ninety (90) days of the receipt of the notice mentioned above, failing which the third arbitrator may be nominated under the provisions of Indian Arbitration and Conciliation Act, 1996 or by dispute resolution institutions like Indian Council of Arbitration and ICADR. ***In case, nomination of third arbitrator under Indian Arbitration and Conciliation Act, 1996 (as amended from time to time)<sup>18</sup> or by dispute resolution institutions like ICA and ICADR are not acceptable to the SELLER, then the third arbitrator may be nominated by the President of International Chamber of Commerce, Paris,*** but the said nomination would be after consultation with both the parties and shall preclude any citizen with domicile of any country as mentioned above. The arbitrator nominated under this Clause shall not be regarded nor act as an umpire.

2.5 The Arbitration Tribunal shall have its seat in New Delhi or such other place in India as may be ***decided by the arbitrator.***

2.6 The Arbitration Proceedings shall be conducted in India under the Indian Arbitration and Conciliation Act, 1996 ***(as amended from time to time)<sup>18</sup>*** and the award of such Arbitration Tribunal shall be enforceable in Indian Courts only.

2.7 The decision of the majority of the arbitrator shall be final and binding on the parties to this contract.

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<sup>18</sup>Amendment issued vide Enclosure M to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

2.8 Each party shall bear its own cost of preparing and presenting its case. The cost of arbitration including the fees and expenses of the third arbitrator shall be shared equally by the SELLER and the BUYER, unless otherwise awarded by the Arbitration Tribunal.

2.9 In the event of a vacancy caused in the office of the arbitrators, the party which nominated such arbitrator, shall be entitled to nominate another in his place and the arbitration proceedings shall continue from the stage they were left by the retiring arbitrator.

2.10 In the event of one of the parties failing to nominate its arbitrator within sixty (60) days as above or if any of the parties does not nominate another arbitrator within sixty (60) days of the place of arbitrator falling vacant, then the other party shall be entitled after due notice of at least thirty (30) days to request the President of International Chamber of Commerce, Paris or dispute resolution institutions in India like Indian Council of Arbitration and ICADR to nominate another arbitrator as above.

2.11 If the place of the third arbitrator falls vacant, his substitute shall be nominated according to the provisions herein above stipulated.

2.12 The parties shall continue to perform their respective obligations under this contract during the pendency of the arbitration proceedings except in so far as such obligations are the subject matter of the said arbitration proceedings.

### **ARBITRATION**

(For Indian Private Vendors)

3.1 All disputes or differences arising out of or in connection with the present Contract, including the one connected with the validity of the present Contract or any part thereof, shall be settled by bilateral discussions.

3.2 Any dispute, disagreement or question arising out of or relating to this Contract or relating to construction or performance (except as to any matter the decision or determination whereof is provided for by these conditions), which cannot be settled amicably, shall within sixty (60) days or such longer period as may be mutually agreed upon, from the date on which either party informs the other in writing by a notice that such dispute, disagreement or question exists, will be referred to the Arbitration Tribunal consisting of three arbitrators.

3.3 Within sixty (60) days of the receipt of the said Notice, one arbitrator shall be nominated in writing by SELLER and one arbitrator shall be nominated by BUYER.

3.4 The third arbitrator, shall be nominated by the parties within ninety (90) days of the receipt of the notice mentioned above, failing which the third arbitrator may be nominated under the provision of Indian Arbitration and Conciliation Act, 1996 (as amended from time to time)<sup>18</sup> or by dispute resolution institutions like Indian Council of Arbitration or ICADR, at the request of either party, but the said nomination would be after consultation with both the parties. The arbitrator nominated under this Clause shall not be regarded nor act as an umpire.

3.5 The Arbitration Tribunal shall have its seat in New Delhi or such other place in India as may be decided by the arbitrator.

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<sup>18</sup>Amendment issued vide Enclosure M to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018



3.6 The Arbitration Proceedings shall be conducted in India under the Indian Arbitration and Conciliation Act, 1996 (as amended from time to time)<sup>18</sup> and the award of such Arbitration Tribunal shall be enforceable in Indian Courts only.

3.7 The decision of the majority of the arbitrators shall be final and binding on the parties to this contract.

3.8 Each party shall bear its own cost of preparing and presenting its case. The cost of arbitration including the fees and expenses of the third arbitrator shall be shared equally by the SELLER and the BUYER, unless otherwise awarded by the Arbitration Tribunal.

3.9 In the event of a vacancy caused in the office of the arbitrators, the party which nominated such arbitrator, shall be entitled to nominate another in his place and the arbitration proceedings shall continue from the stage they were left by the retiring arbitrator.

3.10 In the event of one of the parties failing to nominate its arbitrator within sixty (60) days as above or if any of the parties does not nominate another arbitrator within sixty (60) days of the place of arbitrator falling vacant, then the other party shall be entitled after due notice of at least thirty (30) days to request dispute resolution institutions in India like Indian Council of Arbitration and ICADR to nominate another arbitrator as above.

3.11 If the place of the third arbitrator falls vacant, his substitute shall be nominated according to the provisions herein above stipulated.

3.12 The parties shall continue to perform their respective obligations under this contract during the pendency of the arbitration proceedings except in so far as such obligations are the subject matter of the said arbitration proceedings.

#### **ARBITRATION**

(For Central & State PSEs)

4. In the event of any dispute or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party for Arbitration to the sole Arbitrator in the Department of Public Enterprises to be nominated by the Secretary to the Government of India in-charge of the Department of Public Enterprises. The Arbitration and Conciliation Act, 1996 (as amended from time to time)<sup>18</sup> shall not be applicable to arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law & Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary/Additional Secretary, when so authorised by the Law Secretary, whose decision shall bind the Parties finally and conclusively. The Parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator.

#### **ARBITRATION**

(For Defence PSUs)

5. In the event of any dispute or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party to the Arbitrator(s) appointed by Defence Secretary. The award of the Arbitrator(s) shall be binding upon the parties to the dispute.

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<sup>18</sup>Amendment issued vide Enclosure M to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

## **FORCE MAJEURE**

6.1 Should any force majeure circumstances arise, each of the contracting party shall be excused for the non-fulfilment or for the delayed fulfilment of any of its contractual obligations, if the affected party within (\_\_\_\_days) of its occurrence informs in a written form the other party.

6.2 Force majeure shall mean fires, floods, natural disasters or other acts such as war, turmoil, strikes, sabotage, explosions, beyond the control of either party.

6.3 Provided the acts of The Government or any state parties of the seller which may affect the discharge of the Seller's obligation under the contract shall not be treated as Force Majeure.

## **PENALTY FOR USE OF UNDUE INFLUENCE**

7.1 The Seller undertakes that he has not given, offered or promised to give, directly or indirectly any gift, consideration, reward, commission, fees brokerage or inducement to any person in service of the Buyer or otherwise in procuring the Contracts or forbearing to do or for having done or for borne to do any act in relation to the obtaining or execution of the Contract or any other Contract with the Government for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Government. Any breach of the aforesaid undertaking by the seller or any one employed by him or acting on his behalf (whether with or without the knowledge of the seller) or the commission of any offers by the seller or anyone employed by him or acting on his behalf, as defined in Chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act, 1988 or any other Act enacted for the prevention of corruption shall entitle the Buyer to cancel the contract and all or any other contracts with the seller and recover from the seller the amount of any loss arising from such cancellation. A decision of the buyer or his nominee to the effect that a breach of the undertaking had been committed shall be final and binding on the Seller.

7.2 Giving or offering of any gift, bribe or inducement or any attempt at any such act on behalf of the seller towards any officer/employee of the buyer or to any other person in a position to influence any officer/employee of the Buyer for showing any favour in relation to this or any other contract, shall render the Seller to such liability/penalty as the Buyer may deem proper, including but not limited to termination of the contract, imposition of penal damages, forfeiture of the Bank Guarantee and refund of the amounts paid by the Buyer.

## **INTEGRITY PACT**

8.1 Further signing of an 'Integrity Pact' would be considered between government department and the bidder for schemes exceeding **₹ 20 Crores**. The Integrity Pact is a binding agreement between the agency and bidders for specific contracts in which the agency promises that it will not accept bribes during the procurement process and bidders promise that they will not offer bribes. Under the IP, the bidders for specific services or contracts agree with the procurement agency or office to carry out the procurement in a specified manner. The essential elements of the IP are as follows:-

- (a) A pact (contract) between the Government of India (Ministry of Defence) (the

authority or the "principal") and those companies submitting a tender for this specific activity (the "bidders");

(b) An undertaking by the principal that its officials will not demand or accept any bribes, gifts, etc., with appropriate disciplinary or criminal sanctions in case of violation;

(c) A statement by each bidder that it has not paid and will not pay, any bribes;

(d) An undertaking by each bidder that he shall not pay any amount as gift, reward, fees, commission or consideration to such person, party, firm or institution (including Agents and other as well as family members, etc., of officials), directly or indirectly, in connection with the contract in question. All payments made to the Agent 12 months prior to tender submission would be disclosed at the time of tender submission and thereafter an annual report of payments would be submitted during the procurement process or upon demand of the MoD.

(e) The explicit acceptance by each bidder that the no-bribery commitment and the disclosure obligation as well as the attendant sanctions remain in force for the winning bidder until the contract has been fully executed;

(f) Undertakings on behalf of a bidding company will be made "in the name and on behalf of the company's chief executive officer";

(g) The following set of sanctions shall be enforced for any violation by a bidder of its commitments or undertakings:

(i) Denial or loss of contract;

(ii) Forfeiture of the IPBG and Guarantee for Performance-cum-Warranty Bond;

(iii) Payment to the Buyer of any such amount paid as gift, reward, fees or consideration along with interest at the rate of 2% per annum above LIBOR rate.

(iv) Refund of all sums already paid by the Buyer along with interest at the rate of 2% per annum above LIBOR rate.

(v) Recovery of such amount, referred to in (iii) and (iv) above, from other contracts of the Seller with the Government of India.

(vi) At the discretion of the Buyer, the Seller shall be liable for action as per extant policy on Putting on Hold, Suspension and Debarment of Entities.

(h) Bidders are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behaviour) and a compliance program for the implementation of the code of conduct throughout the company.

(j) The draft Pre-Contract Integrity Pact is attached as **Annexure I to this Appendix**. The vendors are required to sign them and submit separately along with the technical and commercial offers.

(k) Every Bidder while submitting techno commercial bid shall also deposit ₹ \_\_\_\_Crore/ Lakh (as applicable) as **IPBG/Security deposit** through any of the instruments mentioned at

**Para 8** of Annexure I. This would be submitted in a separate envelope clearly marked as IPBG along with technical and commercial proposals.

8.2 In respect of bids from DPSUs, while a DPSU is not required to sign an Integrity Pact with the Ministry of Defence, the concerned DPSU shall, however, enter in to a Pre-Contract Integrity Pact, on the same lines with their sub-vendors individually, in case the estimated value of each sub-contract(s) exceed ₹ 20 Crore and such subcontract(s) are required to be entered in to by the DPSU with a view to enable DPSU to discharge the obligations arising out of their bid in question in response to this RFP.

### **AGENTS**

9. The Seller confirms and declares to the Buyer that the Seller is the original manufacturer of the stores referred to in this contract. The Seller confirms that he has not engaged any person, party, firm or institution as an Agent including his Agents already intimated to MoD; to, influence, manipulate or in any way to recommend to any functionaries of the Govt of India, whether officially or unofficially, to the award of the contract to the Seller, or to indulge in corrupt and unethical practices. The Seller has neither paid, promised nor has the intention to pay to any person, party, firm or institution in respect of any such intervention or manipulation. The Seller agrees that if it is established at any time to the satisfaction of the buyer that the present declaration is in any way incorrect or if at a later stage it is discovered by the Buyer that Seller has engaged any such person, party, firm or institution and paid, promised or has intention to pay any amount, gift, reward, fees, commission or consideration to such person, party, firm or institution, whether before or after the signing of this contract, the Seller will be liable for any or all of the following actions:-

- (a) To pay to the Buyer any such amount paid as gift, reward, fees or consideration along with interest at the rate of 2% per annum above LIBOR rate.
- (b) The Buyer will also have a right to put on hold or cancel the Contract either wholly or in part, without any entitlement or compensation to the Seller who shall in such event be liable to refund all payments made by the Buyer in terms of the Contract along with interest at the rate of 2% per annum above LIBOR rate
- (c) The Buyer will also have the right to recover any such amount referred in (a) and (b) above from other contracts of the Seller with the Government of India.
- (d) At the discretion of the Buyer, the Seller shall be liable for action as per extant policy on Putting on Hold, Suspension and Debarment of Entities

10. In case it is found to the satisfaction of the BUYER that the SELLER has engaged an Agent, or paid commission or influenced any person to obtain the contract as described in clauses relating to Agents and clauses relating to Penalty for Use of Undue Influence, the SELLER, on demand of the BUYER shall provide necessary information/inspection of the relevant financial documents/information, including a copy of the contract(s) and details of payment terms between the vendors and Agents engaged by him.

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## **PRE-CONTRACT INTEGRITY PACT**

### **General**

1. Whereas the PRESIDENT OF INDIA, represented by Joint Secretary & Acquisition Manager (Land/Air/Maritime Systems)/Major General & equivalent, Service Headquarters./Coast Guard, Ministry of Defence, Government of India, hereinafter referred to as the Buyer and the first party, proposes to procure (Name of the Equipment), hereinafter referred to as Defence Stores and M/s \_\_\_\_\_ represented by, \_\_\_\_\_ Chief Executive Officer (which term, unless expressly indicated by the contract, shall be deemed to include its successors and its assignees), hereinafter referred to as the Bidder/Seller and the second party, is willing to offer/has offered the Defence stores.

2. Whereas the Bidder is a private company/public company/partnership/registered export agency, constituted in accordance with the relevant law in the matter and the Buyer is a Ministry of the Government of India performing its functions on behalf of the President of India.

### **Objectives**

3. Now, therefore, the Buyer and the Bidder agree to enter into this pre-contract agreement, hereinafter referred to as Integrity Pact, to avoid all forms of corruption by following a system that is fair, transparent and free from any influence/unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:

3.1 Enabling the Buyer to obtain the desired defence stores at a competitive price in conformity with the defined specifications of the Services by avoiding the high cost and the distortionary impact of corruption on public procurement

3.2 Enabling Bidders to abstain from bribing or any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also refrain from bribing and other corrupt practices and the Buyer will commit to prevent corruption, in any form, by their officials by following transparent procedures.

### **Commitments of the Buyer**

4. The Buyer commits itself to the following:-

4.1 The Buyer undertakes that, no official of the Buyer, connected directly or indirectly with the contract will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organisation or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the Contract.

4.2 The Buyer will, during the pre-contract stage, treat all Bidders alike and will provide to all Bidders the same information and will not provide any such information to any particular Bidder which could afford an advantage to that particular Bidder in comparison to other

Bidders.

4.3 All the officials of the Buyer will report to the appropriate Government office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.

5. In case of any such preceding misconduct on the part of such official(s) is reported by the Bidder to the Buyer with full and verifiable facts and the same is prima facie found to be correct by the Buyer, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the Buyer and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the Buyer the proceedings under the contract would not be stalled.

### **Commitments of Bidders**

6. The Bidder commits himself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of his bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commits himself to the following:

6.1 The Bidder will not to offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Buyer, connected directly or indirectly with the bidding process, or to any person, organisation or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the Contract.

6.2 The Bidder further undertakes that he has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Buyer or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the Contract or any other Contract with the Government for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Government.

6.3 The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.

6.4 The Bidder will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.

6.5 The Bidder further confirms and declares to the Buyer that the Bidder is the original manufacturer/integrator/authorised government sponsored export entity of the Defence stores and has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to the Buyer or any of its functionaries, whether officially or unofficially to the award of the contract to the Bidder, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company or Agent in respect of any such intercession, facilitation or recommendation.

6.6 The bidder would not enter into conditional contract with any Agents, brokers or any other intermediaries wherein payment is made or penalty is levied, directly or indirectly, on success or failure of the award of the contract. The bidder while presenting the bid, shall disclose any payments he has made during the 12 months prior to tender submission or is committed to or intends to make to officials of the buyer or their family members, Agents, brokers or any other intermediaries in connection with the contract and the details of such services agreed upon for such payments. Within the validity of PCIP, bidder shall disclose to MoD any payments made or has the intention to pay any amount, gift, reward, fees, commission or consideration to such person, party, firm or institution as an annual report during the procurement process.

6.7 The Bidder shall not use improperly, for purposes of competition or personal gain or pass on to others, any information provided by the Buyer as part of the business relationship regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The Bidder also undertakes to exercise due and adequate care lest any such information is divulged.

6.8 The Bidder commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts. Complaint will be processed as per **Guidelines for Handling of Complaints** in vogue. In case the complaint is found to be vexatious, frivolous or malicious in nature, it would be construed as a violation of Integrity Pact.

6.9 The Bidder shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.

## 7. **Previous Transgression**

7.1 The Bidder declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India.

7.2 If the Bidder makes incorrect statement on this subject, Bidder can be disqualified from the tender process or the contract and if already awarded, can be terminated for such reason.

## 8. **Integrity Pact Bank Guarantee (IPBG)**

8.1. Every bidder, while submitting commercial bid, shall submit an Integrity Pact Bank Guarantee for an amount of \_\_\_\_\_ (as per IPBG table below)<sup>36</sup> in favour of the Buyer in Indian Rupees only.

- (i) Guarantee will be from an Indian Public Sector Bank or Private Sector Banks authorised for government transactions<sup>36</sup> by RBI,<sup>17</sup> promising payment of the guaranteed sum to the Ministry of Defence, Government of India, represented on behalf of the President of India, on demand within five<sup>43</sup> working days without any demur whatsoever and without seeking any reasons whatsoever. The demand for payment by the buyer shall be treated as conclusive proof for payment. A model Bank Guarantee format is enclosed.

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<sup>17</sup>Amendment issued vide Enclosure L to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

<sup>36</sup>Amendment issued vide Enclosure F to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

<sup>43</sup>Amendment issued vide Enclosure M to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

**IPBG TABLE**<sup>36</sup>

Estimated Cost of Procurement Scheme (Crore Rs)		IPBG Amount (Rs)
Above (Not including)	To (Including)	
-	20	Nil
20	50	10 Lakh
50	150	30 Lakh
150	300	70 Lakh
300	1000	2 Crore
1000	2000	5 Crore
2000	3000	10 Crore
3000	5000	15 Crore
5000	-	25 Crore

8.2 The Integrity Pact Bank Guarantee (IPBG) shall be valid upto Three years from the date of submission. However, Bidders will be required to extend the Integrity Pact Bank Guarantee, as and when required by the Buyer. In the case of the successful bidder, validity of the Integrity Pact Bank Guarantee will be extended upto the satisfactory completion of the Contract. In case a vendor unilaterally decides to withdraw from the procurement scheme or has been declared non-compliant and if he wishes to withdraw his IPBG, he may do so provided he gives an undertaking that he has no complaints and will not make any complaints in the case. Integrity Pact Bank Guarantee shall be returned promptly in case of unsuccessful bidders.

8.3 In the case of successful bidder a clause would also be incorporated in the Article pertaining to Performance-cum-Warranty Bond in the Purchase Contract that the provisions of Sanctions for Violation shall be applicable for forfeiture of Performance Bond in case of a decision by the Buyer to forfeit the same without assigning any reason for imposing sanction for violation of this pact.

8.4 The provisions regarding Sanctions for Violation in Integrity Pact include forfeiture of Performance-cum-Warranty Bond in case of a decision by the Buyer to forfeit the same without assigning any reason for imposing sanction for violation of Integrity Pact.

8.5 No interest shall be payable by the Buyer to the Bidder(s) on IPBG for the period of its currency.

**9. Company Code of Conduct**

9.1 Bidders are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behaviour) and a compliance program for the implementation of the code of conduct throughout the company.

**10. Sanctions for Violation**

10.1 Any breach of the aforesaid provisions by the Bidder or any one employed by him or acting on his behalf (whether with or without the knowledge of the Bidder) or the commission of any offence by the Bidder or any one employed by him or acting on his

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<sup>36</sup> Amendment issued vide Enclosure F to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019



behalf, as defined in Chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act 1988 or any other act enacted for the prevention of corruption shall entitle the Buyer to take all or any one of the following actions, wherever required:

- (i) To immediately call off the pre-contract negotiations without assigning any reason or giving any compensation to the Bidder. However, the proceedings with the other Bidder(s) would continue.
- (ii) The IPBG/Performance-cum-Warranty Bond shall stand forfeited either fully or partially, as decided by the Buyer and the Buyer shall not be required to assign any reason therefore.
- (iii) To immediately cancel the contract, if already signed, without any compensation to the Bidder.
- (iv) To recover all sums already paid by the Buyer, in case of an Indian Bidder with interest thereon at 2% higher than the prevailing Base Rate of SBI and in case of a Bidder from a country other than India with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due to the Bidder from the Buyer in connection with any other contract for any other defence stores, such outstanding payment could also be utilised to recover the aforesaid sum and interest.
- (v) To encash the advance bank guarantee and Performance-cum-Warranty Bond if furnished by the Bidder, in order to recover the payments, already made by the Buyer, along with interest.
- (vi) To cancel all or any other Contracts with the Bidder.
- (vii) To Put on Hold or Suspend or Debar the bidder as per the extant policy.
- (viii) To recover all sums paid in violation of this Pact by Bidder(s) to any Agent or broker with a view to securing the contract.
- (ix) If the Bidder or any employee of the Bidder or any person acting on behalf of the Bidder, either directly or indirectly, is closely related to any of the officers of the Buyer, or alternatively, if any close relative of an officer of the Buyer has financial interest/stake in the Bidder's firm, the same shall be disclosed by the Bidder at the time of filing of tender. Any failure to disclose the interest involved shall entitle the Buyer to debar the Bidder from the bid process or rescind the contract without payment of any compensation to the Bidder. The term '**close relative**' for this purpose would mean spouse whether residing with the Government servant or not, but not include a spouse separated from the Government servant by a decree or order of a competent court; son or daughter or step son or step daughter and wholly dependent upon Government servant, but does not include a child or step child who is no longer in any way dependent upon the Government servant or of whose custody the Government servant has been deprived of by or under any law; any other person related, whether by blood or marriage, to the Government servant or to the Government servant's wife or husband and wholly dependent upon Government servant.
- (x) The Bidder shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the Buyer and if he does so, the Buyer shall be entitled forthwith to rescind the contract and all other contracts with the Bidder. The Bidder shall be liable to pay compensation for

any loss or damage to the Buyer resulting from such rescission and the Buyer shall be entitled to deduct the amount so payable from the money(s) due to the Bidder.

(xi) In cases where irrevocable Letters of Credit have been received in respect of any contract signed by the Buyer with the Bidder, the same shall not be opened.

10.2 The decision of the Buyer to the effect that a breach of the provisions of this Integrity Pact has been committed by the Bidder shall be final and binding on the Bidder, however, the Bidder can approach the Independent Monitor(s) appointed for the purposes of this Pact.

## 11. **Fall Clause**

11.1 The Bidder undertakes that he has not supplied/is not supplying the similar products, systems or subsystems at a price lower than that offered in the present bid in respect of any other Ministry/Department of the Government of India and if it is found at any stage that the similar system or sub-system was supplied by the Bidder to any other Ministry/Department of the Government of India at a lower price, then that very price, with due allowance for elapsed time, will be applicable to the present case and the difference in the cost would be refunded by the Bidder to the Buyer, even if the contract has already been concluded.

11.2 The Bidder shall strive to accord the most favoured customer treatment to the Buyer in respect of all matters pertaining to the present case.

## 12. **Independent Monitors**

12.1 The Buyer has appointed Independent Monitors for this Pact in consultation with the Central Vigilance Commission. The names and addresses of nominated Independent Monitors (at the time of issue of RFP) are as follows (however the vendor must refer to the MoD website at [www.mod.nic.in](http://www.mod.nic.in) to check for changes to these details):-

*(names & addresses of Independent Monitors holding office on date of issue of RFP to be included)*<sup>25</sup>

12.1A All communications to Independent Monitors will be copied to Director (Vigilance). The Designation and Contact details of Director (Vigilance) are as follows:-  
*(Designation and Address of the Director (Vigilance) to be included)*<sup>25</sup>

12.2 After the Integrity Pact is signed, the Buyer shall provide a copy thereof, along with a brief background of the case to the Independent Monitors, if required by them.

12.3 The Bidder(s), if they deem it necessary, may furnish any information as relevant to their bid to the Independent Monitors.

12.4 If any complaint with regard to violation of the IP is received by the buyer in a procurement case, the buyer shall refer the complaint to the Independent Monitors for their comments/enquiry.

12.5 If the Independent Monitors need to peruse the relevant records of the Buyer in connection with the complaint sent to them by the Buyer, the Buyer shall make arrangement for such perusal of records by the Independent Monitors.

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<sup>25</sup>Amendment issued vide Enclosure F to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

12.6 The report of enquiry, if any, made by the Independent Monitors shall be submitted to the head of the Acquisition Wing of the Ministry of Defence, Government of India for a final and appropriate decision in the matter keeping in view the provision of this Pact.

13. **Examination of Books of Accounts**

In case of any allegation of violation of any provisions of this Integrity Pact or payment of commission, the Buyer or its agencies shall be entitled to examine the Books of Accounts of the Bidder and the Bidder shall provide necessary information of the relevant financial documents in English and shall extend all possible help for the purpose of such examination.

14. **Law and Place of Jurisdiction**

This Pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the Buyer i.e. New Delhi.

15. **Other Legal Actions**

The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

16. **Validity**

16.1 The validity of this Integrity Pact shall be from date of its signing and extend up to 5 years or the complete execution of the contract to the satisfaction of both the Buyer and the Bidder/Seller, whichever is later.

16.2 Should one or several provisions of this Pact turn out to be invalid; the remainder of this Pact remains valid. In this case, the parties will strive to come to an agreement to their original intentions.

17. The Parties hereby sign this Integrity Pact at \_\_\_\_\_ on \_\_\_\_\_

BUYER

BIDDER

\_\_\_\_\_  
MINISTRY OF DEFENCE,  
GOVERNMENT OF INDIA

\_\_\_\_\_  
CHIEF EXECUTIVE OFFICER

Witness

1. \_\_\_\_\_  
2. \_\_\_\_\_

Witness

1. \_\_\_\_\_  
2. \_\_\_\_\_

\*\*\*\*

**FORMAT OF INTEGRITY PACT BANK GUARANTEE (IPBG)<sup>4</sup>**

To,

The \_\_\_\_\_,  
Ministry of \_\_\_\_\_,  
Government of India,  
\_\_\_\_\_ (complete postal address of the beneficiary)

1. In consideration of President of India represented by Joint Secretary and Acquisition Manager/ Major General or equivalent, Service Hqr./Coast Guard, Ministry of Defence, Government of India (hereinafter referred to as the Buyer and/or the first party) having agreed to accept a sum of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) from M/s \_\_\_\_\_ of \_\_\_\_\_ (hereinafter referred to as Bidder and/or the Second party) in the form of Bank Guarantee towards Integrity Pact for the Request For Proposal for procurement of \_\_\_\_\_ we \_\_\_\_\_ (Name of the Bank), (hereinafter referred to as the Bank), do hereby undertake to pay to the Buyer on demand within 5 (five) working days-without any demur and without seeking any reasons whatsoever, an amount not exceeding Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) and the guarantee will remain valid upto three years from the date of its issue i.e. \_\_\_\_\_ (Issue date). The Integrity Pact Bank Guarantee shall be extended from time to time as required by the Buyer and agreed by the Bidder to the Bank.

2. We undertake not to revoke this guarantee during this period except with the previous consent of the Buyer in writing and we further agree that our liability under the Guarantee shall not be discharged by any variation in the term of the commercial offer.

3. No interest shall be payable by the Buyer to the Bidder(s) on the guarantee for the period of its currency.

4. Notwithstanding anything contained herein above:-

(a) Our liability under this Guarantee shall not exceed Rs \_\_\_\_\_ (Rupees \_\_\_\_\_ only) (in words).

(b) This Bank Guarantee shall remain valid until \_\_\_\_\_ (hereinafter the expiry date of this guarantee). The Bank Guarantee will cease to be valid after \_\_\_\_\_ irrespective whether the Original Guarantee is returned to us or not.

(c) We are liable to pay guaranteed amount or any part thereof under this Bank Guarantee only and only if you serve upon us a written demand or a claim in writing on or before \_\_\_\_\_ (Expiry Date)

Dated the \_\_\_\_\_ day of \_\_\_\_\_ (month and year)

Place :

Signed and delivered by \_\_\_\_\_ (Name of Bank).

Through its authorized signatory  
(Signature with seal)

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<sup>4</sup>Amendment issued vide MoD ID No. 4(50)/D(Acq)/08 dated 20.06.2017

**OPTION CLAUSE**

(No blanks to be left)

The BUYER shall have the right to place separate order on the SELLER on or before \_\_\_\_\_ (\_\_\_\_\_ year from the date of this contract) limited to 50% of the main equipment, spares, facilities or services as per the cost, terms and conditions set out in this contract. The price of the system, spares etc shall remain same till \_\_\_\_\_ year from the effective date of the contract. CNC to verify that there is no downward trend in prices of the product offered.

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**EVALUATION CRITERIA AND PRICE BID FORMAT**<sup>31</sup>

1. **Evaluation Criteria.** The guidelines for evaluation of Bids will be as follows:-

1.1. Only those Bids will be evaluated, which are found to be fulfilling all the eligibility and qualifying requirements of the RFP, both technically and commercially. The bidder, whose price is arrived as lowest as per Evaluation criteria given in this Appendix, will be declared as L-1 bidder by Buyer.

1.2. While carrying out evaluation of bids to determine L1 (including where DCF Technique is applicable), the following criteria would be followed:-

1.2.1 **In Case of Foreign Bidders.** All costs, taxes (including GST) and duties quoted by foreign bidders at Serials A to L of Para 2 below [including the basic cost {on CIP/DAT/DAP basis, (as applicable to the procurement case)} along with Basic Custom Duty (BCD) & IGST (as applicable)] would be considered for purpose of comparison of various bids. All the foreign bids will be brought to a common denomination in Indian Rupees by adopting **Base** Exchange Rate as BC Selling rate of the State Bank of India, Parliament Branch, New Delhi, **on the ERV reckoning date (as defined in Annexure I to Appendix L), ie, the last date of submission of commercial bids as per RFP.**

1.2.2 **In Case of Indian Bidders including Defence PSUs/OEs.** All costs, taxes (including GST) and duties quoted by the vendor at Serials A to L of Para 2 below would be considered for purpose of comparison of various bids.

1.2.3 **Where DCF Technique as Given in Para 4 is Not Applicable.** L-1 bidder will be determined on the basis of quoted cost of all items including all taxes and duties payable to Central/State/Local Governments.

1.2.4 **Where DCF Technique as Given in Para 4 is Applicable.** DCF technique will be applied including taxes and duties to ascertain the NPV which would be used for determining L1 bidder.

1.3 Custom duty on input materials shall not be loaded by the Indian Bidders in their price bids, if they are exempted under the existing Notifications. In such cases, necessary Custom Duty Exemption Certificate (CDEC) shall be issued by the Buyer. In cases where Custom Duty is not exempted, Basic Custom Duty on input material is to be included in the cost of Basic Equipment, Installation/Commissioning/Integration, BNE, ToT, MRLS, SMT, STE , ESP and any other item listed at Column (ii) of Para 2 below.

1.4 If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price will prevail and the total price will be corrected based on indicative rates of taxes and duties at columns (vi) and (vii) of Para 2 below. If there is a discrepancy between words and figures, the amount in words will prevail for calculation of price.

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<sup>31</sup>Amendment issued vide Enclosure A to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

2. **Price Bid Format.** The Price Bid Format is given below and Bidders are required to fill this correctly with full details. No column of the Bid format has to be left blank. The clubbing of serials/sub serials to indicate a consolidated cost is not acceptable. Columns of 'quantity', 'unit cost', 'total cost (including all taxes and duties)', 'GST/IGST (%) and Custom Duty (%) are to be filled up with positive numerical values or 'Nil' at every row as applicable. If any column is not applicable and intentionally left blank, the reason for the same has to be clearly indicated in the remarks column.

<u>Ser</u>	<u>Items</u>	<u>Qty</u>	<u>Unit Cost</u>	<u>Total Cost (including all taxes &amp; duties)</u>	<u>Indicative Rate of Taxes &amp; Duties used to arrive at Total Cost (as applicable)</u>		<u>Remarks</u>
					<u>GST/IGST (%)</u>	<u>Custom Duty (%)</u>	
(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)
A.	Cost of <b>Basic Equipment</b> . Full break-up details may be given.						
B.	Cost of <b>Installation / Commissioning/ Integration</b> (where applicable)						
B1.	Cost of Buyer Nominated Equipment (if applicable)						
C.	Cost of <b>Transfer of Technology</b> (where applicable).						
D.	Cost of <b>Manufacturer's Recommended List of Spares</b> as per the format given at Annexure I to Appendix E. In case equipment is already in usage, the spare parts requirement must be specific rather than being based on MRLS.						
E.	Cost of <b>Special Maintenance Tools and Special Test Equipment</b> as per format given at Annexure II to Appendix E.						
F.	Cost of <b>Operator's Manual and Technical Literature</b> (in English Language) including Illustrated Spare Parts List as per Annexure III to Appendix E.						

<u>Ser</u>	<u>Items</u>	<u>Qty</u>	<u>Unit Cost</u>	<u>Total Cost (including all taxes &amp; duties)</u>	<u>Indicative Rate of Taxes &amp; Duties used to arrive at Total Cost (as applicable)</u>		<u>Remarks</u>
					<u>GST/IGST (%)</u>	<u>Custom Duty (%)</u>	
					(vi)	(vii)	
(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)
G.	Cost of <b>Training Aids</b> such as simulators, cut out models, films, charts etc as recommended by the supplier as per Annexure IV to Appendix E.						
H.	Cost of recommended period of <b>Training</b> excluding the cost of travel and boarding and lodging. This should be given under the following two heads as per Annexure IV to Appendix E. (a) In India. (b) Abroad.						
J.	<b>Any other</b> cost (to be specified).						
K.	<b>Freight and Transit Insurance</b> Cost (where applicable).						
L.	<b>AMC</b> Cost giving year-wise break-up (where applicable).						
M.	<b>Total Cost</b> (Total of Serial A to L)			#			# This will be used in determining L1 vendor (duly applying provisions of Para 1 above).
N.	<b>Foreign Exchange component</b> of the proposal. (for Indian Vendors only)						This will be with reference to Para 1.2.2 of Appendix L.
O.	<b>CDEC (if applicable)</b> , its authority and amount for which required.						

**Note: Taxes and Duties.** If there is a change in tax structure promulgated by the GoI, then rates of taxes indicated at columns (vi) & (vii) above will be used for revising the total cost.



3. **Evaluation of L1 in case of EPP.** If the equipment supplied by a vendor does not have the EPP, then the total cost of Row M of the price bid format, for the purpose of L1 determination, remains as it is. In cases where a vendor's equipment meets the EPP, the total cost at Row M of the price bid format will be multiplied by a credit factor less than 1 and greater than or equal to 0.9, based on the additional technical score assigned for the EPP, as detailed in the RFP.

4. **Evaluation of Bids by DCF Technique** (*Note: This clause is be included only if there is AMC clause or any other condition in RFP, resulting in different cash outflows in successive years*) -

4.1 **Net Present Value (NPV)** is a variant of DCF method, which will be used by the Buyer for evaluation of Bids. The Net Present Value of a Bid will be equal to the sum of the present values of all the cash flows associated with it. The following formula will be used for calculating NPV of a bid -

$$NPV_n = \sum_{t=1}^n \frac{At}{(1+r)^t}$$

Where,

NPV = Net Present Value

At = Expected cash flow occurring at the end of year 't' as mentioned in the Payment schedule of Bid

n = Duration of cash flow stream

r = Discounting Rate

t = The period after which payment is done

The bid with the lowest NPV would be selected.

4.2 The Discounting rate will be ---%. (Note-This will be the Government of India's lending rate on loans given to state governments, as notified by Budget Division of Ministry of Finance annually).

4.3 **Structuring Cash Flows for Tenders/Bids Received in the Same Currency.** The cash outflows as shown in price bids will be taken into consideration. NPV of different bids will be calculated using the formula given above and the one having lowest NPV will be selected as L-1.

4.4 **Structuring Cash Flows for Tenders/Bids Received in Different Currencies.** Where bids are received in different currencies/combo of currencies, the cash outflow will be brought to a common denomination in rupees by converting foreign currency bids into rupees by taking into account the BC selling rate of Parliament Street Branch of State Bank of India, New Delhi on the ERV reckoning date (as defined in Annexure I to Appendix L), ie the last date of submission of Commercial Bids as per RFP. Thereafter, the procedure as described above in Para 4.3 will be applied to arrive at NPV.

4.5 All bidders are required to indicate year-wise and currency-wise amount required as per their price bid in format given below. In case a bidder does not provide year-wise cash

flow details in price bid, the amount quoted in their price bid will not be discounted for comparison purposes.

<u>Year</u>	<u>Dollars</u>	<u>Euros</u>	<u>Pound Sterling</u>	<u>Rupees</u>	<u>Total Cash-flow</u>

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## **CHAPTER III**

# **DEFENCE PROCUREMENT PROCEDURE FOR 'MAKE' CATEGORY**



### **CHAPTER III**

#### **DEFENCE PROCUREMENT PROCEDURE FOR 'MAKE' CATEGORY**

##### **Background**

1. The Defence Production Policy, 2011, issued by Ministry of Defence considers self-reliance in defence manufacturing as a vital strategic and an economic imperative; and places emphasis on utilising the emerging dynamism of the Indian industry by leveraging domestic capabilities for fostering export capabilities in this sector. The policy, inter alia, entails further simplification of procedure under 'Make' category of acquisition, introduced in DPP-2006, in a manner that enables design and development of required defence equipment/system/platform or up-grades thereof; and components, parts, materials and assembly/sub-assembly by Indian industry, R&D organisations, academic institutions or their combination.
2. The 'Make in India' initiative of the Government of India, aims to promote the manufacturing sector and increase the contribution of manufacturing output to 25% of GDP. Defence sector is prominent among the 25 sectors of industry covered under the 'Make in India' initiative. The provision of 'Make' category of capital acquisition is a vital pillar for realising the vision behind the 'Make in India' initiative. Hence it is imperative that the 'Make' procedure should be structured to provide the necessary leverage to make adequate investments, build the required capabilities and match up to the contemporary and futuristic requirements of the Indian Armed Forces.
3. The 'Make' procedure, outlined in this chapter, therefore seeks to address the multiple objectives of self-reliance, wider participation of Indian industry, impetus for MSME sector, sound implementation, transparent execution and timely induction of equipment into Indian Armed Forces.
4. Only Indian vendors including Association of Persons (AoP), as detailed in **Appendix A** to this chapter, are eligible for participation under 'Make' program of acquisition.
5. Successful development under this scheme would result in acquisition, from successful Development Agency/Agencies (DA/DAs), through the 'Buy (Indian-IDDM)' category with indigenous design and development and a minimum of 40% IC, by inviting commercial bid and thereafter following the procedures detailed in Chapter II of DPP.
6. The sub-category under 'Make' category shall be further sub-divided into the following:
  - 6.1 **Make-I (Government Funded).** Projects under 'Make-I' sub-category will involve Government funding of 90%, released in a phased manner and based on the progress of the scheme, as per terms agreed between MoD and the vendor.
  - 6.2 **Make-II (Industry Funded).** Projects under Make-II category will involve prototype development of equipment/system/ platform or their upgrades or their sub-systems/sub-assembly/assemblies/components, primarily for import substitution/ innovative solutions, for which no Government funding will be provided for prototype development purposes. Cases where innovative solutions have been offered, shall be accepted and progressed, even if there is only a single individual or a firm involved.<sup>7</sup>

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<sup>7</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/13-Pt. II dated 08.05.2018

### **Make-Project Management Unit (PMU)**

7. Each SHQ (including Coast Guard) shall establish a permanent Make-Project Management Unit (PMU), within its service. The Make-PMU must be headed by a two star rank officer or equivalent and staffed appropriately with professionals of various ranks/branches and specialisations, depending upon the nature and the number of ongoing/envisaged projects under 'Make-I'<sup>7</sup> procedure, for the respective SHQs. The Make-PMU Head, under each SHQ will have a tenure of three years and the staff positioned in PMU shall have longer tenures to ensure continuity during execution of projects. Officers of PMU shall be members/member secretaries of the Integrated Project Management Teams (IPMT), which will function under the overall control and directions of the Make-PMU Head, who shall be responsible for ownership of the service level 'Make-I'<sup>7</sup> projects. The mandates of every Make-PMU are as follows:-

- (a) Closely monitor the implementation of 'Make-I'<sup>7</sup> projects for the corresponding SHQ.
- (b) Ensure timely development and implementation.
- (c) Assign responsibilities and hold task owners accountable for delivery.
- (d) Identify potential issues that will impact project cost or delivery and resolve them swiftly.

8. Make-PMU may also hire expert practitioners from domains such as finance, legal and technology, from public and private sectors. Expenses for hiring the services of experts/consultants shall be borne by the SHQ concerned.

### **Development and Acquisition Process under 'Make-I'<sup>7</sup> Category**

9. The acquisition process under Make Category would involve the following functions:-

- (a) Advance Planning and Consultations.
- (b) Feasibility Study.
- (c) Preliminary Services Qualitative Requirements (PSQRs).
- (d) Categorisation and accord of Acceptance of Necessity (AoN) by the competent body.
- (e) Constitution of IPMT.
- (f) Preparation of Project Definition Document (PDD).
- (g) Expression of Interest (EoI).
- (h) Selection of Development Agency (ies) (DAs).
- (j) Detailed Project Report (DPR).
- (k) Approval of CFA and Funding Arrangements.

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<sup>7</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/13-Pt. II dated 08.05.2018

- (l) Design and Development of Prototype.
- (m) User Trials by SHQ.
- (n) Staff Evaluation.
- (o) Solicitation of Commercial Offers.
- (p) Commercial negotiations by Contract Negotiation Committee CNC).
- (q) Award of Contract.

### **Advance Planning and Consultations**

10. On the basis of Long Term Integrated Perspective Plan (LTIPP) or otherwise, SHQs will identify the potential projects to be undertaken under 'Make' category of acquisition. Besides, the SHQs shall initiate collegiate discussions on such potential projects with various stakeholders such as DRDO, DDP, Indian industry etc., in early stages after approval of LTIPP; this will enable potential R&D Institutions and/or Development Agencies (DAs) to take necessary steps to undertake requisite R&D efforts and/or investments for infrastructure upgradation. The advance timing of these collegiate discussions shall take into account the complexity of the defence equipment/system/platform or upgrades thereof, as the case may be; all relevant factors not limited to quantities and delivery schedules need to be detailed.

11. Based on collegiate decisions detailed in paragraph 10, or in other cases as may be appropriate, SHQ shall forward an indicative list of potential 'Make-I'<sup>7</sup> projects, together with draft Preliminary Service Qualitative Requirements (PSQRs), to HQ IDS for inclusion in relevant medium term and short term plans, as per the projected induction timeframes and estimated timelines for development of prototype. The aim should be to pre-plan and pre-position 'Make' programs so as to initiate developmental activities sufficiently ahead of the actual requirements of the capabilities.

12. The criteria for sub-categorisation of the 'Make' programs are as follows:-

12.1 **Make-I (Government Funded)**. Projects involving design and development of equipment, systems, major platforms or upgrades thereof; necessitating harnessing of critical technologies and may involve large infrastructure investment for development, integration, test and manufacturing facilities. Usually, projects under Make-I sub-category will involve a development period of not less than three years.

12.1.1 Projects under the Make-I sub-category, with estimated cost of prototype development phase not exceeding ₹ 10 Crores, will be earmarked for MSMEs. However, if at-least two MSMEs do not express interest for a Make-I program of less than ₹ 10 Crores, the same shall be opened up for all, under the condition that interested MSME(s), if any at that stage and meeting the eligibility criteria, will get preference over Non- MSMEs in selection of DAs.

12.2 ~~xxx Deleted xxx~~<sup>7</sup>

### **Annual Acquisition Plan (AAP)-Make**

13. A dedicated Annual Acquisition Plan (AAP), on the same lines as explained in Chapter I

<sup>7</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/13-Pt. II dated 08.05.2018

of this DPP, will be prepared for schemes under 'Make' category. It will be a two year roll on plan and will have two parts: **Part 'A'** would comprise of carry over schemes from the AAP of previous year and schemes where AoN has been accorded during the year; **Part 'B'** would include the cases likely to be initiated for seeking AoN in the next one year. AAP for 'Make' would be prepared, approved and maintained as per provisions in Chapter I of DPP.

14. Potential projects identified by SHQ, shall be deliberated by a Collegiate Committee headed by **Secretary (DP)** with members from SHQs, DDP, DoD, DRDO, MoD (Fin)/IFA and will be 'Approved in Principle' for hosting on MoD / DDP's Website. List of potential 'Make-I' projects along with Project briefs, Questionnaire for Industry and Project Manager Details shall be uploaded on MoD/DDP website inviting the willingness of Industry to participate in the aforesaid potential 'Make-I' projects.<sup>7</sup>

### **Feasibility Studies**

15. SHQ would be responsible for undertaking feasibility studies of all projects under AAP- 'Make.' The aim of this study would be to identify the projects which Indian Industry has the capability to design and develop, within the timeframe required by the respective Services.

16. Feasibility studies will be carried out with involvement of all important stakeholders such as HQ IDS, DRDO, DDP, Advisor (Cost) and MoD (Finance)/IFA as required. Industry associations including MSME associations, OFB & DPSUs may be consulted if considered necessary. SHQ may engage consultants/experts to assist in preparation of feasibility study report. Funding requirements for preparation of feasibility studies shall be borne by SHQ.

17. The Feasibility Study shall include following aspects:-

- (a) Long-term interests of MoD for indigenous development of capabilities, both in terms of manufacturing and technologies, within the Indian industry.
- (b) A preliminary assessment of enabling technologies to realise the requisite equipment/system/platform/components or their upgrades; and their availability or accessibility to Indian industry.
- (c) A preliminary assessment of capability of Indian industry to undertake design and development of the requisite equipment/system/platform or their upgrades; and likely achievable indigenous content at prototype stage as well as production stage.
- (d) Estimated time period for development.
- (e) A preliminary assessment of capability of Indian industry with respect to quantities envisaged for procurement during the 'Buy (Indian-IDDM)' phase and timelines.
- (f) Estimated Cost of prototype development phase and for subsequent procurement phase under 'Buy (Indian-IDDM)' category.
- (g) Suggested sub-category under 'Make' procedure.
- (h) Number of DAs to be selected based on the cost of prototype development, quantities required or any other consideration. (Feasibility Study will generally recommend not more than two DAs, however in exceptional case, with due justifications,

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<sup>7</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/13-Pt. II dated 08.05.2018



it can recommend three DAs).

- (j) Exit Criteria.
- (k) Any other aspect considered important.

### **Preliminary Services Qualitative Requirements (PSQRs)**

18. Based on the feasibility study, the SHQ concerned would formulate the PSQRs, specifying essential and desirable parameters. The essential parameters of PSQRs of equipment would be of proven technologies available in Indian/world market. Research to achieve the desirable parameters, if any, may commence along with or after the development of prototype through various mechanisms e.g. instituting chairs/projects in research and academic institutions like IITs, IISC and DRDO etc. These PSQRs shall form part of the Statement of Case (SoC) while seeking AoN for 'Make-I'<sup>7</sup> projects.

### **Categorisation and Accord of AoN**

19. **Interaction with Industry by SHQ.** SHQ will place relevant information on the MoD and SHQ websites and seek inputs from industry. SHQ will use the inputs from industry to carry out the categorisation and for preparing the SoC.

20. **Statement of Case.** The SHQs will prepare SoC and submit the same to HQ IDS, which would examine aspects of interoperability and commonality of equipment for the services. Feasibility study report and assessment of the Defining Attributes of 'Make' category, along with a list of prospective DA(s), exit criteria and PSQRs will be enclosed with the SoC.

21. After reviewing the comments of the HQ IDS on aspects of inter-operability, the SHQs/initiating departments, will refer the cases to SCAPCC/SCAPCHC as the case may be. The SCAPCC will refer the SoC for according AoN to SCAPCHC for an estimated cost up to ₹ 300 Crores<sup>47</sup>. For cases beyond ₹ 300 Crores<sup>47</sup> the SHQs/initiating departments will refer cases to the SCAPCHC, which will carry out the task of categorisation, based on the recommendations of SHQs/initiating departments and refer the cases between ₹ 300 Crores<sup>47</sup> to ₹ 500 Crores<sup>47</sup> to the DPB and refer cases beyond ₹ 500 Crores<sup>47</sup> to DAC for accord of AoN. However, incase three DAs are to be selected for the project, approval of DAC will be required irrespective of the estimated project cost.

22. Following would be highlighted by the SHQ in the SoC seeking AoN:-

- (a) Estimated time period.
- (b) Estimated development cost.
- (c) Likely production cost.
- (d) Recommended sub-category under the 'Make' category.
- (e) Recommended level of Indigenous Content (higher than the minimum prescribed for 'Buy (Indian-IDDM)' category).

<sup>7</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/13-Pt. II dated 08.05.2018

<sup>47</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 20.03.2019

- (f) If any vendor has offered to suo-moto take up development under a sub-category lower than the one being recommended.
- (g) Likely DAs.
- (h) Quantity of order to be placed, post the successful development of prototype.
- (j) Tentative time frame of procurement.
- (k) Acceptability of multiple technical solutions and division of ordered quantity among successful DAs.

23. The AoN shall be sought based on the combined estimated cost of prototype development phase and the cost of subsequent procurement under 'Buy (Indian-IDD)' as detailed in **Para 5** of this Chapter. The cost of development and the procurement should be indicated separately in the SoC.

### **Validity of AoN**

24. AoN for 'Make' category projects will be valid for one year. For all sub-categories where EoI is not issued within one year from accord of AoN, SHQ would have to move a case for revalidation of AoN with due justification for not processing the case on time. For cases where the original EoI has been issued within one year from accord of AoN and later retracted for any reason, the AoN would continue to remain valid, as long as the original decision and categorisation (sub-category) remain unchanged and the subsequent EoI is issued within six months from the date of retraction of original EoI.

### **Constitution of IPMT**

25. Once AoN is accorded for acquisition under 'Make' category, the Department of Defence Production (DDP)/SHQ will constitute an IPMT under Head of Make-PMU or suitable officer belonging to the Make-PMU, who will also act as member secretary of IPMT; IPMT will consist of representatives from SHQ, HQ IDS, DRDO, DDP, DGQA/DGAQA/DGNAI, Advisor (Cost), MoD (Finance)/IFA as required and other experts if considered necessary.

26. The IPMT, through the Make-PMU Head for the service, shall submit six-monthly progress report to the Defence Production Board (DPrB) through Principal Staff Officer (PSO) concerned at SHQ. The DPrB shall provide policy guidance as may be required in 'Make' cases. The **IPMT's responsibilities** shall include the following important functions:-

- (a) Preparation of Project Definition Document (PDD).
- (b) Short listing of Indian companies/organisations for the purpose of issuing EoI.
- (c) Preparing EoI and obtaining approval thereof from the PSO concerned at SHQ and issue of EoI.
- (d) Assessment and Ranking of EoI responses and obtaining approval for selection of DAs from DPrB.
- (e) Receipt and evaluation of DPRs from short-listed DAs.

- (f) Finalisation of DPRs on technical, financial and other aspects.
- (g) Preparation of draft Project Sanction Order ('development contract').
- (h) Obtain CFA approval, through DDP, as per extant delegation of financial powers detailed in **Appendix B** to this Chapter.
- (j) Monitoring and reporting of aspects relating to prototype development including generation of Intellectual Property.
- (k) Any other responsibilities as may be entrusted by the DAC/DPrB/PSO at SHQ.

### **Project Definition Document and Expression of Interest**

27. The IPMT will prepare a Project Definition Document (PDD) as per the sample format given at **Appendix C** to this Chapter. The PDD shall be approved by PSO concerned at the SHQ and shall serve as the principal guidance document for preparation of DPR.

28. Short listing of Indian vendors for issue of EoI shall be done by IPMT from the list of companies/organisations received from SHQs and additional companies/organisations if any, as per response to IPMT's request for 'Make' proposal from Indian Industry hosted on the website of MoD.

29. The details of the vendors shortlisted for participation in the 'Make-I'<sup>7</sup> projects would be maintained by the SHQs and the same would be placed in the public domain by them. Relevant extracts of PSQRs would be circulated as part of the EoI, issued only to Indian vendors short-listed by IPMT. The EoI shall be approved by the PSO concerned at SHQ and shall contain all information as per sample format at **Appendix D** to this Chapter.

30. All evaluation criteria, sub-criteria etc., including respective weightages accorded to each of them, for assessing responses from EoI recipients (Individual as well as for AoP), shall be finalised and detailed as part of EoI.

31. Indian vendors who are issued an EoI, shall have the choice to respond either in their individual capacity as EoI recipients, or as an AoP (i.e. consortium) of Indian companies/organisations, through an AoP Agreement led by an EoI recipient, as enumerated at **Annexure I to Appendix A**.

### **Selection of Development Agency(ies) (DAs)**

32. The IPMT would undertake an assessment of EoI responses based on approved criteria. An illustrative list of evaluation criteria is contained in sample format at **Appendix E**. It shall be ensured that the evaluation criteria relates only to the test, production, R&D, system integration and technological capabilities in India, including past experience and performance of EoI recipients as may be required. Inspection of vendors premises should be avoided and selection should, to the extent possible, be based on self-certification.

33. In the case of EoI recipient forming AoP i.e. consortium, the assessment, if any, shall be carried out with specific reference only to the roles and responsibilities of individual members under their AoP agreement.

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<sup>7</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/13-Pt. II dated 08.05.2018

34. The list of Indian vendors or consortium as stated above, ranked as per the evaluation criteria shall be forwarded by the IPMT to DPrB through PSO concerned at SHQ, for selection of vendor as per AoN. The selected vendor shall be referred to as Development Agency (DA).

35. The DAs, shall then be required to submit a DPR, including cost estimates, as per sample format at **Appendix F**, to IPMT for their examination. For this purpose, PSQRs and relevant extracts from the PDD will be shared by the IPMT, with the short-listed DAs. The DPRs shall be prepared by DAs and examined by the IPMT with specific reference to project milestones as described in sub-paragraphs 51.1 to 51.7 of this Chapter. **On receipt of DPRs, the AoN cost will be re-assessed by the SHQ and consequent inputs will be brought to the notice of the authority which granted AoN<sup>21</sup>.**

36. Prior to CFA approval, the IPMT will engage with the selected DA(s) for any modifications/refinements/amendments to DPR, if considered necessary. DA(s) may collaborate with academic and/or research institutions and/or foreign companies/foreign research and academic institutions having required technologies for the development of project. DA(s) would be required to disclose the details of such collaborations in DPR. IPMT will submit the finalised DPR to Secretary (DP), through PSO concerned at SHQ, for approval.

### **Approval of Competent Financial Authority (CFA) and Funding Arrangement**

#### **CFA Approval**

37. The financial sanction for project development under Make-I sub-category, taking the relevant prototype development costs into account, would be obtained by the DDP as per delegation of financial powers detailed in **Appendix B** to this Chapter.

38. **xxx Deleted xxx<sup>7</sup>**

#### **Funding**

39. Funds for development projects approved under this procedure shall be borne under the Account Head 'Make Procedure-Prototype Development Account' operated by respective SHQs.

#### **Funding for Projects under Make-I Sub-Category**

40. 90% of the prototype development cost will be borne by the MoD and 10% of the prototype development cost will be borne by the selected DA(s), as approved by the DAC/DPB/SCAPCHC and mentioned in the EoI. Guidelines for approval and acceptance of cost-sharing arrangements are available at **Appendix G** to this Chapter.

41. IPMT shall forward a draft Project Sanction Order ("Development Contract") to DDP for approval. The approved DPR along with **Appendix A, G and H** shall form part of the Project Sanction Order. Thereafter, IPMT will issue 'Project Sanction Order' to the selected DAs.

42. IPMT at every phase/sub-phase of the project will also assess the project on the relevance of continuing the project with respect to time and cost overruns, operational requirements, availability of same/similar equipment or technology in the market and accordingly recommend to SHQ for release of funds.

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<sup>7</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/13-Pt. II dated 08.05.2018

<sup>21</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

43. For all projects under Make-I sub-category, an advance of 20% of the total prototype development cost, will be paid against a bank guarantee for the equivalent amount. On completion of every stage against the milestones detailed in the DPR, DAs will submit claims for reimbursement to IPMT. While submitting reimbursement claims, the Chief Executive Officer/a suitable nominee along with an authorised auditor will certify the incurred expenditure linked to a particular development stage. Based on the recommendations of IPMT, SHQ will reimburse the development cost within sixty days, which may extend up to another 30 days in exceptional cases. The advance will be adjusted proportionately in subsequent payments as per the payment terms prescribed in DPR and bank guarantees will be proportionately and automatically reduced until full extinction.

44. If Commercial RFP for the equipment, for which prototype has been successfully developed, is not issued within two years from the date of successful completion of prototype development as described in Para 58 of this Chapter, the DA(s) will be entitled for reimbursement of remaining 10% of the prototype development cost. The same shall be written off with the approval of the Competent Authority.

### **Funding for Projects under Make-II Sub-Category**

45. xxx Deleted xxx<sup>7</sup>

46. xxx Deleted xxx<sup>7</sup>

47. xxx Deleted xxx<sup>7</sup>

### **Access to Books of Accounts**

48. The DAs shall maintain separate books of accounts with an independent bank account, for the project sanctioned under **Make-I sub-categories**<sup>7</sup> of prototype development; MoD or its authorised representative(s) shall have unfettered rights to access these books of account of DAs.

### **Cost Overrun**

49. Based on the recommendations of IPMT, cost overruns may be approved by the CFA concerned.

### **Time Overrun**

50. The approval of extension of timelines for any **‘Make-I’**<sup>7</sup> project up to 20% of the timelines agreed upon in the approved DPR may be accorded by VCOAS/VCNS/DCAS/DG-ICG/CISC, based on the recommendations of Head-PMU. For extension of time beyond 20%, the matter would be referred to DPrB.

### **Design and Development of Prototype for Make-I Sub-Category**

51. The design and development stage under ‘Make-I’ projects is expected to undergo the following phases:-

51.1 **Project Definition Phase.** This phase is a prelude to the Preliminary Design Phase and involves mobilisation of initial start-up resources, including development laboratories etc., as specified in the agreed DPR.

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<sup>7</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/13-Pt. II dated 08.05.2018

51.2 **Preliminary Design Phase**. During this phase, the design parameters are established for configuration, performance in compliance to user's requirements and trade-off in the design. This also takes into consideration various tests and studies to be conducted.

51.3 **Detailed Design Phase**. This phase includes the detailed design of systems/sub-systems down to all components. Specifications of various equipment, systems and sub-systems that are to be used in the product/equipment/weapon systems would be finalised and all PSQRs frozen and they will be duly ratified as SQRs by respective SEPC/ISEPC. Permissible variance wherever acceptable, may be indicated as a range/percentage of SQR parameters. Engineering design documents, drawings, process planning would be firmed up. These detailed designs followed by critical design review may need to be fine-tuned several times, during the agreed period for this activity in the DPR. Any platform/equipment/interface-details required by the DAs with associated resources would be made available by SHQ concerned, if included and approved at the DPR stage.

51.4 **Fabrication/Development Phase**. Manufacture of sub-assemblies would be carried out based on the final specifications arrived at in the detailed design phase. Limited quantities, as given in the EoI and agreed to in DPR, can be fabricated/developed against the total prototype quantities required for subsequent stages.

51.5 **Test & Analysis Phase**. Concurrent with the design phase, testing of several components, system/sub-system is undertaken. Test and analysis should also include software verification. Design testing through simulation can also be undertaken. The testing may require specialised facilities like conduct of proof firing and extensive firing trials for weapon systems. Provisioning of laboratory and other in-house facilities and special equipment, if any, shall be made on terms and conditions as agreed upon in the approved DPR.

51.6 **Integration Phase**. During this phase, various systems and sub-systems are integrated and the system integration testing is carried out in accordance with the test procedures approved and agreed upon. The integration procedure, the interface details, the performance and assembly of modules/sub systems would be finalised.

51.7 **Performance Evaluation Phase**. After the integration of the various sub-systems, the prototype would be subjected to technical and limited field trials to assess the overall performance of the systems against stated SQRs by the development agencies and IPMT. Based on the test and analysis conducted by them, there may be a need for change of design to meet essential SQRs. This is a continuous process until the design is finally proven and meets the essential SQRs, subject to agreed time limits as per approved DPR.

52. After the prototype has been developed, the IPMT would carry out user trial readiness review of the prototype before offering it for user trials.

53. Intellectual Property Rights (IPRs) in the 'Make-I'<sup>7</sup> projects undertaken under provisions of this Chapter shall vest as described in **Appendix H**.

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<sup>7</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/13-Pt. II dated 08.05.2018

## **User Trials**

54. User trials would be carried out by the SHQ in close consultation with IPMT to validate the performance of the system against the parameters/specifications approved after the development of prototype. SHQ will formulate the Trial Directive and constitute the Trial Team. The Trial Directive must specify the fundamental points that need to be addressed for validating the 'essential' parameters.

55. The SQRs of the equipment would therefore be a part of the Trial Directives and only the essential parameters as detailed in the SQRs will be tested. The validation of the support system and maintainability trials, integral to and complimenting the trial programme of the defence equipment/upgrades/product/system should be held simultaneously, wherever feasible. Representatives of DRDO, QA agency may also be part of the field evaluation, based on requirement. The user can recommend modification to the system for ease of handling and its maintainability. At this stage, no changes should be suggested which require re-designing of the system/sub-system or technology upgrade. Such suggestions would only be considered and implemented in subsequent phases of development.

56. Based on the inputs of SHQ/IPMT, the DPR will clearly include the list of trials/items/facilities/consumables, which will be provided free of cost during trials. It will also specify the number of times free tests will be carried out. The liability against any collateral damages/third party, to the extent permitted under the Indian Insurance Act, occurring during the course of trials should be covered through insurance cover by the respective DA(s). The cost of such insurance cover may be included in the project under DPR.

## **Staff Evaluation**

57. Based on the User Trials, the SHQ would carry out a Staff Evaluation, which gives out the compliance of the demonstrated performance of the equipment vis-à-vis the SQRs. The Staff Evaluation report will be accepted at the SHQs by the VCOAS/VCNS/DCAS/DG ICG/CISC. On acceptance of the Staff Evaluation report, the SQRs shall form the basis for the 'Buy (Indian-IDDM)' category of acquisition.

58. Once the Staff Evaluation report is accepted and final installment under prototype phase as per DPR has been released, no more funds would be released from 'Make Procedure-Prototype Development Account'.

59. The procedure followed for procurement would thereafter be same as for 'Buy (Indian-IDDM)' category as defined in Para 5 (Chapter III), from the successful DA/DAs, in accordance with Chapter II, except to the extent outlined below. The quantities in the 'Buy (Indian-IDDM)' phase cannot be reduced from the quantities indicated in EoI issued for the prototype development phase.

## **Design and Development of Prototype for 'Make-II' Sub-Category**

60. ~~xxx Deleted xxx~~<sup>7</sup>

61. ~~xxx Deleted xxx~~<sup>7</sup>

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<sup>7</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/13-Pt. II dated 08.05.2018



## **Solicitation of Commercial Offers**

62. A Request for Proposal (RFP) would be issued to the agencies accepted in the Staff Evaluation report for soliciting their commercial offers and additional technical information/documentation, as may be necessary. In case of development by an AoP, RFP shall be issued to 'Lead Partner' who will submit an undertaking to supply the required quantities under Buy (Indian-IDDM) phase with life cycle support for the product.

63. The Pre-Contract Integrity Pact (PCIP), as detailed in **Para 92** of Chapter II, shall apply mutatis mutandis, to 'Buy (Indian-IDDM)' phase of 'Make' project. The process of commercial negotiations by the CNC (to be constituted as per provisions detailed in Chapter II) would commence thereafter.

## **Commercial Negotiations by Contract Negotiation Committee (CNC)**

64. The CNC will carry out all processes from opening of commercial bids till conclusion of contract.

65. In cases involving large quantities and where multiple technological solutions are acceptable, on approval of DAC/DPB/SCAPCHC, an option may be provided in the EoI during the 'Make' phase and subsequently in the RFP for the 'Buy (Indian-IDDM)' phase for procurement of specified quantities from other vendors (referred to as L2 herein) who have successfully developed the prototype/product, on the condition that this second vendor accepts the price and terms & conditions quoted by the L1 vendor.

66. In case, multiple technological solutions are not acceptable, the successful L2 vendor will be issued a certificate by the DDP indicating that the product has been successfully trial evaluated, to facilitate L2 vendor to explore other markets and remain in the production of the product.

67. Consequent to approval of the CFA, the procurement contract(s) would be signed by the Acquisition Manager/Director (Procurement) concerned in the Acquisition Wing or by officer authorised by PSO concerned in SHQ for the cases falling within their delegated powers. The draft contract(s) would be prepared as per the Standard Contract Document at Chapter VI of DPP.

## **Upgrades**

68. The next phase of up-gradation of the prototype for development of its Mark II/Mark III variants would be guided by desirable parameters of PSQRs.

## **Project Management, Review and Monitoring**

69. The progress of the 'Make' phase would be monitored by the IPMT under overall guidance of respective PMU as per the defined milestones listed in the DPR, including generation of Intellectual Property. The Government may engage services of independent consultants/experts for assessing the physical and/or financial progress of the Make project. IPMT, through respective PMU will also periodically appraise the progress of the project to PSO concerned at SHQ or to DPrB through PSO concerned at SHQ, as the case may be.

70. All contemporary Project Management tools and practices, relevant for Design and Development of Technology intensive projects, shall be employed by IPMT.



## **Foreclosure**

71. In case the project does not proceed according to the predetermined milestones as per **Para 51.1 to 51.7** of this Chapter and as agreed in the DPR and/or if there are undue time and cost overruns, or failure of the prototype(s) on staff evaluation or on account of any other reasons, the 'Make-I'<sup>7</sup> project may be foreclosed in respect of the DA(s) concerned and proposal for foreclosure will be approved by the authority who had accorded AoN.

72. In such cases, the total expenditure made by the DA(s) on the prototype development till foreclosure would be assessed and if excess funds have been paid to the DA(s), the same shall be recovered; if the expenditure is in excess of the amount paid, the balance shall be paid to the DA(s). The total amount paid to the DA(s) shall be written off with the approval of the competent authority.

## **Disposal of Tangible Assets Created in Make-I Projects**

73. The ownership of all tangible assets and the developed prototypes under the Make-I category shall vest with the MoD. These may be passed on to the DA at depreciated value as per the extant guidelines of the Government of India.

74. In case of foreclosed Make-I sub category of projects, the tangible assets thus created may be disposed of as per the extant Government guidelines. Expenditure incurred on intangible assets as defined in the relevant Indian Accounting Standards will be written off with the approval of competent authority.

## **Disposal of Tangible Assets Created in Make-II Projects**

75. ~~xxx Deleted xxx~~<sup>7</sup>

76. ~~xxx Deleted xxx~~<sup>7</sup>

77. All deviations on matters concerned with 'Make' cases not covered under this chapter, as well as all cases of deviations, shall require prior approval of the DPrB, before going to DAC.

78. Typical expected timelines for undertaking 'Make-I'<sup>7</sup> Projects are contained in **Appendix I**. The table indicating the role & responsibilities of various authorities is at **Appendix J**. All the formats given as Appendices and Annexures to this chapter are illustrative and may be amended / modified, as per the requirements of projects under consideration.

79. Any development process under Make procedure of previous DPPs, may be carried out as per procedures of old case or may be migrated to this new Make procedure, after due consultation with the selected DAs and if it is found to be in the interest of the project.

80. Any clarification or difficulty arising during execution shall be referred to Secretary (Defence Production), who would either take a final decision or refer the case to the DAC for final decision.

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<sup>7</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/13-Pt. II dated 08.05.2018

**GUIDELINES FOR SHORT-LISTING OF INDIAN VENDORS FOR ISSUE OF EXPRESSION OF INTEREST (EOI) FOR “MAKE” CASES AND FOR FORMATION OF ASSOCIATION OF PERSONS (i.e. CONSORTIUM)**

**Preamble**

1. These Guidelines contain the criteria to be followed by IPMT for short-listing of Indian Vendors for issue of EoI by IPMT under Chapter III of DPP and also requirements for formation of consortium by such short-listed companies and subsequent execution of the Project. Issue of an EoI shall be restricted only to such eligible entities, in addition to issue of EoIs to OFB if shortlisted by IPMT for the relevant “Make” case.

**Guidelines**

2. These guidelines shall apply in supersession of previous guidelines issued by this Ministry vide O.M. No. No. 9(8)/2005/D(S-III) dated May 09, 2006 and any other previous guidelines on the subject, including guidelines incorporated in DPP-2013.

**Criteria for Short listing of Indian Vendors**

3. Indian entity satisfying all of the following criteria shall be considered as an eligible ‘Indian Vendor’ for issue of EoI by IPMT:-

(a) Public limited company, private limited company, partnership firms, limited liability partnership, one person company, sole proprietorship registered as per applicable Indian laws. In addition, such entity shall also possess or be in the process of acquiring a license/development of products if the product under project requires license as per DIPP’s licencing policy.

(b) The entity has to be owned and controlled by resident Indian citizens; entity with excess of 49% foreign investment will not be eligible to take part in Make category of acquisition.

(c) The entity needs to be registered for minimum five years; three years in the case of MSMEs.

(d) The entity should have a minimum Long Term credit rating ‘BBB’ issued by any Rating Agencies registered with SEBI such as CRISIL/ ICRA. In case of MSMEs, the minimum rating should be ‘SME-4’.<sup>2</sup>

(e) The entity needs to be profitable for at least three out of the last five years; in case of MSME, it needs to be profitable for at least one out of the last three years.

(f) The entity should have a positive minimum ‘Net Worth’ as specified under Para 4 below.

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<sup>2</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Pt. dated 20.04.2017

4. For the purposes of demonstrating positive “Net Worth” as in **Para 3(f)** above, the entity must have the following Net Worth:-

(a) For ‘MAKE’ projects having AoN cost (combined estimated cost of prototype development phase and cost of subsequent procurement) > ₹ 5000 Crore, a minimum ‘Net Worth’ equivalent to 5% of the development cost indicated at the time of AoN, subject to maximum of ₹ 1000 Crore.

(b) For ‘MAKE’ projects having AoN cost (combined estimated cost of prototype development phase and cost of subsequent procurement) ≤ ₹ 5000 Crore, a positive ‘Net Worth’ for all companies including MSMEs.

4.1 In case the Net Worth criteria and/or credit rating is considered high or low for the purposes of adequate EoI responses, the Feasibility Study will bring out an alternate specific recommendation for consideration of the DAC/DPB/SCAPCHC at the time of seeking AoN.

**Note:**

(i) *In case of wholly owned subsidiary/subsidiary of a company, the strengths of its parent company shall be taken into account for the criteria referred at **Para 3(d),(e)** and **(f)** if the parent company provides the ‘Parent Company Guarantee’ as per the format prescribed at **Annexure-I to Appendix A**.*

(ii) *Guidelines for Putting on Hold, Suspension, Debarment and any other penal action on the Entities dealing with Ministry of Defence, as promulgated by Government from time to time, will be applicable on procurement process and bidders.*

5. All aforesaid data relating to eligibility of companies for issue of an EoI shall need to be demonstrated at the close of the financial year preceding the accord of AoN, except the requirement for profitable financial record as specified under Para 3 (e) above, which needs to show profits in at least three years of the last five years preceding the accord of AoN.

**Eligibility to Respond to an EoI as Individual Entity or as Consortium**

6. The EoI can be responded to, at the option of an EoI recipient, by any of the following entities:-

(a) Individual EoI Recipient; or

(b) **Association of Persons (AoP)** i.e Consortium of Indian companies consisting of two or more than two EOI recipients undertaking joint and several liability and an EoI Recipient designated as the lead member through a ‘**Association of Persons (AoP) Agreement**’ as given at **Annexure-II to Appendix-A**. All EoI Recipients as the members of the AoP will sign the contract with MoD. This agreement will be applicable for the entire project including but not limited to Production Phase and Lifecycle/Technology Refresh Contract placed by MoD, if any.

7. Where an AoP/Group of EoI recipients (“Consortium”) comes together to implement the project in accordance with the mechanisms outlined under Para 6 (b) above, there must exist, at

the time of responding to EoI, a '**Association of Persons (AoP) Agreement**' to form an AoP i.e. Consortium to execute and implement the complete "Make" project.

**Note:** *In case of an individual EoI-recipient responding, the assessment by the IPMT shall in particular, include production capability assessment and capability assessment for developing critical technologies as mentioned in the EoI, even if such production or technology development is under an MoU or a sub-contract by the EoI-Recipient, provided that: (i) such production takes place in India; (ii) IPs in such technologies are available to MoD, ab-initio, as required under **Appendix H**; and (iii) prior approval of DDP shall be required for subsequent change of such AoP partners. In the case of an EoI Response as per **Para 6(b)** above, such assessment by the IPMT shall be made in respect of all the participating companies i.e EoI Recipients]*

8. Where the EoI Respondent is an AoP/Consortium, it shall, while responding to the EoI, comply with the following additional requirements:-

- (a) Number of members in a consortium shall not exceed 5 (five).
- (b) The EoI Response should contain requisite information for each member of the AoP/Consortium.
- (c) Members of the AoP/Consortium shall nominate one member as the lead member (the "Lead Member").
- (d) The EoI Response should include a description of the roles and responsibilities of individual members, particularly with reference to production arrangements in India and R&D activities for which IPRs will vest with MoD as per **Appendix H**.
- (e) An individual EoI respondent cannot at the same time be member of an AoP/Consortium responding to the EoI. Further, a member of a particular responding AoP/Consortium cannot be member of any other Consortium responding to the EoI.
- (f) Members of the AoP/Consortium as described in **Para 6 (b)** shall enter into a legally binding Agreement, substantially in the form specified at **Annexure II to Appendix A**, for the purpose of responding to the EoI. The Agreement to be submitted along with the EoI Response, shall, '*inter alia*':-
  - (i) Form the basis for the AoP members to enter into a contract and perform all the obligations of the development agency in terms of the contract, in case a development contract to undertake the "Make" Project is awarded to the Consortium;
  - (ii) Clearly outline the proposed roles and responsibilities, if any, of each member;
  - (iii) Include a statement to the effect that members of the AoP/Consortium shall be liable jointly and severally for all obligations of the development agency in relation to the "Make" Project as required under these Guidelines.

#### **Change in Membership of a Consortium**

9. Change in the composition of an AoP/Consortium will not be permitted after the submission of EoI responses until the award of a Development Contract for prototype development.

10. Where the EoI Respondent is an AoP/Consortium, change in the composition of a AoP/Consortium may be permitted by the DPrB after the award of a development contract only where:-

(a) The Lead Member continues to be the Lead Member of the AoP/Consortium and shall not be changed under any circumstances;

(b) The non-lead substitute member(s) shall continue to meet eligibility criteria for membership of an AoP/Consortium; and

(c) The new Member(s) expressly adopt(s) the EoI Response and the development contract already made on behalf of the AoP/Consortium as if it/they were a party to it originally and is/are not a Member of any other Consortium short-listed for the "Make" Project, while undertaking the joint & several or joint liabilities (as applicable) of the member it/they are replacing.

11. Any change in the composition of an AoP/Consortium shall require prior approval of DDP.

12. The approval for such changes shall be at the sole discretion of DDP and must be approved by them in writing for the approval to take effect.

13. The modified AoP/Consortium shall submit a revised 'Association of Persons Agreement'

#### **Miscellaneous Provisions**

14. Any violation of any of the guidelines laid down in this Annexure by any company shall render it liable to initiation of proceedings for suspension and/or banning of business dealings under Note (ii) of Para 4.1 of Appendix A to Chapter III.

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**Annexure I to Appendix A**  
(Refers to Note (i) to Para 4 of Appendix A)

**PARENT COMPANY GUARANTEE FORMAT**

This GUARANTEE (“Guarantee”) is issued on the \_\_\_\_ day of \_\_\_\_, \_\_\_\_ by \_\_\_\_\_, a Company organised and existing under the laws of \_\_\_\_\_ having its Registered Office at \_\_\_\_\_ (hereinafter referred to as “Guarantor” and/or “\_\_\_\_\_”), at the request and/or behest of \_\_\_\_\_, a Company organised and existing under the laws of \_\_\_\_\_ having its Registered Office at \_\_\_\_\_ (hereinafter referred to as Wholly Owned Subsidiary/Subsidiary), in favour of “Ministry of Defence, Government of India” (hereinafter referred to as “Beneficiary” or “MoD”).

**WHEREAS**

The Beneficiary floated a RFI/EoI dated \_\_\_\_\_ inviting offers from Vendors for \_\_\_\_\_ (purpose). The Vendor have submitted their quotation dated \_\_\_\_\_ and advised the Beneficiary that the Vendor is the subsidiary of the Guarantor. The Guarantor is ready and willing to give a Parent Company Guarantee (PCG) inter alia for the performance of their Subsidiary to the terms and conditions of the RFI/EoI and on failure to assume the said obligations. We, the Guarantor are hereby recording the terms and conditions governing our obligations under this Guarantee with the intent of being legally bound by the same and hereby agree, covenant and bind ourselves as follows:-

1. The Guarantor hereby irrevocably and unconditionally guarantees to MoD that its wholly owned Subsidiary/Subsidiary will perform its obligations under the terms and conditions of the EoI/RFI, if the contract is being awarded to them in future for \_\_\_\_\_ and agrees to provide further comfort letters/guarantees, if so desired by beneficiary, in terms of the RFI/EoI.
2. The Guarantor unconditionally and irrevocably guarantees to the Beneficiary that it will make available or cause to be made available to the Wholly Owned Subsidiary/Subsidiary all financial, technical and other resources required to ensure that the Wholly Owned Subsidiary/Subsidiary can carry out its obligations as per the RFI/EoI terms and conditions and that the Wholly Owned Subsidiary/Subsidiary at all times fully and effectively discharge its obligations under the terms and conditions of RFI/EoI, including by discharging the obligations within the time and cost so stipulated.
3. The Guarantor hereby agrees that if the Wholly Owned Subsidiary/Subsidiary shall in any respect commit any breach or fails to fulfill any of the terms of the Contract/EoI/RFI or complete it in all respects or if there is a failure to make any supplies or if any material, equipment or machinery under the contract so supplied is not of the required specifications or does not perform as envisaged under the contract, then the Guarantor will forthwith perform the same and fulfill all the obligations required under tender terms & conditions on behalf of their Wholly Owned Subsidiary/Subsidiary, without any extra cost and time implications.
4. The Guarantor further undertakes to indemnify all losses, damages, expenses, claims, costs and proceedings which may be suffered or incurred by Beneficiary due to the failure or breach on the part of its Wholly Owned Subsidiary/Subsidiary.

5. The Guarantor assures and undertakes that during the term of the contract or of any guarantee for performance as per the contract, the Wholly Owned Subsidiary/Subsidiary shall continue to be the \*(name of the company)----/Subsidiary/a wholly owned subsidiary of the Guarantor and the Guarantor's liability shall not be affected due to any incapacity or lack of power or legal personality or change in the status of the Wholly Owned Subsidiary/Subsidiary or the Guarantor.

6. The Guarantor's liabilities under this Guarantee shall not exceed the liability of the Wholly Owned Subsidiary/Subsidiary under the tender terms and conditions but this shall in any manner not affect the Guarantor's own responsibilities and liabilities under the Guarantee.

7. The obligation of the Guarantor shall take effect from the date of this Guarantee and shall remain in full force until all the obligations of the Wholly Owned Subsidiary/Subsidiary have been fully performed and discharged and/or all sums of money payable to Beneficiary have been fully paid under the contract being entered into by Beneficiary with the Wholly Owned Subsidiary/Subsidiary. The Guarantor further undertakes to perform forthwith without insisting on any proof of breach of Contract by its Wholly Owned Subsidiary/Subsidiary and purely relying on Beneficiary's written demand.

8. The liabilities of the Guarantor shall not be discharged, diminished or otherwise affected by:-

(a) Any change in the Articles of Association or Bye-Laws or constitution of the Wholly Owned Subsidiary/Subsidiary or the Guarantor.

(b) Any time, indulgence, waiver or consent given to Wholly Owned Subsidiary/Subsidiary by the Beneficiary.

(c) Any amendment to the Contract or any security or other guarantee or indemnity to which Wholly Owned Subsidiary/Subsidiary has agreed.

(d) The dissolution, amalgamation, reconstruction or reorganisation of Wholly Owned Subsidiary/Subsidiary or Guarantor.

9. **NOTICE**

Any notice, demand, declaration or other communication to be given by the Beneficiary or the Guarantor to the other shall be in writing, in English language and delivered in person or by Courier Services or by Facsimile or by E-Mail to the address given below:-

<b>For Guarantor</b>	
<b>Attention of</b>	
<b>Mailing Address</b>	
<b>Email Address</b>	
<b>Fax No.</b>	
<b>For Beneficiary</b>	
<b>Attention of</b>	
<b>Mailing Address</b>	
<b>Email Address</b>	
<b>Fax No.</b>	

10. **Governing Law And Jurisdiction.** This Guarantee shall be exclusively governed by and construed in accordance with the laws of India without giving effect to the principles of conflict of laws therein. No party shall take a plea that any forum is inconvenient. It may be enforced in terms of the Indian laws.

11. **Dispute Resolution.** Any dispute arising out of or in relation to this Guarantee shall be resolved by arbitration of a sole arbitrator to be appointed as per the rules set out in the RFI/EoI.

12. This Guarantee may be executed in one or more counterparts, all of which shall be read and construed as one document and any fax copy or scanned copy or print of a scanned copy of a signed Guarantee shall be deemed to be an original signature.

13. No modification, alteration or amendment of this Guarantee or any of its terms or provisions shall be valid or legally binding unless the Beneficiary consents to the same in writing.

14. No failure to take any action with respect to a breach of this Guarantee or a default by any other party shall constitute a waiver of the Beneficiary's right to enforce any provision of this Guarantee or to take action with respect to such breach or default or any subsequent breach or default.

15. Waiver of any breach or failure to comply with any provisions of this Guarantee shall not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other breach of or failure to comply with any other provision of this Guarantee, unless any such waiver has been consented to by the concerned party in writing.

16. This document has been executed by a duly authorised signatory on behalf of the Guarantor having the requisite power to do so.

**IN WITNESS WHEREOF** the Guarantor has duly executed this Guarantee as at the date first above written.

**For and on behalf of Guarantor,**

\_\_\_\_\_  
(Signature)

**Witness**

**Signature :**

**Name :**

**Designation :**

**Date :**

\*\*\*\*



**ILLUSTRATIVE: 'ASSOCIATION OF PERSONS AGREEMENT'**

THIS ASSOCIATION OF PERSONS (AOP) AGREEMENT is entered into on this the    day of  
20.....

**AMONGST**

1. {..... Limited, a company incorporated under the Companies Act} and having its  
registered office at ..... (hereinafter referred to as the "First Part" which expression shall, unless  
repugnant to the context include its successors and permitted assigns)

**AND**

2. {..... Limited, a company incorporated under the Companies Act} and having  
its registered office at ..... (hereinafter referred to as the "Second Part" which expression shall, unless  
repugnant to the context include its successors and permitted assigns)

**AND**

3. {..... Limited, a company incorporated under the Companies Act and having its registered  
office at ..... (hereinafter referred to as the "Third Part" which expression shall, unless repugnant to  
the context include its successors and permitted assigns)}

**AND**

4. {..... Limited, a company incorporated under the Companies Act and having its  
registered office at ..... (hereinafter referred to as the "Fourth Part" which expression shall, unless  
repugnant to the context include its successors and permitted assigns)}

The above mentioned parties of the FIRST, SECOND, {THIRD and FOURTH} PART are  
collectively referred to as the "Parties" and each is individually referred to as a "Party".

**WHEREAS,**

(a) The Ministry of Defence, Government of India (hereinafter referred to as the  
"Buyer" which expression shall, unless repugnant to the context or meaning thereof,  
include its administrators, successors and assigns) has invited responses (the "responses")  
to its Expression of Interest No..... dated..... (the "EoI") for short-listing of  
bidders for development of- ..... Project (the "Project").

(b) The Parties are interested in jointly bidding for the Project as an Association of  
Persons ("AoP") in accordance with the terms and conditions of the EoI document and  
other documents in respect of the Project and

(c) It is a necessary condition under the EoI document that the members of the AoP shall  
enter into an Association of Persons Agreement and furnish a copy thereof with the Response.

**NOW IT IS HEREBY AGREED as follows:**

1. **Definitions and Interpretations**

In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the EoI.

2. **Association of Persons/Consortium**

(a) The Parties do hereby irrevocably constitute an **Association of Persons/consortium** (the "**Consortium**") for the purposes of jointly participating in the bidding process for the Make Project and executing and implementing the complete "Make" project upto the completion of the Production Phase or any subsequent Lifecycle Support or technology Refresh/Upgrade Contract that MoD places on the Lead Member of AoP before completion of the Warranty Period, whichever is later.

(b) The Parties hereby undertake to participate in the "Make" Project only through this AoP Agreement and not individually and/or through any other AoP/consortium constituted for this Project, either directly or indirectly or through any of their Associates.

3. **Covenants**

The Parties hereby undertake that in the event the AoP is declared the selected Development Agency and awarded the project, the parties shall enter into a Contract with the Buyer for performing all its obligations as the Development Agency in terms of the contract for the Project.

4. **Role of the Parties**

The Parties hereby undertake to perform the roles and responsibilities as described below:-

(a) Party of the First Part shall be the Lead member of the Consortium for and on behalf of the Consortium during the bidding process and until the Appointed Date under the Contract.

(b) Party of the Second Part shall be responsible for .....

(c) Party of the Third Part shall be responsible for .....

(d) Party of the Fourth Part shall be responsible for.....

5. **Joint and Several Liabilities**

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the EoI and subsequently in accordance with the development contract, if and when awarded.

6. **Lead Member**

Without prejudice to the joint and several liabilities of the parties, each party agrees that it shall communicate with the MoD in matters of the EoI and the Development and Production Contract, as applicable through the Lead Member and the Buyer shall be entitled to communicate with such Lead Member as the representative of all the members. Each party

agrees and acknowledges that:-

- (a) The Lead Member shall take prior written consent by all participating AOP members before sending any communication regarding a decision (including without limitation, any waiver or consent), action or omission, before communicating the same to MoD. The AoP Members shall send their responses to the Lead Member and ensure that stipulated timelines of MoD are met with by the Lead Member; and
- (b) Any decision (including without limitation, any waiver or consent), action, omission communicated by the Lead Member on any matters related to the Contract shall be deemed to have been on its behalf and shall be binding on it. The Buyer shall be entitled to rely upon any such action, decision or communication from the Lead Member; and
- (c) Any notice, communication, information or documents to be provided to the Development Agency shall be delivered to the authorised representative of the Development Agency (as designated pursuant to the Contract) and any such notice, communication, information or documents shall be delivered to all the Parties by the Lead Member.

7. **AoP Bank Account/Payments**

The Parties will open a separate single bank account (“**AoP Account**”) for payments to be received from the Buyer in the name of the AoP which account shall be operated jointly by all the AoP members. Each of the Parties shall raise separate invoices on Buyer, which will be presented to the Buyer by the Lead Member under a Covering Letter. The Buyer shall make the payment(s) into the designated AoP account and the Buyer shall not in any manner be responsible or liable for the inter se allocation of payments, works etc. among the Parties. Disbursal of the amount lying in the AoP account to each of the Parties shall be made directly to such Party, from the AoP Account. Each Party shall be responsible for ensuring the Invoice and the accompanying documentation is complete and accurate.

8. **Representation of the Parties**

8.1 Each Party represents to the other Parties as of the date of this Agreement that:

- (a) Such Party is duly organised, validly existing and in good standing under the laws of its incorporation in India and has all requisite power and authority to enter into this Agreement;
- (b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement and will not, to the best of its knowledge:-
  - (i) Require any consent or approval not already obtained;
  - (ii) Violate any Applicable Law presently in effect and having applicability to it;

- (iii) Violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
- (iv) Violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
- (v) Create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as in all matters before the Buyer, signing and execution of all contracts and undertakings consequent to acceptance of the Consortium's proposal and generally dealing with the Buyer in all matters in connection with or relating or arising out of the Project.

#### 9. **Termination**

This Agreement shall be effective from the date hereof and shall continue in full force and effect until completion of the Make project and in accordance with the contract, in case the Project is awarded to the Consortium. However, in case the Consortium is either not pre-qualified for the Project or does not get selected for the award of the Project, the Agreement will stand terminated or upon return of the Bid Security, if any, by the Buyer to the Bidder, as the case may be. Upon completion of the Development Contract, this Agreement may be terminated by the Parties upon written mutual consent, if the AOP fails to win Contract from MoD, during the implementation of the 'Buy (Indian-IDDM)' Project.

#### 10. **Miscellaneous.**

- (a) This Agreement shall be governed by the laws of India.
- (b) In the event of a dispute, the Parties shall attempt to amicably resolve the same, failing which the dispute shall be referred to arbitration which shall be resolved in accordance with the Arbitration & Conciliation Act, 1996. The venue for dispute resolution shall be New Delhi, India. The arbitration proceedings shall be conducted in English language. The arbitration award shall be final and binding upon the Parties.
- (c) The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Buyer.

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED For and on behalf of Lead Member

by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED For and on behalf of SECOND PART

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED For and on behalf of THIRD PART

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED For and on behalf of FOURTH PART

(Signature)

(Name)

(Designation)

(Address)

In the presence of: 1.

2.

\*\*\*\*

**Appendix B to Chapter III**  
(Refers to Para 26(h), 37 and 38 of  
Chapter III)

**DELEGATED FINANCIAL POWERS OF CFA FOR ‘MAKE’ CATEGORY**

<b><u>Description</u></b>	<b><u>CFA</u></b>
Project Cost for Prototype Development Phase upto ₹ 50 Crores	Secretary (DP)
Project Cost for Prototype Development Phase above ₹ 50 Crores and upto ₹ 100 Crores	RM
Project Cost for Prototype Development Phase above ₹ 100 Crores and upto ₹ 200 Crores	RM & FM
Project Cost for Prototype Development Phase above ₹ 200 Crores	CCS

\*\*\*\*

**PROJECT DEFINITION DOCUMENT (PDD): AN ILLUSTRATIVE FORMAT**

The PDD would be prepared by the IPMT. It should contain the following:

1. Brief description of the project.
2. Categorisation.
3. PSQRs.
4. System requirements and functionalities.
5. Major components of the proposed system.
6. Operational requirements.
7. Maintenance and operational philosophy.
8. Testing.
9. Documentation.
10. Life cycle management.
11. Feasibility study details.
12. Phases of implementation.
13. Shortcomings of existing system and capabilities sought in system/product.
14. Broad project implementation aspects:-
  - (a) IPMT constitution.
  - (b) Issue of EoI.
  - (c) Assessment of DA(s).
  - (d) Short-listing of DA(s).
  - (e) Selection of DA(s) for prototype development.
  - (f) Submission of DPR by DA(s).
  - (g) Preliminary cost negotiation to oversee that the projected costs are not too much in variance.
  - (h) CFA approval.
  - (i) Design & development of prototype.
  - (j) Critical activities and milestones.
  - (k) Testing and analysis.
  - (l) Integration.
  - (m) Performance evaluation.
  - (n) User trials.
  - (o) CNC.

- (p) IPR holding authority.
- (q) AHSP details.
- 15. Milestones.
- 16. Technology demonstrators, if any.
- 17. BFE required for development/Testing.
- 18. Exit Criteria/Risk management.
- 19. Safety and security aspects.
- 20. Phase wise induction schedule.
- 21. Time frames for execution of the project.
- 22. AoN approval.

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**EXPRESSION OF INTEREST (EoI): AN ILLUSTRATIVE FORMAT**

1. General information including number of systems required for the prototype development phase and Buy (Indian-IDDm) phase, Life span, estimated financial aspects, capabilities sought, components of the system, security features, IPR aspects, payment aspects with linkage to milestones, grounds on which EoI respondent can be disqualified, seeking information pertaining to black listing by any Indian government agency including blacklisting of domestic/foreign technology partner if any and product audit by nominated agencies of government etc.
2. Technical requirements of the project with proposed specifications and expected tolerance limits of various parameters.
3. Critical technology areas.
4. Guidelines for formation of Association of Persons (AoP) i.e. consortium.
5. Assessment parameters.
6. Eligibility Criteria, if any.
7. Details on evaluation criteria of assessment parameters with weightages.
8. Details to be sought from EoI respondents:-
  - (a) Outline features of the proposal.
  - (b) Recommended stages/phases of development with priorities and time schedules.
  - (c) Milestones that can be demonstrated to facilitate project monitoring.
  - (d) Estimated Capital expenditure.
  - (e) Roles, responsibilities and expertise details of consortium members, if any.
  - (f) Role of foreign technology provider, if any.
  - (g) Requirement of specialised testing assistance where facilities are available only with DRDO/DGQA/DGAQA/DGNAI.
  - (h) Estimates numbers for prototype development and for Mark-I procurement under “Buy (Indian-IDDm)” phase.
  - (j) Cost-sharing Aspects.
  - (k) Undertaking to furnish the cost of the final product during evaluation stage itself, once the final configuration of the end product under development is frozen.

9. Documents to be submitted by EoI respondents :-

- (a) Information Proforma (Indian vendors) as per **Annexure-I to Appendix-D.**
- (b) Documents as per **Annexure-II to Appendix-D.**
- (c) Response to assessment parameters as per **Annexure-III to Appendix-D.**
- (d) Copy of MoUs with consortium partners, if applicable.
- (e) Risk Management plan by Lead partner.

8. The EoI respondent shall submit three copies of response to the EoI, clearly marking one copy as 'Original copy' and the remaining two as 'Copy No 2 & 3'. The DA shall also submit a soft copy of the response to EoI in a CD/DVD.

***Note:*** In cases such as those involving large quantities and where multiple technological solutions are acceptable, on approval of DAC/DPB/SCAPCHC, an option may be provided in the EoI during the "Prototype Development Phase" for possible procurement of specified quantities from a qualified responsive L2 bidder in the 'Buy (Indian-IDDM)' phase of Make project, on the condition that this second vendor accepts the price and terms & conditions quoted by the L1 vendor.

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**INFORMATION PROFORMA: AN ILLUSTRATIVE LIST OF ELEMENTS**

1. Name of the Company.
2. Name of CEO with Designation.
3. Address of the Registered Office.
4. Address of the Factory/Factories.
5. Company Website(s).
6. Date of Incorporation.
7. Brief History of the Company.
8. Category of Industry (Large Scale/Medium Scale/Small Scale).
9. Nature of Company (Public Limited/Private Limited).
10. Nature of Business (Please give broad product range against each):-
  - (a) Manufacturer.
  - (b) Trader.
  - (c) Sole Selling or Authorised Agent.
  - (d) Dealer.
  - (e) Assembler.
  - (f) Processor.
  - (g) Re packer.
  - (h) Service Provider.
11. Details of Current Products:-
  - (a) Type/Description.
  - (b) Licensed/Installed Capacity.
  - (c) Annual Production for Preceding 3 Years.
12. Details of Bought Out Items:-
  - (a) Main Equipment.
  - (b) Component/Assembly/Sub Assembly/Processes.
  - (c) Name and Address of the Sub-Contractor.
13. Sources of Raw Materials:-
  - (a) Imported/Indigenous.
  - (b) Brief Description.

- (c) Estimated CIF Value.
  - (d) Percentage FE Content in Final Product.
- 14. Details of Foreign Collaborations:-
  - (a) Product.
  - (b) Name and Address of Collaborator.
  - (c) Year of Collaboration.
  - (d) Current Status of the Collaboration (whether expired or current).
- 15. Technology Received from Abroad and Assimilated.
- 16. Technology Transfer MoUs Signed/Under Negotiation.
- 17. Products Already Supplied:-
  - (a) To Indian Army/Air Force/Navy.
  - (b) PSUs.
  - (c) DRDO and its Laboratories.
  - (d) Ordnance Factories.
  - (e) Any other Defence Organisation.
  - (f) To other Principal Customers.
- 18. Details of Registration Certification held (along with product details):-
  - (a) DGQA.
  - (b) DGAQA/DGNAI.
  - (c) CEMILAC.
  - (d) DGS&D.
  - (e) Other Defence Departments.
  - (f) Other Government Department.
- 19. Details of ISO Certification.
- 20. Details of Pollution Control Certificate.
- 21. Details of Permanent Man Power (with the details of qualifications):-
  - (a) Technical.
  - (b) Administrative.
- 22. Total Area of Factory:-
  - (a) Covered (sq. mtrs).
  - (b) Uncovered (sq. mtrs).
  - (c) Bonded Space Available (sq. mtrs).

23. Electric Power:-
- (a) Sanctioned.
  - (b) Installed.
  - (c) Standby.
24. Details of Important Facilities:-
- (a) Production (including Heat Treatment, Dies, jigs and Fixtures).
  - (b) CAD, CAM, ROBOTS and Other Advanced Technology Tools.
  - (c) Environmental Test Facilities.
  - (d) Tool Room, Metrology and Test Equipment and Facilities.
  - (e) Type of Instrument.
  - (f) Make and Model.
  - (g) Date of Purchase.
  - (h) Frequency of Calibration.
25. Details of Developmental Facilities:-
- (a) R&D Facilities Available.
  - (b) Number of Technical Manpower.
  - (c) Inspection and Quality Control of Raw Material, Components and Finished Products.
  - (d) Assistance from Central Agency/Agencies for Testing/Calibration.
  - (e) Laboratory and Drawing Office Facility.
  - (f) Percentage of Total Turn-Over Spent on R&D during the Last Three Years.
26. Area of Interest for Future Expansion/Diversification (please provide adequate details).
27. Future Plan (if any) in respect of Expansion Programme, Installation of Additional Machines/Test Facilities.
28. Turn-Over during the last three Financial Years.
29. Present Net Worth of the Company.
30. Any other Relevant Information.
31. Contact Details of the Executive Nominated to co-ordinate with the Assessment Team (please provide telephone, mobile and e-mail address).

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**Annexure II to Appendix D**  
(Refers to Para 9(b) of Appendix D)

**DOCUMENTS/INFORMATION TO BE SUBMITTED AS PART OF**  
**RESPONSES TO EoI : AN ILLUSTRATIVE LIST**

1. Latest Certificate of Incorporation by the Registrar of Companies (RoC).
2. Latest Memorandum of Association and Articles of Association of the Company.
3. Details of the Directors, Managing Director and Manager of the Company.
4. The complete address of the registered office of the company.
5. Documents submitted to the RoC for last five consecutive years:-
  - (a) Annual Return with attachments.
  - (b) Balance sheet with attachments.
  - (c) Profit and Loss account with attachments.
  - (d) Compliance certificate with attachments.
  - (e) Auditor's Report.
  - (f) Director's Report.
6. Auditor certified data of company for last 5 years, to cover:-
  - (a) Foreign holding in the company including Foreign institutional investments, Foreign venture capitalist investments, foreign Direct Investments and Shares held by Foreigners.
  - (b) Tangible Assets of the company including production and R&D facilities.
  - (c) Annual Turnover.
  - (d) R&D expenditure by the company in general and with respect to support proposed for project.
  - (e) Cash Flow Statement to show cash profit earned (Cash Income minus expenditure) by the company.
  - (f) Debt to Equity Ratio, Ownership pattern and shares holding pattern of the company.

7. Income Tax Return filed for last five years and latest valid Income Tax Clearance Certificate (ITCC) with details of turnover.
8. Credit Rating Certificate.
9. ISO certification document.
10. Patent/IPR certificates (if any).
11. Details of international standards acquired like CMM software certification, with validity and certification agency.
12. Copy of Association of Persons (AoP) Agreement for:-
  - (a) Consortium to implement project --- (if applicable).
  - (b) ToT, IPRs and other Support from Foreign Technology Provider/Partners.
  - (c) For Design, Development and Manufacture of certain Sub Systems for the project required to be developed and manufactured as per Guidelines of Cipher Policy Committee (CPC) Govt. of India.
13. The company should possess or be in the process of acquiring a license/development of products if the product under project requires license as per DIPP's licencing policy.
14. Certificate from Nationalised Indian Bank regarding Company's creditworthiness.
15. Details of company organisation, Management Structure, Capabilities, Infrastructure and Key personnel involved for executing the project.
16. Details of any earlier partnership with DRDO/PSU/DPSU with regards to Terrestrial Defence Project.
17. Certificate regarding clause wise acceptance of all terms and conditions given in the EoI, for the complete lifetime of the project.
18. Undertaking to furnish the cost of final product after the Integration Phase.
19. Technical specifications of the equipment proposed to be used in the project.
20. The company/organisation to certify regarding correctness of reply (ies) to this EoI.

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**Annexure III to Appendix D**  
(Refers to Para 9(c) of Appendix D)

**RESPONSES TO EoI: AN ILLUSTRATIVE LIST OF EoI ELEMENTS**

*(Responses—Factual Position—against All Criteria and Sub-Criteria forming part of Appendix ‘F’ should be mentioned by the respondents)*

1. Name of the vendor.
2. Assessment parameter:

Commercial/R&D/Indigenous Content/Technical capability:

Sl. No.	Criteria and Sub-Criteria	Vendor Submissions				Remarks, if any
		Lead Bidder	Partner 1	Partner 2	Partner 3	

**Station:**

**Signature**

**Company Seal**

**Date :**

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**ILLUSTRATIVE EVALUATION CRITERIA & SUB-CRITERIA**

Since the aim of EoI evaluation is to assess the capability of the vendors to undertake the project, evaluation up to Tier-III level may be planned. The following illustrative evaluation criteria shall be considered for the purposes of the capability assessment:-

(a) **Commercial Criteria.**

- (i) Nature of the Company.
- (ii) Credit rating.
- (iii) Turnover.
- (iv) Capital assets.
- (v) Net profit.

(b) **R&D Criteria.**

- (i) R&D expenditure as % of turnover on Strategic/Defence systems.
- (ii) R&D Infrastructure existing, in progress and planned in the next three years.
- (iii) Total No of patents translated into product in the subject Field and total No proposed to be utilised for the project.

(c) **Indigenisation Criteria.**

- (i) Indigenous design capability.
- (ii) Indigenous manufacturing capability.
- (iii) Indigenous content in percentage of total cost.
- (iv) Infrastructure availability to absorb ToT.
- (v) ToT with Indian partners.
- (vi) ToT with Foreign partners.
- (vii) %age of proprietary items.
- (viii) Components manufactured indigenously.
- (ix) Components designed indigenously manufactured Abroad.
- (x) Components procured from abroad along with origin of country.

(d) **Technical Capability Criteria.**

- (i) Execution of similar projects for military users in India and abroad.
- (ii) Execution of similar projects for other users in India and abroad.
- (iii) Execution of projects pertaining to critical technology area.

- (iv) Adherence to timelines, slippages, cost overruns, post delivery support.
- (v) Approach to meet user functionalities.
- (vi) Proposed system configuration.
- (vii) Approach to address integration and inter-operability issues.
- (viii) Proposed methodology for life cycle support including product upgrade.

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**DETAILED PROJECT REPORT (DPR): AN ILLUSTRATIVE**  
**LIST OF DPR ELEMENTS**

1. The IPMT would order preparation of Detailed Project Report and provide following inputs to the nominated DA(s):-
  - (a) Provisional Service Qualitative Requirements (PSQRs).
  - (b) Time frames and critical activities.
  - (c) Milestones.
  - (d) Evaluation process and acceptance criteria.
  - (e) List of trials/items/facilities/consumables that will be provided free of cost and also specify 'number of times' such free trials will be allowed.
  - (f) Commercial Negotiation aspects.
  - (g) Project Monitoring Methodology.
2. The DPR would stipulate the scope of the work in terms of the following:-
  - (a) PSQRs.
  - (b) Overview of the project.
  - (c) Scope of the project.
  - (d) Infrastructure requirements.
  - (e) Operational requirements.
  - (f) Integration requirements.
  - (g) Estimated Bill of Material/Phase-Wise Cost Break-up.
  - (h) Estimated timelines for various phases of prototype development and total time frame for implementation of the project.
  - (i) Critical activities and milestones.
  - (j) Estimated expenditure for various phases of prototype development inclusive of all taxes & duties to be incurred by DA and estimated total capital expenditure.
  - (k) Detailed risk analysis and risk management plan.
  - (l) Funding for development of prototype and to carry out research activities.
  - (m) Role of technology provider, if any.

- (n) Upfront disclosure of details of foreign collaboration, if any.
- (o) Requirement of proof firing and other specialised testing assistance where facilities are available only with DRDO/DGQA/DGAQA/DGNAL.
- (p) Evaluation process and acceptance criteria.
- (q) Sharing of development cost.
- (r) Insurance premium for insurance cover against collateral/third party damages.
- (s) Requirement of minimum order quantity to be place on the successful developer.
- (t) Any other detail as required such as Project Management Plan, QA Plan, detailed project validation of simulators if used, configuration management plan (CMP), Verification and Validation Plan etc.

3. The IPMT would analyse the DPR and submit the same along with its recommendations, especially with reference to exit criterion, to the DDP for approval, after due approval of concerned PSO at SHQ.

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**GUIDELINES FOR APPROVAL AND ACCEPTANCE OF  
COST-SHARING ARRANGEMENTS**

**Procedures**

1. The cost estimates shall be prepared by the finally shortlisted DA(s) and shall be submitted to the IPMT within the required date and time as part of the DPR.
2. The DA(s) shall prepare the cost estimates in accordance with the general principles outlined in this Appendix and shall record a certificate to that effect as part of the documentation submitted.
3. These cost estimates shall be examined by the IPMT as part of the DPR. The IPMT shall hold consultations with the DA as required and shall submit its final recommendations to the DDP for approval. Depending upon individual requirements of DA(s) in terms of development of technology and indigenous content, the IPMT could consider and recommend a cost variation up to 25% amongst the DPRs submitted by the two DA(s), as compared to the lower of the two.
4. The approved cost estimates shall then be communicated by the IPMT to the DA(s) as part of the Project Sanction Order (development contract); and shall form the basis for design and development of prototype and claiming of costs by the DA(s).
5. Claims for reimbursement of MoD share shall be made by the DA(s) upon completion of different phases at **Para 51.1 to 51.7** of Chapter-III, DPP-2016, as finalised in the DPR. The cost to be reimbursed shall be restricted to actual cost.

**General Principles**

6. Indian Accounting Standard 7 (AS7) shall be followed for accounting procedure.
7. The following criteria shall be used by the Ministry of Defence for determining whether, what and upto what extent the costs incurred by DA shall be paid out of public funds:-
  - (a) Costs Allowability;
  - (b) Cost Allocability;
  - (c) Cost Reasonableness; and
  - (d) Terms of the Contract.
8. The DA shall not charge any unallowable costs; and shall segregate the same from any proposal, billing, indirect cost pool or claim submitted to the Ministry. The following costs are specifically considered unallowable for the purpose of these guidelines:-
  - (a) Bad Debts;
  - (b) Interest;

- (c) Land;
- (d) Permanent Building;
- (e) Entertainment;
- (f) Contributions or donations;
- (g) Fines, legal expenses and penalties;
- (h) Advocacy and business development;
- (j) Losses on other contracts;
- (k) Alcoholic beverages; and
- (l) Business organisation costs such as costs of incorporation, re-organisation and merger.

9. A cost shall not be presumed to be allowable merely because the DA actually incurred the costs, unless meets the test of relevancy, financial prudence, reasonability and relationship.

### **Allocability of the Cost**

10. A cost is allocable if it is assignable or chargeable to one or more cost objectives on the basis of relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a Government contract if it: (a) is incurred specifically for the contract; (b) benefits both the contract and other work and can be distributed to them in reasonable proportion to the benefits received; and (c) is necessary to the overall operation of the business, although a direct relationship to any particular cost objective cannot be shown. In any case, indirect costs shall not exceed 10% of the total approved cost for prototype development.

11. A cost is reasonable if it would have been incurred by prudent entity in the conduct of competitive business. To be reasonable, the cost must be: (i) generally recognised as an ordinary or necessary cost of business; (ii) follow sound business practices; (iii) comply with Central, State, local laws; and (iv) be consistent with the Development Agency's established business practices. The determination of reasonableness of a particular cost shall depend on all relevant facts and circumstances concerning the costs; and the decision of the Ministry of Defence in this regard shall be final.

### **Miscellaneous**

12. The Development Agency shall submit a break-up of cost estimates for each stage outlined in **sub-Para 51.1 to 51.7** of Chapter III. These stages shall also form specific potential exit points for the Ministry of Defence without any further liability, if the Ministry of Defence is of the considered opinion that requisite and timely progress has not been made by the DA for successful completion of that phase.

13. The Ministry of Defence shall not, under any circumstances, entertain or consider any revisions, submissions or arguments for inclusion of un-allowable costs as specified in these Guidelines.

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**INTELLECTUAL PROPERTY RIGHTS OF  
GOVERNMENT IN “MAKE” PROJECTS**

**Guiding Principles**

1. The Government shall retain only a license in the Intellectual Property being generated under contract; and the contractor retains title or ownership and all other rights in intellectual property that are not granted to the Government, subject to conditions prescribed herein.
2. During the development of prototype, if any technology/product is developed, which the Government considers to be sensitive or classified and needs to be restricted for use in other purposes or for export, the Government through IPMT or any other expert or body may identify such technology/product and shall retain the full ownership of IPRs in respect of such technology/product.
3. All technology licensing is divided up between two mutually exclusive categories of deliverables: (a) Technical Data (TD)<sup>1</sup>; and (b) Computer Software (CS)<sup>2</sup>. The Government shall also have certain rights to subject inventions and patents generated under the “Make” contract.
4. The EoI shall contain details of (a) the delivery requirements, storage formats and storage medium; and (b) the associated data rights, in all technologies required to be developed or delivered under the “Make” contract. Officials connected with award of “Make” projects shall ensure that all such delivery requirements are clearly stated in the EoI and the “Make” contract signed, if any, including delivery and form in which source code is required as a contract deliverable.
5. The Government’s standard license rights in (a) subject inventions and associated data; and (b) all other data generated under the “Make” contract, including technical data and computer software whether associated with such subject inventions or otherwise, shall be “Government-Purpose Rights” (GPR). In respect of subject inventions, the Government shall hold a non-exclusive, non-transferable, irrevocable, paid up (royalty-free) license to practise, or have practiced for on its behalf, the subject invention throughout the world.
6. These guiding principles shall apply at both the prime and subcontract levels; i.e., the prime DA(s) shall incorporate the rights of the Government as prescribed in this Annexure in all

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<sup>1</sup>“Technical data” means recoded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.

<sup>2</sup> (a)“Computer software” means computer programs, source code, source code listings, object code listings, design details algorithms, processes, flow charts, formulae and related material that would enable the software to be reproduced, recreated or recompiled. Computer software does not include computer data bases or computer software documentation. (b) “Computer program” means a set of instructions, rules, or routines recorded in a form that is capable of causing a computer to perform a specific operation or series of operations. (c) “Computer software documentation” means owner’s manuals, user’s manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software. (d) “Computer data base” means a collection of data recorded in a form capable of being processed by a computer. The term does not include computer software.

their subsequent sub-contracts and agreements insofar as technology development under “Make” projects is concerned.

### **Government Rights**

7. The Government shall have “Government-Purpose Rights” and “Unlimited Rights” as explained below:-

8. For all subject inventions<sup>3</sup> under the “Make” Contract, including technical data and computer software associated with such subject inventions, the Government shall hold “Government-Purpose Rights” (GPRs), in that it shall hold a non-exclusive, non-transferable, irrevocable, paid up (royalty-free) license to practice, or have practiced for on its behalf, the subject invention throughout the world. These GPRs shall automatically convert to “Unlimited Rights” as defined under this section upon the expiry of ten years.

9. For the purpose of all technical data and computer software, whether related to subject inventions or otherwise, GPRs shall imply the right to use such technical data and computer software within the Government without restriction and the right to authorise any other entity for any government purpose including re-procurement. More specifically, “Government-Purpose Rights” includes the rights to:-

- (a) Use, modify, reproduce, release, perform, display, or disclose technical data within the Government without restriction; and
- (b) Release or disclose technical data outside the Government and authorise persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for Government purposes.
- (c) Form, Fit and Function data and Manuals or instructional and training materials for installation, operation, or routine maintenance and repair;
- (d) Computer software documentation required to be delivered under the “Make” contract;
- (e) Corrections or changes to computer software or computer software documentation furnished to the contractor by the Government;
- (f) Computer software or computer software documentation that is otherwise publicly available or has been released or disclosed by the contractor or subcontractor without restrictions on further use, release or disclosure other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the software to another party or the sale or transfer of some or all of a business entity or its assets to another party;

10. For the purposes of these guidelines, “Government Purpose” means an activity in which the Government of India is a party, including cooperative agreements with international or multi-national defence organisations, or sales or transfers by the Government of India to foreign Government or international organisations. Government purposes include competitive

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<sup>3</sup>“Subject Invention” implies any invention of the contractor conceived or first actually reduced to practice in the performance of work under a Government Contract. “Invention” implies any invention or discovery that is or may be patentable or otherwise protectable under the Patent Laws in force in India.



procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose technical data for commercial purposes or authorise others to do so.

11. In addition to standard GPRs, Government rights in computer software to be delivered under contract shall also include the right to:-

- (a) Use of a computer program with government computer(s);
- (b) Transfer to another Government computer;
- (c) Make copies of computer software for safekeeping; backup or modification purposes;
- (d) Modify computer software;
- (e) Disclose to service contractors;
- (f) Permit service contractors to use computer software to diagnose/correct deficiencies, or to modify to respond to urgent or tactical situations; and
- (g) Disclose to contractors or any other third-parties for proposes of emergency repair and overhaul.

### **March-In Rights**

12. The Government shall have “March-In” rights for all items covered under its “Government-Purpose Rights”. “March-In” Rights shall include the right to work the patent, either by itself, or by another entity on behalf of the Government, in case the contractor fails to work the patent on its own within a specified and reasonable period of time.

13. Under its march-in rights, the Government can require the contractor to grant, or may itself grant license for, inter alia, the following reasons:-

- (a) The contractor fails to work the patent towards practical application within a reasonable time; or
- (b) Where health and safety requirements so require the Government to act in public interest; or
- (c) For National Security Reasons; or
- (d) To meet requirements for public use not reasonably satisfied by the contractor; or
- (e) For failure of the contractor to substantially manufacture the products embodying the subject invention in India; or
- (f) For failure of the contractor to comply with any of the requirements laid down under these guidelines.

## **Miscellaneous**

14. The contractor is required to have a timely and efficient disclosure system in place for reporting of intellectual property generation under the “Make” contract to the Ministry of Defence. Failure to disclose in timely manner, or failure on part of the contractor to invoke his/her default right of ownership, shall imply that all IPRs shall ab-initio vest in the Government of India. The contractor may elect to retain title of any invention made in the performance of work under a contract. If the contractor does not elect to retain title, the title shall ab-initio vest in the Government as stated above and the contractor shall only be entitled to a license on such terms and conditions that the Government may deem it fit. Such license to the contractor shall usually be (a) revocable, non-exclusive and royalty-free; (b) extend to its domestic subsidiaries and affiliates; and (c) include the right to sublicense; but (d) shall not be transferable without prior approval of the Government.

15. The contractor shall also be required to submit periodic reports above 246 commercialization and manufacturing activities undertaken for products embodying the subject invention under “Make” contracts.

16. The Government’s IPRs shall flow down from the prime contractor to all sub-contractors at all tiers; that is, every sub-contractor will have the same obligations vis-à-vis the Government as applicable to the prime contractor under the main procurement contract. To this end, the sub-contractors shall have limited contractual privity with the Government solely for the purposes of their IPR obligations to the Government.

17. The ownership of any rights by the contractor does not include an absolute right to transfer of any software, product or documentation; and such transfer, including export thereof, shall continue to be governed by and be subject to the Export Policy, Export Guidelines and all applicable laws, rules, regulations, orders and instructions of the Government of India. All such transfers and exports shall require prior and explicit approval of the Ministry of Defence.

18. Where the DA is not a consortium, ownership rights in intellectual property being generated under the “Make” contract shall vest with the Government upon dissolution of such DA. Where the DA is a consortium, the ownership rights in the IP generated under the “Make” contract, upon dissolution of the consortium, shall vest amongst the partners as per their agreement on the subject contained in the joint partnership agreement of the consortium, without government rights as licensee being adversely affected in any manner.

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**Appendix I to Chapter III**  
(Refers to Para 78 of Chapter III)

**ESTIMATED TIMELINES FOR “MAKE” PROJECTS**

<b>MAKE Phases</b>	<b>Timeline in Weeks from AoN</b>
<b>Phase I</b>	
Formation of IPMT and shortlisting of potential EoI recipients (parallel activities)	6
Issue of EoI	12
Pre-EoI Submission Meeting with EoI Recipients	4
EoI Response Submission	12
EoI Response Evaluation	16
Shortlisting of Development Agencies (DA(s))	12
Detailed Project Report Receipt and Finalisation	16
CFA Approval	8
Placement of Prototype Development Contract on DA(s)	6
<b>Total Timeline for Phase I</b>	<b>92</b>
<b>Phase II (Refer Para 51 of Chapter III)</b>	
Prototype Development & Evaluation	As per DPR
<b>Total Timeline for Phase I &amp; II</b>	<b>92 + as per DPR</b>

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**TABLE OF MAJOR RESPONSIBILITIES/AUTHORITIES-‘MAKE’**

<b><u>SHQ</u></b>	
<ol style="list-style-type: none"> <li>1. Identification of Potential MAKE projects based on LTIPP.</li> <li>2. Collegiate discussions with stakeholders for identifying Make projects.</li> <li>3. Carry out Feasibility study.</li> <li>4. Preparation of PSQR and SoC and process for AoN by DAC/DPB/SCAPCHC.</li> <li>5. Approval of PDD and EoI.</li> <li>6. Prepare list of potential companies.</li> <li>7. Constitution of PMU for Make projects.</li> <li>8. Preparation of Trial Directives and constitution of trial team.</li> <li>9. Preparation of Staff Evaluation report.</li> <li>10. Payment to DA(s).</li> <li>11. Provide any platform/equipment/interface to DA(s) if so approved in DPR.</li> <li>12. Validation of trials for Make-I procedure</li> <li>13. Approval of extension of timelines for any ‘Make’ project up to 20%.</li> </ol>	
<b><u>HQ IDS</u></b>	
<ol style="list-style-type: none"> <li>1. Take approval of two year Annual Acquisition Plan for Make Projects from DPB.</li> <li>2. Examine the SoCs from aspects of interoperability and commonality of equipment for the services.</li> </ol>	
<b><u>IPMT</u></b>	
<ol style="list-style-type: none"> <li>1. Preparation of PDD &amp; EoI.</li> <li>2. Shortlisting of Indian Vendors.</li> <li>3. Issue of EoI.</li> <li>4. Evaluation &amp; Ranking of EoI responses.</li> <li>5. Evaluation of DPRs and engage with DA(s) for any modification of DPR.</li> <li>6. Submission of DPRs to Secy(DP) for approval.</li> <li>7. Preparation of draft Project Sanction Order for approval of DDP.</li> <li>8. Issue of Project Sanction Order.</li> <li>9. Submit six monthly progress report to DPrB.</li> <li>10. Recommendation for release of funds.</li> <li>11. User trial readiness review.</li> </ol>	
<b><u>DDP</u></b>	
<ol style="list-style-type: none"> <li>1. Constitution of IPMT.</li> <li>2. Approval of DPR.</li> <li>3. Obtain financial sanction for project development phase as per delegation of financial powers.</li> <li>4. Approval of draft project sanction order.</li> <li>5. Issuance of a certificate to successful L2 Vendor indicating that the product has been successfully trial evaluated.</li> <li>6. Approval for change in composition of consortium.</li> </ol>	

<b><u>Acquisition Wing</u></b>	
1.	CNC for Buy(Indian-IDDM) phase
2.	Signing of Procurement Contract under Buy(Indian-IDDM) phase
3.	Post Contract Management.
<b><u>DPrB</u></b>	
1.	Selection of DA(s).
2.	Monitor progress of 'Make' project.
3.	Decision on time extension beyond 20%.
4.	Recommend foreclosure of project, if required, to AoN According authority.
5.	Policy guidance required on MAKE cases.
6.	Recommendation for any deviations in MAKE Procedure, for approval of DAC.
<b><u>DAC</u></b>	
1.	Accord of AoN for 'Make' Projects for Cases above ₹ 500 Crore <sup>47</sup> and for all cases where three DAs are to be shortlisted.
2.	Approval of Foreclosure of project on recommendations of DPrB.
3.	Approval of any deviation on recommendation of DPrB.

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<sup>47</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 20.03.2019

## **CHAPTER III-A**

### **PROCEDURE FOR 'MAKE-II' SUB-CATEGORY OF 'MAKE' PROCEDURE<sup>7</sup>**

#### **Background**

1. The 'Make' procedure for indigenous design, development and manufacture of defence equipment/weapon systems, was simplified in 2016 and promulgated as Chapter-III of DPP-2016. A new sub-category 'Make-II (Industry Funded)' was introduced under this procedure with primarily focus upon development of equipment/system/platform or their upgrades or their sub-systems/sub-assembly/assemblies/components with focus on import substitution. In this sub-category, no Government funding is envisaged for prototype development purposes but has assurance of orders on successful development and trials of the prototype. However, there was no separate, exclusive procedure outlined for 'Make-II' sub-category.
2. A need was felt to have a separate, simplified procedure for sub-category 'Make-II' as it does not envisage any funding by the Government for development of prototype.
3. The 'Make-II' procedure, outlined in this chapter, seeks to address the objectives of wider participation of Indian industry, impetus for MSME/start-ups sector, simplified implementation, and timely induction of equipment into Indian Armed Forces.
4. Indian vendors as detailed in **Appendix A** to this chapter, are eligible for participation for capital acquisition cases being progressed under 'Make-II' sub-category of 'Make' Projects.
5. Successful development under this scheme would result in acquisition, from successful Development Agency/Agencies (DA/DAs), through the 'Buy (Indian - IDDM)' category with indigenous design and development, and a minimum of 40% IC, by inviting commercial bid which is to be submitted prior to Commencement of User Trials. Thereafter, the procedures detailed in Chapter II of DPP will be followed except for the procedure outlined in subsequent paras.
6. Projects under Make-II category will involve prototype development of equipment/system/platform or their upgrades or their sub-systems/sub-assembly/assemblies/components, primarily for import substitution/innovative solutions, for which no Government funding will be provided for prototype development purposes. Cases where innovative solutions have been offered, shall be accepted and progressed, even if there is only a single individual or a firm involved.
7. Projects under the Make-II sub-category, with estimated cost of prototype development phase not exceeding ₹3 Crores, will be earmarked for MSMEs. However, if no MSME expresses interest for a Make-II program of less than ₹3 Crores, the same may be opened up for all.

#### **Make - Project Management Unit (PMU)**

8. 'Make-PMU' established for Make projects as per provisions given at para 7 of Chapter-III will also oversee the projects categorised as Make-II, The head of 'Make - PMU' may hire domain experts/consultants such as finance, legal and technology, from public and private sectors. Expenses for hiring the services of experts/consultants shall be borne by the SHQ concerned.

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<sup>7</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/13-Pt. II dated 08.05.2018

## **Development and Procurement Process under 'Make-II' Category**

9. The development & procurement process under Make-II sub-category would involve the following functions:-

- (a) Advance Planning & Consultations, and Feasibility Study.
- (b) Formulation of Preliminary Staff Qualitative Requirements (PSQR).
- (c) Constitution of Project Facilitation Team (PFT).
- (d) Categorisation and Accord of Acceptance of Necessity (AoN).
- (e) Issue of Expression of Interest (EoI).
- (f) Evaluation of EoI responses.
- (g) Award of Project Sanction Order.
- (h) Design and Development of Prototype.
- (j) Conversion of PSQRs into SQRs.
- (k) Solicitation of Commercial Offer.
- (l) User Trials by SHQ.
- (m) Staff Evaluation.
- (n) Commercial negotiations by Contract Negotiation Committee (CNC).
- (o) Award of Contract.

## **Advance Planning and Consultations**

10. On the basis of Long Term Integrated Perspective Plan (LTIPP) or otherwise (including projects suggested by industry or individual), SHQ will initiate internal discussions for all the projects enlisted in LTIPP/suggested by Industry or individual as potential 'Make-II' projects.

11. SHQ will initiate collegiate discussions with various stakeholders such as DRDO, HQ IDS, DDP, DoD, Indian Industry etc, as required. Such potential projects shall be deliberated by a Collegiate Committee headed by Secretary (DP) with members from SHQs, DDP, DoD, DRDO, HQIDS, MoD (Fin)/IFA and will be 'Approved in Principle (AIP)', for hosting on MoD/DDP's Website. DRDO is free to tie-up with industry to participate in such projects within established timelines. No projects would be retracted due to technology being developed by DRDO after accord of 'Acceptance in principle' by collegiate headed by Secretary (DP).

12. List of potential 'Make-II' projects along with Project briefs, Questionnaire for Industry and Project Manager Details shall be uploaded on MoD / DDP website inviting their willingness of Industry to participate in the aforesaid potential 'Make-II' projects.

## **Annual Acquisition Plan (AAP) - Make-II**

13. The Make-II project having AoN value less than ₹300 Crore<sup>47</sup> will deem to be automatically included in AAP, after accord of AoN. However, the Make-II project having AoN value more than ₹300 Crore<sup>47</sup>, shall be included in Annual Acquisition Plan (AAP) prepared for Make Projects as outlined at para 13 of Chapter III of DPP-2016.

## **Feasibility Studies**

14. SHQ shall carry out the Feasibility study with the involvement of all important stakeholders such as HQ IDS, DRDO and DDP, Advisor (Cost) and MoD (Finance)/IFA as required and look into the following aspects:-

- (a) A preliminary assessment of capability of Indian industry to undertake design and development of the requisite equipment/system/platform or their upgrades and subsequently supply the quantities envisaged for procurement during the 'Buy (Indian-IDDMM)' phase and timelines.
- (b) Estimated time period for development.
- (c) Estimated Cost of prototype development phase and for subsequent procurement phase under 'Buy (Indian-IDDMM)', category.
- (d) Any other aspect considered important.

15. SHQs may, if required, engage Standing Consultancy firms to provide assistance in Feasibility Study, Industry outreach programmes, preparation of EoI and evaluation of EoI etc. Expenses for engaging Standing Consultancy firm will be borne by SHQ.

## **Preliminary Services Qualitative Requirements (PSQRs)**

16. Based on the feasibility study, the SHQ concerned would formulate the PSQRs, specifying essential and desirable parameters. These PSQRs shall form part of the Statement of Case (SoC) while seeking AoN for 'Make-II' projects.

## **Constitution of Project Facilitation Team (PFT)**

17. SHQ will constitute a PFT under Head of 'Make-PMU' or suitable officer belonging to the 'Make-PMU' prior to fielding Statement of Case (SoC) before the Categorization Committees. PFT will consist of representatives from SHQ, DDP, DGQA/DGAQA/DGNAI, MoD(Finance)/IFA as required and other experts if considered necessary. PFT will function under overall control & directions of Chairman of Make-PMU of respective SHQ.

18. The PFT, through Principal Staff Officer (PSO) of the concerned SHQ shall submit six-monthly progress report to the Defence Production Board (DPrB). The DPrB shall provide policy guidance as may be required in 'Make-II' cases. The PFT's responsibilities shall inter-alia, include the following important functions:-

- (a) Preparing EoI, obtaining approval in SHQ and issue of EoI.
- (b) Receipt & evaluation of EoI responses.
- (c) Preparation of draft Project Sanction Order, obtaining requisite approvals and issue of Project Sanction Order.

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<sup>47</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 20.03.2019



- (d) Monitoring and reporting of aspects relating to prototype development including generation of Intellectual Property.
- (e) Any other responsibilities as entrusted by the SHQ/Ministry.

### **Categorisation & Accord of AoN**

19. SHQ shall prepare the Statement of Case (SoC) and will refer the cases to SCAPCC/SCAPCHC as per Para 16 to 19, Chapter II of DPP - 16. Cases up to ₹300 Crores<sup>47</sup> will be referred to SCAPCC. After evaluating the recommendations of the SHQs/initiating departments, the SCAPCC will recommend the SoC for accord of AoN to SCAPCHC. For cases beyond ₹300 Crores<sup>47</sup> the SHQs/initiating departments will refer cases to the SCAPCHC, which will carry out the task of categorisation, based on the recommendations of SHQs/initiating departments and refer the cases between ₹300 Crores<sup>47</sup> to ₹500 Crores<sup>47</sup> to the DPB and refer cases beyond ₹500 Crores<sup>47</sup> to DAC for accord of AoN. PSQRs and Draft EoI shall be enclosed with SoC. Following would be highlighted by the SHQ in the SoC seeking AoN:-

- (a) Estimated time period.
- (b) Estimated development cost.
- (c) Likely production cost.
- (d) Quantity of order, preferably covering the requirement of five years, post the successful development of prototype.
- (e) Acceptability of Multiple Technological Solutions, if any.
- (f) Single vendor situation for cases where an innovative solution has been offered by an individual or a firm.

20. The AoN shall be sought based on the cost of subsequent procurement under 'Buy (Indian - IDDM).'

### **Validity of AoN**

21. AoN for 'Make-II' category projects will be valid for six months. For cases where EoI is not issued within six months from accord of AoN, SHQ will revalidate AoN with due justification for not processing the case on time after obtaining approval of CISC/VCOAS/VCNS/DCAS/DG(ICG). For cases where the original EoI has been issued within six months from accord of AoN and later retracted for any reason, the AoN would continue to remain valid, as long as the original decision and categorisation (sub-category) remain unchanged and the subsequent EoI is issued within three months from the date of retraction of original EoI.

### **Issue of EoI**

22. PFT shall publish 'EoI' on MoD/DDP Website inviting Company (ies) to participate into the 'Make-II' project. In addition, EoI shall also be issued to all companies which have shown interest to participate in the project during Feasibility Study. The EoI will contain the following:-

- (a) PSQRs.
- (b) Scope of the project including number of Prototypes required.
- (c) Time frames and critical activities.
- (d) Milestones.

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<sup>47</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 20.03.2019

- (e) List of trials/items/facilities/consumables that will be provided free of cost and also specify 'number of times' such free trials will be allowed.
- (f) Quantities in 'Buy (Indian-IDDM)' phase preferably covering requirements of five years.
- (g) Acceptability of Multiple Technological Solutions, if any.
- (h) Details of Evaluation Criteria for assessment of EOI.

### **Evaluation of EoI Responses**

23. Responses to EoI shall be evaluated as per criteria given in EoI and shall be approved by CISC/VCOAS/VCNS/DCAS/DG(ICG). All the shortlisted companies will be called Development Agencies (DAs).

24. Project shall be progressed ahead even if only one EoI respondent is found meeting the eligibility criteria.

25. Sanction for prototype development as detailed in EoI responses, with 'Nil' financial implications for MoD, would be obtained by the PFT from CISC/VCOAS/VCNS/DCAS/DG(ICG).

26. PFT will issue Project Sanction Order with Nil financial implications.

### **Time Overrun**

27. The approval of extension of timelines for any 'Make-II' project may be accorded by CISC/VCOAS/VCNS/DCAS/DG(ICG), based on the recommendations of Head-PMU. In case of only single vendor having offered the prototype within timelines stipulated in the Project Sanction Order, not more than two time extensions will be accorded and thereafter the case is to be progressed as resultant Single Vendor Case (SVC).

### **Design and Development of Prototype for Make-II Sub-category**

28. PFT are to act as the primary interface between the SHQ and the industry during the design and development stage under Make-II subcategory projects and are to facilitate the following:-

- (a) Finalization of trial methodology.
- (b) Provision of requisite professional inputs/documentation to industry.
- (c) Providing clarifications related to functional or operational aspects of the equipment under development, as may be sought by the DAs from time to time, during the design and development of prototype.
- (d) Provision of trial range/test facilities/consumables, etc., as mentioned in the EoI.
- (e) Conversion of PSQRs to SQRs, prior to commencement of Users trials.
- (f) Issue of Commercial Offer in consultation with SHQ.
- (g) Coordinating user trials with the SHQs, based on the trial methodology. SHQ will formulate the Trial Directive and constitute the Trial Team. The Trial Directive must specify the fundamental points that need to be addressed for validating the 'essential' parameters.

29. After the prototype has been developed, the PFT would carry out user trial readiness review of the prototype before offering it for user trials.

### **Solicitation of Commercial Offers**

30. A commercial Request for Proposal (RFP) for 'Buy (Indian-IDDM)', phase, duly vetted by Acquisition Wing/ concerned SHQ, will be issued to all Development Agencies for submission of their commercial offer prior to commencement of User trials.

31. The quantities in the 'Buy (Indian-IDDM)' phase cannot be reduced from the quantities indicated in EoI issued for the prototype development phase.

### **User Trial**

32. User trials would be carried out by the SHQ in close consultation with PFT to validate the performance of the system against the parameters/specifications approved after the development of prototype. SHQ will formulate the trial directives and constitute the Trial Team. The 'trial directive' must specify the fundamental points that need to be addressed for validating the 'essential' parameters.

33. The SQRs of the equipment would therefore be a part of the trial directives, and only the essential parameters as detailed in the SQRs will be tested. The validation of the support system and maintainability trials, integral to and complimenting the trial programme of the defence equipment/upgrades/product/system should be held simultaneously, wherever feasible. Representatives of DRDO, QA agency may also be part of the field evaluation, based on requirement. The user can recommend modification to the system for ease of handling and its maintainability. At this stage, no changes should be suggested which require re-designing of the system/sub-system or technology upgrade. Such suggestions would only be considered and implemented in subsequent phases of development.

### **Staff Evaluation**

34. The procedure of carrying out the Staff Evaluation, approval and acceptance of Staff Evaluation report for procurement under 'Buy (Indian-IDDM)' category of acquisition, is as detailed in procedure for Make-I sub-category.

35. Projects, where prototype of only a single firm/individual clears the trials shall be progressed as resultant single vendor.

### **Commercial Negotiations by Contract Negotiation Committee (CNC)**

36. The AoN cost will be calculated on the basis of last purchase price of the imported item being substituted. The CNC will carry out all processes from opening of commercial bids till conclusion of contract. Negotiations in case of multivendor projects having procurement cost less than ₹150 crore shall be carried out only in special circumstances with reasons to be recorded. However, CNC will carry out negotiations for all single vendor cases, other than resultant single vendor, irrespective of value of the project. For products which are being developed under 'Make-II' as an import substitute and their prices are known, no benchmarking & no negotiation will be carried out, even in single vendor cases, if the offered price is lower than AoN cost by 20% or more. However, in such cases, the CFA will satisfy himself/herself that the price of the selected offer is reasonable with respect to the AoN cost and consistent with the quality required.

37. After CNC, the procedure for procurement would thereafter be same as for 'Buy (Indian-IDDM)' category from the successful DA/DAs, in accordance with Chapter-II of DPP-2016.

38. Consequent to approval of the CFA, the procurement contract(s) would be signed by the Acquisition Manager/Director (Procurement) concerned in the Acquisition Wing or by officer authorized by PSO concerned in SHQ for the cases falling within their delegated powers. The draft contract(s) would be prepared as per the Standard Contract Document at Chapter VI of DPP 2016.

39. The Pre-Contract Integrity Pact (PCIP), listed as detailed in para 92 (Chapter II of DPP 2016), shall apply mutatis mutandis, to 'Buy (Indian - IDDM)' phase of 'Make' project.

### **Multiple Technological Solutions**

40. In cases involving large quantities and where multiple technological solutions are acceptable, on approval of SCAPCHC/DPB/DAC, an option may be provided in the EoI during the 'Make' phase and subsequently in the Commercial RFP for the 'Buy (Indian - IDDM)' phase for procurement of specified quantities (in the ratio of 70:30) from other vendors (referred to as L2 herein) who have successfully developed the prototype/product, on the condition that this second vendor accepts the price and terms & conditions quoted by the L 1 vendor.

41. In case, multiple technological solutions are not acceptable, the successful other vendors will be issued a certificate by the DDP indicating that the product has been successfully trial evaluated, to facilitate other vendors to explore other markets and remain in the production of the product.

### **Intellectual Property Rights (IPRs)**

42. DA shall retain title or ownership and all other rights in intellectual property generated during the development of project. However, the Government shall have March-in rights under which the Government can require the contractor to grant, or may itself grant license for, inter alia, the following reasons:-

- (a) Where health and safety requirements so require the Government to act in public interest;
- (b) For National Security Reasons;
- (c) To meet requirements for public use not reasonably satisfied by the contractor;
- (d) For failure of the contractor to substantially manufacture the products embodying the subject invention in India; or
- (e) For failure of the contractor to comply with any of the requirements laid down under these guidelines.

### **Project Management, Review and Monitoring**

43. The progress of the 'Make-II' project would be monitored by the PFT under overall guidance of respective PMU as defined in EoI responses. The Government may engage services of independent consultants/experts for assessing the physical and/or financial progress of the Make project. PFT, through respective 'Make-PMU' will also periodically apprise the progress of the project to PSO concerned at SHQ or to DPrB through PSO concerned at SHQ, as the case may be.

### **Foreclosure**

44. No Foreclosure of the Project will be done after issue of Project Sanction Order, other than for reasons of default/ non-adherence to Project Sanction Order by Vendors.

45. All deviations on matters concerned with 'Make-II' cases not covered under this chapter, as well as all cases of deviations, shall require prior approval of the DPrB.
46. Any DA developing an item under 'Make-I' procedure, if desires, would be allowed to migrate to Make-II procedure, after due consultations and if it is found to be in the interest of the project and if no payment/reimbursement has been made to the DA against the development cost.
47. Typical expected timelines for undertaking 'Make-II' Projects are contained in **Appendix B.**
48. Any clarification or difficulty arising during execution of prototype development phase, shall be referred to Secretary (Defence Production) who may refer it to DPrB, for final decision, if required.

**INDICATIVE EVALUATION CRITERIA FOR SHORTLISTING OF DEVELOPMENT AGENCIES**

For start-ups recognized by Department of Industrial Policy & Promotion (DIPP), Financial, Technical and Commercial criteria shall be spelt out separately in the EoI. In respect of other vendors, the entities satisfying all of the following criteria shall be considered as an eligible 'Indian Vendor' for issue of EoI by PFT:-

1. Public limited company, private limited company, partnership firms, limited liability partnership, one Person Company, sole proprietorship registered as per applicable Indian laws. In addition, such entity shall also possess or be in the process of acquiring a license/development of products if the product under project requires license as per DIPP's licencing policy.
2. The entity has to be owned and controlled by resident Indian citizens; entity with excess of 49% foreign investment will not be eligible to take part in Make category of acquisition.
3. Other Financial, Technical and Commercial criteria will be spelt out by concerned SHQ based on the project requirement.

***Note:*** Guidelines for penalties in business dealings with entities as promulgated by Government from time to time, will be applicable on procurement process & bidders.

**TENTATIVE TIME LINES FOR MAKE-II PROJECTS**

<b>Ser. No</b>	<b>Activity</b>	<b>Time in weeks from collegiate discussions (T<sub>0</sub>)</b>
1.	Approval of proposals as <b>POTENTIAL</b> 'Make-II' projects by Collegiate to be headed by Secretary (DP) and uploading on MoD/DDP website	T <sub>0</sub>
2.	Completion of Feasibility study	8
3.	Preparation of PSQRs	4
4.	Preparation of SoC + Constitution of PFT	4
5.	Categorisation and Accord of AoN	8
6.	Issue of EoI	8
7.	EoI Response submission	6
8.	EoI response evaluation	5
9.	Issue of Project Sanction Order	2
10.	Design & development of prototype	12-30
11.	Conversion of PSQRs to SQRs/ Solicitation of Commercial offer	4
12.	User trials & Staff evaluation	8-26
	<b>Total</b>	<b>69-105 weeks</b>

## **CHAPTER IV**

# **PROCEDURE FOR DEFENCE** **SHIP BUILDING**





## **CHAPTER IV**

### **PROCEDURE FOR DEFENCE SHIP BUILDING**

#### **General**

1. A Naval/Coast Guard ship consists of an assortment of weapons, sensors and support systems, along with propulsion, power generation and auxiliary systems, facilities for crew, fuel and provisions. All the surveillance and weapon systems are interlinked and integrated through an elaborate data management system. The system integration of complex sensors and weapons between themselves and to the ship's systems and combat management system is crucial for a ship design and construction project. The platform design successfully integrates systems acquired from different sources.

2. To achieve this successfully, a ship construction programme, therefore, necessarily involves feasibility studies on the basis of the staff requirements, concept design, model tests, preliminary design, specialist design studies, detailed design, system integration, construction, tests and trials. It also involves technology application and transfer, selection of various equipment, development of new equipment, identification and purchase of a large number of items, including weapons and sensors, from numerous indigenous and foreign suppliers.

#### **Preamble**

3. In accordance with the Defence Procurement Procedure, Capital Acquisitions have been categorised under six main categories as described at Para 6 to 11 of Chapter I of DPP, namely; 'Buy (Indian-IDD)'', 'Buy (Indian)', 'Buy and Make (Indian)', 'Buy and Make', 'Buy (Global)', and 'Make'. Naval shipbuilding is a capital and technology intensive complex activity that requires a separate procedure for design/construction/acquisition of naval ships, submarines, yard crafts, auxiliary ships and Coast Guard vessels through design/construction. This Chapter is divided into two sections as follows: -

(a) **Section 'A'**. Acquisition of Naval and Coast Guard Ships, submarines, yardcrafts and auxiliary crafts etc by nomination to DPSU.

(b) **Section 'B'**. Acquisition of Naval Ships, Coast Guard Ships, submarines, yardcrafts and auxiliary crafts etc on competitive basis.

4. Actions indicated for Naval authorities in succeeding paragraphs would be carried out by Coast Guard authorities mutatis-mutandis, in cases where this procedure is followed for Coast Guard acquisitions.

## **SECTION 'A'**

### **ACQUISITION OF NAVAL AND COAST GUARD SHIPS, SUBMARINES, YARD CRAFTS AND AUXILIARY CRAFTS ETC BY NOMINATION TO DPSU**

5. **Applicability.** This section is primarily applicable for acquisition of Naval/CG ships, submarines, auxiliaries, yard crafts and Coast Guard vessels of indigenous designs by IHQ MoD (N) to be constructed by DPSU shipyard(s) on nomination basis. However, it can be used as guidelines wherein the design is undertaken by the nominated shipyard(s) and/or construction through nomination to any other Indian shipyards.

6. **Procedure.** The Naval Ship Building Procedure under this section will cover the following:-

- (a) Outline Staff Requirements
- (b) Acceptance of Necessity
- (c) Nomination of Shipyards
- (d) Preliminary Staff Requirements
- (e) Preliminary Design
- (f) Preliminary Build Specifications
- (g) Build Strategy
- (h) Budgetary and Estimated Costs
- (j) Contract Negotiations
- (k) Approval of CFA
- (l) Conclusion of Contract
- (m) Detailed Design
- (n) Procurement of Ship-borne Equipment
- (o) Monitoring of Projects
- (p) Revision of Cost
- (q) Closure of the Project
- (r) Liquidated Damages, if applicable

#### **Outline Staff Requirements**

7. IHQ MoD (N) are to prepare the Outline Staff Requirements (OSRs), which are to include the role of the ship, dimensions of its hull, limiting dimensions if any, capability of major machinery, weapons, sensors and details of accommodation, manpower, endurance etc.

8. The OSRs would form the basis on which the feasibility studies and concept design of the ship, identification of OEMs/vendors for specific weapons, sensors, machinery and equipment are to be carried out.

### **Acceptance of Necessity (AoN)**

9. The proposal for induction of the ships is to be linked to the Maritime Capability Perspective Plan (MCPPE)/Five Years Plan which stipulates the numbers and type of vessels required as well as timelines for such inductions. The guidelines for accord of AoN would be as per Chapter II of DPP. The Statement of Case for the proposal is to be prepared by IHQ MoD (N) and processed in line with the details given in Para 16 of Chapter II of DPP. This will inter alia contain Outline Staff Requirements, broad category of weapons and sensors to be fitted on the ship along with the status of their indigenous development if applicable, operational necessity, approximate cost and budgetary provisions. The proposal is to clearly indicate whether it is a new design, Follow on ships or Follow on ships with substantial design/equipment changes. Separate case may be taken up to progress design work such as design validation studies, consultancy services and creation of design facilities including procurement of software/hardware, which will be projected to the AoN according authority, based on proposal in SoC.

### **Nomination of Shipyard**

10. SHQ would undertake Technical Capacity Assessment of entities indicated, against objective parameters listed at Annexure I to Appendix 'C'. Names of entities qualifying all Technical Parameters shall be forwarded to MoD/DDP and MoD/Acq Wing prior to processing the case for accord of AoN by the DAC. If more than one entity is nominated, the lead entity shall be indicated along with allocation of ships to each entity.<sup>48</sup>

11. Cases for nomination of a yard for Coast Guard ships will also be approved by the DAC based on the merits of each case.

### **Preliminary Staff Requirements**

12. On completion of the feasibility analysis/concept design, the OSRs are to be refined and the Preliminary Staff Requirements (PSRs) are to be promulgated based on the selected option of the concept design. The procedure for the Services Qualitative Requirements (SQRs) as set out at Para 9 to 15 of Chapter II of DPP shall be followed for new weapons and related sensors as appropriate.

### **Preliminary Design**

13. Based on the promulgated PSRs, the preliminary design, including hull form design, weapons/sensors/equipment fit, identification of OEMs/vendors for specific weapons, sensors, machinery and equipment, model tests, validation studies and other design activities are carried out by IHQ MoD (N)/Shipyard in consultation, as necessary. The propulsion package, weapons/sensors, hull equipment and engine equipment may be identified by the customer. Based on the necessity, SHQ may indicate the requirement for model test and other design validation studies as well as for augmentation of existing design facilities at Design/Production Directorate. This will be authorised at the time of seeking AoN.

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<sup>48</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 22.04.2019

14. Due to long gestation period in ship-building, there may be occasions when systems/equipment, which are still under development or those not fully evaluated, have to be considered in order to ensure that the ship, when ready, has the latest state of the art capabilities at the time of induction into service. The dates for freezing of developmental system would be indicated in the contract. Further, due to operational reasons, adaptation of developmental systems, shortfalls observed during installation/trials of equipment/systems etc may require modifications in design.

### **Preliminary Build Specifications**

15. Based on the preliminary design, the Preliminary Build Specifications (PBS) of the vessel are to be prepared by SHQ and forwarded to the nominated shipyard(s). The SHQ and nominated shipyard will interact to finalise these and other related documents.

16. In cases where the vessel is not designed by IHQ MoD (N), the nominated shipyard will prepare the preliminary build ship specifications based on the PSRs and finalise these, along with draft contract and other related documents through interactions with SHQ.

### **Build Strategy**

17. The nominated shipyard(s) is/are to propose a build strategy based on the preliminary build specifications, required delivery schedules, yard infrastructure and available resources. This would include the proposed construction schedule, Level 1 work breakdown structure, detailed master control network with resource allocation plan for utilisation of shipyard manpower, infrastructure and committed infrastructure up-gradation specific to the project, if applicable, outsourcing plan, the tentative procurement schedule for major long lead items, including weapons and sensors and the schedule for design documentation and drawings. This should also include shipyard's plans to meet the resource requirements of the new project together with other on-going projects.

### **Budgetary Cost**

18. After approval of the build strategy by IHQ MoD(N), the shipyard(s) is/are to forward a budgetary cost for the construction of the ship on the basis of the Build Strategy, along with draft contract.

19. **Budgetary Cost-New Design Ships/Follow-On Ships with Substantial Design/Equipment Changes.** In case of new design projects or Follow-on projects with substantial design/equipment changes, the shipyard will forward estimated budgetary cost broken down to the extent possible, into standard elements such as labour cost indicating number of man-days, overheads, direct expenses, profit payable to shipyard, specially contracted works, approximate cost of raw material, all major equipment, weapons, sensors and propulsion machinery chosen, freight, insurance, clearing charges, taxes, duties and levies on input materials and services etc as well as the expected year wise cash flow separately for fixed and variable component. The cost should take into account normal escalation in cost of various elements and known equipment and machinery as per the scheduled time of procurement, so as to arrive at an estimated completion cost. Details of cost elements, which cannot be assessed at this stage such as cost of new/developmental equipment, exchange rate variation etc should be explicitly indicated.

20. **Estimated Cost-New Design Ships/Follow-on Ships with Substantial Design/Equipment Changes.** The estimated cost of the project is to include the budgetary cost provided by the shipyard, costs towards project studies, functional design development through design bureaus/agencies and detailed design work by shipyard/specialist agencies. Augmentation of design facilities at Design/Production Directorate of Navy, creation of infrastructure and any other costs, if required in the shipyard etc, are also to be reflected as separate items. Cost of supply of MRL-B&D spares, up to 15% (excluding levies, taxes and handling charges, transportation, insurance, service tax on handling charges etc) of the basic cost of the vessel and Cost of Manufacturer's recommended list of On Board Spares (MRL-OBS), may also be included in the Estimated Cost, as applicable.
21. Variations in cost of equipment nominated to be supplied by a common single source, whether OFB, DPSU or private vendor<sup>35</sup> will be paid as per the negotiated cost of BNE<sup>35</sup> in the variable cost element of the project in accordance with Para 84 of Chapter II of the DPP. For new design ships, the estimated cost shall be as close to the final cost as possible explicitly indicating variable cost elements and projected cost of weapons, related sensors and other items under development, if any.
22. Cost for BFE integration (on a case to case basis) will be decided by the CNC.
23. **Budgetary Cost- Follow On Ships.** In case of ships of Follow on projects with minor design changes or equipment change requiring minimal design changes, the shipyard is to forward a firm cost for construction of the ship with variable element only for new and developmental systems, if any, in conformance with the Build Strategy, indicating the year wise requirement of funds.
24. **Estimated Cost-Follow On Ships.** The estimated cost should be carefully worked out based on the budgetary quote given by the nominated shipyard and should be broken down into fixed and variable cost elements, such as labour cost indicating number of man-days, overheads, direct expenses, profit payable to shipyard, specially contracted works, approximate cost of raw material, all major equipment, weapons, sensors and propulsion machinery chosen. Any other costs, if required in the shipyard etc, are also to be reflected as separate items. Cost of supply of MRL-B&D spares, up to 15% (excluding levies, taxes and handling charges, transportation, insurance, service tax on handling charges etc) of the basic cost of the vessel and Cost of Manufacturer's recommended list of On Board Spares (MRL-OBS), may also be included in the Estimated Cost, as applicable.
25. Variations in cost of equipment nominated to be supplied by a common single source, whether OFB, DPSU or private vendor<sup>35</sup> in accordance with Para 84 of Chapter II of the DPP will be paid as per the negotiated cost of BNE<sup>35</sup>; in the variable cost element of the project.
26. Cost for BFE integration (on a case to case basis) will be decided by the CNC.
27. **Modifications.** In view of Para 14 above, the construction of ships may require to accommodate unforeseen changes necessitated due to minor operational requirements of the user etc. Since it is not feasible to forecast these, a provision needs to be made for the same while obtaining CCS/CFA approval. The extent of modification cost would be examined by SCAPCHC/DPB/DAC, as the case may be. Based upon the deliberations during the accord of AoN, a percentage of the project cost will be included in the CFA approval on 'Not Exceeding Basis' for modifications, subject to a maximum of 4% of the basic cost. Payment for

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<sup>35</sup>Amendment issued vide Enclosure E to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

contingencies, as per actual, will also be included under this Head. Any extra time required beyond the delivery date of the ship, on account of modification would be restricted to a maximum of 4% of the original contract delivery period under the project. Expenditure on modification/contingency cost, along with commensurate time extension (if any), will be approved by the concerned CFA based upon delegated financial powers in consultation with IFA.

### **Contract Negotiations**

28. Before seeking the approval of CFA, negotiations on the price and the other aspects of the contract with shipyard are to be undertaken and concluded by a Contract Negotiation Committee (CNC). The standard composition of the CNC shall be as indicated at **Appendix G** to Chapter II of this procedure.

### **Approval of CFA**

29. The proposal for the design and construction of the ship is thereafter, to be taken up for the approval of the CFA.

30. The proposal for CFA approval should indicate the estimated cost of the project as brought out above, the time schedule for completion, spread of expenditure, availability of funds, categories and operational details of major weapons, sensors, propulsion machinery and other major equipment sought for fitment on the ship. The capability and potency of the weapons and related sensors may be clearly indicated in the draft CCS note.

31. While seeking CFA approval, the time schedule for the following activities as applicable may also be specifically indicated:-

- (a) Freezing of SRs.
- (b) Selection of weapons and sensors including those under development.
- (c) Time required for project studies, design, model testing etc in case of projects involving concurrent development/design.
- (d) Freezing of preliminary design.
- (e) Broad ordering schedule for weapons and sensors, major equipment and propulsion machinery and also price negotiations with nominated shipyard for the entire project in case of Follow-on Projects.
- (f) Time schedule for obtaining subsequent approval of CFA for new design ships, Follow on ships with substantial design/equipment changes.

32. **Follow On Ships.** For 'Follow on Ships', CFA approval would be sought on fixed price basis if there are minor changes in the design/equipment fit. In case of substantial changes in the design/equipment fit, CFA sanction is to be obtained in two stages in accordance with Para 33 below.

33. **New Design Ships/Projects with Substantial Changes in Design/Equipment.** In cases of new design ships as well as Follow on projects with substantial changes in design/equipment vis-à-vis parent ship, where it is not possible to estimate the likely firm cost of components, subsequent approvals of the CFA need to be obtained as the cost elements are firmed up. In such cases, based on the first stage approval of CFA, the work

on shipbuilding, viz., ordering of equipment and material and development of detailed/production design etc, and commencement of construction can start. The ordering of equipment under variable component will be progressed in accordance with diagram at Para 41. Thereafter, after firming up estimates of all cost elements under variable cost, second stage approval of CFA will be taken on cost estimates (on not exceeding basis (if necessary)), within a period, preferably within two years or as specified at the time of initial CFA approval on a case to case basis.

### **Conclusion of Contract with the Shipyard**

34. The contracts should be on 'Fixed Price' basis for Follow-on ships and on Fixed plus Variable Price in case of new design or Follow-on ships with substantial design/equipment changes based upon the first stage CFA approval, indicating inter alia permissible price escalation, exchange rate variations, increase in statutory levies etc. However, variable price element would be indicated on not exceeding basis in the Supplementary Contract based on the 2nd stage CFA approval.

35. The contract is to be signed within a period of two months from the date of CFA approval. In cases, where subsequent CCS approvals are necessitated, Supplementary Contracts are to be signed within two months of such approval. In case of delay in signing of contract, approval of DG(Acq)<sup>16</sup> is to be sought with full justification for the delay.

36. In view of the peculiarities associated with the design and construction of naval ships, illustrative contracts shall be promulgated separately by MoD/DDP for guidance.

37. Amendments to contracts concluded with the shipyards will be affected after due approval of MoD and MoD (Finance).

### **Detailed Design**

38. On conclusion of contract, shipyard is to commence Detailed Design, order equipment & material and obtain binding data for the detailed design. The actual construction of the ship can, however, start in parallel along with the detailed design.

### **Procedure for Procurement of Ship-borne Equipment**

39. **Procurement of Non-Weapon Equipment.** Procurement of long lead and other items are to be initiated at an early stage, to ensure timely availability based upon the construction schedule. Due to the peculiar nature of the ship construction activity, different procedures have to be followed for procurement of equipment and material for the ship. The procurement of all yard materials, ship borne hull equipment & material, associated fittings as well as Propulsion machinery and Engineering Equipment will be by the shipyard.

40. **Procurement of Weapons and Related Sensors.**

(a) As indicated in Para 9 above, while seeking approval for Acceptance of Necessity and also CFA approval, the broad categories, operational details and potency of the weapons and related sensors to be fitted in the ship are to be indicated.

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<sup>16</sup>Amendment issued vide Enclosure K to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018



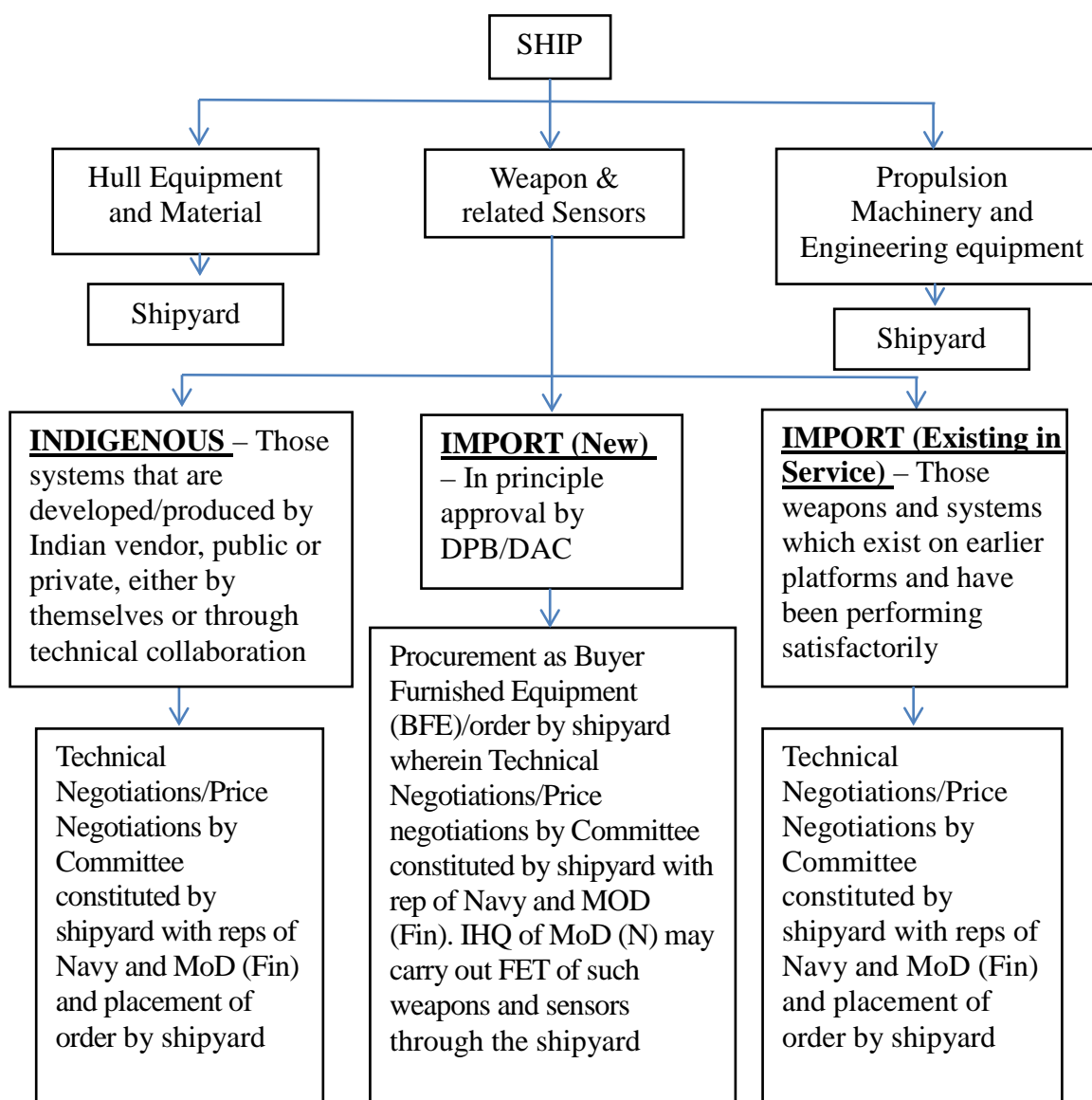
(b) The categories of the weapons and related sensors shall be as approved by the CFA. As brought out in the diagram at Para 41, the procedure for procurement of weapons and sensors will be as follows:-

(i) **Weapons and related Sensors to be imported from Abroad for the First Time.** Weapons and related sensors imported from abroad for the first time may be processed for procurement as BFE. If these weapons and sensors are to be procured by the shipyard, Technical Negotiations/Price Negotiations will be undertaken by a Committee constituted by the Shipyard with reps of SHQ and MoD (Fin). FET of such weapons and sensors may be carried out by IHQ MoD (N), through the shipyard. Thereafter, after firming up estimates of all cost elements under variable cost, second stage approval of CFA will be taken on cost estimates (on not exceeding basis (if necessary)), within a period specified at the time of initial CFA approval. The placement of order would be by the shipyard. In both cases, prior approval of DAC/DPB will be required.

(ii) **Imported Weapons and Related Sensors Existing in Service.** Procurement of weapons and related sensors from foreign sources, which are existing in service or their upgraded versions, is to be carried out by the Shipyard. Technical Negotiations/Price Negotiations will be undertaken by a committee constituted by the Shipyard with reps of SHQ and MoD (Fin). The placement of order would be by the shipyard.

(iii) **Indigenous Weapons and Related Sensors under Development or Existing in Service.** Procurement of indigenous weapons and related sensors under development or existing in service is to be carried out by the shipyard. Technical Negotiations/Price Negotiations will be undertaken by a Committee constituted by the Shipyard with reps of SHQ and MoD (Fin). The placement of order would be by the shipyard.

41. The procedure for procurement of ship-borne equipment is broadly depicted in the diagram below:-



42. **Single Vendor Situations.** In cases where certain state-of-the-art new weapons and related sensors being manufactured by only one vendor are to be utilised, the procedure set out at Para 101 to 103 of Chapter II of DPP shall be followed.

43. **Inter Government Agreement.** In cases where the state-of-the-art new weapons and related sensors are available only in one country and an Inter Government Agreement is involved, the procedure set out at Para 104 and 105 of Chapter II of DPP shall be followed.

44. **Procurement on Strategic Considerations.** For acquisitions of new weapons and related sensors based on considerations of strategic partnerships, the procedure set out at Para 106 of Chapter II of DPP shall be applicable.

45. **Nomination of Equipment.** To enable standardisation, accruing the advantage of ToT, retain/select those equipment on Follow-on class/ships which are fundamental to design, interchangeability, interoperability, repair infrastructure, maintenance and support of OEM, spares logistics and inventory control, system integration, training etc, SHQ may nominate equipment from single vendor. For Weapons and related Sensors nominated on Single

Vendor by SHQ, the procedure of obtaining DAC approval outlined at Para 42 will be followed. For other equipment, the requirement of single vendor nomination will be vetted by a Committee comprising members from SHQ, DDP (Dte of Standardisation) and shipyard. Based on the recommendations of the Committee, a certificate for procurement on single vendor basis, duly approved by PSO, will be issued. The Statement of Technical Requirements (SOTRs) and Ordering Instructions (OIs) for the shipyard will be prepared by IHQ MoD (N) as per approved procedure.

### **Payment Terms**

46. The payment terms for each shipbuilding project would be negotiated and finalised by the CNC since these are dependent upon the indigenous and import content of the equipment fit. However, a broad suggested payment schedule, for fixed price element, is placed at **Appendix A and Appendix B** for guidance.

47. Payment terms for augmentation/modernisation of shipyard infrastructure, where provided for, will be separately formulated, negotiated with the shipyard and finalised by the DDP.

48. **Payment Mode.** The Variable Cost element, where applicable, will be paid on actuals, within the overall ceiling of total variable cost approved by CFA. Payment of variable cost element would be done through opening of a separate project account. The interest accrued on this account will be credited to the Consolidated Fund of India. Shipyard can make payments against actual cost incurred for procurement after submission of relevant documents. Guidelines in this regard will be issued by MoD (Fin).

### **Monitoring of Projects**

49. After conclusion of contract, physical construction activity is to commence at the shipyard. All shipbuilding projects are to be monitored as follows:-

(a) Six monthly review by an Apex Steering Committee under the Chairmanship of Secretary (DP) as notified by MOD.

(b) Committee under the chairmanship of CWP&A with members from MoD (Acq Wing/ DP/Fin/DGQA/DGAQA/DGNAI), Design/Production Directorate, CDA (N) and shipyard that will monitor shipbuilding projects on a quarterly basis. Such reviews may be delegated to nominated reps on as required basis. A corresponding Committee may also be constituted by ICG.

(c) In case of ICG, the Committee would be headed by JS&AM (MS) with DDG (M&M), PD (Mat), FM(MS), TM(MS) and CMD of concerned project as members.

50. These committees shall be suitably empowered to ensure efficient execution of the project.

51. The Apex Steering Committee under the chairmanship of Secretary (DP) will consist of the following officers:-

(a) Additional Secretary (DP).

(b) Joint Secretary (NS), Member Secretary.

- (c) Joint Secretary & Acquisition Manager (MS)
- (d) Additional FA & JS (Defence PSUs).
- (e) TM(MS).
- (f) Financial Manager (MS).
- (g) CWP&A.
- (h) DGND/ACWP&A.
- (j) ACNS(P&P)/PDNP.
- (k) CMD of concerned Shipyard.
- (l) Director and Project Superintendents of concerned project of Shipyard.
- (m) PDND/PDSP.
- (n) DDG (M&M), PD (Mat) and PD(SA) in case of ICG.

52. The terms of reference of the Steering Committee are as under:-

- (a) To review the physical progress of the project with specified reference to compliance of milestones laid down for completion of various activities of ship construction.
- (b) To monitor the financial progress of the project to ensure that the project progresses within the financial limits sanctioned by the Govt.
- (c) To identify technical and administrative hold ups and give suitable directions so that the project proceeds as per the time schedule and cost approved by the Govt.
- (d) To review fulfilment of contractual obligations at pre determined stages.
- (e) Any other matter requiring direction and guidance of the Steering Committee.

53. The secretarial assistance for the committee will be provided by the Naval System Division of Department of Defence Production. The Apex Steering Committee will meet at least once in six months.

#### **Approval of CFA for Revised Project Cost**

54. After the project is approved by CCS as in Para 29-33 above, the MoD, IHQ MoD(N)/ICG HQ, DDP and the shipyard will endeavour to ensure that the ship construction proceeds strictly as per the time schedule and cost approved by CCS. Since all the cost elements, both fixed and variable, including possible escalations on account of price, exchange rate variation, increase in statutory levies etc, are taken into consideration for estimating the project cost, there should not normally be any occasion/need for the project to slip either in time schedule or in cost. However, if due to any unavoidable circumstances, the project is likely to be delayed or the cost per ship as approved by CCS is likely to be exceeded, the following procedure is to be adopted for seeking approval of the Competent Authority for the revised cost:-

- (a) Increase in project cost, which arises entirely due to change in statutory levies,

exchange rate variation and price escalation within the originally approved project time cycle will be submitted to RM for approval.

(b) Increase in project cost up to 10% of the approved cost estimated by CCS (after excluding the increase due to statutory levies, exchange rate variation and price escalation within the originally approved project time cycle) will also be submitted to RM for approval.

(c) Increase in project cost exceeding 10% but upto 20% of the approved cost estimated by CCS (after excluding the increase due to statutory levies, exchange rate variation and price escalation within the approved project time cycle) will be submitted to RM and FM for approval.

(d) Increase in project cost exceeding 20% of the approved cost estimated by CCS (after excluding increase due to statutory levies, exchange rate variation and price escalation within the approved project time cycle) due to reasons such as time overrun, under estimation, change in scope etc will be submitted to CCS for approval.

(e) 'Statutory levies' means State and Central Taxes, including import and export duties as notified by Govt of India and paid by the project authorities but excludes water, electricity charges and Petroleum, Oil & Lubricants (POL) price increases.

(f) No expenditure beyond the existing sanction can be incurred unless the revised project cost is approved by the Competent Authority as indicated above. However, in exceptional cases, in the interest of the project, if such a necessity arises, the procedure set out at Para 58 shall be followed. Sub-Paras (a) to (e) above are in line with the guidelines issued by Ministry of Finance vide O.M. No.1 (3)/PF II/2001 dated 18.2.2002.

(g) In all cases where the revised project cost overrun is over 20% and is accompanied by time overrun of over 10%, while seeking approval of CCS for the revised cost estimates and time schedule, accountability aspects for such cost and time overruns should be fixed and indicated in the CCS Note (in line with the guidelines of the Planning Commission issued vide letter No.14015/2/980PAMD dated 19th August,1998).

### **Closure of the Project**

55. The cost analysis of the first ship of the project shall be carried out by a team led by Advisor Cost (DDP) within a period of 12 months from the second reading of the D-448 document check list, so that realistic and firm cost estimates for the other ships of the class can be worked out.

56. The final closure of the ship construction project is to be carried out within the time schedule of 12 months from the second reading of the D-448 document check list of the last ship of the project. All tasks not carried out by the shipyard should be listed and carried out separately. Where the final closure is not possible within the specified time frame, the approval of the competent authority for extension of the time limit shall be taken. The final closure of the project is important so that the exact costing can be worked out and approvals for the follow on projects can be obtained on a firm basis.

## **Liquidated Damages**

57. **Liquidated Damages.** In case of delay in completion of the project and if the delay is attributable to the shipyard, Liquidated Damages will be levied after a Grace Period, as amplified below:-

(a) **Grace Period.** Grace period will be calculated at the rate of 5% of the build period (in months), subject to a minimum of one month and a maximum of three months.

(b) **Liquidated Damages.** Beyond the Grace Period, LD will be levied at the rate of **1/100 of the delay percentage** {Delay percentage = (Period of Delay wrt the build period, in Weeks) x 100 / (Build Period in weeks as per contract)} of the Vessel Cost of the ship upto a limit of 10%, for every week of delay or part of a week delay (Any extension given by the buyer for delay attributable to buyer or Force Majure Clause to be factored in delivery period)<sup>45</sup>. Vessel cost is as defined at Para 2 of Annexure I to **Appendix F** of Schedule I to Chapter IV, excluding cost for BFE and B&D spares.

## **Deviations and Exemptions**

58. If any deviations from the prescribed procedure are envisaged and any exemptions are to be taken, approval of DAC through DPB shall be sought, as prescribed at Para 108 of Chapter II of DPP.

## **Review**

59. Review of the procedure would be undertaken by the DPB as per guidelines in force.

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<sup>45</sup>Amendment issued vide Enclosure O to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

## **SECTION 'B'**

### **ACQUISITION OF NAVAL AND COAST GUARD SHIPS, SUBMARINES, YARD CRAFT AND AUXILIARIES ETC ON COMPETITIVE BASIS**

60. **Applicability.** While the acquisition of ships on Nomination basis has been prescribed in Section A, the methodology to be followed for acquisition of ships, submarines, auxiliaries and yard crafts through competitive bidding on multi-vendor basis under the categories 'Buy (Indian-IDDMM)', 'Buy (Indian)', 'Buy and Make (Indian)', 'Buy and Make', 'Buy (Global)', as described at Para 6 to 10 of Chapter I of DPP, are set out in this section. The acquisition process under this section would be an amalgamation of the processes prescribed in Section A, read in conjunction with certain Clauses of Chapter II.

#### **Acquisition Process**

61. The process of acquisition of ships under this Procedure would involve following steps:-

- (a) Request for Information (RFI)
- (b) Staff Requirements (SRs).
- (c) Acceptance of Necessity (AoN).
- (d) Solicitation of offers.
- (e) Financial Assessment by Financial Parameter Evaluation Team (FPET).<sup>48</sup>
- (f) Evaluation of Technical Offers by Technical Evaluation Committee (TEC).
- (g) Commercial negotiations by Contract Negotiation Committee (CNC).
- (h) Approval of Competent Financial Authority (CFA).
- (j) Award of Contract.
- (k) Contract administration and post Contract management.

62. For cases being steered under 'Buy and Make (Indian)', the additional steps as envisaged at Para 32 to 42 of Chapter II of DPP would also be applicable.

63. The applicability of various provisions of Chapter I, II and Section A Chapter IV are enumerated below:-

S/No	Steps Involved	Concordance
(a)	Staff Requirements (SRs).	Procedure for Outline Staff Requirements, AoN and PSR leading to SRs would be guided by Paras 7, 8, 9 and 12 of Section A, as applicable. AoN will be valid for 18 months.
(b)	Acceptance of Necessity (AoN).	

<sup>48</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 22.04.2019

S/No	Steps Involved	Concordance
(c)	Solicitation of offers	To be guided by the provisions of Chapter II for short-listing of the <b>entity</b> <sup>48</sup> . The Paras of Chapter II under Group headings Solicitation of Offers, TEC and CNC would be followed as applicable. RFP will be formulated and issued post finalisation of Guideline Specifications. [Paras 29 to 57, except Para 31 and 75 to 86 of Chapter II] SHQ will carry out Technical Capacity Assessment of entities at periodic interval in accordance with Guidelines at Appendix 'C' and forward recommendations to DG (Acq) for issue of RFP. The RFP shall include Financial Assessment Parameters defined for each project category at Annexure II to Appendix 'C'. Assessment of Financial Parameters would be undertaken prior to commencement of TEC, by the Financial Parameter Evaluation Team (FPET), constituted by SHQ. FPET to be completed within four weeks. FPET shall include a Finance member {Rep from MoD (Fin) for non-delegated power case(s) and rep from PIFA/ IFA (Cap) for delegated power case(s)} in addition to listed TEC members. For delegated power cases in all situations, FPET would be approved by the SHQ. For MoD cases where all entities participating in the RFP are found compliant, the FPET report would be approved by the SHQ. However, in case an entity or entities participating in the RFP are found non-compliant to the Financial Assessment Parameters, the FPET report would be approved by DG (Acq). <sup>48</sup>
(d)	Evaluation of Technical Offers by Technical Evaluation Committee (TEC)	
(e)	Commercial negotiations by Contract Negotiations Committee (CNC).	
(f)	Approval of Competent Financial Authority (CFA).	To be guided by Paras 87 to 90 of Chapter II. As regards Repeat Order/Option Clause, Para 96 to 100 of Chapter II would apply, as applicable.
(g)	Award of Contract	
(h)	Contract administration and post Contract management	For monitoring of projects, Para 94 of Chapter II would be applicable. The Committee under CWP&A would be constituted as per Para 49(b) of Section A.
(j)	Offsets	To be guided by Para 28 of Chapter II. Offsets will be applicable on the total Contract Cost as defined at Para 2 of <b>Appendix F</b> of Model Shipbuilding RFP.
(k)	Modification	To be guided by Para 27 of Section A of Chapter IV. However, Modification Cost to be approved at AoN Stage.

64. **Procurement of Ship Borne Equipment.** The procurement of ship-borne equipment would be undertaken by the shipyard in accordance with the shipyards internal policy. Nominated Equipment/Buyer Furnished Equipment would be clearly defined in the RFP.

<sup>48</sup> Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 22.04.2019



65. **Field Trials.** The requirement of Field Evaluation Trials, as per Para 62 of Chapter II of DPP, will not be applicable for procurement cases in respect of acquisition/construction of Ships, Submarines, Yard Craft and auxiliaries, etc. However, Simulated Signature Studies of complete platforms in respect of stealth characteristics, magnetic signature, EMI/EMC, Noise analysis, etc may be included in the SOC. The requirement of trials in the case of specialised new induction equipment/sensors being bought through the shipyard route should be detailed in the RFP. These would also be included in the Statement of Case while seeking the AON.

66. **Transfer of Technology (ToT).** In cases where ToT is being sought, the appropriate Production Agency (PA) would be approved by the DAC based on the recommendations of the DDP. Clauses in Chapter II covering ToT would apply in shipbuilding cases, as applicable. The PA could be selected from any of the public/private firms including a joint venture company based on the inputs from DDP and, if required, from DRDO. The RFP in such cases would spell out the requirements of TOT depending upon the depth of the technology which is required. Clauses related to 'ownership of design' or 'manufacture under license' need to be spelt out in the RFP. The nominated Production Agency (PA) for the receipt of technology will be closely associated in the preparation of RFP.

67. Ship production being an inherently complex process, needs to be divided into clearly identifiable/tangible stages for monitoring. The payments made to the shipyards therefore need to be set against achievement of these stages which need to be clearly verifiable. In this regard, Guidelines for Payment terms for ships would be in accordance with Appendix A. The Payment Terms for yardcraft is at Appendix B. All payments for non- deliverables will be secured with Bank Guarantees. In case a shipyard does not claim a stage payment till delivery (and claims it post delivery of vessel), there is no requirement to submit bank guarantee of equivalent amount at the time of claiming payment.

### **Miscellaneous**

68. **Closure of Project, LD, Deviations and Exemptions.** For approval of cases for Closure of Project, LD, Deviations and Exemptions, provisions of Section A (Paras 55 to 58) would apply.

69. **RFP.** All issues related to terms and conditions of procurement would be amplified in the RFP. A standardised RFP is placed as Schedule I to this Chapter.

70. **Nomination of Equipment.** To enable standardisation, accruing the advantage of ToT, retain/select those equipment on Follow-on class/ships which are fundamental to design, interchangeability, interoperability, repair infrastructure, maintenance and support of OEM, spares logistics and inventory control, system integration, training etc, SHQ may nominate equipment from single vendor. For Weapons and related Sensors nominated on Single Vendor by SHQ, the procedure of obtaining DAC approval outlined at Para 42 of Section A, as applicable will be followed. For other equipment, the requirement of single vendor nomination will be vetted by a Committee comprising members from SHQ, DDP (Dte of Standardisation) and IFA (N). Based on the recommendations of the Committee, a certificate for procurement on single vendor basis, duly approved by PSO, will be issued. The nominated single vendor equipment will be indicated in the RFP.

71. In case of competitive bidding, bank guarantees will be submitted by all shipyards, including DPSUs, against non-deliverable stages. The deliverable stages will be defined in the RFP.

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**Appendix A to Chapter IV**  
(Refers to Paras 46 and 67 of  
Chapter IV)

**TERMS OF PAYMENT- SHIPS & SUBMARINES**

The terms of payment may vary between each project depending upon a variety of factors such as indigenous content, necessity for building infrastructure, imports, design considerations and development of indigenous technology. However, some broad guidelines for payment terms for multivendor cases are appended below:-

<b>Stage</b>	<b>% of Vessel's Fixed cost</b>	<b>Activity</b>	<b>Schedule To be finalised during CNC</b>
I	10%	With signing of contract (10% of Contract cost)	
II	10%	(a) Proof of ordering Steel/Hull Construction Material (b) Submission of Cardinal date programme/Production PERT	
III	5%	(a) Submission of Drawing Schedule (b) Submission of detailed network of activities including Work Breakdown up to launching of vessel (c) Submission of main hull structural drawing (d) Order for all major pre-launch items finalised and placed	
IV	5%	(a) Completion of 10% physical progress of construction and submission of weight analysis for first ship of the series only (b) Submission of equipment installation schedule	
V	5%	(a) Completion of 15% physical progress of construction and submission of weight analysis for first ship of the series only (b) Completion of main engines, gear box girders & seatings/m/c seatings as applicable to erecting of 60% hull	
VI	5%	(a) Completion of 25% physical progress of construction and submission of weight analysis for first ship of the series only (b) All access holes to be cut and preparation of main seatings in m/c compartment (c) Placement of order for major equipment & systems affecting conduct of basin trials	

Stage	% of Vessel's Fixed cost	Activity	Schedule To be finalised during CNC
VII	5%	(a) Pressure test of built in tanks (b) Manufacture/procurement of W/T doors and hatches (c) Submission of network of balance activities upto delivery alongwith resource allocation	
VIII	10%	(a) Completion of installation of machinery, equipment & fittings with the associated system required for reaching pre-launch stage and submission of weight analysis for first ship of the series only (b) Launching of the vessel or equivalent stage of construction reached	
IX	5%	Completion of 40% physical progress of construction and submission of weight analysis for first ship of the series only	
X	5%	Completion of 60% physical progress of construction and submission of weight analysis for first ship of the series only	
XI	5%	Completion of 85% physical progress of construction and submission of weight analysis for first ship of the series only	
XII	10%	Completion of Basin trials	
XIII	5%	(a) Completion of inclining experiments and submission of weight analysis for first ship of the series only and draft survey for subsequent ships (b) Successful completion of CST (c) Completion of Training	
XIV	5%	(a) Successful completion of FMT (b) Stowage of all Onboard Spares (c) All documentation, drawings, manuals for the ship to be made available to the concerned agencies as per specifications (d) Completion of first reading of D-448 and acceptance of vessel	
XV	10%	All defects/deficiencies and contractor's liabilities including guarantee repairs/dry docking to be completed.	

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**Appendix B to Chapter IV**  
(Refers to Para 46 & 67 of Chapter IV)

**TERMS OF PAYMENT - YARD CRAFTS/AUXILIARIES**

In addition to the broad guidelines indicated in Appendix A to Chapter IV, a seven stage indicative guideline for yard crafts is given below:-

Stage	% of Vessel's cost	Activity	Pre-Requisites
I	10%	On signing of the Contract (10% of Contract cost)	On submission of bank guarantee of equal value and Performance-cum- Warranty Bond of 5% of the contractual cost. DPSUs may submit indemnity bond, when nominated.
II	20 %	(a) Proof of ordering of steel/Hull Construction Material (b) Submission of cardinal date programme/production PERT. (c) Submission of drawing schedule (d) Submission of main hull structural drawings. (e) Order for all major pre-launch items finalised and placed. (f) Erection of 40 % hull. (g) Submission of equipment schedule. (h) Completion of main engines, Gear box girders & seatings/machinery seatings as applicable to erection of 40% hull.	To be certified by Owner's rep/Overseer.
III	10 %	(a) Completion of main engines, gear box girders & seatings/machinery seatings as applicable to erection of 70% hull. (b) All access holes to be cut and preparation of main seatings in machinery compartments. (c) Manufacture/procurement of W/T doors and hatches (d) Pressure test of built in tanks. (e) Submission of network of balance activities.	To be certified by Owner's rep/Overseer.

Stage	% of Vessel's cost	Activity	Pre-Requisites
IV	10 %	(a) Erection of 100 % main hull (b) Placement of order for major equipment & system affecting conduct of basin trials (c) Pressure test of built in tanks (d) Submission of network of balance activities	To be certified by Owner's rep/Overseer.
V	15%	(a) Completion of installation of machinery, equipment and fittings with the associated systems required for reaching pre launch stage.  (b) Launching of the vessel or equivalent stage of construction reached  <i><b>Note:</b> If large amount of machinery is to be placed after the launch of the vessel, this stage may be split into two @ 10% or 7.5% each.</i>	To be certified by Owner's rep/Overseer.
VI	30%	(a) Completion of Basin Trials. (b) Completion of inclining experiment and draft survey for subsequent crafts. (c) Successful completion of contractor's sea trials (form part of vessel acceptance trials). (d) Successful completion of final machinery trials. (e) Stowage of all on-board spares. (f) All documentation, drawings, manuals for the ship to be made available to the concerned agencies as per specifications. (g) Completion of first reading of D-448 and acceptance of the vessel.	To be certified by Owner's rep/Overseer.
VII	5%	All defects, deficiencies and contractor's liabilities including guarantee repairs & dry docking to be completed.	

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**GUIDELINES ON CAPACITY ASSESSMENT**  
**INDIAN SHIPBUILDING ENTITIES<sup>48</sup>**

1. In accordance with Para 10 & 63 of Chapter IV (Procedure for Defence Ship Building) of DPP 16, there is a need to undertake Capacity Assessment of a shipbuilding entity (shipyard/ company/ JV) prior recommending an entity for nomination/ issuance of RFPs for ship or yardcraft construction. This is aimed at determining the capability of the entity to undertake the intended shipbuilding activity. The assessment would include technical & financial capacity/ capability including infrastructure of the entity. Such an assessment would ensure that only entities with requisite capacity and capability are permitted to participate in the Indian Naval ship and yardcraft building projects.

2. **Technical and Financial Assessment Parameters.**

(a) **Technical Capacity Assessment (TCA) Parameters.** Technical Capacity Assessment of the entities would be undertaken against objective parameters listed at Annexure I for each ship category. **It is mandatory for the bidder to qualify all parameters listed at Annexure I.**

(b) **Financial Assessment Parameters.** Financial Assessment Parameters for each category of ship defined at **Annexure II** would be included in the RFP of the project. Assessment of the financial status of the entity vis-à-vis the parameters indicated in the RFP would be undertaken prior to commencement of TEC, by the Financial Parameter Evaluation Team (FPET), constituted by SHQ with broad time frame for completion being 04 weeks from the date of opening of Technical Bids. FPET shall include a Finance member {Rep from MoD (Fin) for non-delegated power case(s) and rep from PIFA/ IFA (Cap) for delegated power case(s)} in addition to listed TEC members, FPET would be completed within four weeks. **For delegated power cases in all situations, FPET would be approved by the SHQ. For MoD cases where all entities participating in the RFP are found compliant, the FPET report would be approved by the SHQ. However, in case an entity or entities participating in the RFP are found non-compliant to the Financial Assessment Parameters, the FPET report would be approved by DG (Acq).** TEC would be progressed only for entities qualifying the stipulated financial parameters.

3. **Assessment of Entities**

(a) **Acquisition by Nomination.** If validity of Technical Capacity Assessment of entities proposed for nomination by MoD/DDP for a particular project/ ship category has expired, SHQ would undertake Technical Capacity Assessment of entities indicated, against objective parameters listed at **Annexure I**. Names of entities qualifying all Technical Parameters shall be forwarded to MoD/DDP and MoD/Acq Wing prior processing the case for AoN.

(b) **Acquisition on Competitive Basis.** The procedure for assessing the entities for undertaking a project on Competitive Basis is amplified in the subsequent paragraphs.

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<sup>48</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 22.04.2019

4. **Technical Capacity Assessment.** The Technical Capacity Assessment of entities including DPSUs/ PSUs/ State PSUs and private entities would be undertaken as per the amplification orders to be issued by SHQ, by a Standing Committee comprising of the following and would be approved by CWP&A:-

- |     |                                  |   |                                   |
|-----|----------------------------------|---|-----------------------------------|
| (a) | ACWP&A                           | - | Chairman                          |
| (b) | Commodore(SP)                    | - | Member                            |
| (c) | PD (Ship Acq)                    | - | Member from Coast Guard           |
| (d) | Rep IHQ MoD((N)/ DND (Captain) - |   | Member                            |
| (e) | Rep IHQ MoD((N)/ DNP             | - | Member                            |
| (f) | Cdr(SP)                          | - | Member Secretary from IHQ MoD (N) |

5. **Initiation of Technical Capacity Assessment (TCA).** The Technical Capacity Assessment of entity would be coordinated by SHQ, on either of the following occasions for which amplifying orders shall be issued by SHQ:-

- (a) On application as new entity, or, on expiry of its existing validity.
- (b) If an entity whose Technical Capacity Assessment has not been undertaken over the last two years responds to the RFI for construction of a Naval/ICG vessel/ yardcraft.
- (c) Entity responding for a project of a higher category (higher than the technically cleared lower category) subject to meeting the Technical parameters at Annexure I.
- (d) As and when deemed necessary by SHQ/MoD.

6. **Technical Capacity Assessment Procedure.** As a part of fresh TCA, the technical assessment shall be undertaken as follows:-

(a) **Technical Capacity Assessment by Warship Overseeing Team (WOT).**

- (i) Details of infrastructure available would be sought from entities by SHQ, to assess parameters provided in Annexure I to these Guidelines. Entities failing to provide all relevant documents within three months of the notice would be given an additional month for submitting the requisite documents, failing which the entity would be declared 'Not Qualified' and would not be eligible for participating in any RFP (for ship categories for which valid TCA Certificate is not held) for the next six months, or, till obtaining TCA certificate from SHQ, whichever is later.
- (ii) The relevant WOT shall carry out initial technical capacity assessment of the entity's capacity and capability.
- (iii) The Technical Capacity Assessment would entail physical inspection of the entity's facilities and infrastructure, to validate the TCA pro-forma/ inputs submitted by the entity.

(iv) The initial technical capacity assessment report, along with the nominated WOT recommendations, would be forwarded to SHQ for appraisal and approval.

(b) **Technical Capacity Assessment Report.**

(i) The Standing Committee would thereafter study the initial Technical Capacity Assessment report and visit the concerned entity, as necessary, as per the amplification orders to be issued by SHQ.

(ii) Additional members, where and if required, may be co-opted into the committee, to validate specific issues/ aspects of the entity being assessed.

(iii) If the entity is found suitable, a Technical Capacity Assessment (TCA) certificate shall be issued by SHQ, indicating the maximum light ship displacement, LOA, beam, draught and air draught (as applicable), along with the approved categorisation for which the entity has been cleared, based on the entity's infrastructure. The TCA to be issued within 45 days of receipt of all documents, shall remain valid for two years from the date of issue.

(iv) If an entity is found unsuitable, it shall be informed of areas on which they have been disqualified.

7. RFPs for construction of warships and yardcraft are to be issued only to entities with a valid Technical Capacity Assessment certificate for type/ category of vessel cleared. Entities failing to either submit complete documents within the stipulated period of three months, or failing to meet the stipulated criteria, would not be considered for issuance of RFP (for ship categories for which valid TCA Certificate is not held), for the next six months or till obtaining TCA certificate, whichever is later.

8. **Re-validation of Technical Capacity Assessment.** The entity is required to forward to IHQ MoD(N)/ DSP, all requisite documents as per the TCA proforma, three months prior to expiry of Technical Capacity Assessment. In the eventuality of an entity not submitting valid documents or an entity whose TCA is pending at SHQ due to non-submission of complete documents, the entity would be given an additional month for submitting the requisite documents, failing which the entity would be declared 'Not Qualified' and would not be eligible for participating in any RFP (for ship categories for which valid TCA Certificate is not held) for the next six months, or till obtaining TCA certificate from SHQ, whichever is later.



**Annexure I to Appendix ‘C’ to Chapter IV**  
(Refers to Para 2(a) & 3(a) of Appendix ‘C’ to Chapter IV)

**TECHNICAL CAPACITY ASSESSMENT PARAMETERS FOR SHIPBUILDING PROJECTS<sup>48</sup>**

Ser No	Category/Type of Vessels Naval/ ICG Ship Category	CAT A	CAT A*	CAT B	CAT C	CAT D	CAT D*
	Parameter	Weapon Intensive Warships Destroyers and Frigates, etc (Wt>5000T)	Weapon Intensive Warships (Wt<5000T) Frigates, Corvettes, etc	Low Weapon Intensive Warships (LCU, OPV, ASW craft, Missile Vessels, Training Ships, Pollution Control Vessel, MPV, etc)	Aux. Ship & Support Vessels (Survey Vessels, DSV, FAC, FPV, IB, etc)	Minor Naval Combatant & Yardcraft (FIC*, ISV*, Ferry Craft, Tugs, Supply Vessels, IC, Auxiliary Barges, Harbour Craft, etc)	Non- Propelled Yardcraft (Yardcraft / Barges, Pontoons etc)
1.	Warship Construction License	Mandatory.	Mandatory.	Mandatory.	Mandatory.	Mandatory for Starred (*) ships. Class certification on stability to be provided for remaining.	Not Mandatory. Class certification on stability to be provided.

<sup>48</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 22.04.2019

Ser No	Category/Type of Vessels Naval/ ICG Ship Category	CAT A	CAT A*	CAT B	CAT C	CAT D	CAT D*
	Parameter	Weapon Intensive Warships Destroyers and Frigates, etc (Wt>5000T)	Weapon Intensive Warships (Wt<5000T) Frigates, Corvettes, etc	Low Weapon Intensive Warships (LCU, OPV, ASW craft, Missile Vessels, Training Ships, Pollution Control Vessel, MPV, etc)	Aux. Ship & Support Vessels (Survey Vessels, DSV, FAC, FPV, IB, etc)	Minor Naval Combatant & Yardcraft (FIC*, ISV*, Ferry Craft, Tugs, Supply Vessels, IC, Auxiliary Barges, Harbour Craft, etc)	Non- Propelled Yardcraft (Yardcraft / Barges, Pontoons etc)
2.	Building Dock/ Slipway/ Ship Lift Features for ships as defined at TCA#	Building Dock/ Slipway / Ship Lift for ships more than 5,000T Light Ship Displacement, LOA greater than 125m, and draught greater than 5 m	Building Dock/ Slipway / Ship Lift for ships lesser than 5,000T Light Ship Displacement, LOA greater than 90m, and draught lesser than 5 m	Building Dock/ Slipway / Ship Lift for ships lesser than 4,000T Light Ship Displacement, LOA greater than 60m, and draught lesser than 4 m	Building Dock/ Slipway / Ship Lift for ships lesser than 3,000T Light Ship Displacement, LOA greater than 40m, and draught lesser than 4 m	Building Dock / Slipway/ Ship Lift/ Building Berth for ships lesser than 1,000T Light Ship Displacement, LOA greater than 8m, and draught lesser than 3 m	Building Dock / Slipway/ Ship Lift/ Building Berth /Adequate space for vessels lesser than 500T Light Ship Displacement
#: The Technical Capacity Assessment (TCA) certificate issued by SHQ would indicate the maximum light ship displacement, LOA, beam, draught and air draught (as applicable), along with the approved categorisation for which the entity has been cleared. This would be based on the entity's shipbuilding dock/slipway/ship-lift infrastructure.							

Ser No	Category/Type of Vessels Naval/ ICG Ship Category	CAT A	CAT A*	CAT B	CAT C	CAT D	CAT D*
	Parameter	Weapon Intensive Warships Destroyers and Frigates, etc (Wt>5000T)	Weapon Intensive Warships (Wt<5000T) Frigates, Corvettes, etc	Low Weapon Intensive Warships (LCU, OPV, ASW craft, Missile Vessels, Training Ships, Pollution Control Vessel, MPV, etc)	Aux. Ship & Support Vessels (Survey Vessels, DSV, FAC, FPV, IB, etc)	Minor Naval Combatant & Yardcraft (FIC*, ISV*, Ferry Craft, Tugs, Supply Vessels, IC, Auxiliary Barges, Harbour Craft, etc)	Non- Propelled Yardcraft (Yardcraft / Barges, Pontoons etc)
3.	Water Frontage / Outfitting & Berthing Facilities with support services	Berth greater than 125m with water depth greater than 5m (at all times)	Berth greater than 90m with water depth greater than 4m (at all times)	Berth greater than 60m with water depth greater than 4m (at all times)	Berth greater than 40m with water depth greater than 3m (at all times)	Firms to indicate modalities of floating out and outfitting	Firms to indicate modalities of floating out and outfitting
4.	Lifting Capacity	Capability to lift Minimum 150T on building berth and 50T on outfitting berth with all round reach	Capability to lift Minimum 150T on building berth and 50T on outfitting berth with all round reach	Capability to lift Minimum 100T on building berth and 25T on outfitting berth with all round reach	Capability to lift Minimum 40T on building berth and 20T on outfitting berth with all round reach	Capability to lift Minimum 10T on building berth and 05T on outfitting berth with all round reach	Capability to lift Minimum 5T on building berth and 02T on outfitting berth with all round reach
5.	Steel Stockyard Capacity	Storage for 8,000T steel	Storage for 5,000T steel	Storage for 3,000T steel	Storage for 1500T steel	Storage for 300 T Steel	Storage for 100T Steel
6.	Steel Fabrication	CNC machines and automatic/ semi-automatic welding facilities with min capacity of 500T fabrication monthly.	CNC machines and automatic/ semi-automatic welding facilities with min capacity of 500T fabrication monthly.	CNC machines and automatic/ semi-automatic welding facilities with min capacity of 300T fabrication monthly.	CNC machines or automatic/ semi-automatic welding facilities with min capacity of 300T fabrication monthly.	Min capacity of 100T fabrication monthly	Min capacity of 50 T fabrication monthly

Ser No	Category/Type of Vessels Naval/ ICG Ship Category	CAT A	CAT A*	CAT B	CAT C	CAT D	CAT D*
	Parameter	Weapon Intensive Warships Destroyers and Frigates, etc (Wt>5000T)	Weapon Intensive Warships (Wt<5000T) Frigates, Corvettes, etc	Low Weapon Intensive Warships (LCU, OPV, ASW craft, Missile Vessels, Training Ships, Pollution Control Vessel, MPV, etc)	Aux. Ship & Support Vessels (Survey Vessels, DSV, FAC, FPV, IB, etc)	Minor Naval Combatant & Yardcraft (FIC*, ISV*, Ferry Craft, Tugs, Supply Vessels, IC, Auxiliary Barges, Harbour Craft, etc)	Non- Propelled Yardcraft (Yardcraft / Barges, Pontoons etc)
7.	Steel bending and forming facility	In-house for thickness till 20mm	In-house for thickness till 20mm	In-house for thickness till 20mm	Lesser than 20mm (Firms to indicate in-house/outsourced capacity)	Lesser than 12mm (Firms to indicate in-house/outsourced capacity)	Lesser than 8/10 mm (Firms to indicate in-house/ outsourced capacity)
8.	Exposure to Shipbuilding	Demonstrated capability in Construction and successful delivery of at least one Warship of CAT 'A*'/ B except LCU/PCV with experience in installation of weapons / sensors	Demonstrated capability in Construction and successful delivery of at least one Warship of CAT B except LCU/PCV with experience in installation of weapons / sensors	Demonstrated capability in Construction and successful delivery of at least one ship of CAT 'C'.	Demonstrated capability in Construction and successful delivery of at least one ship of CAT 'C' or a self-propelled vessel of light ship displacement greater than 500T.	Demonstrated capability in Construction and successful delivery of at least one non propelled vessel (as applicable).	Demonstrated capability in marine structures including Pontoons, buoys etc. under class rules.
9.	Quality Control	Must hold ISO 9001:2015 and OHSAS 18001:2007 or later certification	Must hold ISO 9001:2015 and OHSAS 18001:2007 or later certification	Must hold ISO 9001:2015 and OHSAS 18001:2007 or later certification	Must hold ISO 9001:2015 and OHSAS 18001:2007 or later certification	Must hold ISO 9001:2015 certification	Must hold ISO 9001:2015 certification

**Note 1 :-**

- (a) For Platforms larger than those indicated in CAT 'A', eligible shipyard would be shortlisted by an appraisal committee on a case to case basis.
- (b) For platforms not defined in the above categorisation, the TCA committee based on the platform's role, maximum light ship displacement, LOA, beam, draught and air draught (as applicable) and capabilities, would forward recommendation on the platform's categorisation for approval by DG(Acq).
- (c) In eventuality of a new entity taking over an Indian shipyard/ entity, the existing exposure to shipbuilding of the Indian shipyard/ new entity would be considered in for the above Categorisation.
- (d) The following additional condition would be applicable for undertaking TCA of a Joint Venture:-
  - (i) The Joint Venture firm should be a registered Indian company having 'Warship Construction licence' or 'Class Certification' as indicated at Sl 1 of the Table.
  - (ii) The assessment would be undertaken based on the technical infrastructure available in India, either with the JV firm or with the individual JV members.
  - (iii) For considering eligibility in the criteria of 'Exposure to Shipbuilding', either the capability of the JV firm or of atleast one of its members would be considered.

**Note 2:-** Indicative list of Documents to be submitted by entities for Technical Capacity Assessment is as follows:-

(a)	Type of Entity - Size/ Classification of Entity (Proprietary/ Partnership/ Public Limited Company/ Government PSU/ JV / Small Scale/ Medium Scale/ Large Scale Entity)
(b)	Warship Production & Factory License
(c)	Valid/ Current Certification of Class for Building Dock, slipway, ship lift with dimensional details clearly indicating the maximum light ship displacement, LOA, beam, draught and air draft (as applicable) of vessel which can be handled.
(d)	Valid/ Current Certification of Class for water frontage/ jetty/outfitting and berthing facilities clearly indicating dimensional details of berth available with minimum depth at all times.
(e)	Details of Load test/ safe to work certificate clearly indicating lifting capacity of cranes, hoists and horizontal transporters at building dock, outfitting jetty, inside shops, mobile cranes and Gantries along with details of largest block that can be handled.
(f)	Details with layout (approved by Factory Inspector) of the shipyard indicating the capacity of all covered and uncovered areas of Steel Stockyard, Blasting & Priming, Equipment Stores, Hull Production Shop, Pipe Production Shop, Galvanizing Bay, Machine Shop, Pre-Outfitting Shop, Paint Shop & Paint Store and Electrical Shop.
(g)	Self-Certification of facilities indicating the minimum capacity of monthly steel fabrication.
(h)	Self-Certification of facilities like welding, forming, cutting, bending, blasting, pipe fabrication, control techniques to minimise deformations and other production machinery & electrical installations indicating technical specifications and in house capabilities.
(j)	Details of Ships delivered classified by tonnage and propulsion.
(k)	Details of Collaboration if any (Indian/ Foreign)
(m)	Copy of certificate from ISO and OHSAS
(n)	Additional documents iaw amplification orders issued by SHQ

**Annexure II to Appendix ‘C’ to Chapter IV**  
(Refers to Para 63 to Chapter IV and Para 2(b) of  
Appendix ‘C’ to Chapter IV)

**FINANCIAL ASSESSMENT PARAMETERS FOR SHIPBUILDING PROJECTS<sup>48</sup>**

Eligibility and Qualification Criteria			CAT F1	CAT F2	CAT F3	CAT F4	CAT F5	Documentation Required (To be submitted along with the bid)
			Outflow required for the Project per Year = Estimated Value of Contract / Number of Years prescribed for completion of the Project					
Ser No	Subject	Requirement	Rs 3000 Cr and above	Greater than Rs 1,000 Cr and less than or equal to Rs 3,000 Cr	Greater than Rs 75Cr and less than or equal to Rs 1,000 Cr	Greater than Rs 25 Cr and less than or equal to Rs 75 Cr	Lesser than or equal to Rs 25 Cr	
1.	Credit Rating	Credit Rating from RBI approved Credit Rating Agencies at time of bid submission till declaration of L1. Latest Credit rating to be submitted by the TEC-qualified entities at time of CNC	Minimum A or equivalent.	Minimum A or equivalent.	Minimum BBB or equivalent.	Minimum BB or equivalent.	Minimum BB or equivalent	Credit Rating Certificate from RBI approved Agencies

<sup>48</sup> Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 22.04.2019

Eligibility and Qualification Criteria			CAT F1	CAT F2	CAT F3	CAT F4	CAT F5	Documentation Required (To be submitted along with the bid)	
			Outflow required for the Project per Year = Estimated Value of Contract / Number of Years prescribed for completion of the Project						
Ser No	Subject	Requirement	Rs 3000 Cr and above	Greater than Rs 1,000 Cr and less than or equal to Rs 3,000 Cr	Greater than Rs 75Cr and less than or equal to Rs 1,000 Cr	Greater than Rs 25 Cr and less than or equal to Rs 75 Cr	Lesser than or equal to Rs 25 Cr		
2.	Average Annual Turnover	Minimum average turnover of the bidder during the best three out of five FYs calculated as per audited balance sheets.	15 % of outflow required for the Project per year at time of bid submission	20 % of outflow required for the Project per year at time of bid submission	30 % of outflow required for the Project per year at time of bid submission	40 % of outflow required for the Project per year at time of bid submission	50 % of outflow required for the Project per year at time of bid submission	FORM – 1 (Annexure I to Appendix ‘O’ to Schedule I of Chapter IV)	
3.	Working Capital	Working Capital shall be more than or equivalent to 25 % of Outflow required for the project per year	The bidder shall demonstrate access to unutilised line of credit /overdraft facility / cash credit facility from its consortium of Banks during bid submission vide a letter issued by the Bank or lead Bank of the consortium. Alternatively or complimentarily, the Bidder should demonstrate liquid asset in form of cash/ marketable securities in its Balance Sheet. The amount required as working capital for the project would be indicated in the RFP.						FORM- 2 (Annexure II to Appendix ‘O’ to Schedule I of Chapter IV)



Eligibility and Qualification Criteria			CAT F1	CAT F2	CAT F3	CAT F4	CAT F5	Documentation Required (To be submitted along with the bid)
			Outflow required for the Project per Year = Estimated Value of Contract / Number of Years prescribed for completion of the Project					
Ser No	Subject	Requirement	Rs 3000 Cr and above	Greater than Rs 1,000 Cr and less than or equal to Rs 3,000 Cr	Greater than Rs 75Cr and less than or equal to Rs 1,000 Cr	Greater than Rs 25 Cr and less than or equal to Rs 75 Cr	Lesser than or equal to Rs 25 Cr	
4.	Annual Turnover for CAT F4 & F5	Exclusion of entities with average annual turnover (average of best 3 of last five FYs) of Rs 500 Cr and above, from participating in projects with per year project outflow lesser than or equal to Rs 75 Cr	N.A.			Average Annual Turnover less than Rs 500 Cr at the time of bid submission.		FORM 1 (Annexure I to Appendix ‘O’ to Schedule I of Chapter IV)

**Note:-**

- (a) Credit Rating should only be from RBI approved Credit Rating Agencies.
- (b) Annual Turnover is defined as “Annual Sales volume net of all discounts, taxes and interest earnings etc. excluding extraordinary income”.
- (c) The Audited Balance Sheets, Profit and Loss Account and cash flow statement of Group Companies shall not be considered for evaluation.

- (d) Annual Turnover would be substantiated through (i) Audited Balance Sheets of the relevant financial years, provided the figures, are stated in the Balance Sheet(s) or (ii) Specific certificate(s) issued by its Statutory Auditors.
- (e) In case of a Joint Venture, the JV firm should meet all the above mentioned financial criteria for the project.
- (f) In case of a newly formed Joint Venture (less than 05 year old), the Financial Criteria will be assessed as follows:-
  - (i) **Credit Rating** – The lead JV partner should meet the minimum credit rating required for the category.
  - (ii) **Average Annual Turnover** - Would be based on the turnover of individual JV members in the ratio of their share holding pattern based on the audited balance sheets.
  - (iii) **Working Capital** – JV firm should meet the Working Capital requirement.

**SCHEDULE I TO CHAPTER IV**

**DRAFT RFP FORMAT FOR**  
**SHIP BUILDING**



*Tel: 011-23011540*  
*Fax: 011-23017684*

**Schedule I to Chapter IV**  
(Refers to Para 69 of Chapter IV)

**(THIS RFP PROVIDES A STANDARDISED FORMAT FOR GUIDELINES. IT MAY BE VARIED DEPENDING ON USER REQUIREMENTS, TYPE/COMPLEXITY OF VESSEL(S)/EQUIPMENT/MACHINERY/TEST EQUIPMENT AND OPERATIONAL IMPERATIVES. SHQ MAY ALTER IT AS PER THEIR SERVICE REQUIREMENTS)**

*Technical Manager*  
*(Maritime & Systems)*  
*Room No. 05, D-II Wing*  
*Ground Floor*  
*Sena Bhawan*  
*New Delhi-110011*

Date .....

To

**REQUEST FOR TECHNICAL AND COMMERCIAL BIDS FOR PROCUREMENT OF (TYPE OF VESSEL) FOR THE INDIAN NAVY/COAST GUARD**

Dear Sir,

1. The Ministry of Defence/Integrated Head Quarters, Ministry of Defence (Navy) [IHQ MoD (N)]/Coast Guard, Government of India, intends to procure (type and No.s of vessel(s)) This Request for Proposal (RFP) consists of four parts as indicated below:-

- (a) **Part I.** The first part contains the general requirements comprising the type of vessel(s)/Yard crafts/auxiliaries etc (hereinafter referred to as vessel(s)), the numbers required, associated equipment, the time frame for deliveries, the environmental parameters for functioning, conditions of usage and maintenance, requirement for training, Maintenance Support Package (MSP), Offset obligations and warranty conditions etc. It includes procedure and last date and time for submission of bids.
- (b) **Part II.** The second part of the RFP incorporates the aspects of SQRs describing the technical requirements for the construction of the vessel(s) and installation of the associated equipment. The detailed operational characteristics and technical parameters and other relevant features that should be met by the vessel(s)/equipment are elucidated at **Appendix A**. The bidder would be required to offer certain equipment for field evaluation on a “No Cost No Commitment” basis (if applicable)
- (c) **Part III.** The Third part of the RFP consists of Commercial clauses of contract. The bidders are required to give confirmation of their acceptance of these clauses. The term bidder is used for the shipyard who will participate in the bidding process. The L1 bidder would be termed as Seller.

(d) **Part IV.** The fourth part of the RFP consists of criteria for evaluation and acceptance of bids in terms of **financial assessment parameters (Appendix 'O')**,<sup>48</sup> technical and commercial contents, evaluation criteria and price bid format. Submission of incomplete details in price bid format will render the bid liable for rejection.

2. This RFP is being issued under 'BUY (INDIAN-IDDMM)'/ 'BUY (INDIAN)'/ 'BUY AND MAKE (INDIAN)'/ 'BUY AND MAKE'/ 'BUY GLOBAL' category (as applicable) as described at **Para 6 to 10 of Chapter I of DPP 2016** The Indigenous Content as specified in **Appendix A** of Chapter I of **DPP 2016** will be based on the basic cost of the vessel (as per SI 2(b) of Price Bid format at **Appendix G** of this RFP).

2(a) The Firm / Company / Vendor will submit an undertaking that they are currently not banned / debarred / suspended from doing business dealings with Government of India / any other government organisation and that there is no enquiry going on by CBI / ED / any other government agencies against them. In case of ever having been banned / debarred / suspended from doing business dealings with Government of India / any other government organisation, in the past, the Firm / Company / Vendor will furnish details of such ban / debarment alongwith copy of government letter under which this ban / debarment / suspension was lifted / revoked<sup>41</sup>. The vendor shall also<sup>41</sup> declare that their sub-contractor(s)/supplier(s)/technology partner(s) are not Suspended or Debarred by Ministry of Defence. In case the sub-contractor(s)/supplier(s)/technology partner(s) of the vendor are Suspended or Debarred by Ministry of Defence, the vendor shall indicate the same with justification for participation of such sub-contractor(s)/supplier(s)/technology partner(s) in the procurement case.

2(b) Subsequent to submission of bids if any sub-contractor(s)/supplier(s)/technology partner(s) of the vendor is Suspended or Debarred by Ministry of Defence, the vendor shall intimate the Ministry of Defence regarding Suspension or Debarment of its sub-contractor(s)/supplier(s)/technology partner(s) within two weeks of such order being made public.

## **PART I: GENERAL REQUIREMENTS**

3. **Year of Production.** The Vessel(s) and all equipment/systems fitted/installed on board should be of latest manufacture, conform to the current production standard and should have 100% of the defined life at the time of delivery. Deviations, if any, should be clearly brought out by the bidder in the Technical Bid.

4. **Delivery Schedule.** The delivery schedule of the Vessel(s), ToT & Infrastructure Deliverables (where applicable) will be as per **Appendices K & L**. The Vessel(s) will be delivered along with all onboard equipment/systems, On Board Spares, Documentation, Tools, accessories and Test equipment or as specified separately (*The acceptable range of delivery schedule of the vessel(s)/deliverables must be indicated clearly in the RFP. Option for the bidder to indicate earliest delivery schedule must be given only in unavoidable cases*).

5. **Warranty.** The supplied vessel(s)/Equipment shall carry a warranty of \_\_\_\_\_months/years/operational hours from the respective date of delivery/acceptance of each vessel. In case of systems/equipment, which have not completed trials prior delivery, the warranty of that particular system/equipment would commence from the day of successful completion of trials. Draft Warranty Clause is given at **Appendix C**.

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<sup>41</sup>Amendment issued vide Enclosure K to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

<sup>48</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 22.04.2019

6. **Offsets (as applicable).** Offset obligation shall be discharged by the Seller in accordance with provision of DPP 2016. The bidder has to undertake “Offset Contracts” amounting to \_\_\_\_% (as approved by the DAC) of the value of the Contract Cost. The technical bid should include a written undertaking to this effect. Failure to discharge this undertaking at any stage will result in disqualification of the bidder from further participation in the evaluation process and the bid will be treated as null and void. The terms and conditions of Offsets are given at **Appendix J** to this RFP. (The procedure for the implementation of the offset obligations is given at **Appendix D to Chapter II** of DPP 2016.

7. **Maintenance Support Package (MSP)/Annual Maintenance Contract (AMC)** (This article envisages to explain maintenance philosophy of Buyer in general. This Para would be suitably included in the RFP for those vessels (s)/equipment where support package/AMC is intended. The AMC may be also applicable for equipment which are known at RFP stage such as nominated equipment etc). After the specified warranty period, the Indian Navy/Coast Guard technicians and (or) onboard crew would be required to repair and maintain the Vessel(s), including ship-borne equipment and systems, during its life cycle. To enable this process, an appropriate MSP would be required to be provided by the Seller. For this purpose the general concept of repair and maintenance of the Vessel(s)/equipment followed by the Indian Navy/Coast Guard and the details on Maintenance Support Package that is required to be provided is placed at **Appendix D**. (Note: If post warranty, AMC is also being sought from the shipyard/OEM, the level of AMC required with the spares/without spares/repair rate contract must clearly be indicated, as per requirements indicated in **Appendix D**.) The details of AMC bids, if sought for, must also be submitted separately by the bidder with technical aspects being included in the technical bid and commercial aspects being included in the price bid (Sl (p) of Price Bid at **Appendix G**).

8. **On Board Spares (OBS).** The Bidder in consultation with the equipment OEM is required to provide the following:-

(a) Generic list of Manufacturer’s recommended list of On Board Spares (MRL-OBS) required for servicing and maintenance including breakdown maintenance till **two** years after completion of warranty period of the vessel(s) based on ship equipment fit envisaged. This will also include tools and software as necessary. The format for forwarding the generic list (list of OBS with available information) is placed at **Annexure I to Appendix D**. The details which are not available during submission of bids will be populated post signing of the contract. The costs of the Spares are not required to be quoted in the technical bid.

(b) The MRL-OBS has to be recommended based on the likely consumption rate of the spares and on the exploitation pattern of the equipment. In case the vessel has been built earlier/equipment is already in usage, the spare parts requirement for the associated equipment for the vessel shall be based on statistical consumption pattern, rather than only being based on the MRLS. Bidder quoting lesser MRL-OBS in terms of range and depth will have to make good deficiency at their cost without any financial responsibility or liability to the Buyer within \_\_\_\_ days of intimation by the buyer to render equipment operational. Buyer would also have the option to amend the MRL- OBS proposed by the bidder during the Technical Negotiation of individual equipment to ensure its sufficiency, based on its past experience of exploitation of same/similar equipment. The seller would either 'Buy Back' the spares rendered surplus or exchange them on cost to cost basis with the spares as required by the Buyer. The said spares would be purchased/replaced by the seller, based on the prices negotiated in the contract.

9. **Base & Depot (B&D) Spares.** The Seller is to arrange supply of MRLS-B&D spares for five years of exploitation, up to 15% (including levies, taxes and handling charges) of the Basic Cost of the vessel. This would be based on the likely consumption rate and exploitation pattern of the equipment. The Seller would seek the comprehensive priced part identification list of spares along with manufacturer recommended B&D spares from all sub vendors along with the technical bid of all the machinery/equipment/weapon and sensors and forward it to the Buyer post signing of contract. This list would contain price, description, pattern no. and quantity fitted on each equipment in respect of various parts/components. The format for specifying the MRL- B&D is placed at **Annexure II to Appendix D**. The quotation of spares from the sub vendors should be valid for at least \_\_\_\_ months. The Buyer shall subsequently range and scale the B&D spares. The cost negotiation of B&D spares would be carried out by a committee constituted by the Buyer, wherein the Seller's and sub-vendor's representative would be a member. The Seller is to undertake procurement of the ranged and scaled spares as per the ordering instructions issued by the IHQ MoD (N)/CGHQ. The bidder is to indicate the total handling charges, remuneration, material overhead, etc., (termed as Cost of Handling) for B&D spares in the price bid at Sl (m) of the format placed at **Appendix G**. This cost quoted by the bidders at Sl (m) would be counted towards determination of L1. No other charges except this serial and taxes/levies on actuals would be paid over and above the B&D spares price negotiated by the Committee. The remuneration, handling charges etc of B&D spares as quoted in the price bid at Sl (m) would be paid on pro rata basis along with the stage payment of B&D spares on documentary evidence.

10. **In Service Life/Shelf Life/Reliability Assessment (As applicable).** The minimum Service Life of the vessel(s) is required to be \_\_\_\_ years (**may be specified**). The In Service Life/Shelf Life of the vessel(s)/equipment shall be stipulated in the bid. In case of shelf life of equipment, the relevant storage conditions should be clearly specified. The vendor is required to give details of reliability model, reliability prediction and its validation by designer/manufacturer to ensure reliability of stores throughout shelf life. The efficacy of reliability model/prediction/validation would be verified during technical evaluation.

11. **Product Support.** The bidders would be bound by a condition in the contract that they would be in a position to provide product support in terms of maintenance, materials and spares for a **minimum period of \_\_\_\_ years (may be specified on as required basis)**. Towards this, the bidder is to obtain contractual commitments from the various equipment manufacturers/vendors to provide product support for the said period from the date of delivery of the Vessel at the Buyer's designated Naval/CG base port, \_\_\_\_ (May be specified e.g. Mumbai). Even after the said mandatory period, the Seller would be bound to give at least 2 years notice to the Buyer prior to closure of the said production line, to assess the requirement of life time buy of all spares before closure of the said production line. This said aspect would also form an integral part of the Contract.

12. **First Outfit of Naval Stores.** The Seller shall supply the first outfit of Naval/CG Stores (Permanent & Consumable) along with the delivery of the vessel as per the list given in **Appendix A**. This will be factored in determination of L1 {Sl (a) 8 of Price Bid at **Appendix G**}.

13. **Documentation.** All drawings, Calculations, Instruction manuals, service manuals and other certificates/documentation of all equipment from manufacturers etc will be provided in English language with as fitted drawings and certificates. The bidder shall provide drawings and documentation in both hard and soft copy. The details of documentation to be provided by



the bidder are placed at **Appendix A** and have been further amplified at **Appendix D**.

14. **Training of Crew and Maintenance Personnel.** The crew of the vessel(s) and shore maintenance staff are required to be trained on the operation and maintenance of hull, electrical and engineering equipment, weapons and sensors installed onboard (Details at **Appendix A**). The details of the training would be finalised during the technical discussions prior to finalising/ordering of the equipment. The Crew are required to be trained for vessel Operation and onboard Repairs while the Maintenance Personnel are to be trained for Planned Preventive Maintenance and other repairs by Refitting Agency (Details at **Appendix A**) by the seller or the OEM of the equipment as applicable. The expenses towards the stay and travel of buyer's reps will be borne by the Buyer.

15. **Government Regulations.** It may also be confirmed that there are no Government restrictions or limitations in the country of the Seller/Equipment Vendor or countries from which sub-components are being procured and/or for the export of any part of the Vessel/system being supplied.

16. **Agents.** (Applicable in case of foreign vendors only). The vendor is required to disclose full details of any such person, party, firm or institution engaged as an Agent that may have been appointed by them for marketing of their vessel/associated equipment in India, either on a country specific basis or as a part of a global or regional arrangement. These details should include the scope of work and responsibilities that have been entrusted with the said party in India. If there is non-involvement of any such party then the same also be communicated in the offers specifically. The information is to be submitted as per the format placed at **Appendix N**. Without prejudice to the obligations of the vendor as contained in various parts of this document, appointment of an Agent by vendors will be subjected to the following conditions:-

- (a) Details of all Agents will be disclosed at the time of submission of offers and within two weeks of engagement of an Agent at any subsequent stage of procurement.
- (b) The vendor is required to disclose termination of the agreement with the Agent, within two weeks of the agreement having been terminated.
- (c) MoD reserves the right to inform the vendor at any stage that the Agent so engaged is not acceptable whereupon it would be incumbent on the vendor either to interact with MoD directly or engage another Agent. The decision of MoD on rejection of the Agent shall be final and be effective immediately.
- (d) All payments made to the Agent 12 months prior to tender submission would be disclosed at the time of tender submission and thereafter an annual report of payments would be submitted during the procurement process or upon demand of the MoD.
- (e) The Agent will not be engaged to manipulate or in any way to recommend to any functionaries of the Govt of India, whether officially or unofficially, the award of the contract to the seller, or to indulge in corrupt and unethical practices.
- (f) The contract with the Agent will not be a conditional contract wherein payment made or penalty levied is based, directly or indirectly, on success or failure of the award of the contract.
- (g) On demand, the vendor shall provide necessary information/inspection of the

relevant financial documents/information, including a copy of the contract(s) and details of payment terms between the vendor and the Agent engaged by him.

17. **Fall Clause.** If the bidder has earlier supplied/collaborated with any organisation, public/private in India, the details of the same may be furnished in the technical as well as price bids. The bidder is required to give a written undertaking that they have not collaborated/supplied or supplying similar design ships/Vessel(s), systems and sub-systems at a price lower than that offered in the present bid to any other Ministry/Department of the Government of India. The details regarding the cost, time of supply and quantities of such previous supplies to Government of India are to be included as an enclosure to the price bid. In case of non disclosure, if it is found at any stage that the Seller had such collaboration/supplied similar item earlier with any other Ministry/Department of the Government of India at a lower price, then that very price, will be applicable to the present case and, with due allowance for elapsed time, the difference in the cost would be refunded to the Buyer, if the contract has already been concluded.

18. **Intellectual Property/Patent Rights.** The bidder has to confirm that there are no infringements of any Intellectual Property Rights in accordance with the laws prevailing in their respective countries.

19. **Integrity Pact.** *(An Integrity Pact would be signed between MoD and the seller for all schemes exceeding ₹ 20 Cr irrespective of the value of the price bid).* In the subject RFP, the bidder is required to sign and submit pre contract Integrity Pact (IP) given at **Annexure I to Appendix H** and shall also deposit ₹\_\_\_\_\_Crores as Integrity Pact Bank Guarantee (IPBG) through any of the instruments mentioned therein. This would be submitted in a separate envelope clearly marked as 'IPBG' at the time of submission of Technical and price bids. **The Beneficiary Bank Details for furnishing IPBG are as follows<sup>15</sup>:-**

(IFSC Code - SBIN0000691)  
State Bank of India  
New Delhi Main Branch  
C Block, 11 Parliament Street  
New Delhi, Pin: 110001

20. **Transfer of Technology (ToT) for License Production/Buyout of ToT (as Applicable)**. The Government of India, Ministry of Defence is desirous of license production of the vessel(s)/generic equipment/system under ToT. Requirements related to ToT, for license production, which are to be fulfilled by the bidder, are given at **Appendix K**. Govt of India reserves the right to negotiate ToT terms subsequently but the availability of ToT would be a pre-condition for any further procurements. If negotiations for ToT are not held as a part of the negotiations for vessel, then subsequent and separate ToT negotiations would continue from the stage where the equipment has been selected. The total cost of ToT to be indicated at SI (h) of the price bid at **Appendix G**.

**Note:**

*(The RFP in such cases would spell out the requirements of ToT depending upon the depth of the technology which is required and whose range could cover technology for complete vessel/generic equipment/system construction, repair and overhaul; production from CKD/SKD kits. Aspects which are to be included in the RFP in-case of production from CKD/SKD/IM kits are given at Appendix K. Care should be taken to spell out the selection criteria clearly. The nominated Production Agency (PA) for the receipt of technology will be closely associated in the preparation of RFP).*

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<sup>15</sup>Amendment issued vide Enclosure H to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

21. **Knowhow for Maintenance Infrastructure (as applicable).** The Govt of India, Ministry of Defence is desirous that the yard level maintenance of the **vessel/generic name of fitted equipment** by refit agencies and the life time support for the **vessel/equipment** be carried out through a refitting agency. For this purpose the bidder is required to provide information in terms of relevant details for setting up maintenance facilities for yard level repairs/maintenance routines in India at the premises of the selected Indian firm as per the terms and conditions laid down in **Appendix E**. Cost towards providing this information/details are to be indicated clearly in the price bid.

22. **Modifications.** In the event of any requirement of modifications onboard the vessel during the construction/trials within or after Warranty period that would require any deviation from the approved schedules/plan of construction, the Seller is to take up all such modifications, with cost and time implications in consultations with the Buyer. The Buyer has the right to propose such modifications which should be undertaken by the Seller. All such modifications, if approved by the Buyer, would then be executed by the Seller at additional costs, not exceeding \_\_\_\_% of basic cost of the ship and extended time restricted to a maximum of \_\_\_\_% of original contract period under the project. The scope of the work and financial implications would be mutually agreed upon between the Seller and the Buyer.

23. **Queries.** Any queries/clarifications to this RFP may be received at this office by \_\_\_\_, which will be considered during pre-bid conference. A copy of the same may also be sent to (address of the user directorate).

24. **Pre-Bid Meeting.** A pre-bid meeting will be held at \_\_\_\_ hrs on \_\_\_\_ (date) at \_\_\_\_ (venue) to answer the queries or clarify doubts regarding submission of proposals. The bidder or his authorised representative is requested to attend. Necessary details may be sent a week in advance to (user directorate), to facilitate obtaining of security clearance.

25. The supporting documents pertaining to Financial Assessment Parameters,<sup>48</sup> Technical and Commercial bids should be sealed separately (the envelope should clearly state this letter No and the type of vessel/equipment) and submitted together along with 'IP' and 'IPBG' to the undersigned at the following address by \_\_\_\_ hours on \_\_\_\_.

Technical Manager (Maritime & Systems),  
Room No 5, D-II Wing  
Sena Bhawan  
New Delhi-110011  
Fax No: 23017684

26. The Technical bids and supporting documents pertaining to financial assessment criteria, as indicated at Appendix 'O',<sup>48</sup> will be opened at \_\_\_\_ hours on \_\_\_\_ at the same venue as indicated at Para 25 above. The bidder or his authorised representative is welcome to be present at the opening of the proposals. Necessary details may be sent a week in advance to facilitate obtaining of security clearance.

27(a). **Financial Parameter Evaluation Team (FPET).** The Financial Assessment Parameters in accordance with Appendix 'O' will be evaluated by a Financial Parameter Evaluation Team (FPET) constituted by SHQ prior to TEC, to ascertain the bidder's financial status. Supporting documents pertaining to financial assessment criteria, as indicated at Appendix 'O', are to be submitted by the bidders in a separate sealed envelope at the time of bid submission to be opened with the Technical Bid. TEC would be progressed only for bidders qualifying the stipulated Financial Assessment Parameters.<sup>48</sup>

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<sup>48</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 22.04.2019

27(b).<sup>48</sup> **Technical Evaluation Committee.** The Technical Bid will be evaluated by a Technical Evaluation Committee (TEC) to confirm that the Vessel(s)/equipment being offered meets the Essential Parameters and Enhanced Performance Parameters (EPP) (where applicable) as elaborated subsequently in this RFP at **Appendix A**. For cases where Essential Parameters 'B' are involved, TEC will confirm that the vendor has submitted the undertaking to this effect as per format placed at **Annexure I to Appendix A**. For cases where ToT for license production/information on maintenance infrastructure/maintenance support package is sought, the TEC will examine the compliance of the bidder as per the stated requirements of RFP. Thereafter, the TEC cleared bidders would be required to provide the equipment (\_\_\_No.s) for trial evaluation as per trial methodology given at Appendix A in India at 'No Cost No Commitment' basis (if applicable). (The details/scope of the trials, if other than NCNC in India, **to be included as per the decisions during AoN by the DAC/DPB**).

28. **Tests and Trials.** For a vessel(s)/equipment to be finally accepted in service it is mandatory that it successfully clears all tests/trials/evaluations. The trial evaluation process is listed in **Appendix A**. *Trials for Essential Parameters 'B' (if specified) in respect of equipment mentioned in the RFP would generally<sup>27</sup> be conducted only after signing the contract. However if any vendor(s) claims that the equipment fielded by them for FET can meet Essential Parameters 'B' and such vendors are willing to get their equipment trial evaluated for Essential Parameters B at FET stage (a written undertaking in this regard will be given by such vendor(s) to SHQ prior to date of commencement of FET) the same may be trial evaluated by SHQ for such vendor(s) during FET stage<sup>27</sup>.*

29. Price bids will be opened only of those bidders meeting the following criteria:-

- (a) Acceptance of technical bids by TEC.
- (b) Successful field evaluation trials of equipment mentioned in the RFP (as applicable).
- (c) Submission of Offset offer (as Applicable)

## **PART II : TECHNICAL PARAMETERS/DETAILS**

30. **Guideline Specifications (GLS).** The GLS, comprising broad operational characteristics and technical parameters along with other specifications of the vessel(s) are mentioned in **Appendix A**.

31. **Technical Bid.** The Technical Bid must enable detailed understanding of the functioning and characteristics of the vessel as a whole and each sub system independently. It must include the performance parameters as indicated in **Appendix A** and any other information pertaining to the technical specifications of the equipment considered important and/or/relevant, if desired in RFP. The technical bid should also include maintenance schedules to achieve maximum life and expected life of each equipment/machinery and assembly/sub assembly (or Line Replaceable Unit (LRU)/Shop Replaceable Unit (SRU), storage conditions/environment condition (if applicable/as indicated in the RFP) recommended and the resultant guaranteed in-service/shelf life.

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<sup>27</sup>Amendment issued vide Enclosure H to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

<sup>48</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 22.04.2019

32. **Technical Details.**

(a) The technical details should be factual, comprehensive and include specifications of the offered vessel(s)/system/equipment against broad requirements listed in **Appendix A** of RFP. The seller would be subsequently required to provide Statement of Technical Requirements (SOTRs) and Ordering Instructions (OIs) for vetting by IHQ MOD (N)/CGHQ in respect of all major equipment post signing of the contract. In cases where a vendor claims to have equipment meeting the EPP, details of the same shall be provided in the technical bid. EPP details not provided in technical bids, will not be allowed to be claimed subsequently.

(b) The technical bid should have a separate detachable compliance table as per format given at **Appendix B**, stating specific answers to all the parameters as listed at **Appendix A**. Insufficient or incomplete details may lead to rejection of the bid. Mere indication of compliance by indicating 'Complied' may be construed as incomplete information unless system specific technical details are available in the bid. A format of the compliance table for the technical parameters and certain important conditions of the RFP is attached as **Appendix B**. It is mandatory to append answers to all the parameters listed in **Appendix A**. Four hard copies of the Technical bid should be submitted (along with one soft copy); however only one hard copy of the price bid is required.

33. **Build Strategy.** As part of the Technical Bid, the bidder shall indicate the Broad Plan and Build Strategy of work for undertaking the construction of the vessel in keeping with the required delivery schedule and availability of Yard resources such as station/shipyard/dry- dock/slipway, where the vessels are likely to be built. The details are placed at **Appendix A**.

34. **Quality Assurance.** After the contract is finalised, Seller would be required to provide the Standard Acceptance Test Procedure (ATP) in respect of the vessel and its main equipment to the Buyer for approval. The concerned Quality Assurance agencies of the Buyer, reserves the right to modify the ATP, if necessary. As the Vessel is being built to Classification Society Rules/Naval specified specs, the vessel would be inspected by the Classification Society/applicable inspecting authority. The Buyer reserves the right to undertake additional Buyer inspections either directly or through its representatives. The Project Overseeing Team of the Buyer will represent the Buyer for co-ordination of all inspections/trials to be conducted on board the vessel or in the Shipyard, either on its own or with the assistance of any other Buyer nominated trial/inspection agency(s). The Seller will keep the Project Overseeing Team informed of trials/inspections to be carried out by Inspecting authority/Classification Society. The Buyer, through the Overseeing Team will have the final decision in this regard. The Seller is required to submit a certificate on embedded malicious code in accordance with **Appendix M**.

35. **Monitoring of Projects.** After placement of order the Buyer at his own expense may depute to the Shipyard at quarterly (or as considered necessary) intervals, teams of representatives to review and coordinate the progress of the commitments made by both the sides under the contract.

### **PART III: COMMERCIAL CLAUSES**

36. Bidders are required to give confirmation of their acceptance of Commercial clauses as given in **Appendix F** while formulating the price Bids.

37. **Standard Clauses of Contract.** The Bidder is required to accept Standard clauses regarding Agents, penalty for use of undue influence and Integrity Pact, access to books of accounts, arbitration and laws which would be incorporated in the contract. The text of these clauses is at **Appendix H**. In addition to this, the Standard Contract Document at Chapter VI of DPP 2016 (www.mod.nic.in) indicates the general conditions of contract that would be the guideline for all acquisitions. The draft contract would be prepared as per these guidelines.

38. **Option Clause (as applicable).** The Buyer shall have the right to place separate order on the Seller on or before \_\_\_\_ ( ) year from the date of the contract limited to 50% of the no of vessels contracted/facilities, services spares as per the cost, terms and conditions set out in this contract. The price of the system, spares etc. shall remain same till \_\_\_\_ year from the effective date of the contract.

#### **PART IV: EVALUATION CRITERIA& PRICE BID FORMAT**

##### 39. **Evaluation Criteria**

(a) **Evaluation of Financial Parameters.** To evaluate the bidder's financial status, assessment of financial parameters as elaborated at Appendix O would be undertaken prior to the TEC stage by Financial Parameter Evaluation Team (FPET). TEC would be progressed only for bidders qualifying the stipulated Financial Assessment Parameters.<sup>48</sup>

(b) **Evaluation of Technical Bids.** The technical bids forwarded by the bidders will be evaluated by a Technical Evaluation Committee (TEC). The TEC will examine the extent of variations/differences, if any, in the technical characteristics of the bid offered by various vendors with reference to the GLS/QRs and prepare a "Compliance Statement". This shall include technical parameters of equipment where field evaluation is envisaged. The TEC will also verify whether the Seller has submitted the undertaking to submit the Offset proposal in accordance with Para 6 of this RFP.

**Note 1: Evaluation Trials of Specialised Equipment(as applicable).** The requirement of Field Evaluation Trials for complete vessel(s), as per Para 62 of Chapter II of DPP 2016, will not be applicable for procurement cases in respect of acquisition/construction of Ships, Submarines, Yard Craft and auxiliaries, etc. However, Simulated Signature Studies of complete platforms in respect of stealth characteristics, magnetic signature, EMI/EMC, Noise analysis, etc may be included in the SOC in accordance with Para 65 of Chapter IV Section B of DPP 2016. The requirement of trials in the case of specialised new induction equipment/sensors being bought through the shipyard route should be detailed in the RFP. These would also be included in the Statement of Case while seeking the AON. The specialised equipment would be indicated in the SOC for which NCNC trials are envisaged. **Field Evaluation Trials would be conducted for Essential Parameters 'A' and EPP.** The TEC will prepare a 'Compliance Statement' short-listing the Sellers on the lines of **Appendix B** of this RFP.

**Note 2:** Essential Parameters-B, *when tested after signing of contract,*<sup>27</sup> will be evaluated as per the terms of the contract. The tests for Essential Parameters-B would also validate that there is no adverse effect on any of the Essential Parameters-A.

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<sup>27</sup>Amendment issued vide Enclosure H to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

<sup>48</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 22.04.2019

(c) **Evaluation of Technical Offset Offer (if applicable).** The technical offset proposal of the bidders will be evaluated by Technical Offset Evaluation Committee (TOEC) in accordance with **Appendix D of Chapter II** of DPP 2016 (available in [www.mod.nic.in](http://www.mod.nic.in)).

(d) **Evaluation of Price Bids.** The commercial bids of only those bidders will be opened whose technical bids have been cleared by TEC and also whose technical offset offers have been accepted technically. Comparison of bids would be done on the basis of Evaluation Criteria given in **Appendix G**. The L1 bidder would be determined by Contract Negotiation Committee (CNC) on the basis of **Appendix G**. Only L1 bidder would be invited for negotiations by CNC.

(e) **Contract Conclusion.** The contract will be signed after successful conclusion of CNC and approval of the competent authority. The Build Specifications will form part of the contract.

40. Bidders are required to submit firm and fixed Price Bid as per format given in **Appendix G**. The Price bid should not be conditional. The validity of the price bid shall be 18 months from the last date of submission of bids. The bids which do not conform to the prescribed procedure for submission of bids as indicated above or which are received after the scheduled time and unsolicited bids will not be entertained.

#### **Conditions Under Which This RFP is Issued**

41. This RFP is being issued with no financial commitment; and the Ministry of Defence reserves the right to withdraw the RFP and change or vary any part thereof or foreclose the procurement case at any stage. The Government of India also reserves the right to disqualify any seller should it be so necessary at any stage on grounds of National Security.

42. The receipt of this Request for Proposal should be acknowledged.

Yours faithfully,  
**Dy TM (MS)**

#### **Appendices:-**

**Appendix A-** Guideline Specifications for Vessels.

**Annexure I to Appendix A-** Undertaking to comply with Essential Parameters-B

**Appendix B-** Compliance Table for Vessels.

**Appendix C-** Warranty Clause

**Appendix D-** Repair and Maintenance Philosophy

**Annexure I to Appendix D-** Format for Manufacturer's Recommended List of Spares, Tools and Software

**Annexure II to Appendix D-** Format for Manufacturer's Recommended List of Spares (B & D)

**Annexure III to Appendix D-** Format for SMT/STEs, Jigs, Fixture and Infrastructure

**Annexure IV to Appendix D-** Format for Technical Documentation

**Annexure V to Appendix D-** Format for Training Aggregates and Training

**Appendix E-** Information/ Know How for establishing Maintenance Infrastructure with an Indian

Repair Yard

**Appendix F-Commercial Clauses**

**Annexure I to Appendix F-Stages of Payment**

**Annexure II to Appendix F-Project Monitoring System**

**Appendix G-Evaluation Criteria and Price Bid Format of Commercial Bid**

**Appendix H-Standard Clauses in Contract**

**Annexure I to Appendix H-Pre Contract Integrity Pact**

**Appendix J-Terms and Conditions of Offset**

**Annexure I to Appendix J-Undertaking to comply with Offsets**

**Annexure II to Appendix J- Format for Technical Offset Offer**

**Annexure III to Appendix J-Format for Commercial Offset Offer**

**Appendix K- Transfer of Technology**

**Annexure I to Appendix K- Documentation Details to be Provided by Collaborator**

**Annexure II to Appendix K-Format of Price Breakup of ToT**

**Annexure III to Appendix K-Infrastructure Deliverables**

**Appendix L- Delivery Schedule**

**Appendix M- Certificate-Malicious Code**

**Appendix N- Information Proforma (Engagement of Agents)**

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**GUIDELINE SPECIFICATIONS (GLS) FOR VESSEL(S)**

*(**Note:** These guidelines and specifications are indicative. These may vary as per the type of vessel(s)/Services/equipment and the intended requirements. IHQ MoD (N)/CGHQ may amend as per their requirements.)*

1. **Operational Characteristics and Features.** This information would be different for various vessel(s)/equipment. As such only the guide lines for formulating this Appendix have been stated here. The information provided here flows from the SQR and must contain the following:-

(a) The purpose for which this vessel(s)/equipment is needed or in broad outlines the capabilities that are needed.

(b) **Technical Parameters.** All technical parameters listed in the SQR in terms of size, weight, performance, operating environment, power, torque, preservation, utility life, storage, shelf life etc, should be specified.

(c) **Additional Features.** If any, should also be explained.

2. Based on above guide lines, this Appendix should be formulated very carefully for the vessel/type of equipment. The broad headings under which the Appendix could be populated are appended in succeeding paragraphs:-

3. **Test and Trial Methodology (Including field trials/simulated study etc).**

4. **First Outfit of Naval Stores.** (The First outfit of Naval stores to be listed as per the requirement of the IHQ/CGHQ)

5. **Training of Crew and Maintenance Personnel.**

6. **Documentation.**

7. **Operating Conditions of the Vessel(s).**

8. **COTS Technology.**

9. **Build Strategy**

10. **Miscellaneous**

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**Annexure I to Appendix A to Schedule I**  
(Refers to Para 27 of Schedule I)

**UNDERTAKING TO COMPLY WITH ESSENTIAL PARAMETERS-‘B’**

1. The Bidder \_\_\_\_\_ (Name of the Company) hereby
- (a) Undertakes to develop and meet all the requirements of Essential Parameters B as given at Appendix \_\_\_\_ of RFP for the procurement case of \_\_\_\_\_ issued on \_\_\_\_\_.
  - (b) Undertakes to produce the equipment for trials of Essential Parameters ‘B’ within the specified time frame as stipulated in the contract.
  - (c) Accepts that failure to meet the Essential Parameters B after signing of the contract and within the stipulated time frame, will lead to forfeiture of all bank guarantees (Performance Bank Guarantee, Additional Bank Guarantee and Advance Bank Guarantee) and attract other penal provisions as may be prescribed by the Govt.

**Note:** *Failure to submit the undertaking along with the Technical Bid shall render the bid invalid and will be rejected.*

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**Appendix B to Schedule I to Chapter IV**  
(Refers to Para 32(b) of Schedule I)

**COMPLIANCE TABLE FOR VESSELS**

**(Following table is to be filled up by the Bidder- All fields are compulsory)**

Ser No	Requirement as per the RFP	Compliance/ Partial Compliance of Para/sub Para of the RFP	Indicate references of Para/Sub Para of Main Technical Document
<b>Technical Parameters as per Appendix A</b>			
<b>Commercial Parameters as per RFP</b>			
(a)	Performance-cum-Warranty Bank Guarantee (PWBG) as per Para ____ of <b>Appendix</b> -____ of RFP		(Note:- Bidders are to indicate the compliance only)
(b)	Advance Payment Bank Guarantee (APBG) as per Para _____ <b>Appendix</b> ____ of RFP.		
(c)	Integrity Pact Bank Guarantee as per Para ____ and <b>Appendix</b> ____ of RFP (indicate amount of IPBG _____ Cr)		

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**Appendix C to Schedule I to Chapter IV**  
(Refers to Para 5 of Schedule I)

**WARRANTY CLAUSE**

**(May be amended prior issue of RFP, if required)**

1. The seller warrants that the Vessel, the associated equipment and service supplied under this contract conform to technical specifications prescribed and shall perform according to the said Technical Specifications.
2. The seller warrants for a period of \_\_\_\_\_ months from the date of acceptance of the Vessel by the Buyer at the designated Indian Port or as applicable, that the vessel and the associated equipment and service supplied under this contract and each component used in the manufacture thereof shall be free from all types of defects/failures. In case of systems/equipment, which have not completed trials prior delivery, the warranty of that particular system/equipment and service would commence from the day of successful completion of trials.
3. If within the period of warranty, the Vessel(s) and (or) stores and (or) spares are reported by the Buyer to have failed to perform as per the specifications, the Seller shall either replace or rectify the same free of charge, maximum within \_\_\_\_\_days of notification of such defect received by the Seller, provided that the Vessel(s) and (or) stores and (or) spares are used and maintained by the Buyer as per instructions contained in the Operating Manual. Warranty of the equipment would be extended by such duration. Record of the down time would be maintained by user in the log book. Spares required for warranty repairs shall be provided free of cost by Seller. The Seller also undertakes to diagnose, test, adjust, calibrate and repair/replace the goods/equipment arising due to accidents, by neglect or misuse by the operator or damage due to transportation of the goods by the Buyer during the warranty period, at the cost mutually agreed to between the Buyer and the Seller, subject to acceptance of the attributability by the Buyer of such damage, which will be intimated by the Seller to the Buyer.
4. The Seller hereby warrants that necessary service and repair back up during the warranty period of the Vessel(s) and (or) stores and (or) spares shall be provided by the seller and he will ensure that the downtime is within \_\_\_\_\_days of the warranty period at any one time from the notification of such defects and not exceeding a cumulative period of \_\_\_\_\_ days within warranty period.
5. In case the complete delivery of Maintenance Support Package/AMC is delayed beyond the period stipulated in this contract, the Seller undertakes that the warranty period for the Vessel (s) and (or) stores and (or) spares shall be extended to that extent.(This clause will be applicable if MSP/AMC is sought along with this RFP).

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### **REPAIR AND MAINTENANCE PHILOSOPHY**

*(Note: The Repair and Maintenance Philosophy is only indicative and pertains to a particular service. SHQ concerned may amend this as per their requirement. No blanks to be left)*

1. The various levels of maintenance and repairs are explained in succeeding Paras. (However, all levels may not be applicable to all types of vessel/equipment. As such the type of repair facility required for the vessel/equipment for which the RFP is being issued should be stated clearly by modifying the succeeding Paras).
2. The **Operational-Cum-Refit cycle** of the vessel should be as follows: -
  - (a) ( ) **years** operation cycle.
  - (b) The dry-docking interval shall be ( ) **years**.
3. **Ship Level Repairs/Maintenance.** The Vessel would be maintained by the crew/operators during the operational cycle, who are required to carry out the ship level repairs. These tasks pertain to minor repairs and replacement of components and minor assemblies that can be carried out on board the vessel without the use of highly specialised tools or test equipment. **On Board Spares (OBS)** are utilised for undertaking ship level repairs and maintenance. The requirements of spares and tools are indicated in succeeding Paras.
4. **Yard Level Repairs/Maintenance.** The repairs which are beyond the scope of ship's staff are carried out by trained technicians during periodic refits by naval dockyards/repair organisations. The bidder is required to provide the quantity & specifications of these spares, Special Maintenance Tools & Test equipment, technical documents etc. to carry out such repairs as broadly indicated in Paras below. The B&D Spares required by Refit Agencies are inclusive of replenishment of OBS as well as to meet requirements of unit level repairs on board.

#### **Spares**

5. **On Board Spares (OBS).** The Bidder is required to provide sufficient OBS for all equipment for on board repairs, scheduled servicing & maintenance of all equipment falling due till (as specified) years of the operation of the vessel after warranty, along with the delivery of the vessel in conformity to the requirement of spares/tools/jigs stipulated in the exploitation/maintenance document of respective equipment/system. To this purpose, the Seller is required to provide Manufacturer's Recommended List of On board Spares (MRL-OBS) in format provided at **Annexure I to Appendix D**. The Seller shall satisfy himself of the suitability and sufficiency of the MRL- OBS. The Seller shall establish the range and depth of spares required to support the ship level repair and maintenance for the prescribed period. The Seller shall also be fully liable in respect of the quality and quantity of the recommended spares and must supply any shortfall of spares without any financial responsibility or liability to the Buyer. A certificate of sufficiency for MRL-OBS has to be

submitted by the bidder along with the technical bid.

*(Note: To be read in conjunction with Para 8 of Part I of this RFP)*

6. **Base and Depot (B&D) Spares.** The Seller is to arrange supply of MRLS-B&D spares for five years of exploitation, up to 15% (including levies, taxes and handling charges) of the Basic Cost of the vessel. This would be based on the likely consumption rate and exploitation pattern of the equipment. The seller would seek the comprehensive priced part identification list of spares from all sub vendors along with the technical bid of main equipment and forward it to the Buyer. This list would contain price, description, Pattern no. and quantity fitted on each equipment in respect of various parts/components. This list along with the MRLS B&D spares for each sub vendor would be submitted for all the machinery/equipment, while finalising the respective equipment post signing of the main contract and as per timelines decided by buyer. The format for specifying the MRLS-B&D is placed at **Annexure II to Appendix D.**

7. **Spares Documentation.** A comprehensive Part Identification List (PIL) is to be provided for all equipment and system components in lines of the format enclosed in **Annexure II to Appendix D.** A detailed component list and identification are also required to be provided to facilitate retrieval.

8. **Special Maintenance Tools and Test Equipment and Software.** The general purpose maintenance tools, test equipment and software used for maintenance on board would be supplied as per MRL-OBS route. In case of additional Test equipment for onboard/shore maintenance, Buyer could indicate this requirement in the RFP upfront. The bidder in such cases would include these additional test equipment in the technical bid with details in the format placed at **Annexure III to Appendix D.** The cost for these is to be included under SI (d) of the price bid format placed at **Appendix G.** The cost column should be left blank in the Technical Bid.

9. **Technical Documentation.** The details of technical literature to be supplied with the system should be listed as per the suggested format at **Annexure IV to Appendix D.** This should be provided with both Technical and price Bids. The cost column should be left blank in the Technical Bid. The overall financial implications for these will be included under SI (e) of the price bid format placed at **Appendix G.**

10. **Training Aggregates.** The requirement of training for the vessel and associated equipment are specified at **Appendix A.** The requirement of Training aggregates for the vessel(s)/equipment in terms of simulations, models, training aids and cut section of certain equipment, if required will be specified by the buyer. These will be costed and submitted to buyer along with the technical and commercial bid as per **Annexure V to Appendix D.** The cost column is to be left blank in the technical bid. The overall financial implications for these will be included under SI (f) & (g) of the price bid format placed at **Appendix G.**

11. **Maintainability Evaluation Trials.** (Applicable only when trials are required)

12. **Annual Maintenance Contract.** (Requirement to be specified if AMC is sought)

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**Annexure I to Appendix D to Schedule I**  
(Refers to Para 5 of Appendix D)

**MANUFACTURER'S RECOMMENDED LIST OF SPARES TOOLS AND SOFTWARE (MRL-OBS)**  
**(To be submitted in accordance with Para 8 of Part I of RFP)**

**VESSEL/EQUIPMENT:** \_\_\_\_\_

<b>S. No</b>	<b>Eqpt Part No./Mod el no./ SI No.</b>	<b><i>Eqpt Descri- ption</i></b>	<b><i>OEM Name</i></b>	<b>Vendor Name</b>	<b>Illustrated Spare Part List (ISPL) Reference /Part No. of Spare</b>	<b>Desc of Spare</b>	<b>Country of Origin</b>	<b>Unit Price</b>	<b>Seller Order No. &amp; Date</b>	<b>Currency Code</b>	<b>Total Qty</b>	<b>VED* Category</b>	<b>Recomm- ended scale for No of vessel(s)</b>	<b>Remarks</b>

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**Annexure II to Appendix D to Schedule I**  
(Refers to Para 6 & 7 of Appendix D)

**MANUFACTURER'S RECOMMENDED LIST OF SPARES (MRL-B&D)**  
**(To be submitted while finalising Equipment post signing of Contract)**

**VESSEL/EQUIPMENT:** \_\_\_\_\_

S.No	Eqpt Part No./Model no./SI No.	Eqpt Description	OEM Name	Vendor Name	Illustrated Spare Part List (ISPL) Reference/Part No. of Spare	Desc of Spare	Country of Origin	Unit Price	Seller Order No. & Date	Currency Code	Total Qty	VED* Category	Recommended scale for No of vessel(s)	Remarks

\* **VED -VITAL/ESSENTIAL/DESIRABLE analysis** of spares to be carried out by OEM prior to submission to the Buyer. **Original Equipment Manufacturer (OEM):** .....(Complete Address)

**Notes:** (Combined for Annexures I and II to Appendix D)

1. Data regarding maintenance spares/stores like lubricants, sealing compound, gases should be given separately giving source of supply.
2. Data furnished as OBS and B&D should also include software backups, as applicable.
3. In 'Remarks' column following information (if applicable) be given:-



- (a) *If an item has a shelf/operational life it be marked as 'G' and life be indicated.*
  - (b) *Matching set of components be indicated.*
  - (c) *Item which can be locally manufactured in India should be marked 'LM'.*
  - (d) *Items which cannot be manufactured in India due to sophisticated design/technology may be marked as 'SI' (Special Item).*
  - (e) *If a component/assembly is common to other similar equipment offered by the OEM earlier, these should be marked 'CM' and name of the equipment be indicated.*
4. *OBS and B&D spares list should be drawn out of the 'Part List' of the equipment, which should be separately given as part of Technical Manuals.*
5. *If the main equipment consists of other equipment, then OBS and B&D spares list should be prepared for them under proper heads. OBS and B&D spares list is to be prepared as per the maintenance concept of the customer.*
6. *Items provided along with the equipment as spares should also be included in OBS and B&D list.*
7. *Modules/Shop Replaceable Unit (SRU)/assemblies should be listed and their components should be included under them so as to relate each item of spare to their module/SRU/assembly.*
8. *OBS and B&D list for test equipment should also be provided on the similar format.*
9. *Cost to be indicated in Price bid only*

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**Annexure III to Appendix D to Schedule I**  
(Refers to Para 8 of Appendix D)

**LIST OF SMT/STEs, JIGS, FIXTURE AND INFRASTRUCTURE (As applicable)**  
**(To be submitted with the Technical/Commercial bid as applicable)**

**Name of Vessel/Equipment** \_\_\_\_\_

**Original Equipment Manufacturer (OEM):** \_\_\_\_\_

S.No.	Manufacturer's Part No.	Item Name	Unit Cost	Nos. Required		Brief Purpose	Remarks
				Onboard	Repair by Refit Agency		

**Notes:**

1. Prepare separate sheet for each type of equipment.
2. Specify in remarks column whether the Special Test Equipment (STE)/Special Maintenance Tools (SMT) can be used as general purpose equipment on any other kind of equipment.
3. For Ship level repair quantity required should be for repair of one ship set at a time. For Yard level repair/Maintenance, qty should be for repair of sets of equipment fitted onboard the Vessel(s) of the contract.
4. If test equipment is commercially available ex-India, the source of supply be specified.
5. Test equipment for calibrating the STEs should be included in the list above.
6. Test equipments which are required to be provided by the customer should also be included in the list above.
7. Cost to be indicated in Price bid only.

\*\*\*\*

**Annexure IV to Appendix D to Schedule I**  
(Refers Para 9 of Appendix D)

**TECHNICAL DOCUMENTATION (as applicable)**  
**(To be submitted with the Technical/Commercial bid)**

Name of Vessel/Equipment: \_\_\_\_\_

Original Equipment Manufacturer (OEM): \_\_\_\_\_

Ser	Technical Literature	Unit Cost	Scale For No of Vessels	Total Cost	Remarks
1.	User Handbook/Operator's Manual				
2.	Design Specifications				
3	<b><u>Technical Manual</u></b>  (a) <b><u>Part I.</u></b> Tech description, specifications, functioning of various systems.  (b) <b><u>Part II.</u></b> Inspection/Maintenance tasks Repair procedures, materials used, fault diagnosis and use of Special Maintenance Tools (SMTs)/Special Test Eqpt (STE)s.				

	(c) <b><u>Part III.</u></b> Procedure assembly/disassembly, repair up to component level, safety precautions  (d) <b><u>Part IV.</u></b>  (i) Part list with drawing reference (ii) List of SMT/STEs with Test Bench				
4	Manufacturer's Recommended List of Spares (MRLS)				
5	Illustrated Spare Part list (ISPL)				
6	Technical Manual on STE with drawing reference.				
7	Soft copy on the above Tech literature				
8	Any other (specify) e.g. Service logs etc.				

**Total Cost:**

- Notes:**
1. *In case any additional equipment is used, their tech literature will be included.*
  2. *If certain technical literature is being provided free of cost, it should be indicated in the remarks column.*
  3. *Cost: To be indicated in Price Bid only.*

\*\*\*\*

**Annexure V to Appendix D to Schedule I**  
(Refer Para 10 of Appendix D)

**TRAINING AGGREGATES AND TRAINING (as applicable)**  
**(To be submitted with the Technical/Commercial bid)**

**Name of Vessel/Equipment:** \_\_\_\_\_

**OEM:** \_\_\_\_\_

<b>S. No</b>	<b>Description of Training Aggregate</b>	<b>Scale for 01 Vessel</b>	<b>Unit Cost</b>	<b>Total Cost</b>	<b>Remarks</b>

1. Complete Equipment
2. Sectionised Equipment
3. Computer based training package based on interactive multimedia to include
  - (a) Full graphics, Animation test and sound
  - (b) Symptoms-fault correlation (expert system).
  - (c) Symptoms-fault correlation (expert system).
4. Training Aids to include

- (a) Charts
  - (b) Slides
  - (c) Training Brochures
  - (d) Training Work models
  - (e) Blow up diagram
  - (f) Soft Copy
5. Cost of Training \_\_\_operators and \_\_\_technicians for \_\_\_per Vessel-Cost to be indicated in Price bid only.
6. Total Cost: To be indicated in Price bid only.

\*\*\*\*

**INFORMATION/KNOWHOW FOR ESTABLISHING MAINTENANCE  
INFRASTRUCTURE WITH AN INDIAN REPAIR YARD (Specific Paras may  
be amended as per requirement by the Buyer)**

**(These guidelines are indicative. These may vary as per the type of service/equipment and the intended requirements. SHQ concerned may amend these as per their requirement. No blanks to be left).**

1. The yard level maintenance (third line) and the life time support for the Vessel will be carried out at Buyer's Repair Yards, competent in conventional vessel repairs. Therefore the bidder is required to provide information and documentation along with a list of special equipment required for setting up of maintenance infrastructure and facilities for third line repairs in India at the premises of Indian Repair yards.

2. **Scope of Maintenance.** It is desired that the Indian Repair yards should be able to accomplish the following towards providing maintenance support for the life cycle of the equipment:-

(a) Carry out yard level repairs to include repair of major assemblies, sub assemblies of the equipment.

(b) The scope of these repairs is elaborated subsequently. You are required to take into consideration these aspects while preparation of your maintenance plans.

3. **Maintenance Infrastructure.** To enable the Indian Repair yards to provide life time maintenance support, it is essential that the facilities required are listed out in elaborate details.

**Note:** *The following is just a guideline and would vary on case to case basis. The SHQ will have to work out the exact details prior to issuing out the RFP.*

4. **General.** The information shall be provided to the designated Ship Repair yard for yard Level maintenance to cover all aspects of maintenance of the vessel through the Indian Repair Yards. It shall be comprehensive and shall cover all aspects of maintenance up to the lowest level which will enable the Maintenance Agency to repair, overhaul and support and maintain the Vessel(s)/Equipment. The document shall include the details that are needed for any deviation/concession during the maintenance/modifications/upgrades of the Vessel(s)/Equipment.

5. **Documentation.**

(a) The Documentation to be provided by the Bidder shall be in English language in Electronic and hardcopy formats and include documentation under the following heads:- (if required vendors may quote translation charges separately to enable the production agencies to decide whether to undertake the translation themselves or to seek the

English version of the documentation from the vendor).

- (i) 'Yard' level Maintenance documentation (specs to be specified) by Repair Agencies.
- (ii) Engineering documentation including special processes.
- (iii) Software documentation including source code (if applicable), build environment and utilities.
- (iv) Details of Special tools and Test equipments, Jigs & Fixtures.
- (v) Seller's Standard Technical Manuals.
- (vi) Illustrated parts catalogue with price list.
- (vii) Source identification for standard parts, sub contracted items; consumables etc.
- (viii) Mandatory spares replacement lists and price catalogue for unit/base levels of maintenance.

(b) The documentation to be supplied by the Bidder shall be that which is used by the Bidder or its sub contractors for the purpose of maintenance of the Vessel(s)/Equipment and their respective equipment. The Bidder will ensure completeness and exhaustiveness of the documentation for the purpose and work to be performed by the maintenance agency for maintenance/overhaul of the Vessel(s)/Equipment in his plant. Wherever approval of certification agency is relevant, approved documents will be provided. Certification standards as far as possible will be relevant MIL Specs or as mutually agreed with the User's Certification Agency. All the certification documents generated for obtaining certification in the country of origin to be supplied. Further, vendor should supply such documentation as may be required by the Indian Certification Authorities.

(c) The Bidder shall also provide the data in respect of MTBF, MTBO, MTBR and Reliability of the vessel/its equipment being offered.

(d) **Labour Hours.** The Bidder should indicate their stabilised labour hours and Turnaround time for each of the two levels of maintenance clearly indicating the learning curve adopted.

6. **Special Technologies/Processes.** The bidder shall mention in the document about special technologies and special coatings and treating processes along with details of plant and machinery vis-à-vis specific components/assemblies.

7. **Special Maintenance Tools (SMTs) and Special Test Equipment (STEs).**

(a) The Bidder shall provide complete technical data of the SMTs and STEs used in the Maintenance of Product. This information shall also include the data for manufacture and maintenance of the SMTs and STEs. Details on manufacturing hours are to be provided.

(b) Details of special category test equipments along with test rig/test set up shall



also be provided. Wherever software is used, details of the software including Source Code shall be provided.

(c) The Bidder shall provide details of calibration and periodicity of calibration in respect of SMTs and STEs. Details of master tester and associated special facilities required for this purpose (with source of supplies) will be provided by the bidder.

8. **Standard Tooling and General Industrial Requirement.** The Bidder is to provide list/Technical details of standard tooling and general industrial requirement for carrying out 'Yard' maintenance.

9. **Software Backup.** The Bidder is to provide data in respect of the software/firmware backup on magnetic media with necessary equipment and detailed procedure for reloading of software/firmware. The same is required in the event of software corruption or failure of memory devices for the reloading of the software/firmware.

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**COMMERCIAL CLAUSES**

**1. Payment Terms.**

(a) **INCOTERMS for Delivery.** The delivery of vessels/goods will be based on:-

(i) For multi-vendor cases in Buy (Global) and 'Buy and Make' category, the delivery of vessels/goods will be based on the INCOTERMS 2010.

(aa) **For Foreign Bidders.** CIP.....INCOTERMS 2010, maximum cover and consigned to ..... with ultimate consignee as.....

(ab) **For Indian Bidders.** DDP/..... with ultimate consignee as .....

*(Note: For other cases, depending upon the nature of proposal, any of the following INCOTERMS 2010 may be used-EXW, FCA, CPT, CIP, DAT & DDP.)*

(b) **Currency of Payment.**

(i) Foreign bidders should submit their bids only in US Dollars/Euros/Pound Sterling or any other currency.

(ii) Indian bidders should submit their bids in Indian Rupees only.

(c) **Payment to Foreign Bidders.**

(i) The Payment Terms as per the \_\_\_\_ stage payment schedule are given in **Annexure I to Appendix F.**

(ii) **Advance Payment.** All stages till the delivery of vessel, where there are no 'Deliverables' would be construed as advance (as defined at **Annexure I to Appendix F**). The Seller is required to furnish BG for advance payment from banks of international repute and the details of the bank have to be furnished in the commercial bid. Buyer reserves the right to consult Parliament Street branch of State Bank of India, New Delhi as to whether to get the BG from a foreign bank confirmed. The Advance Payment Bank Guarantee (APBG) (if provided for combined vessels) will be deemed to be proportionately and automatically reduced until full extinction along with and prorated to value of each delivery, as evidenced by corresponding copy of document proving delivery and invoices of goods/services supplied/provided. The seller has the option to furnish separate Bank guarantees for each vessel. For stage payments relevant to advance, payments will be released based upon the Completion certificate for all activities mentioned therein given by Buyer's rep and any other relevant documents as

specified in the contract. The date of delivery would be reckoned from the date of release of Advance payment by the Buyer to the Seller (T<sub>0</sub>), provided the Seller submits the documents mandated by the DPP for release of advance by the Buyer within 45 days of signing of contract. In the event of the Seller not submitting the said documents within 45 days of signing of contract, the period between the 45<sup>th</sup> day and actual submission of documents will be excluded from the actual date of advance payment to arrive at the delivery date. In case, no advance is to be paid, the date for reckoning date of delivery would be the date of signing of contract. This clause will not be applicable in cases wherein Advance payment is released after FOPM is successfully validated. In such cases, date of accord of Bulk Production Clearance will be date for reckoning date of delivery<sup>33</sup>.

(aa)<sup>34</sup> In cases where Export License is required to be submitted by the Seller to the Buyer prior to release of Advance Payment, a copy of vendor's application for export license to their government may be provisionally accepted in lieu of export license, for release of Advance Payment with the caveat that the vendor should submit the requisite Export License prior to release of next payment from the Buyer.

(iii) **On Delivery.** The Seller will give a notification to Buyer about the readiness of vessels/goods for delivery at least 45 days prior to delivery of vessels/goods. Paid shipping documents are to be provided to the Bank by the Seller as proof of dispatch of goods as per contractual terms so that the Seller gets payment from LC. The Bank will forward relevant documents to the Buyer for getting the vessel released from the Port/Airport. Documents will include -

- (aa) Clean on Board Airway Bill/Bill of Lading (Original)
- (ab) Commercial Invoice (Original)
- (ac) Inspection Acceptance Certificate demonstrating compliance with the technical specifications of the Seller to be issued by the Buyer.
- (ad) Certificate of Origin, duly stamped from Seller's Chamber of Commerce.
- (ae) Certificate of Quality and current manufacture from OEM.
- (af) Physio-sanitary/Fumigation Certificate.
- (ag) Packing List
- (ah) Insurance and freight documents
- (aj) Landing certificate issued by Port Authority.
- (ak) Training certificate issued by the Buyer.

**(Note:** *The above list is illustrative. The documents that may be required, depending upon the peculiarities of the procurement being undertaken, may be included/excluded in RFP).*

(iv) **Post Delivery.** The seller will obtain clearance certificate from user and submit any other relevant documents as specified in the contract for last stage payment as per **Annexure I to Appendix F** for claiming this stage payment.

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<sup>33</sup> Amendment issued vide Enclosure C to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

<sup>34</sup> Amendment issued vide Enclosure D to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

(v) **Mode of Payment.** Payment shall be made through Irrevocable Letter of Credit (LC) or Direct Bank Transfer (as applicable). The payment will be arranged through any Public / Private Sector Indian bank authorized for government transactions by RBI<sup>32</sup> (as decided by the Buyer), to the Bank of the Foreign Seller. Letter of Credit will be opened by the Buyer within one month of receipt of the Performance-cum- Warranty Bank Guarantee for full value of contract. The Letter of Credit will be revolving and valid for \_\_\_days from the date of its opening. Payments through LC and DBT will be subject to the instant Uniform Customs and Practice for Documentary Credit (UCPDC) of the International Chamber of Commerce. The LC will be confirmed at Seller's cost if requested specifically by the supplier. Where extension of LC is necessitated, the Bank charges for extension shall be borne by the Party whose default causes such an extension. Banking charges will be paid by the Buyer and Seller in their respective countries.

(vi) **AMC Payments.** Quarterly/Half-yearly/Annually payments will be made by PCDA/CDA on submission of User clearance certificate through DBT.

*(Note: This Para may be included if there is AMC clause in RFP. Choice of Quarterly/Hal-yearly/Annually may be decided as per merits of the case).*

(d) **Payment to Indian Bidders.**

(i) The payment terms as per the stage payment schedule are given in **Annexure I to Appendix F**.

(ii) **Advance Payment.** All stages till the delivery of vessel, where there are no 'Deliverables' would be construed as advance (as defined at Annexure I to Appendix F). The Seller is required to furnish BG for advance payment. Bank Guarantee should be from any Public Sector bank or Private Sector bank authorised by RBI<sup>17</sup>. The Advance Payment Bank Guarantee (APBG) (if provided for combined vessels) will deemed to be proportionately and automatically reduced until full extinction along with and prorate to value of each delivery, as evidenced by corresponding copy of document proving delivery and invoices of goods/services supplied/provided. The seller has the option to furnish separate Bank guarantees for each vessel. For stage payments relevant to advance, payments will be released based upon the Completion certificate for all activities mentioned therein given by Buyer's rep and any other relevant documents as specified in the contract. The date of delivery would be reckoned from the date of release of Advance payment by the Buyer to the Seller (T<sub>0</sub>), provided the Seller submits the documents mandated by the DPP for release of advance by the Buyer within 45 days of signing of contract. In the event of the Seller not submitting the said documents within 45 days of signing of contract, the period between the 45<sup>th</sup> day and actual submission of documents will be excluded from the actual date of advance payment to arrive at the delivery date. In case, no advance is to be paid, the date for reckoning date of delivery would be the date of signing of contract. This clause will not be applicable in cases wherein Advance payment is released after FOPM is successfully validated. In such cases, date of accord of Bulk Production Clearance will be date for reckoning date of delivery<sup>33</sup>.

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<sup>17</sup>Amendment issued vide Enclosure L to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

<sup>32</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

<sup>33</sup>Amendment issued vide Enclosure C to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

(iii) **On Delivery.** The payment will be made after successful delivery and acceptance of the vessel by IHQ MoD(N)/CGHQ on submission of following documents :-

- (aa) Ink-signed copy of Seller's bill.
- (ab) Ink-signed copy of Commercial invoice.
- (ac) Inspection Acceptance Certificate demonstrating compliance with the technical specifications of the Seller to be issued by the Buyer.
- (ad) Claim for statutory and other levies to be supported with requisite documents/proof of payment, as applicable.
- (ae) Exemption certificate for taxes/duties, if applicable.

*(Note: The above list is illustrative. The documents that may be required, depending upon the peculiarities of the procurement being undertaken, may be included/excluded in RFP).*

(iv) **Post Delivery.** The seller will obtain clearance certificate from user and submit any other relevant documents as specified in the contract for last stage payment as per **Annexure I to Appendix F** for claiming this stage payment.

(v) **Mode of Payment.** The payment will be made by PCDA/CDA who will release the payment through cheque/EFT to an Escrow Account as per modalities of Escrow Agreement signed between the Buyer, Seller and Escrow account operating Bank at the time of signing of contract.<sup>48</sup>

(vi) **AMC Payments.** Quarterly/Half-yearly/Annual payments will be made by PCDA/CDA on submission of User clearance certificate through issue of cheque/EFT.

*(Note: To be included if there is AMC clause in RFP)*

(vii) **Payment of Taxes and Duties on Completed Vessels.** Payment of taxes, duties and statutory levies on completed vessels will be made at actuals, based on submission of requisite documentary proof to Paying authority. Necessary exemption certificate, as per applicable Govt notifications, shall be issued by the Buyer to the Seller.

(e) **Payment Terms For B&D Spares.** The payment for B&D spares will be as follows:-

Stage	Cost Payable and Activity	Time Schedule
I	10% of B&D Spares Cost	On the date of signing the contract and against Advance Bank Guarantee (10% of cost of B&D Spares including total handling charges as quoted in commercial bid). (SHQ can modify the term as per each project requirement)

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<sup>48</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 22.04.2019

Stage	Cost Payable and Activity	Time Schedule
II	90% of B&D Spares Cost	On pro-rata basis on proof of receipt by the consignee. (SHQ can modify the term as per each project requirement)

The percentage of advance paid and LD (if any) on B&D spares will be deducted from the relevant stage payment of B&D spares. The percentage and amount of advance to be deducted should be indicated in every stage bill while claiming the payment. The full amount of advance paid will be adjusted in stages.

(f) **Payment Terms for Project Monitoring Expenses.** The payment stages will be decided based on mutual deliberation between Buyer and Seller during CNC (**Annexure II to Appendix F** refers).

**1.1 Payment by Letter of Credit (LC).** For Capital Acquisition, Category “Buy Global” (other than Defence PSUs in *ab initio* Single Vendor Cases or as a nominated production agency), Indian vendors can exercise option to take payment either through Letter of Credit (LC) or Bank Transfer. The payment terms would be regulated as given below:-

Clause	Where Supplier opts for payment through Letter of Credit	Where Supplier opts for payment through Bank transfer
1	The Accounting and Payment currencies shall be Rupees only. However, Exchange Rate Variation (ERV), as per ERV provisions contained in Para 6 of this Appendix, where permissible, shall be paid, only in INR.	
2	<p>The components of total contract price are as follows:</p> <ul style="list-style-type: none"> <li>(a) Value of goods supplied - Basic cost of Goods including ESP, as per the Contract</li> <li>(b) Freight and Insurance - As per the Contract</li> <li>(c) Training charges and technical literature</li> <li>(d) Reimbursable expenses - Taxes and duties as admissible under the Contract</li> <li>(e) AMC charges-As per the Contract</li> <li>(f) Installation and Commissioning charges- As per the Contract</li> </ul>	
3	<p>The total contract price referred to in Article 1 of the contract shall be paid as follows:-</p> <ul style="list-style-type: none"> <li>(a) Advance Payment. ____% of total value of goods supplied being ₹----- shall be paid to the SELLER, through Bank Transfer, within 30 days of the receipt of the following documents:</li> <li>(b) Advanced Bank Guarantee as per Article 3B of the Contract.</li> <li>(c) Performance cum Warranty Bond as per Article 4 B of the Contract.</li> <li>(d) Any other specific document (like proforma invoice) if required.</li> </ul> <p><b>(Note:</b> The second stage advance payment after completion of specific milestone</p>	

	may also be paid through Bank Transfer.)	
4	For the second/next stage payment the SELLER has the option to seek payment either through Bank transfer from the O/o of PCDA _____ or through Letter of Credit.	
5	<p>Where the SELLER opts for payment through LC, all payments except for the first stage payment as per clause 3 above shall be made by LC, as per following conditions:-</p> <p>(a) The SELLER will give a notification to the BUYER about the readiness of goods for dispatch 45 days prior to the delivery of the consignment.</p> <p>(b) Consequent on receipt of the above notification, the BUYER shall open the Letter of Credit through PCDA before expiry of this period of 45 days provided a 5% Performance cum Warranty Bond for the Full value of the Contract has been received.</p> <p>(c) The Letter of Credit will be opened with a <b>Public / Private Sector Indian bank authorized for government transactions by RBI<sup>32</sup></b>, for _____% of the Contract value with the SELLER's Bank, i.e. _____ &amp; Seller's Account No. _____. It will be valid for a period of _____ days/months from the date of opening.</p> <p><b><i>Note:</i></b> <i>Since the LC charges are fixed on per quarter basis, it may be ensured that LC validity is fixed in multiples of 90,180,270 days/months depending upon the delivery schedule. In case the delivery is in multiple consignments and there is a long delivery schedule more than one LC or revolving Letter of Credit can be opened.</i></p> <p>(d) The payment against LC shall be made to the SELLER against presentation of the documents specified.</p> <p>(e) In the event of delay in opening the Letter of Credit (reasons for which are solely attributable to Buyer), the delivery date will automatically stand extended to that extent. Formal</p>	<p>Where the SELLER opts for payment through Bank Transfer payment shall be made as per following conditions:-</p> <p>(a) The SELLER will give a notification to the BUYER about the readiness of goods for dispatch 45 days prior to the delivery of the consignment.</p> <p>(b) Once a Supplier opts for payment through Bank Transfer, no changes in mode of payment would be permitted.</p>

<sup>32</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

	<p>amendment/certification from Buyer will be required as shipment date would have to be amended in SWIFT form accordingly.</p> <p>(f) All expenses connected with establishment of the Letter of Credit in India will be borne by the SELLER.</p> <p>(g) Where the extension of the validity of Letter of Credit is necessitated, the Bank charges for extension shall be borne by the party whose default causes such an extension.</p> <p>(h) Once a Supplier opts for payment through LC, no mid-way changes in mode of payment are permitted.</p> <p>(j) The Letter of Credit shall be subject to and shall be governed by the instant Uniform Customs and Practices for Documentary Credits issued by the International Chamber of Commerce.</p> <p>(k) Any amendment in LC terms will be subject to Buyer's approval.</p>	
6	All payments will be carried out with reference to the number of this contract.	
7	<p>The Second/next Stage payment comprising _____% of the value of goods supplied and full freight and insurance (where admissible) thereon, shall be paid to the Seller on submission of the following documents, in six copies each:</p> <p>(a) Commercial invoices in original.</p> <p>(b) Contractor's bill in original.</p> <p>(c) Certificate of Conformity and Acceptance test report at the Pre Despatch Inspection signed by BUYER's and the SELLER's Quality Assurance Department. In case BUYER's representative do not attend the PDI, then certificate issued by the BUYER that it does not wish to attend the PDI and Inspection and acceptance certificate issued by the SELLER.</p> <p>(d) Proof of Despatch (original copies of RR, P. Way bill of Lading, Airway bill as applicable).</p> <p>(e) Packing List.</p> <p>(f) Warranty certificate from the supplier.</p> <p>(g) Certificate of current manufacture from OEM.</p> <p>(h) Insurance documents for 110% of the cost of consignment, except where the supply is Ex-Works.</p> <p>(j) Proof of Duty/Tax paid/reimbursable like deposition receipt/challan etc.</p> <p><b><u>Note:</u></b></p> <p><i>(iii)The Invoice and Contractor's bill must show the contract reference number, break-up of costs in terms of unit costs, total costs, exchange rate element, percentage rates of taxes and duties and amount payable/paid, in complete detail.</i></p>	



	<i>(iv) Three copies of SELLER's Commercial Invoices, proof of dispatch, packing list and the specifications will be sent by courier and fax by the SELLER to the BUYER (Wing of Service HQ to be specified) within 3 days after the equipment has been shipped. Intimation may also be forwarded to Ministry of Defence, South Block, New Delhi (Wing to be specified).</i>	
8	<p>Payment of other components of contract-</p> <p>(a) <u>Training</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative that training program has been completed.</p> <p>(b) <u>Reimbursable Expenses</u>. Based on documentary proof of actual payment against the contract, issued by relevant statutory authority. Suppliers may ensure submission of same with details of contractual obligations completed and payments received. <b>This clause shall form part of LC.</b></p> <p>(c) <u>Installation and Commissioning Charges</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative. <b>Documents in proof of rates claimed shall need to be annexed.</b></p> <p>(d) <u>AMC Charges</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative.</p>	<p>Payment of other components of contract-</p> <p>(a) <u>Training</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative that training program has been completed.</p> <p>(b) <u>Reimbursable Expenses</u>. Based on documentary proof of actual payment against the contract, issued by relevant statutory authority. Suppliers may ensure submission of same with details of contractual obligations completed and payments received.</p> <p>(c) <u>Installation and Commissioning Charges</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative.</p> <p>(d) <u>AMC Charges</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative.</p>
9	<p><u>Balance Payment</u>. The balance payment for ____% shall be paid to the SELLER against presentation of following documents:-</p> <p>(a) Copies of invoices (three copies).</p> <p>(b) Copy of JRI and acceptance certificate issued by the BUYER.</p> <p>(c) Contractor's bill</p> <p>(d) Extended bank guarantee wherever required</p>	
10	<p>SELLER's bankers address and account number: -</p> <p>Bank Name:</p> <p>Branch Name:</p> <p>Account No.:</p> <p>Sort Code:</p> <p>SWIFT Code:</p>	<p>SELLER's bankers address and account number:-</p> <p>Bank name:</p> <p>Branch name:</p> <p>Bank account No.:</p> <p>IFSC Code</p> <p>MICR Code</p>

	IFSC Code RTGS No	
11	Where admissible, tax deduction at source will be done <b>by the Bank releasing payment against LC.</b>	Where admissible, tax deduction at source will be done <b>by PCDA.</b>
12	Payment/recovery in terms of the Contract will be made <b>by the Bank releasing payment against LC.</b> All documents under the LC shall be delivered by the Bank to PCDA (through Trade Finance CPC, New Delhi).	Payment/recovery in terms of the Contract will be made <b>by PCDA.</b>

2. **Performance-cum-Warranty Guarantee.** A Performance-cum-Warranty Bank Guarantee (PWBG) of 5 % of the Contract cost would be furnished by the Seller in the form of a Bank Guarantee. The contract cost would be the **Total Cost {SI 2(n) of Appendix G + Modification Cost + B&D Spare cost excluding cost of handling B&D spares SI 2(m)}**. In case of foreign Sellers, Bank guarantee will be from a Bank of international repute. Details of the bank are to be furnished in the commercial bid. Buyer reserves the right to consult Parliament Street branch of State Bank of India, New Delhi as to whether to get the BG from a foreign bank confirmed. In case of Indian Sellers, the PWBGs are required to be furnished from any Public Sector bank **or Private Sector bank authorised by RBI<sup>17</sup>**. Confirmation of the same from SBI **or any other Bank<sup>17</sup>** is not required. The PWBG shall be submitted by the Seller within one month of signing of contract and shall be valid for a period, until three months beyond the warranty period, as specified in the RFP.

*(Note: The procedure for confirmation of BGs of foreign banks by Indian banks will be done as per Acq Wing ID Note No. PC to F.4 (500)/D (Acq)/08 dated 25.06.2009).*

3. **Indemnity Bond.** DPSUs may furnish Indemnity Bonds instead of Bank Guarantees towards Advance Payment Guarantee and Performance-cum-Warranty Guarantee.

*(Note: This Para is to be included only in the Single tender/PAC cases with DPSUs. In competitive bidding cases, Para 2 above will be applicable to DPSUs also).*

4. **Inspection.** Pre Dispatch Inspection (PDI) would be at the discretion of the Buyer. In addition JRI may also be carried out. If it is PDI, the Seller should intimate at least 45 days prior to the day when the equipment is to be offered for PDI to enable Buyer's QA personnel to be available for inspection. In case of JRI, the representative of the Seller may be present for inspection after the equipment reaches the concerned destination. The Seller would be informed of the date for JRI.

5. **Liquidated Damages (LD).**

(a) In the event of the Seller's failure to submit the Bonds/Services/Guarantees/Documents or/and delay in completion of the project and if the delay is attributable to the Seller, the Buyer may at his discretion withhold any payment until the completion of the contract. In case of delay in completion of the project and if the delay is attributable to the shipyard, Liquidated Damages will be levied after a Grace Period, as amplified below:-

<sup>17</sup>Amendment issued vide Enclosure L to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

(i) **Grace Period.** Grace period will be calculated at the rate of 5% of the build period (in months), subject to a minimum of one month and a maximum of three months.

(ii) **Liquidated Damages.** Beyond the Grace Period, LD will be levied at the rate of **1/100 of the delay percentage** {Delay percentage = (Period of Delay wrt the build period, in Weeks) x 100 / (Build Period in weeks as per contract)}<sup>45</sup> of the Vessel Cost ~~of the ship~~<sup>29</sup> upto a limit of 10%, for every week of delay or part of a week delay (Any extension given by the buyer for delay attributable to buyer or Force Majeure Clause to be factored in delivery period)<sup>45</sup>. Vessel cost is as defined at Para 2 of **Annexure I to Appendix F** of Schedule to Chapter IV, excluding cost for BFE and B&D spares.

(iii) Waiving of LD may be done at the discretion of Buyer, if it is established by Buyer that the reasons for delay is either on account of Buyer or due to Force Majeure (as mentioned in Article 24, Chapter-VI, DPP 2016).

(b) **Consequence of Not Achieving Specified Speed/Performance (Optional Clause).** “The Contractual speed of the ship shall be.....Knots, based on the measured mile trial runs, with clean hull, in calm and deep water, at fully loaded condition. If the speed with clean hull in deep and calm water is less by more than ½ knot of contractual speed, the Vessel Cost (Total of SIs (a) to (k) of **Appendix G**, excluding Cost of ToT), as adjusted by the escalation clauses of the Ship, shall be reduced by 0.5% for every shortfall in speed of 1/2 knot, or on pro-rata basis for part thereof from the contractual speed. If the speed falls short by more than..... knot, the Seller shall take necessary steps to bring the speed to the .....knot at their own cost and within an indicated time frame. (The Buyer may also include specific consequences for not achieving major performance parameter in lieu of the clause of not achieving speed.)

(c) **Consequence of Delay in Delivery of B&D spares.** In the event of the Seller's failure to have the B&D Spares delivered by the date/dates specified in the contract, the Buyer may, at his discretion withhold any payment until the whole of the Spares have been supplied and the Buyer may also deduct from the seller, liquidated damages to the sum of **1/100 of the delay percentage** {Delay percentage = (Period of Delay in Delivery in Weeks) x 100 / (Delivery Period in weeks as per contract)} of the contract price of the delayed/ undelivered spares mentioned above for every week of delay or part of a week, subject to the maximum value of the Liquidated Damages being not higher than **10%** of the contract price of the value of delayed spares (Any extension given by the buyer for delay attributable to buyer or Force Majeure Clause to be factored in delivery period)<sup>45</sup>.

5A. **Denial Clause**<sup>22</sup>. In case the delay in delivery is attributable to the seller or a non-force majeure event, the Buyer may protect himself against extra expenditure during the extended period by stipulating a denial clause (over and above levy of LD) in the letter informing the supplier of extension of the delivery period. In the denial clause, any increase in statutory duties and/or upward rise in prices due to the Price Variation Clause (PVC) and/or any adverse fluctuation in foreign exchange are to be borne by the seller during the extended delivery period,

<sup>22</sup>Amendment issued vide Enclosure C to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

<sup>29</sup>Amendment issued vide Enclosure K to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

<sup>45</sup>Amendment issued vide Enclosure O to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

while the Buyer reserves his right to get any benefit of downward revisions in statutory duties, PVC and foreign exchange rate. Thus, PVC, other variations and foreign exchange clauses operate only during the original delivery period. The format for extension of delivery period/performance notice under the Denial clause is at Annexure III to Appendix L to Schedule I of Chapter II.

6. **Exchange Rate Variation.**

(a) Exchange Rate Variation (ERV) shall be applicable for Rupee contracts with Indian vendors, based on RFPs issued under all categories of Capital Acquisitions, where there is import content. The indigenous and import components as also the various currencies (of the import contents) for ERV purposes, must be determined in advance. However, ERV clause shall not be applicable to contracts in the following conditions:-

- (i) **The delivery period is less than one year; or**
- (ii) **The rate of exchange variation is within the band of +/- 2.5%.**

(b) Detailed time schedule for procurement of imported material and their value at the FE rates adopted in this case is to be furnished by the Indian Bidders as per the format given below, which will be incorporated in the contract for payment purposes respectively –

**Year wise and major currency wise import content break up**

<b><u>Year (Y is Contract signing)</u></b>	<b><u>Foreign Exchange details as per Sl (S), Appendix G</u></b>			
	<b><u>US Dollars</u></b>	<b><u>Euros</u></b>	<b><u>Pound Sterling</u></b>	<b><u>Other Curriencies (As applicable)</u></b>
Y + 0				
Y + 1				
Y + 2				
Y + 3				
Y + 4				
<b>Total</b>				

(c) ERV will be payable/refundable depending upon movement of exchange rate with reference to the Base Exchange rate on the ERV Reckoning Date. Base Exchange rate of each currency, used for calculating FE content of the contract, will be the BC Selling rate of the State Bank of India (Parliament Street Branch, New Delhi). *The ERV reckoning date will be the last date of submission of Commercial bids as per RFP. In cases where Option Clause is exercised, the date of reckoning of ERV will be the last date of submission of bids for the RFP of the Original Procurement Case*<sup>24</sup>.

<sup>24</sup>Amendment issued vide Enclosure E to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

(d) The year-wise amount of foreign exchange component of the imported items, as indicated in table above by Bidder, shall be adjusted for the impact of ERV of the Rupee, based on the exchange rate prevailing (as notified by SBI, Parliament Street Branch, New Delhi) on the date of each transaction. The impact of notified Exchange Rate Variation shall be computed on a yearly basis for the outflow as tabulated in Para 6(b) above and shall be paid/refunded before the end of the financial year based on the certification of IFA of the concerned Service HQs, after pre-audit by Paying Authority.

(e) Documentation for claiming ERV -

- (i) A bill of ERV claim enclosing worksheet.
- (ii) Copies of import orders placed on the suppliers.
- (iii) Invoice of supplier for the relevant import orders.
- (iv) Banker's certificate/Debit advice detailing FE paid.
- (v) Exchange rate as on date of transaction, as notified by SBI, Parliament Street Branch, New Delhi.

(f) ERV clause will not be applicable for extended periods in case delivery periods for imported content are subsequently to be re-fixed/extended *unless the reasons for delivery period extension are attributable to the Buyer*. In addition, the ERV will be paid as per the exchange rate which is lesser between the date of original delivery period and actual transaction date.

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**Annexure I to Appendix F to Schedule I**  
(Refers to Para 1(c) & (d) of Appendix F)

**STAGES OF PAYMENT**

1. The terms of payment may vary between each project depending upon a variety of factors such as indigenous content, necessity for building infrastructures, imports, design considerations and development of indigenous technology. However, some broad guidelines for payment terms are appended in subsequent Paras.

2. The Vessel Cost (Total of SIs (b) to (k) of **Appendix G**, excluding Cost of ToT) will be paid as per following stages on completion of respective stage activity (The Vessel Cost will not include Costs towards Handling of B & D Spares and Project Monitoring System, the payment stages of which have been specified at Paras 1(e) and 1(f) of **Appendix F** respectively. The Payment Stages of ToT, if applicable, will be specified separately):-

(a) **For Commissioned Vessels.** 15 stages payment with pre-requisites as elaborated below:-

Stage	% of Vessel's Fixed cost	Activity	Schedule To be finalised during CNC
I	10%	With signing of contract (10% of Contract cost)	
II	10%	(a) Proof of ordering Steel/Hull Construction Material (b) Submission of Cardinal date programme/Production PERT	
III	5%	(a) Submission of Drawing Schedule (b) Submission of detailed network of activities including Work Breakdown up to launching of vessel (c) Submission of main hull structural drawing (d) Order for all major pre-launch items finalised and placed	
IV	5%	(a) Completion of 10% physical progress of construction and submission of weight analysis for first ship of the series only (b) Submission of equipment installation schedule	

Stage	% of Vessel's Fixed cost	Activity	Schedule To be finalised during CNC
V	5%	(a) Completion of 15% physical progress of construction and submission of weight analysis for first ship of the series only (b) Completion of main engines, gear box girders & seatings/m/c seatings as applicable to erecting of 60% hull	
VI	5%	(a) Completion of 25% physical progress of construction and submission of weight analysis for first ship of the series only (b) All access holes to be cut and preparation of main seatings in m/c compartment (c) Placement of order for major equipment & systems affecting conduct of basin trials	
VII	5%	(a) Pressure test of built in tanks (b) Manufacture/procurement of W/T doors and hatches (c) Submission of network of balance activities upto delivery alongwith resource allocation	
VIII	10%	(a) Completion of installation of machinery, equipment & fittings with the associated system required for reaching pre launch stage and submission of weight analysis for first ship of the series only (b) Launching of the vessel or equivalent stage of construction reached	
IX	5%	Completion of 40% physical progress of construction and submission of weight analysis for first ship of the series only	
X	5%	Completion of 60% physical progress of construction and submission of weight analysis for first ship of the series only	
XI	5%	Completion of 85% physical progress of construction and submission of weight analysis for first ship of the series only	
XII	10%	Completion of Basin trials	
XIII	5%	(a) Completion of inclining experiments and submission of weight analysis for first ship of the series only and draft survey for subsequent ships (b) Successful completion of CST (c) Completion of Training	

Stage	% of Vessel's Fixed cost	Activity	Schedule To be finalised during CNC
XIV	5%	(a) Successful completion of FMT (b) Stowage of all Onboard Spares (c) All documentation, drawings, manuals for the ship to be made available to the concerned agencies as per specifications (d) Completion of first reading of D-448 and acceptance of vessel	
XV	10%	All defects/ deficiencies and contractor's liabilities including guarantee repairs/dry docking to be completed.	

(b) **For Yard Craft, Auxiliaries.** Seven stages payment with pre-requisites as elaborated below:-

Stage	% of Vessel's cost	Activity	Pre-Requisites
I	10%	On signing of the Contract (10% of Contract cost)	On submission of bank guarantee of equal value and Performance-cum-Warranty Bond of 5% of the contractual cost. DPSUs may submit indemnity bond, when nominated.
II	20 %	(a) Proof of ordering of steel/Hull Construction Material (b) Submission of cardinal date programme/production PERT. (c) Submission of drawing schedule (d) Submission of main hull structural drawings. (e) Order for all major pre-launch items finalised and placed. (f) Erection of 40 % hull. (g) Submission of equipment schedule. (h) Completion of main engines, Gear box girders & seatings/machinery seatings as applicable to erection of 40% hull.	To be certified by Owner's rep/Overseer.



Stage	% of Vessel's cost	Activity	Pre-Requisites
III	10 %	<p>(a) Completion of main engines, gear box girders &amp; seatings/machinery seatings as applicable to erection of 70% hull.</p> <p>(b) All access holes to be cut and preparation of main seatings in machinery compartments.</p> <p>(c) Manufacture/procurement of W/T doors and hatches</p> <p>(d) Pressure test of built in tanks.</p> <p>(e) Submission of network of balance activities.</p>	To be certified by Owner's rep/Overseer.
IV	10 %	<p>(a) Erection of 100 % main hull</p> <p>(b) Placement of order for major equipment &amp; system affecting conduct of basin trials</p> <p>(c) Pressure test of built in tanks</p> <p>(d) Submission of network of balance activities</p>	To be certified by Owner's rep/Overseer.
V	15%	<p>(a) Completion of installation of machinery, equipment and fittings with the associated systems required for reaching pre launch stage.</p> <p>(b) Launching of the vessel or equivalent stage of construction reached</p> <p><b>Note:</b> <i>If large amount of machinery is to be placed after the launch of the vessel, this stage may be split into two @ 10% or 7.5% each.</i></p>	To be certified by Owner's rep/Overseer.

Stage	% of Vessel's cost	Activity	Pre-Requisites
VI	30%	<p>(a) Completion of Basin Trials.</p> <p>(b) Completion of inclining experiment and draft survey for subsequent crafts.</p> <p>(c) Successful completion of contractor's sea trials (form part of vessel acceptance trials).</p> <p>(d) Successful completion of final machinery trials.</p> <p>(e) Stowage of all on-board spares.</p> <p>(f) All documentation, drawings, manuals for the ship to be made available to the concerned agencies as per specifications.</p> <p>(g) Completion of first reading of D-448 and acceptance of the vessel.</p>	To be certified by Owner's rep/Overseer.
VII	5%	All defects, deficiencies and contractor's liabilities including guarantee repairs & dry docking to be completed.	

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**PROJECT MONITORING SYSTEM**  
**(General Guidelines. To be altered as per requirements of the Project)**

1. **Project Monitoring.** In view of the complex nature of the ship building projects involving multi disciplinary efforts from a number of agencies, a high level of multi layered, proactive project management mechanism is required to be set up for ensuring the timely completion of the Project. The primary features of the Project Management System (PMS) envisaged are as follows: -

- (a) Enterprise Project Monitoring using Commercial Off the Shelf (COTS) enterprise software tools.
- (b) On line web based project monitoring, drawing approvals, online alerts, status reports, project analysis, trouble-shooting etc.
- (c) Turn Key maintenance, administration and project analysis support by the PMS provider.
- (d) The project monitoring software, hardware etc. will be offloaded to proficient vendors at actual and the responsibility of training will be with the vendor contracted for the same.

2. The broad scope of supply and work for the PMS required is as follows: -

- (a) Project planning, monitoring and analysis support to the Project Manager.
- (b) Project management as a collective portfolio of sub-projects, tasks, resources, supply etc. for better decision-making using an advanced Enterprise Project Management tool e.g. Primavera/Microsoft Project Enterprise Edition etc.
- (c) Facilitate improved project team communication by having a system wherein all Project stakeholders have access to up-to-date information and can communicate within the system. The system is to use a web based design, with on-line connectivity for data, voice and video.
- (d) Supply of required software and hardware and other IT infrastructure.
- (e) Maintenance, administration and support of the PMS.
- (f) Training on the system.
- (g) Any other accessories which could help in project monitoring and co- ordination.

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**FORMAT FOR EXTENSION OF DELIVERY PERIOD/PERFORMANCE NOTICE<sup>22</sup>**

Name of the Procuring Entity.....

Extension of Delivery Period/Performance Notice

To

M/s (name and address of firm)

Sub: Contract No..... dated.....for the supply of.....

Ref: Your letter no. .... dated: .....

Dear Sir,

1. You have failed to deliver {the (fill in qty.) of Stores/the entire quantity of Stores} within the contract delivery period [as last extended up to] (fill in date). In your letter under reply you have asked for [further] extension of time for delivery. In view of the circumstances stated in your said letter, the time for delivery is extended from (fill in date) to (fill in date)

2. Please note that notwithstanding the grant of this extension in terms of Clause (fill in clause number) of the subject contract an amount equivalent to ..... % (..... per cent) of the delivered price of the delayed goods for each week of delay or part thereof (subject to the ceiling as provided in the aforesaid clause) beyond the original contract delivery date/the last unconditionally re-fixed delivery date (as & if applicable), viz., (fill in date) will be recovered from you as liquidated damages. You may now tender the Stores for inspection [balance of the Stores] in terms of this letter. Stores if any already tendered by you for inspection but not inspected will be now inspected accordingly.

3. You are also required to extend the validity period of the performance guarantee for the subject contract from (fill in present validity date) to (fill in required extended date) within 15 (fifteen) days of issue of this amendment letter.

4. The above extension of delivery date will also be subject to the following Denial Clause:-

(a) That no increases in price on account of any statutory increase in or fresh Imposition of customs duty, GST or on account of any other taxes/duty, including custom duty), leviable in respect of the Stores specified in the said contract which takes place after (insert the original delivery date) shall be admissible on such of the said Stores, as are delivered after the said date; and,

(b) That notwithstanding any stipulation in the contract for increase in price on any other ground including foreign exchange rate variation, no such increase which takes place after (insert the reckoning date as per DPP 2016) shall be admissible on such of the said Stores as are delivered after the said date.

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<sup>22</sup>Amendment issued vide Enclosure C to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

(c) But nevertheless, the Buyer shall be entitled to the benefit of any decrease in price on account of reduction in or remission of customs duty, GST or on account of any other Tax or duty or on any other ground as stipulated in the price variation clause or foreign exchange rate variation which takes place after (insert the original delivery date).

5. All other terms and conditions of the contract remain unaltered. This is without any prejudice to Buyer's rights under the terms and conditions of the subject contract.

6. Please intimate your unconditional acceptance of this amendment letter within 10 (ten) days of the issue of this letter failing which the contract will be cancelled at your risk and expense without any further reference to you.

Yours faithfully,  
(Authorised Officer)  
Duly authorised,  
for and on behalf of  
The President of India

**Note:** Select one option within { } brackets; delete portion within [ ] brackets, if not applicable; fill in ( ) brackets. Brackets and this note are not to be typed.

Substitute following first para instead of first para in format above, for issuing a performance notice.

1. You have failed to deliver {the (fill in qty.) of Stores/the entire quantity of Stores} within the contract delivery period [as last extended up to] (fill in date). In spite of the fact that the time of delivery of the goods stipulated in the contract is deemed to be of the essence of the contract, it appears that (fill in the outstanding quantity) are still outstanding even though the date of delivery has expired. Although not bound to do so, the time for delivery is extended from (fill in date) to (fill in date) and you are requested to note that in the event of your failure to deliver the goods within the delivery period as hereby extended, the contract shall be cancelled for the outstanding goods at your risk and cost.

**EVALUATION CRITERIA AND PRICE BID FORMAT**<sup>31</sup>

1. **Evaluation Criteria.** The guidelines for evaluation of Price Bids will be as follows:-
  - 1.1. Only those Bids will be evaluated, which are found to be fulfilling all the eligibility and qualifying requirements of the RFP, both technically and commercially. The bidder, whose price is arrived as lowest as per Evaluation criteria given in this Appendix, will be declared as L-1 bidder by Buyer.
  - 1.2. While carrying out evaluation of bids to determine L1 (including where DCF Technique is applicable), the following criteria would be followed:-
    - 1.2.1 **In Case of Foreign Bidders.** All costs, taxes (including GST) and duties quoted by foreign bidders at Serials (a) to (m) and Serial (p) (where applicable) of Para 2 below [including the basic cost {on CIP/DAT/DAP basis, (as applicable to the procurement case)} along with Basic Custom Duty (BCD) & IGST (as applicable)] would be considered for purpose of comparison of various bids. All the foreign bids will be brought to a common denomination in Indian Rupees by adopting **Base** Exchange Rate as BC Selling rate of the State Bank of India, Parliament Branch, New Delhi, **on the ERV reckoning date (as defined in Para 6(c) to Appendix F), ie, the last date of submission of commercial bids as per RFP.**
    - 1.2.2 **In Case of Indian Bidders including Defence PSUs/OFs.** All costs, taxes (including GST) and duties quoted by the vendor at Serials (a) to (m) and Serial (p) (where applicable) of Para 2 below would be considered for purpose of comparison of various bids.
    - 1.2.3 **Where DCF Technique as Given in Para 4 is Not Applicable.** L-1 bidder will be determined on the basis of quoted cost of all items including all taxes and duties payable to Central/State/Local Governments.
    - 1.2.4 **Where DCF Technique as Given in Para 4 is Applicable.** DCF technique will be applied including taxes and duties to ascertain the NPV which would be used for determining L1 bidder.
  - 1.3 Custom duty on input materials shall not be loaded by the Indian Bidders in their price bids, if they are exempted under the existing Notifications. In such cases, necessary Custom Duty Exemption Certificate (CDEC) shall be issued by the Buyer. In cases where Custom Duty is not exempted, Basic Custom Duty on input material is to be included in the cost of Basic Equipment, Installation/Commissioning/Integration, BNE, ToT, MRLS, SMT, STE, ESP and any other item listed at Column (ii) of Para 2 below.

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<sup>31</sup>Amendment issued vide Enclosure A to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

1.4 If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price will prevail and the total price will be corrected based on indicative rates of taxes and duties at columns (vi) and (vii) of Para 2 below. If there is a discrepancy between words and figures, the amount in words will prevail for calculation of price.

2. **Price Bid Format.** The Price Bid Format is given below and Bidders are required to fill this correctly with full details. No column of the Bid format has to be left blank. The clubbing of serials/sub serials to indicate a consolidated cost is not acceptable. Columns of 'quantity', 'unit cost', 'total cost (including all taxes and duties)', 'GST/IGST (%) and Custom Duty (%) are to be filled up with positive numerical values or 'Nil' at every row as applicable. If any column is not applicable and intentionally left blank, the reason for the same has to be clearly indicated in the remarks column.

<u>Ser</u>	<u>Items</u>	<u>Qty</u>	<u>Unit Cost</u>	<u>Total Cost (including all taxes &amp; duties)</u>	<u>Indicative Rate of Taxes &amp; Duties used to arrive at Total Cost (as applicable)</u>		<u>Remarks</u>
					<u>GST/IGST (%)</u>	<u>Custom Duty (%)</u>	
(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)
(a)	1. Yard material including steel Aluminum etc. 2. Equipment cost (indigenous) 2a. Basic cost of Buyer Nominated Equipment – Indigenous (if applicable) 3. Equipment Cost (Imported) 3a. Basic cost of Buyer Nominated Equipment – Imported (if applicable) 4. Equipment and material Overhead 5. Labour 6. Labour Overhead 7. Direct Expenses 8. First outfit of Naval stores						
(b)	Basic Cost of Vessel (Total of SI 'a' above)						

<u>Ser</u>	<u>Items</u>	<u>Qty</u>	<u>Unit</u> <u>Cost</u>	<u>Total Cost</u> <u>(including</u> <u>all taxes &amp;</u> <u>duties)</u>	<u>Indicative Rate of</u> <u>Taxes &amp; Duties used</u> <u>to arrive at Total</u> <u>Cost (as applicable)</u>		<u>Remarks</u>
					<u>GST/IGST</u> <u>(%)</u>	<u>Custom</u> <u>Duty</u> <u>(%)</u>	
(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)
(c)	Cost of onboard Spares (Manufacturers Recommended List of Spares) as per <b>Annexure I to Appendix D</b> . In case equipment is already in usage, the spare parts requirement must be specific rather than being based on MRLS						
(d)	Cost of Special Maintenance Tools and Special Test Equipment and software as per <b>Annexure III to Appendix D</b> .						
(e)	Cost of Technical Documentation (in English Language) as per <b>Annexure IV to Appendix D</b> .						
(f)	Cost of Training Aggregates as per <b>Annexure V to Appendix D</b> .						
(g)	Cost of Training excluding the cost of travel, boarding and lodging separately for operators and maintenance technicians and QA Representative. This should be given under the following two heads (as applicable) (Appendix D, Para 10 refers): (i) In India (ii) Abroad						
(h)	Cost of ToT (as applicable) (as per <b>Appendix K</b> )						
(j)	Cost of <b>Knowhow /Information</b> for setting up of maintenance Infrastructure (as applicable) ( <b>Appendix E</b> refers)						
(k)	<b>Freight and Transit Insurance</b> Cost (as applicable)						



<u>Ser</u>	<u>Items</u>	<u>Qty</u>	<u>Unit</u> <u>Cost</u>	<u>Total Cost</u> <u>(including</u> <u>all taxes &amp;</u> <u>duties)</u>	<u>Indicative Rate of</u> <u>Taxes &amp; Duties used</u> <u>to arrive at Total</u> <u>Cost (as applicable)</u>		<u>Remarks</u>
					<u>GST/IGST</u> <u>(%)</u>	<u>Custom</u> <u>Duty</u> <u>(%)</u>	
(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)
(l)	<b>Cost of Project Monitoring System</b> (as per Annexure II to Appendix F)						
(m)	<b>Cost of handling B &amp; D spares</b>						
(n)	<b>Total Cost</b> (Total of SI (b) to (m) above)						
(p)	<b>AMC Cost giving year-wise break-up</b> (where applicable)						
(q)	<b>Grand Total Cost</b> ( $SI\ n + p$ )			#			# This will be used in determining L1 vendor (duly applying provisions of Para 1 above).
(r)	<b>Foreign Exchange component</b> of the proposal.						This will be in reference to Para 1 (b)(ii) of Appendix F
(s)	<b>CDEC (if applicable)</b> , its authority and amount for which required.						

**Note: Taxes and Duties.** If there is a change in tax structure promulgated by the GoI, then rates of taxes indicated at columns (vi) & (vii) above will be used for revising the total cost.

3. **Evaluation of L1 in case of EPP.** If the vessel supplied by a vendor does not have the EPP, then the total cost of Serial(q) of the price bid format, for the purpose of L1 determination, remains as it is. In cases where a vendor's equipment meets the EPP, the total cost at Serial(q) of the price bid format will be multiplied by a credit factor less than 1 and greater than or equal to 0.9, based on the additional technical score assigned for the EPP, as detailed in the RFP.

4. **Evaluation of Bids by DCF Technique** (**Note:** This clause is to be included only if there is AMC clause or any other condition in RFP, resulting in different cash outflows in successive years) -

4.1 **Net Present Value (NPV)** is a variant of DCF method, which will be used by the Buyer for evaluation of Bids. The Net Present Value of a Bid will be equal to the sum of the present values of all the cash flows associated with it. The following formula will be used for calculating NPV of a bid -

$$NPV_n = \sum_{t=1}^n \frac{At}{(1+r)^t}$$

Where,

NPV = Net Present Value

At = Expected cash flow occurring at the end of year 't' as mentioned in the Payment schedule of Bid

n = Duration of cash flow stream

r = Discounting Rate

t = The period after which payment is done

The bid with the lowest NPV would be selected.

4.2 The Discounting rate will be ---%. (Note-This will be the Government of India's lending rate on loans given to state governments, as notified by Budget Division of Ministry of Finance annually).

4.3 **Structuring Cash Flows for Tenders/Bids Received in the Same Currency.**  
The cash outflows as shown in price bids will be taken into consideration. NPV of different bids will be calculated using the formula given above and the one having lowest NPV will be selected as L-1.

4.4 **Structuring Cash Flows for Tenders/Bids Received in Different Currencies.**  
Where bids are received in different currencies/combination of currencies, the cash outflow will be brought to a common denomination in rupees by converting foreign currency bids into rupees by taking into account the BC selling rate of Parliament Street Branch of State Bank of India, New Delhi on the ERV reckoning date (as defined in Para 6(c) to Appendix F), ie the last date of submission of Commercial Bids as per RFP. Thereafter, the procedure as described above in Para 4.3 will be applied to arrive at NPV.

4.5 All bidders are required to indicate year-wise and currency-wise amount required as per their price bid in format given below. In case a bidder does not provide year-wise cash flow details in price bid, the amount quoted in their price bid will not be discounted for comparison purposes.

<u>Year</u>	<u>Dollars</u>	<u>Euros</u>	<u>Pound Sterling</u>	<u>Rupees</u>	<u>Total Cash-flow</u>

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## **STANDARD CLAUSES OF CONTRACT**

### **LAW**

1. The present Contract shall be considered and made in accordance with the laws of Republic of India.

### **ARBITRATION**

#### **Arbitration (CPSEs)**

2. In the event of any dispute or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party for Arbitration to the sole Arbitrator in the Department of Public Enterprises to be nominated by the Secretary to the Government of India in-charge of the Department of Public Enterprises. The arbitration and Conciliation Act, 1996 (as amended from time to time)<sup>18</sup> shall not applicable to arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law & Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary of the special Secretary/Additional Secretary, when so authorised by the Law Secretary, whose decision shall bind the Parties finally and conclusively. The Parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator.

#### **Arbitration (DPSUs)**

3. In the event of any dispute or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred, by either party to Director General (Acquisition), Ministry of Defence for Arbitration. The award of the Arbitrator i.e. DG (Acq) shall be binding upon the parties to the dispute.

#### **Arbitration (Indian Private Vendors)**

4. All disputes or differences arising out of or in connection with the present Contract, including the one connected with the validity of the present Contract or any part thereof, shall be settled by bilateral discussions.

5. Any dispute, disagreement of question arising out of or relating to this Contract or relating to construction or performance (except as to any matter the decision or determination whereof is provided for by these conditions). Which cannot be settled amicably, shall within sixty (60) days or such longer period as may be mutually agreed upon, from the date on which either party informs the other in writing by a notice that such dispute, disagreement or question exists, will be referred to the Arbitration Tribunal consisting of three arbitrators.

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<sup>18</sup>Amendment issued vide Enclosure M to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

6. Within sixty (60) days of the receipt of the said Notice, one arbitrator shall be nominated in writing by SELLER and one arbitrator shall be nominated by BUYER.

7. The third arbitrator, shall be nominated by the parties within ninety (90) days of the receipt of the notice mentioned above, failing which the third arbitrator may be nominated under the provision of Indian Arbitration and Conciliation Act, 1996 (as amended from time to time)<sup>18</sup> or by dispute, resolution institutions like Indian Council of Arbitration or ICADR at the request of either party, but the said nomination would be after consultation with both the parties. The arbitrator nominated under this Clause shall not be regarded nor act as an umpire.

8. The Arbitration Tribunal shall have its seat in New Delhi or such other place in India as may be decided by the arbitrator.

9. The Arbitration Proceedings shall be conducted in India under the Indian Arbitration and Conciliation Act, 1996 (as amended from time to time)<sup>18</sup> and the award of such Arbitration Tribunal shall be enforceable in Indian Courts only.

10. The decision of the majority of the arbitrators shall be final and binding on the parties to this contract.

11. Each party shall bear its own cost of preparing and presenting its case. The cost of arbitration including the fees and expenses of the third arbitrator shall be shared equally by the SELLER and the BUYER, unless otherwise awarded by the Arbitration Tribunal.

12. In the event of a vacancy caused in the office of the arbitrations, the party which nominated such arbitrator shall be entitled to nominate another in his place and the arbitration proceedings shall continue from the stage they were left by the retiring arbitrator.

13. In the event of one of the parties failing to nominate its arbitrator within sixty (60) days as above or if any of the parties does not nominate another arbitrator within sixty (60) days of the place of arbitrator falling vacant, then the other party shall be entitled after due notice of at least thirty (30) days to request dispute resolution institutions in India like Indian Council of Arbitration and ICADR to nominate another arbitrator as above.

14. If the place of the third arbitrator falls vacant, his substitute shall be nominated according to the provisions herein above stipulated.

15. The parties shall continue to perform their respective obligations under this contract during the pendency of the arbitration proceedings except in so far as such obligations are the subject matter of the said arbitrator proceedings.

#### **Arbitration (Foreign Shipyards)**

16. All disputes or differences arising out of or in connection with the present Contract, including the one connected with the validity of the present contract or any part thereof, shall be settled by bilateral discussions.

17. Any dispute, disagreement of question arising out of or relating to this Contract or relating to construction or performance (except as to any matter the decision or determination whereof is provided for by these conditions), which cannot be settled amicably, shall within

<sup>18</sup>Amendment issued vide Enclosure M to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

sixty (60) days or such longer period as may be mutually agreed upon, from the date on which either party informs the other in writing by a notice that such dispute, disagreement or question exists, will be referred to the arbitration Tribunal consisting of three arbitrators

18. Within sixty (60) days of the receipt of the said Notice, one arbitrator shall be nominated in writing by SELLER and one arbitrator shall be nominated by BUYER.

19. The third arbitrator, who shall not be a citizen or domicile of the country of either of the parties or of any other country unacceptable to any of the parties shall be nominated by the parties within ninety (90) days of the receipt of the notice mentioned above, failing which the third arbitrator may be nominated under the provision of Indian arbitration and Conciliation Act, 1996 (as amended from time to time)<sup>18</sup> or by dispute, resolution institutions like Indian Council of Arbitration or ICADR in case, nomination of third arbitrator institutions like ICA and ICADR are not acceptable to the SELLER, then the third arbitrator may be nominated by the President of International chamber of commerce, Paris, but the said nomination would be after consultation with both the parties and shall preclude any citizen with domicile of any country as mentioned above. The arbitrator nominated under this clause shall not be regarded nor act as an umpire.

20. The Arbitration Tribunal shall have its seat in New Delhi or such other place in India as may be decided by the arbitrator.

21. The Arbitration Proceedings shall be conducted in Indian under the Indian Arbitration and Conciliation Act, 1996 (as amended from time to time)<sup>18</sup> and the award of such Arbitration Tribunal shall be enforceable in Indian Courts only.

22. The decision of the majority of the arbitrations shall be final and binding on the parties to this contract.

23. Each party shall bear its own cost of preparing and presenting its case. The cost of arbitration including the fees and expenses of the third arbitrator shall be shared equally by the SELLER and the BUYER, unless otherwise awarded by the Arbitration Tribunal.

24. In the event of a vacancy caused in the office of the arbitrators, the party which nomination such arbitrator, shall be entitled to nominate another in his place and the arbitrator proceeding shall continue from the stage they were left by the retiring arbitrator.

25. In the event of one of the parties failing to nominate its arbitrator within sixty (60) days as above or if any of the parties does not nominate another arbitrator within sixty (60) days of the place of the arbitrator falling vacant, then the other party shall be entitled after due notice of at least thirty (30) days to request dispute resolution institutions in India like Indian Council of Arbitration and ICADR to nominate another arbitrator as above.

26. If the place of the third arbitrator falls vacant, his substitute shall be nominated according to the provisions herein above stipulated.

27. The parties shall continue to perform their respective obligations under this contract during the pendency of the arbitration proceedings except in so far as such obligations are the subject matter of the said arbitration proceedings.

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<sup>18</sup>Amendment issued vide Enclosure M to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

## **FORCE MAJEURE**

28. Should any force majeure circumstances arise, each of the contracting party shall be excused for the non-fulfillment or for the delayed fulfillment of any of its contractual obligations, if the affected party within **45 days** of its occurrence informs in a written form the other party.

29. Force majeure shall mean fires, floods, natural disasters or other acts such as that are unanticipated or unforeseeable and not brought about at the instance of, the party claiming to be affected by such event, or which, if anticipated or foreseeable, could not be avoided or provided for and which has caused the non-performance or delay in performance, war, turmoil, strikes, sabotage, explosions beyond the control of either party.

30. Provided that acts of The Government or any State parties of the seller which affect the discharge of sellers obligations under the contract shall not be treated as Force Majeure.

## **PENALTY FOR USE OF UNDUE INFLUENCE**

31. The Seller undertakes that he has not given, offered or promised to give, directly or indirectly any gift, consideration, reward, commission, fees brokerage or inducement to any person in service of the Buyer or otherwise in procuring the Contracts or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the Contract or any other Contract with the Government for showing or forbearing to show favour or disfavor to any person in relation to the Contract or any other Contract with the Government. Any breach of the aforesaid undertaking by the Seller or any one employed by him or acting on his behalf (whether with or without the knowledge of the Seller) or the commission of any offers by the Seller or anyone employed by him or acting on his behalf, as defined in Chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act, 1947 or any other Act enacted for the prevention of corruption shall entitle the Buyer to cancel the contract and all or any other contracts with the Seller and recover from the Seller the amount of any loss arising from such cancellation. A decision of the Buyer or his nominee to the effect that a breach of the undertaking had been committed shall be final and binding on the Seller.

32. Giving or offering of any gift, bribe or inducement or any attempt at any such act on behalf of the Seller towards any officer/employee of the Buyer or to any other person in a position to influence any officer/employee of the Buyer for showing any favour in relation to this or any other contract, shall render the Seller to such liability/penalty as the Buyer may deem proper, including but not limited to termination of the contract, imposition of penal damages, forfeiture of the Bank Guarantee and refund of the amounts paid by the Buyer.

33. **Integrity Pact.** Further signing of an 'Integrity Pact' would be considered between government department and the bidders for all procurement schemes over ₹ 20 Cr. The Integrity Pact is a binding agreement between the agency and bidders for specific contracts in which the agency promises that it will not accept bribes during the procurement process and bidders promise that they will not offer bribes. Under the IP, the bidders for specific services or contracts agree with the procurement agency or office to carry out the procurement in a specified manner. The essential elements of the IP are as follows: -

- (a) A pact (contract) between the Government of India (Ministry of Defence) (the authority or the "principal") and those companies submitting a tender for this specific activity (the "bidders");

- (b) An undertaking by the principal that its officials will not demand or accept any bribes, gifts, etc., with appropriate disciplinary or criminal sanctions in case of violation;
- (c) A statement by each bidder that it has not paid and will not pay any bribes;
- (d) An undertaking by each bidder *that he shall not pay any amount as gift, reward, fees, commission or consideration to such person, party, firm or institution (including Agents and other as well as family members, etc., of officials), directly or indirectly in connection with the contract in question. All payments made to the Agent 12 months prior to tender submission would be disclosed at the time of tender submission and thereafter an annual report of payments would be submitted during the procurement process or upon demand of the MoD.*
- (e) The explicit acceptance by each bidder that the no-bribery commitment and the disclosure obligation as well as the attendant sanctions remain in force for the winning bidder until the contract has been fully executed;
- (f) Undertakings on behalf of a bidding company will be made "in the name and on behalf of the company's chief executive officer";
- (g) The following set of sanctions shall be enforced for any violation by a bidder of its commitments or undertakings: -
  - (i) Denial or loss of contract;
  - (ii) Forfeiture of the Integrity Pact Bank Guarantee (IPBG) and Performance cum Warranty Bank Guarantee (PWBG);
  - (iii) Payment to the Buyer of any such amount paid as gift, reward, fees or consideration along with interest at the rate of 2% per annum above LIBOR rate.
  - (iv) Refund of all sums already paid by the Buyer along with interest at the rate of 2% per annum above LIBOR rate.
  - (v) Recovery of such amount, referred to in (iii) and (iv) above, from other contracts of the seller with the Government of India.
  - (vi) At the discretion of the Buyer, the Seller shall be liable for action as per extant policy on Putting on Hold, Suspension and Debarment of Entities
- (h) Bidders are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behaviour) and a compliance program for the implementation of the code of conduct throughout the company.
- (j) The draft Pre-Contract Integrity Pact is attached as **Annexure I to Appendix H**. The vendors are required to sign them and submit separately along with the technical and commercial offers.
- (k) Every Bidder while submitting techno commercial bid shall also deposit ₹\_\_\_\_ Crores/Lakhs (as applicable)\_as IPBG through any of the instruments mentioned at

**Para 9 of Annexure I to Appendix H.** This would be submitted in a separate envelope clearly marked as IPBG along with technical and commercial proposals.

34. In respect of bids from DPSUs, while a DPSU is not required to sign an Integrity Pact with the Ministry of Defence, the concerned DPSU shall, however, enter in to a Pre-Contract Integrity Pact, on the same lines with their sub-vendors individually, in case the estimated value of each sub-contract(s) exceed ₹ 20 Crore and such subcontract(s) are required to be entered in to by the DPSU with a view to enable DPSU to discharge the obligations arising out of their bid in question in response to this RFP

### **AGENTS**

35. The Seller confirms and declares to the Buyer that the Seller is the original manufacturer of the stores referred to in this contract. The Seller confirms that he has not engaged any person, party, firm or institution as an Agent, including his Agents already intimated to MoD, to influence, manipulate or in any way to recommend to any functionaries of the Government of India, whether officially or unofficially, to the award of the contract to the Seller, or to indulge in corrupt and unethical practices. The Seller has neither paid, promised nor ~~or~~ has the intention to pay to any person, party, firm or institution in respect of any such intervention or manipulation. The Seller agrees that if it is established at any time to the satisfaction of the Buyer that the present declaration is in any way incorrect or if at a later stage it is discovered by the Buyer that the Seller has engaged any such person, party, firm or institution and paid, promised or has intention to pay any amount, gift, reward, fees, commission or consideration to such person, party, firm or institution, whether before or after the signing of this contract, the Seller will be liable for any of the following actions:-

(a) To pay to the Buyer any such amount paid as gift, reward, fees or consideration along with interest at the rate of 2% per annum above LIBOR rate.

(b) The Buyer will also have a right to put on hold or cancel the Contract either wholly or in part, without any entitlement or compensation to the Seller who shall in such event be liable to refund all payments made by the Buyer in terms of the Contract along with interest at the rate of 2% per annum above LIBOR rate.

(c) The Buyer will also have the right to recover any such amount referred in (a) and (b) above from other contracts of the Seller with the Government of India.

(d) At the discretion of the Buyer, the Seller shall be liable for action as per extant policy on Putting on Hold, Suspension and Debarment of Entities



### **ACCESS TO THE BOOKS OF ACCOUNTS**

36. In case it is found to the satisfaction of the Buyer that the Seller has engaged an Agent or paid commission or influenced any person to obtain the contract as described in clauses relating to Agents and Penalty for Use of Undue Influence, the Seller, on demand of the Buyer shall provide necessary information/inspection of the relevant financial documents/information, including a copy of the contract(s) and details of payment terms between the vendors and Agents engaged by him.

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**Annexure I to Appendix H to Schedule I**  
(Refers to Para 19 of Schedule I)

**PRE-CONTRACT INTEGRITY PACT (AS APPLICABLE)**

**General**

1. Whereas the PRESIDENT OF INDIA, represented by Joint Secretary & Acquisition Manager (Maritime Systems)/ Major General or equivalent, Service Headquarters/Coast Guard, Ministry of Defence, Government of India, hereinafter referred to as the Buyer and the first party, proposes to procure (Vessel(s)), hereinafter referred to as Defence Stores and M/s \_\_\_\_\_, represented by, \_\_\_\_\_ Chief Executive Officer (which term, unless expressly indicated by the contract, shall be deemed to include its successors and its assignees), hereinafter referred to as the Bidder and the second party, is willing to offer/has offered the Defence stores.

2. Whereas the Bidder is a private company/public company/partnership/registered export agency, constituted in accordance with the relevant law in the matter and the Buyer is a Ministry of the Government of India performing its functions on behalf of the President of India.

**Objectives**

3. Now, therefore, the Buyer and the Bidder agree to enter into this pre-contract agreement, hereinafter referred to as Integrity Pact, to avoid all forms of corruption by following a system that is fair, transparent and free from any influence/unprejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-

(a) Enabling the Buyer to obtain the desired defence stores/ship or vessel/ship borne equipment/spares at a competitive price in conformity with the defined specifications of the Services by avoiding the high cost and the distortionary impact of corruption on public procurement of the Stores.

(b) Enabling Bidders to abstain from bribing or any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also refrain from bribing and other corrupt practices and the Buyer will commit to prevent corruption, in any form, by their officials by following transparent procedures.

**Commitments of the Buyer**

4. Buyer commits itself to the following: -

(a) The Buyer undertakes that, no official of the Buyer, connected directly or indirectly with the contract will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organisation or third party related to the contract in exchange for an advantage in the

bidding process, bid evaluation, contracting or implementation process related to the Contract.

(b) The Buyer will, during the pre-contract stage, treat all Bidders alike and will provide to all Bidders the same information and will not provide any such information to any particular Bidder which could afford an advantage to that particular Bidder in comparison to other Bidders.

(c) The officials of the Buyer will report to the appropriate Government office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.

5. In case of any such preceding misconduct on the part of such official(s) is reported by the Bidder to the Buyer with full and verifiable facts and the same is *prima facie* found to be correct by the Buyer, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the Buyer and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by the Buyer the proceedings under the contract would not be stalled.

### **Commitments of Bidders**

6. The Bidder commits himself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of his bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commits himself to the following:-

(a) The Bidder will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Buyer, connected directly or indirectly with the bidding process, or to any person, organisation or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the Contract.

(b) The Bidder further undertakes that he has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Buyer or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the Contract or any other Contract with the Government for showing or forbearing to show favour or dis-favour to any person in relation to the Contract or any other Contract with the Government.

(c) The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.

(d) The Bidder will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.

(e) The Bidder further confirms and declares to the Buyer that the Bidder is the original manufacturer/integrator/authorised government sponsored export entity of the Defence stores and has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to the Buyer or any of its functionaries, whether officially or unofficially to the award of the contract to the Bidder, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company or Agent in respect of any such intercession, facilitation or recommendation. The Bidder would not enter into conditional contract with any Agents, brokers or any other intermediaries wherein payment made or penalty levied is based, directly or indirectly, on success or failure of the award of the contract. The bidder while presenting the bid shall disclose any payments he has made during the 12 months prior to tender submission, is committed to or intends to make to officials of the Buyer or their family members, Agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments. Within the validity of PCIP, bidder shall disclose to MoD any payments made or has the intention to pay any amount, gift, reward, fees, commission or consideration to such person, party, firm or institution as an annual report during the procurement process.

(f) The Bidder shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the Buyer as part of the business relationship, regarding plans, technical bids and business details, including information contained in any electronic data carrier. The Bidder also undertakes to exercise due and adequate care lest any such information is divulged.

(g) The Bidder commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts. Complaint will be process as per Guidelines for Handling of Complaints in vogue. In case the complaint is found to be vexatious, frivolous or malicious in nature, it would be construed as a violation of Integrity Pact.

(h) The Bidder shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.

### **Previous Transgression**

7 The Bidder declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India, that could justify Bidder's exclusion from the tender process.

8. If the Bidder makes incorrect statement on this subject, Bidder can be disqualified from the tender process or the contract and if already awarded, can be terminated for such reason.

## **Integrity Pact- Bank Guarantee**

9. Every bidder, while submitting commercial bid, shall submit an Integrity Pact Bank Guarantee for an amount of \_\_\_\_\_ (as per IPBG table below)<sup>36</sup> in favour of the Buyer in Indian Rupees only. Guarantee will be from Public Sector Banks or Private Sector Banks authorised for government transactions<sup>36</sup> by RBI<sup>17</sup>, promising payment of the guaranteed sum to the Ministry of Defence, Government of India, represented on behalf of the President of India, on demand within five<sup>43</sup> working days without any demur whatsoever and without seeking any reasons whatsoever. The demand for payment by the Buyer shall be treated as conclusive proof for payment. A model Bank Guarantee format is enclosed.

**IPBG TABLE**<sup>36</sup>

Estimated Cost of Procurement Scheme (Crore Rs)		IPBG Amount (Rs)
Above (Not including)	To (Including)	
-	20	Nil
20	50	10 Lakh
50	150	30 Lakh
150	300	70 Lakh
300	1000	2 Crore
1000	2000	5 Crore
2000	3000	10 Crore
3000	5000	15 Crore
5000	-	25 Crore

10. The Integrity Pact Bank Guarantee (IPBG) shall be valid up to three years from the date of submission. However, Bidders will be required to extend the Integrity Pact Bank Guarantee as and when required by the buyer. In the case of the successful bidder, validity of the Integrity Pact Bank Guarantee will be extended up to the satisfactory completion of the contract. In case of a vendor unilaterally decides to withdraw from procurement scheme or has been declared non compliant and if he wishes to withdraw his IPBG, he may do so provided he gives an undertaking that he has no complaints and will not make any complaints in the case. Integrity Pact Bank Guarantee shall be returned promptly in case of unsuccessful bidders.

11. In the case of successful bidder a clause would also be incorporated in the Article pertaining to Performance cum Warranty Bank Guarantee in the Purchase Contract that the provisions of Sanctions for Violation shall be applicable for forfeiture of Performance cum Warranty Bank Guarantee in case of a decision by the Buyer to forfeit the same without assigning any reason for imposing sanction for violation of this pact.

12. The provisions regarding Sanctions for Violation in Integrity Pact include forfeiture of Performance cum Warranty Bank Guarantee in case of a decision by the Buyer to forfeit the same without assigning any reason for imposing sanction for violation of Integrity Pact.

13. No interest shall be payable by the Buyer to the Bidder(s) on Integrity Pact Bank Guarantee (IPBG) for the period of its currency.

<sup>17</sup>Amendment issued vide Enclosure L to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

<sup>36</sup>Amendment issued vide Enclosure F to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

<sup>43</sup>Amendment issued vide Enclosure M to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

## **Company Code of Conduct**

14. Bidders are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behaviour) and a compliance program for the implementation of the code of conduct throughout the company.

## **Sanctions For Violation**

15. Any breach of the aforesaid provisions by the Bidder or any one employed by him or acting on his behalf (whether with or without the knowledge of the Bidder) or the commission of any offence by the Bidder or any one employed by him or acting on his behalf, as defined in Chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act 1988 or any other act enacted for the prevention of corruption shall entitle the Buyer to take all or any one of the following actions, wherever required:-

- (a) To immediately call off the pre-contract negotiations without assigning any reason or giving any compensation to the Bidder. However, the proceedings with the other Bidder(s) would continue.
- (b) The Performance- cum-warranty bank guarantee (PWBG) shall stand forfeited either fully or partially, as decided by the Buyer and the Buyer shall not be required to assign any reason therefore.
- (c) To immediately cancel the contract, if already signed, without giving any compensation to the Bidder.
- (d) To recover all sums already paid by the Buyer and in case of an Indian Bidder with interest thereon at 2% higher than the prevailing Prime Lending Rate, while in case of a Bidder from a country other than India with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due to the Bidder from the Buyer in connection with any other contract for any other defence stores, such outstanding payment could also be utilised to recover the aforesaid sum and interest.
- (e) To encash the advance payment bank guarantee (APBG) and performance cum warranty bank guarantee, if furnished by the Bidder, in order to recover the payments, already made by the Buyer, along with interest.
- (f) To cancel all or any other Contracts with the Bidder.
- (g) To put on Hold or Suspend or Debar the bidder as per the extant policy.
- (h) To recover all sums paid in violation of this Pact by Bidder(s) to any Agent or broker with a view to securing the contract.
- (j) If the Bidder or any employee of the Bidder or any person acting on behalf of the Bidder, either directly or indirectly, is closely related to any of the officers of the Buyer, or alternatively, if any close relative of an officer of the Buyer has financial interest/stake in the Bidder's firm, the same shall be disclosed by the Bidder at the time of filing of tender. Any failure to disclose the interest involved shall entitle the Buyer to rescind the contract without payment of any compensation to the Bidder. The term 'close relative' for this purpose would mean spouse whether residing with

the Government servant or not, but not include a spouse separated from the Government servant by a decree or order of a competent court; son or daughter or step son or step daughter and wholly dependent upon Government servant, but does not include a child or step child who is no longer in any way dependent upon the Government servant or of whose custody the Government servant has been deprived of by or under any law; any other person related, whether by blood or marriage, to the Government servant or to the Government servant's wife or husband and wholly dependent upon Government servant.

(k) The Bidder shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the Buyer and if he does so, the Buyer shall be entitled forthwith to rescind the contract and all other contracts with the Bidder. The Bidder shall be liable to pay compensation for any loss or damage to the Buyer resulting from such rescission and the Buyer shall be entitled to deduct the amount so payable from the money(s) due to the Bidder.

(l) In cases where irrevocable Letters of Credit have been received in respect of any contract signed by the Buyer with the Bidder, the same shall not be opened.

16. The decision of the Buyer to the effect that a breach of the provisions of this Integrity Pact has been committed by the Bidder shall be final and binding on the Bidder, however, the Bidder can approach the Independent Monitor(s) appointed for the purposes of this Pact.

#### **Fall Clause**

17. The Bidder undertakes that he has not supplied/is not supplying the similar vessels, ships, products, systems or sub-systems at a price lower than that offered in the present bid in respect of any other Ministry/Department of the Government of India and if it is found at any stage that the similar system or sub-system was supplied by the Bidder to any other Ministry/Department of the Government of India at a lower price, then that very price, with due allowance for elapsed time, will be applicable to the present case and the difference in the cost would be refunded by the Bidder to the Customer, even if the contract has already been concluded.

18. The Bidder shall strive to accord the most favoured customer treatment to the Buyer in respect of all matters pertaining to the present case.

#### **Independent Monitors**

19. The Buyer has appointed the following Independent Monitors for this Pact in consultation with the Central Vigilance Commission. *The names and addresses of nominated Independent Monitors (at the time of issue of RFP) are as follows (however the vendor must refer to the MoD website at [www.mod.nic.in](http://www.mod.nic.in) to check for changes to these details):-*

*(names & addresses of Independent Monitors holding office on date of issue of RFP to be included)<sup>25</sup>*

19A. All communications to Independent Monitors will be copied to Director (Vigilance). The Designation and Contact details of Director (Vigilance) are as follows:-

*(Designation and Address of the Director (Vigilance) to be included)<sup>25</sup>*

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<sup>25</sup>Amendment issued vide Enclosure F to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

20. After the Integrity Pact is signed, the Buyer shall provide a copy thereof, along with a brief background of the case to the Independent Monitors, if required by them.
21. The Bidder(s), if they deem it necessary, may furnish any information as relevant to their bid to the Independent Monitors.
22. If any complaint with regard to violation of the IP is received by the buyer in a procurement case, the buyer shall refer the complaint to the Independent Monitors for their comments/enquiry.
23. If the Independent Monitors need to peruse the relevant records of the Buyer in connection with the complaint sent to them by the Buyer, the Buyer shall make arrangement for such perusal of records by the Independent Monitors.
24. The report of enquiry, if any, made by the Independent Monitors shall be submitted to the head of the Acquisition Wing of the Ministry of Defence , Government of India for a final and appropriate decision in the matter keeping in view the provision of this Pact.
25. **Examination of Books of Accounts.** In case of any allegation of violation of any provisions of this Integrity Pact or payment of commission, the Buyer or its agencies shall be entitled to examine the Books of Accounts of the Bidder and the Bidder shall provide necessary information of the relevant financial documents in English and shall extend all possible help for the purpose of such examination.
26. **Law and Place of Jurisdiction.** This Pact is subject to the Indian Laws. The place of performance and jurisdiction is the seat of the Buyer i.e. New Delhi.
27. **Other Legal Actions.** The actions stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

### **Validity**

28. The validity of this Integrity Pact shall be from date of its signing and extend up to 5 years or the complete execution of the contract to the satisfaction of both the Buyer and the Bidder/Seller, whichever is later.
29. Should one or several provisions of this Pact turn out to be invalid; the remainder of this Pact remains valid. In this case, the parties will strive to come to an agreement to their original intentions.
30. The Parties hereby sign this Integrity Pact at \_\_\_\_\_ on \_\_\_\_\_

BUYER  
Joint Secretary and Acquisition Manager  
(Maritime and Systems),  
MINISTRY OF DEFENCE,  
GOVERNMENT OF INDIA

BIDDER  
AUTHORISED SIGNATORY  
(Designation to be specified and  
relevant document to be specified)

Witness

1. \_\_\_\_\_  
2. \_\_\_\_\_

Witness

1. \_\_\_\_\_  
2. \_\_\_\_\_

\*\*\*\*\*



**FORMAT OF INTEGRITY PACT BANK GUARANTEE (IPBG)<sup>4</sup>**

To,

The \_\_\_\_\_,  
Ministry of \_\_\_\_\_,  
Government of India,  
\_\_\_\_\_ (complete postal address of the beneficiary)

1. In consideration of President of India represented by Joint Secretary and Acquisition Manager/ Major General or equivalent, Service Hqr./Coast Guard, Ministry of Defence, Government of India (hereinafter referred to as the Buyer and/or the first party) having agreed to accept a sum of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) from M/s \_\_\_\_\_ of \_\_\_\_\_ (hereinafter referred to as Bidder and/or the Second party) in the form of Bank Guarantee towards Integrity Pact for the Request For Proposal for procurement of \_\_\_\_\_ we \_\_\_\_\_ (Name of the Bank), (hereinafter referred to as the Bank), do hereby undertake to pay to the Buyer on demand within 5 (five) working days-without any demur and without seeking any reasons whatsoever, an amount not exceeding Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_) and the guarantee will remain valid upto three years from the date of its issue i.e. \_\_\_\_\_ (Issue date). The Integrity Pact Bank Guarantee shall be extended from time to time as required by the Buyer and agreed by the Bidder to the Bank.

2. We undertake not to revoke this guarantee during this period except with the previous consent of the Buyer in writing and we further agree that our liability under the Guarantee shall not be discharged by any variation in the term of the commercial offer.

3. No interest shall be payable by the Buyer to the Bidder(s) on the guarantee for the period of its currency.

4. Notwithstanding anything contained herein above:-

(a) Our liability under this Guarantee shall not exceed Rs \_\_\_\_\_ (Rupees \_\_\_\_\_ only) (in words).

(b) This Bank Guarantee shall remain valid until \_\_\_\_\_ (hereinafter the expiry date of this guarantee). The Bank Guarantee will cease to be valid after \_\_\_\_\_ irrespective whether the Original Guarantee is returned to us or not.

(c) We are liable to pay guaranteed amount or any part thereof under this Bank Guarantee only and only if you serve upon us a written demand or a claim in writing on or before \_\_\_\_\_ (Expiry Date)

Dated the \_\_\_\_\_ day of \_\_\_\_\_ (month and year)

Place :

Signed and delivered by \_\_\_\_\_ (Name of Bank).

Through its authorized signatory  
(Signature with seal)

\*\*\*\*

<sup>4</sup>Amendment issued vide MoD ID No. 4(50)/D(Acq)/08 dated 20.06.2017

**Appendix J to Schedule I to Chapter IV**  
(Refers to Para 6 of RFP)

**TERMS AND CONDITIONS OF OFFSETS**

1. The Procedure for implementing Offset provision given at **Appendix D and relevant Annexures to Chapter II** of DPP 2016 (available at [www.mod.nic.in](http://www.mod.nic.in)) will be followed. The terms and conditions for submission of technical and commercial offset offer are given in succeeding paragraphs.

2. **Submission of Written Undertaking to Meet the Offset Obligation.** You are required to give a written undertaking to the effect that you will meet the offset obligation as laid down in the RFP. This undertaking in the format at **Annexure I to Appendix J** will be included in the envelope containing your technical bid which is to be submitted by \_\_\_\_\_ (*specify the date*). This undertaking is binding on you and that failure at any stage, on your part to meet the offset obligation specified in the RFP will disqualify you from any further participation in the contract and render your bid as null and void.

3. **Submission of Technical and Commercial Offset Offers.**

(a) The technical and commercial offset offers would have to be submitted by (not earlier than 3 months from the date of submission of the technical and commercial offers of the main proposal). These offset offers would have to be submitted together in two separate sealed covers to the Technical Manager at the following address:- \_\_\_\_\_

(b) The technical offset offer would contain details of the products, services and investment proposals indicating relative percentages, proposed Indian partners for offset investment and other relevant information in the format given at **Annexure II to Appendix J**. Details of Banked offset credits as discharged offset obligations will also be indicated. The commercial values of the offset proposals are not to be indicated in this technical offset offer.

(c) The Commercial Offset offer, format in **Annexure III to Appendix J**, will contain the detailed offer specifying the absolute amount of the offset with a breakup of the details, phasing, Indian partner and banked credits as discharged obligations.

(d) The model formats at **Annexure II and III to Appendix J** may be amended by the vendor without however deviating from the mandatory offset requirements prescribed.

\*\*\*\*\*

**Annexure I to Appendix J to Schedule I**  
(Refers to Para 2 of Appendix J)

**UNDERTAKING TO COMPLY WITH OFFSET OBLIGATIONS**

1. The Bidder\_\_\_\_\_ (name of the company) hereby
- (a) Undertakes to fulfil the offset obligation as stipulated in the Request for Proposal and Defence Offset guidelines at **Appendix D** to Chapter-II of DPP 2016.
  - (b) Undertakes to ensure timely adherence to fulfillment of offset obligations failing which the vendor will be liable for penalties as per the Defence Offset Guidelines.
  - (c) Accepts that any failure on the part of the vendor to meet offset obligations may result in action under Para 93 of Chapter II of DPP 2016
  - (d) Undertakes to furnish technical and commercial offset proposals as per formats at Annexure-II and III of Appendix J within the time period stipulated in the RFP.

***Note:*** Failure to submit the undertaking along with the main Technical Bid shall render the bid non-responsive and liable to be rejected.

\*\*\*\*\*

**Annexure II to Appendix J to Schedule I**  
(Refers to Para 3(b) of Appendix J)

**FORMAT FOR SUBMITTING TECHNICAL OFFSET OFFER**

1. The bidder \_\_\_\_\_ hereby offers the following offsets in compliance with the technical offset obligations in the RFP: -

Sl No	Eligible Offset Products/ Service Being Offered	Avenue for discharge (quote sub Para of 3.1)	Multiplier applicable (quote applicable Para)	Percentage of Total Offsets	IOP/ Agency for discharge	Time Frame for Discharge of Offsets	Whether Related to Main Equipment Being Supplied (Yes/No)	Remarks
1								
2								

**Note:** Vendor to provide following along with technical offset offer: -

- (a) Undertaking that IOP is an eligible offset partner as per applicable guidelines.
- (b) Company profile of IOP/agency.
- (c) Details with quantities of the proposed offset.
- (d) Letter of IOP agency confirming acceptance of the offset project in case of direct purchase or investment
- (e) In Case banked offsets are planned to be utilised their details certified by DOMW
- (f) List of Tier- 1 sub- contractors, if any, through whom offset obligations are proposed to be discharged, with percentage for discharge.
- (g) Proposals for Technology Acquisition by DRDO under Para 3.1(f) of Appendix D to Chapter II should be submitted separately in the format at Annexure IX to Appendix D to Chapter II.

\*\*\*\*

**Annexure III to Appendix J to Schedule I**  
(Refers to Para 3(c) of Appendix J)

**FORMAT FOR SUBMITTING COMMERCIAL OFFSET OFFER**

1. The bidder \_\_\_\_\_ hereby offers the following offsets in compliance with the commercial offset obligations : -

Sl No.	Eligible Offset Product/Service Offered	Avenue for Discharge (Quote Sub Para of 3.1)	Multiplier Applicable (Quote applicable Para)	Percent -age to Total Offsets	Value of Offset	IOP/ Agency for Discharge	Time Frame for Discharge of Offset	Whether Related to Main Equipment supplied (Yes/No)	Remarks

**Note:** Vendor to provide following along with commercial offset offer : -

- (a) Undertaking that IOP is an eligible offset partner as per applicable guidelines.
- (b) Company profile of IOP/Agency
- (c) Details with values of the proposed offset, including details of Tier-1 sub-contractors, if any
- (d) Letter of IOP/Agency confirming acceptance of the offset project in case of direct purchase or investment
- (e) In case banked offsets are planned to be utilised, their details certified by DOMW.
- (f) Value of investment “in kind” supported by documentary evidence.
- (g) Details of the business model for proposals relating to Paras 3.1 (c) and
- (h) (d) of the offset guidelines should indicated, as applicable

2. This annexure will also be used by the vendor to submit proposal for banking of offsets (Para 2 of Annexure VII of Appendix D to Chapter II). In such cases Note (e) above will not be applicable.

\*\*\*\*

**Appendix K to Schedule I to Chapter IV**  
(Refers to Para 4 & 20 of Schedule I)

**(THIS PAPER LAYS OUT GENERAL GUIDELINES. MAY BE AMENDED IN  
CONSULTATION WITH PRODUCTION AGENCY AND OTHER AGENCIES  
I INVOLVED TO MAKE IT SUITABLE BOTH IN RANGE AND DEPTH.)**

**TRANSFER OF TECHNOLOGY (TOT)**

**1. Preamble**

- (a) ToT shall be provided by Collaborator (Bidder) to the Production Agency (PA). The scope of ToT is covered in Para (c) below.
- (b) Technology used shall be current, state-of-the-art as used in the contemporary systems.
- (c) The ToT shall be comprehensive, covering build strategy and all aspects of design, manufacturing know-how and detailed technical information which will enable the Production Agency to manufacture, assemble, integrate, test, install and commission, use, repair, overhaul, support and maintain the vessel(s). Design data shall include the details that are needed to give design decision during production on deviation/concession; modify/ upgrade the vessel(s) and substitute parts and systems of the vessel(s) as required by the Certifying Agency and the Production Agency. Purchase specifications for each and every equipment along with the indicative prices to enable the PA to individually purchase each and every equipment for the vessel(s).
- (d) The Collaborator is required to provide the latest version of Configuration Control Document which will provide detailed breakdown of the product structure in terms of lower level subsystems/assemblies/sub-assemblies/modules/detail parts etc with their latest modification status. All updates during the term of the Agreement should be provided as and when issued free of cost. Consolidated list of updates during the year should be provided during the first quarter of the subsequent year.
- (e) The Collaborator should submit an undertaking that he would provide and support complete ToT for phased manufacture to the PA for the vessel. Support will be provided for a minimum period of 20 years after the last unit is produced at PA's vessel yard under the present proposal.
- (f) The vendor should provide total support and facilitate ToT of the subsystems from his sub-vendors/OEMs if desired by the buyer.
- (g) Collaborator should submit an undertaking not to exceed price for the Transfer of Technology covering the following parameters:-

- |  |   |                      |
|--|---|----------------------|
| <ul style="list-style-type: none"> <li>(i) License Fee</li> <li>(ii) Documentation.</li> <li>(iii) Technical Assistance.</li> <li>(iv) Training.</li> <li>(v) Materials.</li> <li>(vi) Spares.</li> <li>(vii) Tooling</li> <li>(viii) Special Tools.</li> <li>(ix) Standard Tools.</li> <li>(x) Ground Support &amp; Test equipment.</li> <li>(xi) Programme Management.</li> <li>(xii) Special Infrastructure facilities deemed necessary to support the operations.</li> </ul> | } | To Production Agency |
|--|---|----------------------|

(h) Collaborator may note that this “not to be exceeded price” will be used for commercial evaluation. Collaborator selected after technical & commercial evaluation will enter into detailed contractual negotiations on various aspects of the Transfer of Technology to the PA based on the “Not to be exceeded” quotes.

(j) It is likely that some of the assemblies/sub-assemblies/modules/PCBs used in the realisation of higher level assemblies/sub-systems and systems are manufactured by the OEM’s vendors/ sub-contractors either based on Engineering documentation provided by the Collaborator or developed by the Collaborator’s vendors/ sub-contractors based on procurement specifications provided by the OEM. Further, as a result of multiplicity of technologies involved and for reasons for price competitiveness arising due to economies of scale, some of the items used in the manufacture of licensed product may be bought out by the Collaborator from vendors

2. **Evaluation of ToT.** The ToT being offered by the Collaborator shall be evaluated by the TEC in collaboration with the Production Agency.

3. **Phased Manufacturing Program** (Phases to be indicated by Buyer)

4. **Itemised Price List (IPL).** The Collaborator shall provide Itemised parts list within three months of the signing of contract. Man- hours required during various phases of manufacture to realise the fully finished vessel shall also be provided. The prices of components, fabricated parts, standard items, bought out items, proprietary items as may be relevant shall be provided for various phases of manufacturing programme. The list shall include the source of supply of components, standard items, Bought Out Items (BOI’s) and the ToT shall include authorisation to Production Agency to procure these items directly from the sources without going through the Collaborator. In case the items are sourced through the Collaborator, then the item costs should remain unaltered. If applicable, yearly escalation from the base date of quoted price will also be indicated for each of the items. In addition, the collaborator is to forward a copy of all equipment/material purchase orders with complete purchase specifications and prices to the PA within 30 days of the placement of the order.

## 5. **Supply of Documentation**

(a) The ToT Data and Documentation to be provided by the Collaborator shall be in English language, suitable for direct application on the shop floor and should not call for re-work by the PA. Documentation under the following heads will be included and will be provided as soon as its finalisation for the \_\_\_\_ vessels being built at Collaborator's yard. Any amendments to the documentation will be promptly forwarded to the PA:

- (i) Engineering documentation
- (ii) Software documentation and Firmware support manual for embedded software including source code.
- (iii) Complete Manufacturing documentation including work instructions as applicable for construction of vessel(s) at PA's yard.
- (iv) Complete Test documentation including the documentation for carrying out tests of equipment/material, if any, prior to shipping in/installation on board. The collaborator will also be required to submit the filled in test and trial data in the formats as applicable for vessel(s).
- (v) Technical Manuals.
- (vi) General documentation including Company standards, National and International standards and specifications.
- (vii) Additional documentation or repairs centre.
- (viii) Illustrated parts catalogue.
- (ix) Design data- stress, fatigue, performance, qualification, environmental test, life (calendar/total/overhaul), where applicable.
- (x) Source identification for Bought Out Items (BOI's) and subcontracted items; standard parts, consumables etc.
- (xi) Spares parts lists and price catalogue for Operator (O) and Depot (D) level maintenances.
- (xii) Recertification/re-qualification test plan, series test, special category tests due to change in venue of manufacture, where applicable.
- (xiii) "Yellow band" units, calibration stands where applicable.
- (xiv) Complete set of quality control documentation namely, Quality procedures, plans, standards, ESS, Special tests during production other than ATP and any other applicable documentation.
- (xv) Data on reliability-FMECA, MTBF, MTBO, MTBUR, MTBR.
- (xvi) Pert for high, medium and low level of project management with training on the same to the customer and PA.



(xvii) Planning Documents including all Work Instructions for construction used in the collaborators yard and guidance for preparing similar WI's for the PA yard.

(xviii) Quality Documents including shop level quality checks and procedures.

(xix) Trial procedures for vessel performance, combat systems and signature and vibration measurements.

(b) The details/definition of Documentation to be provided by the Collaborator under the above heads is enclosed at **Annexure I to Appendix K**.

(c) The Collaborator is required to furnish 'Compliance Statement' in respect of each type of detailed documentation requirement listed at **Annexure I to Appendix K**. Non-compliance by the Collaborator against any of the documentation requirements depending upon its criticality will have an adverse bearing in the evaluation of ToT proposal.

(d) The documentation to be supplied by the Collaborator shall be that which is used by the Collaborator or its sub contractors for the purpose of manufacturing, assembly of vessel(s) at the shipyard of construction. The Collaborator will ensure completeness and exhaustiveness of the documentation for the purpose and work to be performed by the Production Agency for manufacturing, assembling, testing, installation, commissioning, maintenance and tests/trials of vessel(s) at his shipyard. Wherever approval of certification agency is relevant, approved documents will be provided. Certification standards as far as possible will be relevant Military (MIL) Specifications or as mutually agreed with the User's Certification Agency.

(e) Documentation as detailed in **Annexure I to Appendix K** to enable the Production Agency procure, manufacture, operate and maintain the SMTs, STEs, Tools, Jigs and Fixtures required for the indigenous manufacturing phase, shall be provided. Wherever software is used, details of the software as per documentation listed at **Annexure I to Appendix K** including Source Code and Firmware Support Manual shall be provided. The collaborator should inform the PA on the need to go in for the software upgrades so as to work in synchronisation with the data provided.

(f) The Collaborator shall also provide the data in respect of MTBF, MTBO, MTBR and Reliability of the product being offered.

6. **Product Upgrades.** Technical data including relevant Documentation update in respect of any modifications/improvements/upgrades undertaken by the Collaborator for construction of vessel(s) during the entire life cycle of the product/license Agreement shall be provided to the Production Agency at no additional cost during the entire life-cycle of the product.

7. **Training**

(a) As part of ToT, Industrial Training required by the Production Agency to realise the Fully Finished vessel, during various manufacturing phases and for providing component level maintenance support to the Customer shall be provided by the Collaborator. The Industrial Training shall be in English language, comprehensive, covering all aspects of design, manufacture, software, installation and commissioning,

system integration and component level maintenance of the product down to sub-assembly, modules and PCB level. Apart from classroom training covering the critical aspects, due emphasis will be given to on-the-job training.

(b) All aspects of software are to be comprehensively covered during the software training module, with a view to enable Production Agency's software engineers undergoing training to acquire skills in the use, maintenance and update of the software.

(c) Industrial Training shall be in Collaborator's yard and/or in the plants of its subcontractors, principals and subsidiaries as the case may be. Collaborator shall ensure that such training is organised at the time when Collaborator has the vessel of similar nature under production in its plant or in the plant of its sub-contractors.

(d) Collaborator shall provide complete details of Industrial Training programme which will include scope, location, number of trainees and the duration for each phase of training in terms of instructor man weeks. Such Industrial Training programme shall be mutually agreed upon between Collaborator, Production Agency and the Buyer.

(e) Details of the training shall be sub divided into batches with the date of start for each batch, duration of training etc, as will be agreed upon by Collaborator and Production Agency subject to over all training schedule. Operation and Maintenance training for end user shall also be provided.

(f) Details of Industrial and User Training Programme recommended by the Collaborator shall be provided as an Enclosure to the technical bid. Collaborator shall provide details regarding the training aids and simulators required at the production agency and at user locations. Long term training of production agencies at the design departments of Collaborators shall also be included to give a complete exposure to trainees on design practices of Collaborator. This will help in design, liaison, support, including upgrade Modifications/Troubleshooting/Concessions during the entire life cycle of the product.

## 8. **Shipbuilding Management and Organisation Proposal**

(a) The Collaborator shall propose an approach to the setting up of a management team for PA to be capable of effecting) shipbuilding programme to meet the requirements of good quality, cost effectiveness and minimum delivery period in shipbuilding when building the vessels at the PA's yard. The collaborator will also propose a detailed list of management team required to be positioned by the PA/Indian Navy for accessing/being trained in all aspects of design and production connected with the project when vessels are built at the collaborators yard. The collaborator will provide office facility at the collaborators works and provide assistance to arrange for accommodation facilities in the near vicinity of the works.

(b) For the above proposal, the Collaborator is to propose a complete organisational set up to cater to the following disciplines: -

(i) Design and Planning

(ii) Project Execution

- (iii) Procurement of Equipment
- (iv) Finance and Electronic Data Processing
- (v) QA & QC
- (vi) Training
- (vii) Commissioning and trials

(c) The Collaborator is to define the functions and terms of reference of each and every unit in the Shipbuilding Department given above. Such a definition will entail the submission of detailed responsibilities of each individual assigned to the department in line with manpower projections.

(d) As part of ToT, Collaborator shall provide requisite technical assistance to the production agency during the phased manufacturing programme of the product in India. The details of such technical assistance considered necessary by the Collaborator shall be provided as an Enclosure to the technical bid. The total technical assistance package shall be in number of man weeks spread over number of missions. Collaborator shall provide question/answer service and modification advices during the life cycle of the product at no additional cost.

9. **Special Maintenance Tools (SMTs) and Special Test Equipment (STEs)**

(a) Collaborator shall provide complete technical data of the SMTs and STEs used in the production, assembly, test and maintenance of product. This information shall also include the data for manufacture and maintenance of the SMTs and STEs. Details on manufacturing hours and cost details are to be provided.

(b) Details of special category test (recertification, production series testing) along with test rig/test set up shall also be provided. Wherever software is used, details of the software including Source Code and Firmware Support Manual for embedded software shall be provided.

(c) Collaborator shall provide details of calibration and periodicity of calibration in respect of SMTs and STEs. Details of master tester and associated special facilities required for this purpose (with source of supplies) will be provided by the Collaborator.

10. **Consumables.** List of consumables required for the manufacture/maintenance of vessel along with cost, source details and life data shall be provided.

11. **Special Technologies/Processes.** The Collaborator shall mention in the ToT proposal about special technologies and special coatings and treating processes along with details of plant and machinery/running cost etc vis-à-vis specific components/assemblies.

12. **Product Support.** Collaborator shall ensure that the product support including supply of spares and management of obsolescence for a minimum of 20 years from the time the last vessel is produced under the present proposal, shall be available to the production agency/its customer. Collaborator shall also provide a proposal for transferring the

complete product support to the production agency in a phased manner.

13. **Commercial Bid.** The commercial bid should be submitted in a separate sealed cover and will include the following:-

- (a) Construction of vessels at the collaborators yard.
- (b) Complete Transfer of Technology (ToT) for licensed production of additional vessels in India at PA, a Defence Public Sector Undertaking (DPSU).
- (c) Supply of 'Infrastructure Deliverables' for setting up of production infrastructure at PA as listed at **Annexure III to Appendix K**, after assessing for completeness of the same, for enabling PA to construct the vessel(s).
- (d) Offset obligations as listed at **Appendix J**.

14. **Transfer of Technology (ToT).** Collaborator shall provide commercial bid for providing complete Know-How and documentation for the manufacturing of vessel, Industrial Training and Technical Assistance and the required rights, licenses and authorisation to manufacture, use and sell the product. For the Industrial Training and Technical Assistance phase, man week rate for providing training/technical assistance in Collaborator's own yard or in India may be separately provided. (**Refer Annexure I to Appendix K**)

15. **Supplies**

- (a) **Equipment and Systems.** Collaborator shall provide itemised price list for supply of equipment and systems, inclusive of the production mortality used by the Collaborator during manufacture of vessel in its plants.
- (b) **SMTs, STEs, Tools, Jigs and Fixtures.** Collaborator shall also provide complete list with itemised prices for SMTs, STEs, Tools, Jigs and Fixtures required for the manufacturing phase. In case of Tools, Jigs & Fixtures where large quantities are involved, category-wise prices may be provided. Collaborator shall also provide prices for 'O' level and 'D' level maintenance facilities of vessel by the User/Customer.
- (c) **Bought Out/Outsourced/Subcontracted Items.** Collaborator shall provide the complete list of items, which are bought out/outsourced/subcontracted for use in the manufacture of vessel along with itemised prices and details of the sources for procurement. Authorisation for direct procurement by the production agency from these sources shall be given so that no development cost or NRE charges are incurred. In case where suggested sources decline to supply the components/materials, Collaborator shall take responsibility for supply of same or suggest alternate sources for the procurement of suitable equivalent components/materials during the indigenous phase of construction.
- (d) **Life Cycle Costs.** The collaborator shall provide a model for estimating the life cycle cost of the vessel(s) and the basis thereof. Factors such as operational hours/tear, MTBF, requirement of maintenance spares, mandatory replenishments during preventive maintenance schedules etc may be considered for arriving at the model for determining life cycle costs.

- (e) **Spares.** The Collaborator shall provide itemised price list of spares required as per the levels of maintenance of vessel. (Refer **Appendix D**).
16. **Payment Terms.** Specimen Format for Providing Prices is at **Annexure II to Appendix K** (needs to be formulated by the Collaborator for specific products based on identified milestones).
17. **Delivery Schedule.** Collaborator shall provide complete schedule for delivery of the vessel(s), Spares, ToT including the transfer of documentation, provision of Industrial Training and Technical Assistance, SMTs, STEs, Tools, Jigs and Fixtures. The Documentation for a specific phase shall be provided one month prior to the commencement of training for that phase to enable the trainees to study the documentation prior to the training. Specimen format for the delivery schedule is at **Appendix L**.
18. **Liquidated Damages.** Collaborator shall undertake to complete its obligations in accordance with the contractual delivery schedule. For delay in delivery of the VESSEL(S)s, Spares, ToT including the transfer of documentation, provision of Industrial Training and Technical Assistance, SMTs and STEs and delays caused by or attributable to the Collaborator, the Production Agency shall be entitled to claim liquidated damages from the collaborator.
19. **Warranty**
- (a) **Documentation.** Collaborator shall warrant that the documentation supplied shall be identical, complete and of equal quality as the documentation used by him in its own activities and shall be accurate and complete for manufacturing, assembling, integrating and testing of the product and shall provide updates including modifications/improvements during the life cycle of the product/tenure of the License Agreement.
- (b) **Material/Equipment/Kit Supply.** Items supplied should be free from any defects arising from faulty material, design or workmanship and should be guaranteed for quality/satisfactory performance for a period of minimum 12 calendar months from the date of commissioning of the vessel. During this warranty period, defects arising from faulty material, design or workmanship, shall be remedied by Collaborator at his own cost. If it becomes necessary, the Collaborator should replace any defective portion of the goods or replace the material/equipment as a whole without any additional cost to production Agency.
- (c) All supplied software should be verified & validated by Collaborator for use of the Production Agency.
20. **Infringement.** Collaborator shall indemnify and protect at its own cost, the Production Agency in respect of cost/claims/legal claims/liabilities arising from third party claim with regard to the existence of any patent or intellectual & industrial property right of any such parties in India or from other countries.
21. **Performance Guarantee.** Collaborator shall guarantee the performance of the ---vessels built at Production Agency's yard to design Specifications at the collaborator's location.

22. **Validity.** The bid will be kept valid for acceptance for a minimum period of 18 months from the date of submission.
23. **Technical Collaboration Agreement (TCA).** Post CNC, the Collaborator shall enter into a detailed Technical Collaboration Agreement (TCA) with Production Agency incorporating mutually agreed terms and conditions.
24. **Global Rights.** Collaborator shall clearly indicate the extent of global rights of sales, which they would be willing to offer to the Indian production agency.

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**DOCUMENTATION DETAILS TO BE PROVIDED BY COLLABORATOR**  
**( AS APPLICABLE )**

**1. Engineering Documentation.**

- (a) Product Structure.
- (b) Parts List.
- (c) Part Electrical Lists.
- (d) Part Drawings.
- (e) Assembly drawings.
- (f) Cable layout diagram including its part list, connectors and end preparation details
- (g) Configuration Control Document.
- (h) Stress Reports (static/fatigue), performance reports, type test Schedule/records, type test certificate.
- (j) Drawings of castings/forgings with material details, collaborator information, heat treatment details & process details.
- (k) Details of collaborator items specifically developed for the Licensed Product.
- (l) For PCB Cards : Schematics, General Assembly drawings, Assembly instructions, PCB blank documents, Drilling Drawings, Punch tape and master film complete with Gerber data, SMD location processing files including CAE/CAM files, component foot print/dimension details etc.
- (m) Engineering Change proposals covering details of modifications.
- (n) Wiring List and details including schematics of sub- assembly/modules/drawers/racks.
- (o) Bill of Materials and Ordering Specification with collaborator addresses including OEMS specifying MIL grade details.
- (p) Details of all non-MIL Grade components and their screening procedures.
- (q) Full technical details of ASICS and Hybrid Microcircuits including manufacturing documents.

- (r) Full technical details of Proprietary Items if any (including manufacturing documents).
- (s) List of components where traceability records are important.
- (t) Details of environment tests carried out on equipment and its sub-systems/PCB Assemblies etc.
- (u) Material data sheets- chemical composition/mechanical- properties- for all metallic/non-metallic materials and consumables.
- (v) Data sheets for ICs, Transistors, MOSFETs etc

## 2. **Software Documentation.**

- (a) Software Requirement Specification.
- (b) Interface design document.
- (c) Software Change proposals.
- (d) Firmware support manual for embedded software.
- (e) Software environment/tools including third party procurements.
- (f) Software Test Procedure.
- (g) Software User Manual.
- (h) Software installation procedure including user settings of passwords, site specific data and any customisation code/key or encryption.
- (j) IV & V details (independent verification & validation).

## 3. **Manufacturing Documentation.**

- (a) Operation sequence sheets. Process Sheets including details of special processes and finishes.
- (b) Complete set of drawings for tooling, jigs and fixtures.
- (c) Programme for production (e.g. s/w as applicable)
- (d) Photographs of wiring harness/bundling level.
- (e) List of shop consumables with details of specifications, sources of procurement, data on shelf life.
- (f) Assembly tree/sequence, assembly process sheets including assembly settings and checks, assessments to be made, matching sub assemblies, markings.
- (g) Any special manufacturing facilities to be set up indicating plant and machinery, test equipment and their collaborator details and cost.



- (h) Estimated man-hour requirements for fabrication, assembly and testing at component/sub-system/system/integration level.
- (j) Inspection stages, quality plan, details of inspection equipment, gauges etc.
- (k) Calibration procedures for inspection equipment, gauges, heat treatment & process equipment (furnace/baths).
- (l) Special precautions to be taken while Soldering/De-soldering and Testing Static sensitive devices

4. **Test Documentation.**

- (a) Ship/Vessel acceptance testing procedures as well as the associated acceptance criteria and conditions.
- (b) Factory Test specification, procedure and acceptance test specification, procedure for PCBs, modules, sub assemblies and equipment with detail instructions on test set up, use of test and/or simulation equipment and software, execution of test with recording of results.
- (c) Complete set of drawings for manufacture of test jigs including ATE fixtures, programmes as applicable.
- (d) Complete set of drawings for special to test equipment. This will include manufacturing drawings as well as software documentation.
- (e) Special category test details (recertification, production series testing, quality assurance testing.
- (f) “Red band” units, calibration procedures for test rigs/equipment.

5. **Technical Manuals.**

- (a) User handbooks detailing operational use of equipment.
- (b) Installation & commissioning manual.
- (c) Technical description of PCB, Modules, drawers, racks, etc with details of block diagram, schematic general assembly drawing, timing details, PROM etc.
- (d) Maintenance manual covering
- (e) Permissible worn-out dimension limits, acceptance test procedure and acceptance limits of overhauled product.
- (f) Repair/salvage schemes, mandatory replacement parts.
- (g) Periodic maintenance.

- (h) Trouble shooting and fault diagnosis manual. Testing and repair procedure for faulty PCBs up to component level and peripheral equipment received from the customer.
- (j) Structural breakdown list for complete equipment.
- (k) Recommended spares list, site supply and depot stocking.
- (l) The maintenance manual shall cover the product for which the file of drawings/documents is given as well as all vendor items which are part of licensed product.
- (m) Overhauling manuals including details, tests, adjustment, calibration tuning etc., for all levels of equipment.

6. **General Documentation (including Standards and Specifications).**

- (a) Standard inspection method (inward goods in-process and final acceptance).
- (b) Material/component and product standards including general fasteners and consumables.
- (c) Process standards/procedures.
- (d) Workmanship standards/procedures.
- (e) Quality standards/procedures including incoming inspection procedures, quality manuals.
- (f) General procedures.
- (g) Qualified Collaborator Lists.
- (h) Standard tools, jigs and fixtures.
- (j) Design standards/company standards.
- (k) ISO 9001 certification of OEM, collaborators & subcontractors/ ISO 14000 certification.

7. **Additional Documentation.** Repair centre documents including details of test instruments, jigs, fixtures etc., for the end user.

8. Documentation shall be provided in the form of hard copy and magnetic media, including that required for making number of copies of technical manuals as specified in **Appendix A**. Documentation shall be provided in English language.

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**Annexure II to Appendix K to Schedule I**  
(Refers to Para 16 of Appendix K)

**FORMATS FOR PROVIDING PRICE BREAK-UP OF TOT**  
(As applicable)

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**INFRASTRUCTURE DELIVERABLES BY THE COLLABORATOR TO PA FOR  
THE PROJECT**

**Table 1 : LIST OF INFRASTRUCTURE REQUIREMENTS  
(INFRASTRUCTURE DELIVERABLES BY COLLABORATOR AND TO BE  
COSTED)**

**TABLE 2: LIST OF SERVICES/FACILITIES FOR WHICH TECHNICAL INPUTS  
ARE TO BE PROVIDED BY THE COLLABORATOR**

**TABLE 3 : LIST OF JIGS, FIXTURES & PROTECTIVE GEAR  
(INFRASTRUCTURE DELIVERABLES BY COLLABORATOR AND TO BE  
COSTED)**

**TABLE : TRAINING REQUIREMENTS**

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**DELIVERY SCHEDULE**

**(a) DELIVERY SCHEDULE OF VESSELS**

To buyer's representative, afloat at **(place- may be specified)**, **at the Seller's cost**. The onboard spares (OBS), special tools, accessories, and documents/publications shall be delivered along with delivery of the vessel(s). 'As Fitted'/'As Made' drawings are to be delivered after the delivery of the respective vessel(s). The consignee for the B&D spares alongwith delivery schedule is (Name of authority-may be specified).

**(b) DELIVERY SCHEDULE OF TRANSFER OF TECHNOLOGY (ToT) AND INFRASTRUCTURE DELIVERABLES ( if applicable)**

The proposed delivery schedule for ToT and Infrastructure Deliverables to Production Agency (PA)

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**Appendix M to Schedule I to Chapter IV**  
(Refers to Para 34 of RFP)

**CERTIFICATE-MALICIOUS CODE**

**(To be rendered on Seller's Letterhead)**

1. This is to certify that the Hardware and the Software being offered, as part of the Contract, does not contain embedded malicious code that would activate procedures to:-

- (a) Inhibit the desired and designed function of the equipment.
- (b) Cause physical damage to the user or equipment during the exploitation.
- (c) Tap information resident or transient in the equipment/networks.

2. The firm will be considered to be in breach of the procurement contract, in case physical damage, loss of information or infringements related to Copyright and Intellectual Property Rights (IPRs) are caused due to activation of any such malicious code in embedded software.

(Signed)

Designation/Name/Address of firm

Date:

Place:

\*\*\*\*

**Appendix N to Schedule I to Chapter IV**  
(Refers to Para 16 of RFP)

**INFORMATION PROFORMA**

**Engagement of Agent by Foreign Vendor**

(Separate sheets to be filled in case of multiple Agents)

1. Procurement Case.....
2. Has the vendor engaged/proposes to engage any Agent  
[Yes/No] :
3. If Yes, Details of Engaged Agent:  
Name of the Firm/Individual.....  
Address .....  
.....  
Registration No .....  
.....
4. Date of Engagement .....
5. Period of Engagement .....
6. Scope of Work and Responsibilities.....  
.....
7. Payment Details:  
Payments made in last 12 months.....  
Brief Terms of Payment .....  
.....
8. Any other Details .....  
.....
9. Declaration. It is certified that the above information is true. Any change in the information, including termination of an Agent, will be intimated within two weeks of occurrence. Details of further payments will be intimated annually.

Place:

Date:

(Authorised signatory)  
Vendor Name and Address

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**Appendix 'O' to Schedule I to Chapter IV**  
(Refers to Para 1(d), 26, 27 & 39(a) of  
Schedule I to Chapter IV)

**FINANCIAL ASSESSMENT PARAMETERS FOR SHIPBUILDING PROJECTS<sup>48</sup>**

Eligibility and Qualification Criteria			CAT F1	CAT F2	CAT F3	CAT F4	CAT F5	Documentation Required (To be submitted along with the bid)
			Outflow required for the Project per Year = Estimated Value of Contract / Number of Years prescribed for completion of the Project					
Ser No	Subject	Requirement	Rs 3000 Cr and above	Greater than Rs 1,000 Cr and less than or equal to Rs 3,000 Cr	Greater than Rs 75Cr and less than or equal to Rs 1,000 Cr	Greater than Rs 25 Cr and less than or equal to Rs 75 Cr	Lesser than or equal to Rs 25 Cr	
1.	Credit Rating	Credit Rating from RBI approved Credit Rating Agencies at time of bid submission till declaration of L1. Latest Credit rating to be submitted by the TEC-qualified entities at time of CNC	Minimum A or equivalent.	Minimum A or equivalent.	Minimum BBB or equivalent.	Minimum BB or equivalent.	Minimum BB or equivalent	Credit Rating Certificate from RBI approved Agencies

<sup>48</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 22.04.2019



Eligibility and Qualification Criteria			CAT F1	CAT F2	CAT F3	CAT F4	CAT F5	Documentation Required (To be submitted along with the bid)
			Outflow required for the Project per Year = Estimated Value of Contract / Number of Years prescribed for completion of the Project					
Ser No	Subject	Requirement	Rs 3000 Cr and above	Greater than Rs 1,000 Cr and less than or equal to Rs 3,000 Cr	Greater than Rs 75Cr and less than or equal to Rs 1,000 Cr	Greater than Rs 25 Cr and less than or equal to Rs 75 Cr	Lesser than or equal to Rs 25 Cr	
2.	Average Annual Turnover	Minimum average turnover of the bidder during the best three out of five FYs calculated as per audited balance sheets.	15 % of outflow required for the Project per year at time of bid submission	20 % of outflow required for the Project per year at time of bid submission	30 % of outflow required for the Project per year at time of bid submission	40 % of outflow required for the Project per year at time of bid submission	50 % of outflow required for the Project per year at time of bid submission	FORM – 1 (Annexure I to Appendix ‘O’ to Schedule I of Chapter IV)
3.	Working Capital	Working Capital shall be more than or equivalent to 25 % of Outflow required for the project per year	The bidder shall demonstrate access to unutilised line of credit /overdraft facility / cash credit facility from its consortium of Banks during bid submission vide a letter issued by the Bank or lead Bank of the consortium. Alternatively or complimentarily, the Bidder should demonstrate liquid asset in form of cash/ marketable securities in its Balance Sheet. The amount required as working capital for the project would be indicated in the RFP.					FORM- 2 (Annexure II to Appendix ‘O’ to Schedule I of Chapter IV)

Eligibility and Qualification Criteria			CAT F1	CAT F2	CAT F3	CAT F4	CAT F5	Documentation Required (To be submitted along with the bid)
			Outflow required for the Project per Year = Estimated Value of Contract / Number of Years prescribed for completion of the Project					
Ser No	Subject	Requirement	Rs 3000 Cr and above	Greater than Rs 1,000 Cr and less than or equal to Rs 3,000 Cr	Greater than Rs 75Cr and less than or equal to Rs 1,000 Cr	Greater than Rs 25 Cr and less than or equal to Rs 75 Cr	Lesser than or equal to Rs 25 Cr	
4.	Annual Turnover for CAT F4 & F5	Exclusion of entities with average annual turnover (average of best 3 of last five FYs) of Rs 500 Cr and above, from participating in projects with per year project outflow lesser than or equal to Rs 75 Cr	N.A.			Average Annual Turnover less than Rs 500 Cr at the time of bid submission.		FORM 1 (Annexure I to Appendix 'O' to Schedule I of Chapter IV)

**Note:-**

- Credit Rating should only be from RBI approved Credit Rating Agencies.
- Annual Turnover is defined as “Annual Sales volume net of all discounts, taxes and interest earnings etc. excluding extraordinary income”.
- The Audited Balance Sheets, Profit and Loss Account and cash flow statement of Group Companies shall not be considered for evaluation.
- Annual Turnover would be substantiated through (i) Audited Balance Sheets of the relevant financial years, provided the figures, are stated in the Balance Sheet(s) or (ii) Specific certificate(s) issued by its Statutory Auditors

- (e) In case of a Joint Venture, the JV firm should meet all the above mentioned financial criteria for the project.
- (f) In case of a newly formed Joint Venture (less than 05 year old), the Financial Criteria will be assessed as follows:-
  - (i) **Credit Rating** – The lead JV partner should meet the minimum credit rating required for the category.
  - (ii) **Average Annual Turnover** - Would be based on the turnover of individual JV members in the ratio of their share holding pattern based on the audited balance sheets.
  - (iii) **Working Capital** – JV firm should meet the Working Capital requirement.

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**Annexure I to Appendix ‘O’ to Schedule I to Chapter IV**  
(Refers Ser No (2) & (4) to Appendix ‘O’ to Schedule I to Chapter IV)

**FORM-1**<sup>48</sup>

**AVERAGE ANNUAL TURNOVER**

(This is a suggested format, which may vary depending on User requirements)

(Financial Qualification Attribute No 2 & 4)

**Subject: Application for Pre-Qualification for Construction of XXXX Project**

[The following table shall be filled in for the Applicant]

Applicant's Name: *[insert full name]*:

ANNUAL TURNOVER	
Year (Financial year to be indicated by Applicant)	Amount INR
<i>[indicate Financial year]</i>	<i>[insert amount in INR]</i>
Average Annual Turnover**	

According to the information, explanations and documents provided by the Applicant to us, we certify that the above information is correct to the best of our knowledge and belief.

.....(Signature of the Statutory Auditor)

The Annual Turnover of Group Companies, shall not be considered for evaluation. The Applicants are advised to strictly adhere to this requirement and submit the Balance Sheets, specific certificate issued by its Statutory Auditors or in case the accounts of the Applicant are not required to be statutorily audited, certified in accordance with local legislation, certificate(s) issued by the clients in the name of the Applicant only

.....(Full Name of the Statutory Auditor)

.....(Name of the Statutory Auditor's Firm)

.....(Complete Address of the Statutory Auditor's Firm)

.....(Telephone/fax numbers, including country and city codes)

.....(E-mail of the Statutory Auditor)

.....(Seal of the Statutory Auditor)

**Membership No. of the Statutory Auditor:** .....

<sup>48</sup> Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 22.04.2019

- Annual Turnover should be substantiated through (i) Audited Balance Sheets of the relevant financial years, provided the figures, are stated in the Balance Sheet(s) or (ii) Specific certificate(s) issued by its Statutory Auditors or in case the accounts of the Applicant are not required to be statutorily audited, certified in accordance with local legislation or (iii) Certificate(s) issued by the Clients
- \*\* Total INR equivalent for best three out of five FYs divided by the 3.

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**Annexure II to Appendix O to Schedule I to Chapter IV**  
(Refers Ser No. (3) to Appendix 'O' to Schedule I to Chapter IV)

**FORM-2**<sup>48</sup>

**FINANCIAL SITUATION OF THE APPLICANT**

(This is a suggested format, which may vary depending on User requirements)  
(Financial Qualification Attribute No 3)

**Subject: Application for Pre-Qualification for Construction of XXXX Project**

*[The following table shall be filled in for the Applicant]*

Applicant's Name: *[insert full name]*

**1. Financial data**

Type of Financial information (In INR)	Historic information for previous 5 (Five) Years				
	Year 5	Year 4	Year 3	Year 2	Year 1
<b>Statement of Financial Position (Information from Audited Balance Sheet)</b>					
A. Total Assets (TA) (Excluding Deferred Expenditure and Losses)					
B. Total Outside Liabilities (TL) (Long Term Liabilities and Current Liabilities and Provisions)					
C. Revaluation Reserve					
<b>D. Net Worth = A – B - C</b>					
E. Current Assets (CA)					
F. Current Liabilities and Provisions (CL)					
<b>G. Working Capital = E – F</b>					
H. Proposed specific line of credit agreed by commercial Bank and/or any other source of finance for the subject contract	N/A	N/A	N/A	N/A	
I. Total Available Working Capital (G + H) for the subject contract	N/A	N/A	N/A	N/A	
J. Working Capital requirements for current contract commitments	N/A	N/A	N/A	N/A	

<sup>48</sup>Amendment issued vide MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 22.04.2019

K. Sources of Finance for current contract commitments	N/A	N/A	N/A	N/A	
L. Working Capital available after meeting the Working Capital requirements for current contract commitments (I – J + K)	N/A	N/A	N/A	N/A	
<b>III. Financial Soundness</b>					
M. Net worth					
N. Profit before taxes					
O. Profit after taxes					

## 2. Financial documents

(a) The Audited Balance Sheets, Profit and Loss Account and cash flow statement of Group Companies, shall not be considered for evaluation. The Applicants are advised to strictly adhere to this requirement and submit the above statements of the Applicant.

(b) The Applicant shall attach copies of the Audited Balance Sheets or, if not required by the laws of the Applicant's country, other Financial Statements for 5 (five) years preceding the Application Due Date, which shall:

- (i) Reflect the financial situation of the Applicant, and not an affiliated entity;
- (ii) Be statutorily audited or in case the accounts of the Applicant are not required to be statutorily audited, certified in accordance with local legislation;
- (iii) Be complete, including all notes attached thereto;
- (iv) Correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

## 3. Note:

(a) Year 1 will be the latest completed financial year, preceding the Application Due Date. Year 2 shall be the year immediately preceding Year 1 and so on. For the avoidance of doubt, financial year shall, for the purposes of the Application hereunder, mean the accounting year followed by the Applicant in the normal course of its business. If the most recent set of Balance Sheet or the Financial Statement, as the case may be, is for a period earlier than 12 months from the date of application, justification should be provided for the same.

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## **CHAPTER V**

# **FAST TRACK PROCEDURE**





## **CHAPTER V**

### **FAST TRACK PROCEDURE**

#### **General**

1. Fast Track Procedure for meeting urgent operational requirements was promulgated vide MoD ID No: 800/SS(A)/2001 dated 28 Sep 2001. This procedure has been reviewed and modified based on experience gained in implementation. This procedure, named the Fast Track Procedure, is set out in succeeding paragraphs.

#### **Aim**

2. The objective of this procedure is to ensure expeditious procurement for urgent operational requirements of the regular and special forces, foreseen as imminent during war as well as peace time and for situations in which crisis emerges without prior warning.

3. Fast Track Procedures may also be applied for cases where undue/unforeseen delay, due to reasons beyond the control of the acquisition set up, is seen to be adversely impacting the capacity and preparedness of the regular and Special Forces.

#### **Scope**

4. The Fast Track Procedure (FTP) will cover acquisitions undertaken by the Ministry of Defence and Defence Services under 'Buy category' or outright purchase. The acquisitions may or may not be part of LTIPP/SCAP/AAP. Such acquisitions are applicable for both indigenous sources and ex- import. Procurement proposals in which user trials are envisaged will not be under the purview of FTP.

5. The acquisition under FTP can be categorised as under:-

- (a) Procurement of equipment already inducted into Service.
- (b) Procurement of new equipment.

### **ACQUISITION PROCESS**

#### **Acceptance of Necessity (AoN)**

6. The adoption of FTP to meet urgent operational requirements will be authorised by special DAC meeting chaired by the Raksha Mantri based on proposals moved by respective SHQs with the approval of the concerned Service Chief. This Committee would comprise of the Service Chief(s), Defence Secretary, Secretary (Defence Production), Secretary (R&D), Secretary Defence (Finance), Director General (Acquisition), HQ IDS (CISC) and other officials of the MoD as deemed necessary. The proposal would be processed by HQ IDS which will act as secretariat to the special DAC. Copies of the proposal/s would also be circulated to the other members of the committee. The projected requirement must be related to an operational situation foreseen as imminent or for a situation where a crisis has emerged without prior warning. The requirement, as projected, must identify the items required, their numbers, mode of procurement, broad Operational Requirements (ORs)/Services Qualitative Requirements (SQRs) desired and the time-frame within which they need to be inducted. The format for the Statement of Case (SoC) for

processing such proposals is given as **Appendix A** to this Chapter.

7. Consequent to the initiation of the proposal, a special meeting of the DAC would be convened within seven days. The DAC would discuss the proposal and accord Acceptance of Necessity to the proposal. Decisions on following aspects will explicitly emanate from the analysis by the DAC:-

- (a) Equipment and the quantities approved.
- (b) Source of Procurement.
  - (i) A Vendor whose Equipment is already in Service. If so:-
    - (aa) For additional quantities of an ongoing contract.
    - (ab) **For Invoking 'Option Clause' of a Contract.** In case the quantities required are in excess of the 'Option Clause' of the contract, the same would be clearly brought out for approval by the DAC. The quantity could be up to 100% with the approval of DAC.
    - (ac) **For Placing Repeat Orders on Past Suppliers.** The quantities could be limited to 100% of the previous contract.
    - (ad) A case where the vendor is not able to supply the entire quantity of required item and the procurement may be made from other known vendors whose equipment has been found acceptable in the past.
  - (ii) Procurement of a New Equipment based on:-
    - (aa) Single vendor.
    - (ab) Multi vendor.
    - (ac) Option of procuring from friendly countries ex-stock or through lease.
- (c) Composition of the Empowered Committee.
- (d) Estimated cost of the proposal.
- (e) Time schedule for induction to be specified by the DAC.

8. Minutes of meeting of the special DAC, as approved, would be construed as the AoN and based on which the SHQ/Acquisition Wing/Empowered Committee would initiate the procurement process.

9. Given the limited time-frame, the FTP would necessarily have to be confined to such items as would be available within the specified time-frames and therefore, long lead items such as major weapon system should be avoided. The items involved should preferably be such which are already in Service or have been trial evaluated or are available widely in the world/in service in foreign defence forces/indigenous market for ready procurement so that the time required for evaluation is minimised. The Indian DAs/Ambassadors in their respective country would confirm the information furnished by the vendors regarding the item being 'In Service in Foreign Defence Forces'. The TEC would include such information received from DAs in their technical compliance statement.

## **Procurement of Equipment Already Inducted into Service**

10. Procurement of equipment already inducted into Service may entail placing orders under following conditions:

(a) **Additional Requirements of Equipment on the Vendor who is Executing an Ongoing Contract.** The concerned Acquisition Manager would invite the vendor for negotiations for additional quantities. The CNC would conclude the negotiations preferably at the same price and terms & conditions. It will however, have the right to negotiate and arrive at a mutually agreed price and terms & conditions with the vendor in case of differences.

(b) **Invoking Option Clause.** The concerned Acquisition Manager would invoke the option clause and invite the vendor for signing the addendum to the contract.

(c) **Past Supplier for the Subject Item.** In such cases a repeat order would be placed on the vendor. The SHQ would forward a draft commercial RFP to the Technical Manager. The draft RFP would be vetted in collegiate manner by Acquisition, Finance and Technical Managers and issued in the shortest possible time. The vendor can be called for negotiations along with the commercial offer itself. Quantity to be procured would be restricted to 100% of the quantity contracted earlier.

(d) There may be a situation where the vendor who has supplied the equipment earlier is unable to supply the required quantity within the given time frame. In order not to proliferate the existing inventory, Acquisition Wing will first invite commercial offer from the vendor and negotiate the price based on the LPP. Thereafter Acquisition Wing in coordination with SHQ will invite all vendors (as approved by the DAC), whose equipments have been trial evaluated and found acceptable for introduction into Service, for supply of the balance quantity of equipment at the negotiated price with the last supplier. The apportionment of quantity would be as per the earlier L2, L3, in that order.

## **Procurement of New Equipment**

11. **Service Qualitative Requirements (SQR)/Operational Requirement (ORs).** For procurement of new equipment, there would be a requirement of formulation of Service Qualitative Requirement (SQRs) or Operational Requirements (ORs) by the concerned Service HQs. While formulating the SQRs/ORs, it would be kept in mind that the required equipment is widely available in the world market/in service in foreign defence forces/indigenous market. Such SQRs/ORs could be approved by appropriate authority at Service HQs and may be without endorsement by Staff Equipment Policy Committee. The SQRs/ORs would be forwarded along with the proposal when initiated by the Service Chief.

12. **Solicitation of Offers.** Solicitation of offers will be as per 'Single Stage-Two Bid System'. RFPs will be processed by SHQs within 10 days of approval of the proposal by the Apex Committee. In order to save time, collegiate vetting of RFP will be resorted to at Service HQs while obtaining the views of maintenance and QA agencies. RFP would then be vetted in a similar manner by Acquisition, Finance and Technical Managers. RFP will be approved by DG(Acq)/ Additional Secretary (Acq) and issued by TMs to all known vendors on a limited tender basis.

13. **Request for Proposal (RFP).** The RFP will be a self-contained document that will enable vendors to make their offers after consideration of full requirement of the acquisition. The standardised RFP document under FTP would be as per Schedule I to Chapter II with relevant

modifications/amendments.

14. **Technical Evaluation.** The Technical Evaluation Committee (TEC) will carry out evaluation of the technical bids received in response to RFP, with reference to QRs. It will examine the extent of variations/differences, if any, in the technical characteristics of the equipment offered by various vendors with reference to the QRs and prepare a compliance statement shortlisting the equipment, which are acceptable for procurement. In all FTP cases where all participating vendor(s) are found compliant during TEC, approval of the TEC report shall be done within SHQ. However, in case of vendor(s) being found non compliant at the TEC stage, formal approval of such TEC reports will be obtained from DG (Acq) through TMs prior to progressing the case further<sup>37</sup>. Any deviation/waiver to SQRs or any single vendor situation that may emerge, would have to be recommended by the concerned Service Chief for consideration and approval of the Raksha Mantri. However, cases where the procurement has been approved ab-initio on a single vendor basis, no relaxation of SQRs would be permitted.

14(a) **Benchmarking by Costing Committee.**<sup>23</sup> Within a week of acceptance of TEC Report by the DG(Acquisition) benchmarking would be carried out by a Costing Committee headed by the Advisor (Cost) and reps of concerned SHQ Directorates. This process will be automatically undertaken once SHQ informs Advisor (Cost) about acceptance of the TEC Report. Along with this information, SHQ will also provide Advisor (Cost) with details of reps of SHQ Directorates nominated as members of the concerned Costing Committee. The recommendations of the Costing Committee may be accepted as such / deliberated upon by the CNC post approval of GS Evaluation and promulgation of CNC. Till then, the Costing Committee benchmark models and costing data will be kept in a sealed cover. In cases where no field evaluation is to be undertaken, the CNC would be constituted within a week of acceptance of TEC Report by the competent authority.

15. **Empowered Committee.** Although there would be no requirement of any trial evaluation of the identified equipment, an Empowered Committee may be authorised to visit the premises of vendors to witness demonstrations/evaluate the equipment as required. The Empowered Committee would have the powers to negotiate and conclude contracts in the shortest possible time and would have adequate representations from different wings of the Ministry/Service HQs to ensure that requisite expertise and authority for procurement action is available. They would be provided with a range of deviations in performance according to TEC Report (where applicable) from that laid down in the QRs, to expedite the selection of equipment. In case the Empowered Committee is not empowered to negotiate & conclude contract, CNC may be constituted on receipt of the Report of such Empowered Committee<sup>37</sup>.

### **Contract Negotiation Committee (CNC)**

16. The standard composition of the CNC shall be as indicated at **Appendix B** to this Chapter. Any change in the composition of the CNC may be effected with the approval of DG(Acq).

17. Cases for which contracts have already been signed and benchmark prices are available, the CNC would arrive at the reasonable price, taking into consideration the escalation/foreign exchange variation factor. The endeavour should be to conclude the CNC early so that the operational/urgent requirement of the indenting service is met in a time-bound manner. Guidelines to be followed for early conclusion of CNC are given in succeeding paras.

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<sup>23</sup> Amendment issued vide Enclosure D to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

<sup>37</sup> Amendment issued vide Enclosure G to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

18. For certain category of items, where orders have been placed in the past, there could be a downtrend of prices since the last contract. It would thus be necessary for the CNC to verify that there has been no downward trend since the last purchase and this would have to be kept in mind while arriving at the prices.

19. In case it is found that the lowest tenderer (L1) is not able to supply the entire quantity within the prescribed time-frame, the CNC will have the right to divide the quantity amongst other qualified tenderers (L2, L3..... in that order), on the condition that other tenderers accept the price and terms & conditions quoted by the lowest tenderer, if feasible.

20. (Amended by MoD ID No. 2153/DG(ACQ)/2007 dated May 25th, 2007) In multi-vendor cases, on opening of commercial offers, once L1 vendor is identified the contract should be concluded with him and normally there would be no need for any further price negotiations. However, it is important that the reasonability of the prices being accepted for award of contract should be established. In all cases, **benchmarking recommendations of the Costing Committee may be accepted as such / deliberated upon by the CNC post promulgation of CNC<sup>23</sup> and reasonableness of price be established<sup>23</sup>** in an internal meeting before opening the commercial offer. Once the commercial offers are opened and the price of the vendor is found to be within the benchmark fixed, in the internal meeting, there should be no need to carry out any further price negotiations. The RFP in such multi-vendor cases, should clearly lay down that no negotiations would be carried with the L1 vendor once the reasonability of the price quoted by him is established. As far as possible all aspects contributing towards formulation of a commercial offer by the vendor should be included in the RFP. In such cases, the services may have to state the requirement of maintenance by the OEM/authorised vendor for a specified period. Aspects of advance and stage payments (where applicable) also to be given upfront in the RFP so that it facilitates selection of L1 vendor.

21. **Oversight Committee.** For projects over ₹ 300 Crore, a committee **chaired by Secretary (Defence R&D) with officer not below ADG level (preferably DG) from SHQ, Nominee of Defence Secretary not below Joint Secretary level and representative of Financial Advisor (Defence Service) as members,** will check whether the process of FTP as per DPP has been followed and bring out deviations, if any. The committee will also review and bring out the status of grievances or complaints in the case. The Committee will submit the report to Defence Secretary within 10 days of its constitution. Secretarial support will be provided by the Acquisition Wing MoD<sup>37</sup>.

22. **Contract Conclusion.** The contract will be signed after the CFA approval of the case. The date of signing of the contract would be the effective date of contract. **However the date of delivery would be reckoned from the date of release of Advance payment by the Buyer to the Seller (T<sub>0</sub>), provided the Seller submits the documents mandated by the DPP for release of advance by the Buyer within 45 days of signing of contract. In the event of the Seller not submitting the said documents within 45 days of signing of contract, the period between the 45<sup>th</sup> day and actual submission of documents will be excluded from the actual date of advance payment to arrive at the delivery date. In case, no advance is to be paid, the date for reckoning date of delivery would be the date of signing of contract. This clause will not be applicable in cases wherein Advance payment is released after FOPM is successfully validated. In such cases, date of accord of Bulk Production Clearance will be date for reckoning date of delivery<sup>33</sup>.** To ensure adherence to the delivery schedule the contract should specify the date by which the vendor would have to submit

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<sup>23</sup>Amendment issued vide Enclosure D to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

<sup>33</sup>Amendment issued vide Enclosure C to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

<sup>37</sup>Amendment issued vide Enclosure G to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

the BGs as also the date by which MoD would have to open the LCs. The Standard Contract Document as in DPP would be the guidelines for acquisitions under FTP. Any deviations to the standard contractual clauses would be accorded by Raksha Mantri on recommendation of the CNC/Empowered Committee.

### **Additional Provisions**

23. In case of procurement from a Defence Public Sector Undertaking (DPSU), a Letter of Intent (LoI) may be placed immediately on the DPSU which supplied this store last or is having a running contract. The details concerning prices would be negotiated and incorporated in a Supply Order subsequently.

24. In case of procurement from OFB, for an already introduced item, indent would be placed by Acquisition Manager after AoN has been accorded.

25. In certain acquisition cases it may be expedient to procure equipment from friendly countries by sale/lease/otherwise ex their own stocks. In such cases, Government-to-Government Agreements at appropriate level would be established to facilitate the issue of such stores. Care, however, would be exercised to ensure that adequate residual shelf life remains available for our Armed Forces. In such cases a technical delegation may be sent to check the condition of the equipment being offered as required. Only if it is technically acceptable would the case be processed further.

26. **Inspection.** Considering the urgent nature of requirements and to ensure that items being supplied conform to the technical specifications agreed in the contract, detailed Pre Dispatch Inspection (PDI) of the stores need to be carried out by our inspectors at the premises of the vendor, wherever considered necessary by the SHQ. If PDI is not to be carried out, then the vendor will furnish his own Certificate of Quality or of the Defence Forces of his country or of its accredited quality assurance agency. In such cases, Joint Receipt and Inspection (JRI) would be carried out by the Ministry of Defence and the vendor in India. In such cases, certain sums from those due for payment to the vendor would be retained to be released only on successful completion of JRI. In case of items procured through Govt to Government agreements signed at appropriate level, PDI may not be insisted upon and their Certificate of Quality may be considered for acceptance.

27. **Performance Bank Guarantee (PBG).** Since the contract will be for short term duration and supplies will be required in shorter time frame, the performance of the contractual obligations by the vendor need to be enforced by obtaining a PBG @ 10% of the value of the contract from a first class international bank or Public Sector & Private Sector bank authorized for government transactions by RBI<sup>37</sup>.

28. **Liquidated Damages (LD).** In case of delay in supplies, the vendor shall be levied LD @ 1.5% per week subject to maximum of 15% of value of delayed store.

29. **Termination Clause.** The contract to be signed in FTP will have a Termination Clause which will be made applicable in the following cases:-

(a) The delivery of the material is delayed for causes not attributable to Force Majeure for more than three months after the scheduled date of delivery.

(b) The Seller is declared bankrupt or becomes insolvent.

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<sup>37</sup>Amendment issued vide Enclosure G to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

(c) The 'Buyer' has noticed that the seller has utilised the services of an Agent in getting this contract and paid any commission to such individual/company etc.

30. **Advance Payments.** The amount of advance payment permissible should be stated upfront in the RFP. There should be a cap on the amount of advance payable which should be in line with the General Financial Regulations (GFR) of the Ministry of Finance. Any advance will have to be supported by a Bank Guarantee of equal amount from a first class bank of international repute.

31. In case of supplies from countries with which Bi-lateral Agreement exists for Standard Terms & Agreements of Contract, the same would supersede the corresponding terms & conditions of the Standard Contract Document.

32. **Integrity Pact.** An 'Integrity Pact' would be signed between government department and the bidders for all procurement schemes over ₹ 20 crore. The Integrity Pact would be a binding agreement between the government department and bidders for specific contracts in which the government promises that it will not accept bribes during the procurement process and bidders promise that they will not offer bribes. The draft Integrity Pact document is placed as **Annexure I** to **Appendix M** of **Schedule I** to Chapter II.

33. Since the procurement under FTP would be for cases of urgent operational requirements, it is imperative that all activities be carried out in a time-bound manner. The proposed time frame for each activity is given at **Appendix C** to Chapter V. In case it takes more than six months to conclude the contract or time in excess of the schedule indicated by the DAC for induction of the equipment, the proposal/case would be referred back to the DAC for appropriate directions.

34. While the above provisions are adopted as the guidelines for emergency procurement, it may not always be possible to ensure complete compliance of above conditions. In such cases, the specific approval-seeking waiver would be obtained from the Raksha Mantri.

### **Pre-Contract Monitoring**

35. Concerned SHQs would report the progress of FTP cases on a monthly basis to the DPB.

### **Post-Contract Monitoring**

36. While responsibility for contract administration and management would be that of the SHQ concerned, post-contract monitoring would be conducted by the Acquisition Wing. The projects would be reviewed by the Acquisition Manager/equivalent Service Officer in the respective SHQs.

37. The concerned Services HQ would make arrangements to monitor the receipt and ensure expeditious induction of stores subsequent to delivery of items. The DPB would be informed about the progress of induction of the equipment on a fortnightly basis.

38. **Fall Clause.** An undertaking would be sought from the bidder that he has not supplied/is not supplying the similar systems or subsystems at a price lower than that offered in the present bid in respect of any other Ministry/Department of the Government of India and if the similar system has been supplied at a lower price then the details regarding the cost, time of supply and quantities should be included in the commercial offer. If it is found at any stage that the similar system or sub-system was supplied by the Bidder to any other Ministry/Department of the Government of India at a lower price, then that very price with due allowance for quantities and intervening time period will be applicable to the present case and the difference in the cost would be refunded by the Bidder to the Buyer, if the



contract has already been concluded.

### **Conclusion**

39. This procedure would be in supersession of the Fast Track Procedure promulgated vide MoD ID No 800/SS(A)/2001 dated 28 Sep 2001 & FTP-2006 which came into effect from 13 July, 2006.

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**STATEMENT OF CASE FOR PROPOSAL UNDER**  
**FAST TRACK PROCEDURE**

1. Brief of the situation necessitating procurement under FTP.
2. Proposal and the details of the equipment.
3. Justification to include the following, where applicable:-
  - (a) Operational urgency.
  - (b) Quantities required.
  - (c) **Source of Procurement.** It could be either of the following:-
    - (i) Vendors' whose equipment is already in service. Details of previous contracts be given. Confirmation should be obtained, by telefax, that the proposed vendor is in a position to supply the required quantities in the proposed time frame. Such cases could be for:-
      - (aa) Additional quantities of an ongoing contract.
      - (ab) Invoking 'Option Clause' of a contract. In case the quantities required are in excess of the 'Option Clause' of the contract, it would be clearly brought out in the SOC.
      - (ac) Placing repeat orders on past suppliers.
      - (ad) In case the vendor is not able to supply the entire quantity of required item then other known vendors whose equipment has been found acceptable in the past and the quantities to be procured from other vendor (s).
      - (ae) For equipment already inducted into service, it may be necessary to go back to the OEM for procurement of additional equipment/major-assemblies/sub-assemblies/Special Maintenance Tools (SMTs)/Special Test Equipment (STE)/maintenance/integration of Buyer Furnished Equipment (BFE), as no other supplier would be in a position to meet these requirements. All such acquisitions would not be construed as single vendor cases requiring waiver. It must, however, be ensured that when spares etc are procured from OEMs of subassemblies, the assurances/warranties extended by the OEM for the main equipment retain their validity.
      - (af) If equipment proposed to be procured has already been procured by a sister service after following due process then such cases would be treated as repeat order.

(ii) **Procurement of a New Equipment.**

(aa) Single/multi-vendor along with details.

(ab) Services Qualitative Requirements (SQRs)/Operational Requirements (ORs) to be attached.

(ac) Whether the equipment is in service in foreign defence forces.

(iii) **If option of procuring from friendly countries ex-stock or through lease.**

(d) Estimated cost of the proposal.

(e) Acceptable time schedule for induction to be clearly stated.

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**Appendix B to Chapter V**  
(Refers to Para 16 of Chapter V)

**STANDARD CNC COMPOSITION**

1. Acquisition Manager -Chairman.
2. Technical Manager.
3. Finance Manager.
4. Advisor Cost/Director (Cost).
5. DGQA/DGAQA/DGNAI Representative.
6. Procurement Agency Representative.
7. User Representative.
8. Representative of Contract Management Branch at SHQ.
9. Repair Agency Representative (If required).
10. Under Secretary concerned.

**Note:** *Member Secretary to be nominated by the Chairman out of the members mentioned above.*

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**Appendix C to Chapter V**  
(Refers to Para 33 of Chapter V)

**TIME FRAME UNDER FTP**

<b>Ser No</b>	<b>Activity</b>	<b>Time Frame (days/months)</b>
1.	Initiation of Proposal by Service HQs	
2.	Analysis of the Services Requirement and Acceptance of Necessity by the committee chaired by RM	7 days
3.	Preparation, vetting, approval and issue of the Request for Proposal	10 days
4.	Receipt of Responses from vendors	30-45 days
5.	Technical Evaluations*	10 days
6.	On site Evaluations by Empowered Committee*	15-30 days
7.	Approval of Empowered Committee's report	7 days
8.	Commercial Negotiations	15-30 days
9.	Approval of Competent Financial Authority	10-15 days
10.	Contract Signing	8-15 days
Minimum and Maximum Time Period		112-169 days
Delivery (from the date of signing of contract)		3-12 months

\* Activities at Ser 5 and 6 would be carried out only for procurement of new equipment.

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## **CHAPTER VI**

# **STANDARD CONTRACT DOCUMENT**







## **CHAPTER VI**

### **STANDARD CONTRACT DOCUMENT**

Agreement between the Government of the Republic of India, Ministry of Defence and  
(Name of the Company) for (Name of Equipment)

Contract No. \_\_\_\_\_  
(No of the Contract)

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CONTRACT NO.(\_\_\_\_\_)

DATED ( )

### **PREAMBLE**

This contract is made on this day, the (date) day of (Month & Year) in New Delhi, between the President of India represented by the Joint Secretary and Acquisition Manager (Land Systems/Air/Maritime & Systems), Ministry of Defence, Govt of India, South Block, New Delhi, hereinafter referred to as the BUYER (which terms unless excluded by the context, shall be deemed to include his successor in office) on one part and M/s (name of the company with address) duly represented by----- and incorporated under the laws of\_\_\_\_\_, having its registered office at , (which terms unless expressly indicated by the context shall be deemed to include its successors and its assignee), hereinafter referred to as the "SELLER" on the other part. WHEREAS, The BUYER agrees to buy and the SELLER agrees to sell the goods described in Annexure-I of this contract and in accordance with the terms and conditions of this CONTRACT.

AND WHEREAS the SELLER assures the BUYER that the BUYER has the full and unfettered right to have the supplies manufactured in India through a nominated agency and supply it to the BUYER,

It is hereby agreed and declared by and between the parties hereof:-

### **ARTICLE 1** **SCOPE OF CONTRACT**

1.1 The SELLER undertakes to sell and to deliver to the BUYER and the BUYER undertakes to accept and pay for all the terms and conditions stipulated in this Contract (nomenclature of the equipment) and accompanied accessories according to the technical specifications stipulated in **Annexure II** to this contract and the quantities, unit prices and total value, as specified in **Annexure I** of this contract.

1.2 The prices for the delivered Goods are quoted FCA/FOB/CIP/CIF and fixed in US \$/Euro/PS £ or in any other currency. Net according to the International Rules for Interpretation of trade terms issued by the International Chamber of Commerce/INCOTERMS Edition 2010.

1.3 The total contract value of the equipment and documentation to be supplied according to this contract amounts to US \$/Euro/PS £----- (in words).

## **ARTICLE 2**

### **EFFECTIVE DATE OF CONTRACT**

2.1 The contract shall come into effect on the date of signature of both the parties on the contract (Effective Date) and shall remain valid until the completion of the obligations of the parties under the contract. The deliveries, supplies and performance of the services shall commence from the effective date of the contract. However the date of delivery would be reckoned from the date of release of Advance payment by the Buyer to the Seller (T<sub>0</sub>), provided the Seller submits the documents mandated by the DPP for release of advance by the Buyer within 45 days of signing of contract. In the event of the Seller not submitting the said documents within 45 days of signing of contract, the period between the 45<sup>th</sup> day and actual submission of documents will be excluded from the actual date of advance payment to arrive at the delivery date. In case, no advance is to be paid, the date for reckoning date of delivery would be the date of signing of contract. The above will apply to Fast Track Procedure (FTP) cases also. This clause will not be applicable in cases wherein Advance payment is released after FOPM is successfully validated. In such cases, date of accord of Bulk Production Clearance will be date for reckoning date of delivery<sup>33</sup>.

2.2 The BUYER and the SELLER have to fulfil the following obligations:-

- (a) **SELLER.** The SELLER shall furnish the following documents to the BUYER:-
- (i) Advance Bank Guarantee and Invoice.
  - (ii) Performance cum Warranty Bank Guarantee; and
  - (iii) Export License from the Seller's Government (a copy of vendor's application for export license to their government may be provisionally accepted in lieu of export license for release of Advance Payment with the caveat that the vendor should submit the requisite Export License prior to release of next payment from the Buyer)<sup>34</sup>.
- (b) **BUYER.** The BUYER shall also provide End User's Certificate to the SELLER within 30 days of signing of the contract.

## **ARTICLE 3A**

### **ADVANCE BANK GUARANTEE**

(For Foreign Vendors only)

3A.1 An Advance Guarantee Bond will be issued in the form of a bank guarantee by (..... SELLER'S BANK.....) through Banks of International repute in favour of Government of India, Ministry of Defence to be confirmed by State Bank of India, Parliament Street Branch, New Delhi or any other Public or Private Sector Bank authorised by RBI,<sup>17</sup> equal to \_\_\_\_ % of the total value of this contract i.e. for US \$/Euro/PS £ ..... (in words US Dollars/Euro/PS..... only) at seller's cost.

<sup>17</sup>Amendment issued vide Enclosure L to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

<sup>33</sup>Amendment issued vide Enclosure C to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

<sup>34</sup>Amendment issued vide Enclosure D to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

3A.2 The specimen of the Advance Guarantee Bond is mentioned in **Annexure-IV** to this contract.

3A.3 The Advance Guarantee Bond shall be considered open upon receipt by the BUYER's bank.

3A.4 The Advance Guarantee Bond shall be proportionately and automatically reduced until full extinction along with and prorate to the value of each delivery as evidenced by the corresponding copy of document proving delivery (Bill of Lading or Air Way Bill, as the case may be) and the invoices of goods/services supplied/provided.

**ARTICLE 3B**  
**ADVANCE BANK GUARANTEE**  
(For Indian Vendors only)

3B.1 An Advance Guarantee Bond equal to \_\_\_\_\_ will be issued in the form of a bank guarantee through Public Sector Banks or Private Sector Banks authorised by RBI,<sup>17</sup> in favour of Government of India, Ministry of Defence. However, advice of State Bank of India or any other Bank<sup>17</sup> for confirmation of the same is not required.

3B.2 The specimen of the Advance Guarantee Bond is mentioned in **Annexure IV** to this contract.

3B.3 The Advance Guarantee Bond shall be considered open upon receipt by the BUYER's bank.

3B.4 The Advance Guarantee Bond shall be proportionately and automatically reduced until full extinction along with and prorate to the value of each delivery as evidenced by the corresponding copy of document proving delivery (Bill of Lading or Air Way Bill, as the case may be) and the invoices of goods/services supplied/provided.

**ARTICLE 3C**  
**ADVANCE INDEMNITY BOND**  
(Applicable for Defence PSUs being issued RFP as a Nominated Production  
Agency or on an ab-initio single vendor basis only)

3C.1 An Advance Indemnity Bond equal to \_\_\_\_\_ will be submitted by the Defence PSUs in favour of Government of India, Ministry of Defence.

3C.2 The Advance Indemnity Bond shall be proportionately and automatically reduced until full extinction along with and prorate to the value of each delivery as evidenced by the corresponding copy of document proving delivery (Bill of Lading or Air Way Bill, as the case may be) and the invoices of goods/services supplied/provided.

<sup>17</sup>Amendment issued vide Enclosure L to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

### **ARTICLE 3D**

#### **ADDITIONAL BANK GUARANTEE FOR ESSENTIAL PARAMETER- B CASES**

(For Foreign Vendors Only)

3D.1 An Additional Guarantee Bond will be issued in the form of a bank guarantee by (.....SELLER'S BANK.....) through Banks of International repute in favour of Government of India, Ministry of Defence to be confirmed by State Bank of India, Parliament Street Branch, New Delhi **or any other Public or Private Sector Bank authorised by RBI,<sup>17</sup>** equal to \_\_\_\_\_% of the total value of this contract i.e. for US \$/Euro/PS£..... (in words US Dollars/Euro/PS .....only) at seller's cost. **However, in cases where the equipment fielded by the vendor emerging L1 has already been trial evaluated for Essential Parameters - B and found compliant to same, the vendor may not furnish an Additional Bank Guarantee for Essential Parameters - B<sup>27</sup>.**

3D.2 The specimen of the Additional Guarantee Bond is mentioned in **Annexure-IV (B)** to this contract.

3D.3 The Additional Bank Guarantee Bond shall be considered open upon receipt by BUYER's bank.

### **ARTICLE 3E**

#### **ADDITIONAL BANK GUARANTEE FOR ESSENTIAL PARAMETER- B CASES**

(For Indian Vendors Only)

3E.1 An Additional Guarantee Bond equal to will be issued in the form of a bank guarantee through Public Sector Banks **or Private Sector Banks authorised by RBI,<sup>17</sup>** in favour of Government of India, Ministry of Defence. However, advice of State Bank of India **or any other Bank<sup>17</sup>** for confirmation of the same is not required. **However, in cases where the equipment fielded by the vendor emerging L1 has already been trial evaluated for Essential Parameters – B and found compliant to same, the vendor may not furnish an Additional Bank Guarantee for Essential Parameters – B<sup>27</sup>.**

3E.2 The specimen of the Additional Guarantee Bond is mentioned at **Annexure-IV(B)** to this contract.

3E.3 The Additional Guarantee Bond shall be considered open upon receipt by the BUYER's bank.

### **ARTICLE 4A**

#### **PERFORMANCE CUM WARRANTY BOND**

(For Foreign Vendors only)

4A.1 A Performance cum Warranty bond will be issued in the form of a Bank Guarantee by (..... SELLER'S BANK) through a Bank of International repute in favour of Government of India, Ministry of Defence, to be confirmed by State Bank of India, Parliament Street Branch, New Delhi **or any other Public or Private Sector Bank authorised by RBI,<sup>17</sup>** equal to **10% (Ten percent)** of the total value of the contract i.e. for USD/Euro/PS (in words USD/Euro/PS \_\_\_\_\_ Only) at seller's cost.

<sup>17</sup>Amendment issued vide Enclosure L to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

<sup>27</sup>Amendment issued vide Enclosure H to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018



4A.2 The specimen of the Performance-cum-Warranty bond is mentioned at **Annexure IV (A)** of this contract. The Performance-cum-Warranty bond shall be considered open upon receipt by the BUYER's bank.

4A.3 The Performance-cum-Warranty bond shall remain valid for a period of three months beyond the warranty period.

4A.4 In case any claim or any other contractual obligation are outstanding, the SELLER shall extend the Performance-cum-Warranty bond as asked by the BUYER till such time the SELLER settles all claims and completes all contract obligations.

4A.5 The Performance-cum-Warranty bond will be subject to encashment by the BUYER in case, condition regarding adherence to delivery schedule, warranties, settlements-claims and other provisions of the contract are not fulfilled by the SELLER.

**ARTICLE 4B**  
**PERFORMANCE CUM WARRANTY BOND**  
(For Indian Vendors only)

4B.1 A Performance cum Warranty bond equal to \_\_\_\_\_ will be issued in the form of a Bank Guarantee through Public Sector Banks **or Private Sector Banks authorised by RBI<sup>17</sup>** in favour of Government of India, Ministry of Defence. However, advice of State Bank of India **or any other Bank<sup>17</sup>** for confirmation of the same is not required.

4B.2 The specimen of the Performance-cum-Warranty bond is mentioned at **Annexure IV(A)** of this contract. The Performance-cum-Warranty bond shall be considered open upon receipt by the BUYER's bank.

4B.3 The Performance-cum-Warranty bond shall remain valid for a period of three months beyond the warranty period.

4B.4 In case any claim or any other contractual obligation are outstanding, the SELLER shall extend the Performance-cum-Warranty bond as asked by the BUYER till such time the SELLER settles all claims and completes all contract obligations.

4B.5 The Performance-cum-Warranty bond will be subject to encashment by the BUYER in case, condition regarding adherence to delivery schedule, warranties, settlements claims and other provisions of the contract are not fulfilled by the SELLER.

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<sup>17</sup>Amendment issued vide Enclosure L to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

**ARTICLE 4C**  
**PERFORMANCE CUM WARRANTY INDEMNITY BOND**

(Applicable for Defence PSUs being issued RFP as a Nominated Production Agency or on an ab-initio single vendor basis only)

4C.1 A Performance cum Warranty Indemnity bond equal to \_\_\_\_\_ will be submitted by the Defence PSUs in favour of Government of India, Ministry of Defence.

4C.2 The Performance-cum-Warranty *Indemnity* bond shall remain valid for a period of three months beyond the warranty period.

4C.3 In case any claim or any other contractual obligation are outstanding, the SELLER shall extend the Performance-cum-Warranty *Indemnity* bond as asked by the BUYER till such time the SELLER settles all claims and completes all contract obligations.

4C.4 The Performance-cum-Warranty *Indemnity* bond will be *invoked* by the BUYER in case, condition regarding adherence to delivery schedule, warranties, settlements claims and other provisions of the contract are not fulfilled by the SELLER.

**ARTICLE 5A**  
**PAYMENT TERMS**  
(For Foreign Vendors only)

5A.1 The Accounting and Payment currencies shall be US Dollars/Euro/Pound Sterling/any other currency.

5A.2 The total contract price referred to in Article 1 of the contract shall be paid as follows:-

5A.3 **Advance Payment**. \_\_\_\_\_% of total Contract Price being USD/Euro/Pound Sterling/ any other currency, shall be paid to the SELLER within 30 days of the receipt of the documents indicated at Article 2.2(a) through Bank Transfer.

5A.4 \_\_\_\_% of the Total Contract Price being USD/Euro/Pound Sterling/ any other currency shall be paid to the SELLER through a documentary irrevocable Letter of Credit (LC), mentioned at **Annexure X**, to be opened by the BUYER as follows:-

(a) The SELLER will give a notification to the BUYER about the readiness of goods for dispatch 45 days prior to the delivery of the consignment.

(b) Consequent on receipt of the above notification, the BUYER shall open the LC before expiry of this period of 45 days provided a 5% Performance cum Warranty Bond for the Full value of the contract has been received.

(c) The LC will be opened in any **Public / Private Sector Indian bank authorized for government transactions by RBI (as decided by the Buyer)**<sup>32</sup>.

(d) With SELLER's Bank, i.e. \_\_\_\_\_ Account No. \_\_\_\_\_ in favour of SELLER and will be valid for a period of \_\_\_\_\_ days/months from the date of opening.

<sup>32</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

**Note:** *Since the LC charges are fixed on per quarter basis, it may be ensured that LC validity is fixed in multiples of 90,180,270 days depending upon the delivery schedule. In case the delivery is in multiple consignments and there is a long delivery schedule more than one LC or revolving LC can be opened.*

5A.5 The payment under the LC (Relevant Article may be referred e.g Article 5.4) shall be made against presentation of the following documents by the SELLER to the confirming bank:-

- (a) SELLER's commercial invoice in sextuplicate, showing the number of the Contract, quantity and Denomination of the Equipment delivered and the amount.
- (b) Full set of Originals "Clean on Board" Bills of Lading/Air Way Bill.
- (c) Packing List (six copies).
- (d) Certificate of Origin, duly stamped by the SELLER's Chamber of Commerce.
- (e) Certificate of Conformity and Acceptance Test report at the Pre Despatch Inspection signed by BUYER's and the SELLER's Quality Assurance Department. In case BUYER's representative do not attend the PDI, then certificate issued by the BUYER that it does not wish to attend the PDI and Inspection and Acceptance certificate issued by the SELLER.
- (f) Certificate of current manufacture from OEM.
- (g) Insurance documents for 110% of the cost of consignment in case of CIF or CIP contracts.
- (h) Dangerous Cargo Certificate if any.
- (j) Phyto-Sanitary/Fumigation Certificate.
- (k) In case of training, a certificate from BUYER's representative that training program has been completed.

5A.6 In the event of delay in opening the LC (reasons for which are solely attributable to buyer), the delivery date will automatically stand extended to that extent.

5A.7 All expenses connected with establishment of the LC in India will be borne by the BUYER and those outside India will be borne by the SELLER.

5A.8 Where the extension of the validity of LC is necessitated, the bank charges for extension shall be borne by the party whose default causes such an extension.

5A.9 No transshipment of goods is allowed; however part shipment is permitted.

5A.10 Three copies of SELLER's Commercial Invoices, shipping documents, packing list and the specifications will be sent by courier and fax by the SELLER to the BUYER (Wing of Service HQ to be specified) within 3 days after the equipment has been shipped. Intimation may also be forwarded to

Ministry of Defence, South Block, New Delhi (Wing to be specified).

5A.11 Any demurrage charges incurred by the Port Consignee due to late submission/incorrect submission of the shipping documents by the SELLER as per Article above would be borne by the SELLER.

5A.12 The LC shall be subject to and shall be governed by the instant Uniform Customs and Practices for Documentary Credits issued by the International Chamber of Commerce.

5A.13 All payments will be carried out with reference to the number of this contract.

5A.14 **Balance Payment.** The balance payment for \_\_\_\_ % shall be paid to the SELLER by LC/Bank Transfer within \_\_\_\_ days of completion of Joint Receipt Inspection (JRI) and Acceptance of goods against presentation of following documents:-

- (a) Copies of invoices (three copies).
- (b) Copy of JRI and acceptance certificate issued by the BUYER.
- (c) Any other relevant document indicated at Article 5.5.

5A.15 SELLER's bankers address and account number: -

\_\_\_\_\_

Account No.:

Sort code:

SWIFT Code:

5A.16 The SELLER may designate a different first class International Bank upon written notification of the BUYER and after consultation with the BUYER.

#### **ARTICLE 5B** **PAYMENT TERMS**

(For Indian Vendors in cases excluding "Buy Global" (other than DPSUs in ab-initio Single Vendor Cases or as a nominated Production Agency))

5B.1 The Accounting and Payment currencies shall be Indian Rupees.

5B.2 The total contract price referred to in Article 1 of this contract shall be paid as follows:-

5B.3 Advance Payment \_\_\_\_\_% of total Contract Price/price of deliverables being ₹\_\_\_\_ shall be paid to the SELLER within 30 days of the receipt of the documents indicated as below.

5B.4 Balance payment will be made on \_\_\_\_\_% on proof of dispatch and inspection note issued by the Inspecting Authority and \_\_\_\_\_% will be paid on receipt of stores in good condition by the ultimate consignee. A certificate to that effect will be endorsed on the copy of Inspection note which shall accompany the bill submitted by the supplier. The payment will be made on production of

following documents:-

- (a) Commercial Invoices (original copy)
- (b) Contractor Bills.
- (c) Inspection Acceptance Certificate demonstrating compliance with the technical specification of the contractor to be issued by the beneficiary.
- (d) Packing list.
- (e) Warranty certificate from the vendors.

5B.5 The paying authority for this contract is \_\_\_\_\_.

**Note:** For Defence PSUs, in *ab-initio* single vendor cases or as a nominated production agency payment terms would be as per the latest MoU in vogue.

#### **ARTICLE -5C** **PAYMENT TERMS**

[For Indian Vendors under Capital Acquisition, Category “Buy Global” (other than DPSUs in *ab initio* Single Vendor Cases or as a nominated production agency)]

5C.1 In all of these cases, Indian vendors can exercise option to take payment either through LC or Bank Transfer. The Payments Terms would be regulated as given below:-

Clause	Where Supplier opts for payment through LC	Where Supplier opts for payment through Bank transfer
1	The Accounting and Payment currencies shall be Rupees only. However, Exchange Rate Variation (ERV), as per ERV provisions contained in Annexure I to Appendix L of Schedule I to Chapter II and Para 6 of Appendix F of Schedule I to Chapter IV, where permissible, shall be paid, only in INR.	
2	<p>The components of total contract price are as follows:</p> <ul style="list-style-type: none"> <li>(a) Value of goods supplied - Basic cost of Goods including ESP, as per the Contract</li> <li>(b) Freight and Insurance - As per the Contract</li> <li>(c) Training charges and technical literature</li> <li>(d) Reimbursable expenses - Taxes and duties as admissible under the Contract</li> <li>(e) AMC charges-As per the Contract</li> <li>(f) Installation and Commissioning charges- As per the Contract</li> </ul>	
3	<p>The total contract price referred to in Article 1 of the contract shall be paid as follows:-</p> <ul style="list-style-type: none"> <li>(a) Advance Payment. ____ % of total value of goods supplied being ₹----- shall be paid to the SELLER, through Bank Transfer, within 30 days of the receipt of the following documents:</li> <li>(b) Advanced Bank Guarantee as per Article 3B of the Contract.</li> <li>(c) Performance cum Warranty Bond as per Article 4 B of the Contract.</li> </ul>	

	<p>(d) Any other specific document (like proforma invoice) if required.</p> <p><i>(<b>Note:</b> The second stage advance payment after completion of specific milestone may also be paid through Bank Transfer.)</i></p>
4	For the second/next stage payment the SELLER has the option to seek payment either through Bank transfer from the O/o of PCDA _____ or through LC.

5	<p>Where the SELLER opts for payment through LC, all payments except for the first stage payment as per clause 3 above shall be made by LC, as per following conditions:-</p> <p>(a) The SELLER will give a notification to the BUYER about the readiness of goods for dispatch 45 days prior to the delivery of the consignment.</p> <p>(b) Consequent on receipt of the above notification, the BUYER shall open the Letter of Credit through PCDA before expiry of this period of 45 days provided a 5% Performance cum Warranty Bond for the Full value of the Contract has been received.</p> <p>(c) The LC will be opened with a <b>Public / Private Sector Indian bank authorized for government transactions by RBI<sup>32</sup></b>, for _____% of the Contract value with the SELLER's Bank, i.e. _____ &amp; Seller's Account No. _____. It will be valid for a period of _____ days/months from the date of opening.</p> <p><i><b>Note</b> - Since the LC charges are fixed on per quarter basis, it may be ensured that LC validity is fixed in multiples of 90,180,270 days/months depending upon the delivery schedule. In case the delivery is in multiple consignments and there is a long delivery schedule more than one LC or revolving LC can be opened.</i></p> <p>(d) The payment against LC shall be made to the SELLER against presentation of the documents specified.</p>	<p>Where the SELLER opts for payment through Bank Transfer payment shall be made as per following conditions:-</p> <p>(a) The SELLER will give a notification to the BUYER about the readiness of goods for dispatch 45 days prior to the delivery of the consignment.</p> <p>(b) Once a Supplier opts for payment through Bank Transfer, no changes in mode of payment would be permitted.</p>
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<sup>32</sup>Amendment issued vide Enclosure B to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

	<p>(e) In the event of delay in opening the LC (reasons for which are solely attributable to Buyer), the delivery date will automatically stand extended to that extent. Formal amendment/certification from Buyer will be required as shipment date would have to be amended in SWIFT form accordingly.</p> <p>(f) All expenses connected with establishment of the LC in India will be borne by the SELLER.</p> <p>(g) Where the extension of the validity of LC is necessitated, the Bank charges for extension shall be borne by the party whose default causes such an extension.</p> <p>(h) Once a Supplier opts for payment through LC, no mid-way changes in mode of payment are permitted.</p> <p>(j) The LC shall be subject to and shall be governed by the instant Uniform Customs and Practices for Documentary Credits issued by the International Chamber of Commerce.</p> <p>(k) Any amendment in LC terms will be subject to Buyer's approval.</p>	
6	All payments will be carried out with reference to the number of this contract.	
7	<p>The Second/next Stage payment comprising _____% of the value of goods supplied and full freight and insurance (where admissible) thereon, shall be paid to the Seller on submission of the following documents, in six copies each:</p> <p>(a) Commercial invoices in original.</p> <p>(b) Contractor's bill in original.</p> <p>(c) Certificate of Conformity and Acceptance test report at the Pre Despatch Inspection signed by BUYER's and the SELLER's Quality Assurance Department. In case BUYER's representative do not attend the PDI, then certificate issued by the BUYER that it does not wish to attend the PDI and Inspection and acceptance certificate issued by the SELLER.</p> <p>(d) Proof of Despatch (original copies of RR, P. Way bill of Lading, Airway bill as applicable).</p> <p>(e) Packing List.</p> <p>(f) Warranty certificate from the supplier.</p> <p>(g) Certificate of current manufacture from OEM.</p> <p>(h) Insurance documents for 110% of the cost of consignment, except where the supply is Ex-Works.</p>	



	<p>(j) Proof of Duty/Tax paid/reimbursable like deposition receipt/challan etc.</p> <p><b><u>Note-</u></b></p> <p>(i) <i>The Invoice and Contractor's bill must show the contract reference number, break-up of costs in terms of unit costs, total costs, exchange rate element, percentage rates of taxes and duties and amount payable/paid, in complete detail.</i></p> <p>(ii) <i>Three copies of SELLER's Commercial Invoices, proof of dispatch, packing list and the specifications will be sent by courier and fax by the SELLER to the BUYER (Wing of Service HQ to be specified) within 3 days after the equipment has been shipped. Intimation may also be forwarded to Ministry of Defence, South Block, New Delhi (Wing to be specified).</i></p>	
8	<p>Payment of other components of contract-</p> <p>(a) <u>Training</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative that training program has been completed.</p> <p>(b) <u>Reimbursable Expenses</u>. Based on documentary proof of actual payment against the contract, issued by relevant statutory authority. Suppliers may ensure submission of same with details of contractual obligations completed and payments received. <b>This clause shall form part of LC.</b></p> <p>(c) <u>Installation and Commissioning Charges</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative. <b>Documents in proof of rates claimed shall need to be annexed.</b></p> <p>(d) <u>AMC Charges</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative.</p>	<p>Payment of other components of contract-</p> <p>(a) <u>Training</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative that training program has been completed.</p> <p>(b) <u>Reimbursable Expenses</u>. Based on documentary proof of actual payment against the contract, issued by relevant statutory authority. Suppliers may ensure submission of same with details of contractual obligations completed and payments received.</p> <p>(c) <u>Installation and Commissioning Charges</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative.</p> <p>(d) <u>AMC Charges</u>. Commercial invoice/ Contractor's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative.</p>
9	<p><b><u>Balance Payment</u></b>. The balance payment for ____% shall be paid to the SELLER against presentation of following documents:-</p> <p>(a) Copies of invoices (three copies).</p> <p>(b) Copy of JRI and acceptance certificate issued by the BUYER.</p> <p>(c) Contractor's bill</p> <p>(d) Extended bank guarantee wherever required</p>	

10	SELLER's bankers address and account number: - Bank Name: Branch Name: Account No.: Sort Code: SWIFT Code: IFSC Code RTGS No	SELLER's bankers address and account number:- Bank name: Branch name: Bank account No.: IFSC Code MICR Code
11	Where admissible, tax deduction at source will be done <b>by the Bank releasing payment against LC.</b>	Where admissible, tax deduction at source will be done <b>by PCDA.</b>
12	Payment/recovery in terms of the Contract will be made <b>by the Bank releasing payment against LC.</b> All documents under the LC shall be delivered by the Bank to PCDA (through Trade Finance CPC, New Delhi).	Payment/recovery in terms of the Contract will be made <b>by PCDA.</b>

## **ARTICLE 6** **SPECIFICATION**

6.1 The SELLER guarantees to meet the specifications as per **Annexure-II**, the statement of work as per **Annexure-III** and to incorporate the modifications to the existing design configuration to meet the specific requirement of the Services as per Annexure-V and modifications/requirements recommended after the confirmatory trials/MET, in the first off production model of (Year) to be supplied to the BUYER. All technical literature and drawing shall be amended as the modifications by the SELLER before supply to the BUYER.

6.2 The SELLER, in consultation with the BUYER, may carry out technical upgradation/alterations in the design, drawings and specifications due to change in manufacturing procedures, indigenisation or obsolescence. This will, however, not in any way adversely affect the end specifications of the equipment. 'Changes in technical details, drawings repair and maintenance techniques alongwith necessary SMTs/STEs/Test Jigs as a result of upgradation/alterations will be provided to the BUYER free of cost within ( ) days of affecting such upgradation/alterations.'

## **ARTICLE 7** **QUALITY**

7.1 The quality of the stores delivered according to this contract shall correspond to the technical conditions and standards valid for the deliveries of the same stores for in SELLER's country or specifications enumerated as per Article 4 and shall also include therein modifications to the stores suggested by the BUYER. Such modifications will be mutually agreed to. The SELLER confirms that the stores to be supplied under this contract shall be new ie not manufactured before \_\_\_\_\_ (year of contract) and shall incorporate all the latest improvements and modifications thereto and spares of improved and modified equipment are backward integrated and interchangeable with same equipment

supplied by the SELLER in the past if any. The SELLER shall supply an interchangeability certificate along with the changed part Nos.

## **ARTICLE 8**

### **PRE DESPATCH INSPECTION (PDI)**

8.1 The BUYER representatives will carry out Pre Despatch Inspection (PDI) of the Equipment in order to check their compliance with specifications in accordance with Acceptance Test Procedures as finalised during contract negotiation. Upon successful completion of PDI, the SELLER and BUYER will issue and sign a Certificate of Conformity as per specimen at **Annexure-V**. The format given is not sacrosanct and may be altered as per requirement of the equipment.

8.2 The SELLER shall intimate the BUYER and DGQA/DGAQA/DGNAI at least 45 days before the scheduled date of PDI. The time for visa formalities by the SELLER should not be inclusive in this notice. The BUYER will send his authorised representatives to attend the PDI.

8.3 The list of BUYER's representatives together with their particulars including name, title, date and place of birth, passport numbers including date of issue and date of expiry, address, etc. must be communicated by the BUYER at least (No of days) in advance to apply for the necessary authorisations and clearances to be granted.

8.4 The BUYER reserves the right not to attend the PDI or to request for a delay in the beginning of the PDI with a maximum of fifteen (15) days from the date fixed for such PDI in order to allow his representatives to attend such tests, in which cases he shall inform in writing the SELLER within 15 days before the date of the beginning of the PDI. Should the BUYER request for such delay, then liquidated damages, if any, shall not apply. In case the BUYER has informed the SELLER within the period mentioned here-above that he cannot attend the PDI or in case the BUYER does not come at the postponed date requested by him for performance of the PDI as mentioned above, the SELLER shall be entitled to carry out said tests alone as scheduled. The Certificate of Conformity and the Acceptance Test Report will be signed by the SELLER's QA representative alone and such documents bearing the sole signature of the SELLER's QA representative shall have the same value and effect as if they have been signed by both parties. In case BUYER does not elect to attend the PDI, then the BUYER shall intimate the SELLER in writing that it does not wish to attend the PDI.

8.5 The SELLER shall provide all reasonable facilities, access and assistance to the BUYER's representative for safety and convenience in the performance of their duties in SELLER's country.

8.6 All costs associated with the BUYER's representative stay in (Name of country), including travel expenses, boarding and lodging accommodation, daily expenses, shall be borne by the BUYER.

## **ARTICLE 9**

### **PACKING AND MARKING**

9.1 The SELLER shall provide packing and preservation of the equipment and spares/goods contracted so as to ensure their safety against damage in the conditions of land, sea and air transportation, transshipment, storage and weather hazards during transportation, subject to proper

cargo handling. The SELLER shall ensure that the stores are packed in containers, which are made sufficiently strong and with seasoned wood. The packing cases should have hooks for lifting by crane/fork lift truck. Tags with proper marking shall be fastened to the special equipment, which cannot be packed.

9.2 The packing of the equipment and spares/goods shall conform to the requirements of specifications and standards in force in the territory of the SELLER's country.

9.3 Each spare, SMT, STE and accessory shall be packed in separate cartons. A label in English shall be pasted on the carton indicating the under mentioned details of the item contained in the carton. A tag in English with said information shall also be attached to six samples of the item. If quantity contracted is less than six then tag shall be affixed to complete quantity contracted of the item. The cartons shall then be packed in packing cases as required.

- (a) Part Number:
- (b) Nomenclature:
- (c) Contract annex number:
- (d) Annex serial number:
- (e) Quantity contracted:

9.4 One copy of the packing list in English shall be inserted in each cargo package and the full set of the packing lists shall be placed in Case No.1 painted in a yellow colour.

9.5 The SELLER shall mark each package with indelible paint in English language as follows:-

#### EXPORT

Contract No. ----- Consignee -----  
Port/airport of destination ----- Ultimate consignee ----- SELLER  
----- Package No. a/b ----- Gross/net  
weight: kg ----- Overall dimensions/volume: cm/cu m ----- The SELLER's  
marking,  
Where: a-Serial No. of package;  
b-Total number of packages in this consignment.

9.6 If necessary, each package shall be marked with warning inscriptions:

<Top>, "Do Not Turn Over", category of cargo etc.

9.7 Should any special equipment be returned to the SELLER by the BUYER, the latter shall provide normal packing, which protects the equipment and spares/goods from the damage of deterioration during transportation by land, air or sea. In this case the BUYER shall finalise the marking with the SELLER.

**ARTICLE 10**  
**DELIVERY**

10.1. The delivery of the goods/services shall be completed within months of the effective date of the contract in accordance with the schedule laid down in **Annexure III**. The Annexure should clearly specify the item, the quantity and the month from the effective date of the contract as follows:-

No	Equipment/Service	Quantity	Month from Effective Date
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**Note:** For large value and complex weapons acquisition programme, a complete programme schedule in the form of a PERT Chart should be attached with the contract.

10.2. Port Consignee.

(a) Equipment.	(Concerned Embarkation HQ)	(b) Ammunition.
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10.3. Ultimate Consignee.

(a) Equipment.	Commandant (Name of Depot).	(b)
Ammunition.	Commandant (Name of Depot).	

10.4 The SELLER shall intimate to the BUYER by letter or fax, six weeks in advance, the anticipated date of delivery of each consignment. The information shall consist of quantities of the goods and all other details required in connection with the shipment of the consignment. A copy of similar intimation shall also be forwarded to:-

- (a) Service HQs (Branches may be specified as DDG/PPO, MGO, AHQ etc).
- (b) Government of India, Ministry of Defence, South Block, New Delhi. (c)  
Commandant COD ultimate Consignee Depot.
- (d) Commandant Port Consignee.
- (e) DGQA, South Block, New Delhi/DGAQA, H Block, New Delhi/DGNAI, West Block V, RK Puram , New Delhi.

10.5 Invoices and other dispatch documents shall be prepared in favour \_\_\_\_\_ (Fill details while contract finalising).

10.6 Two copies each of dispatch documents as listed in LC documents shall be forwarded by Air Courier to the following addresses within 72 hours after the goods have been dispatched or earlier, if possible:-

- (a) Port Consignee.
- (b) Services HQrs, New Delhi-110011 (branch may be specified).
- (c) Ultimate consignee.

10.7 The SELLER will also forward a copy of the Air Way Bill and Commercial invoice by fax on the

day of despatch to \_\_\_\_ (Branch may be specified).

## **ARTICLE 11**

### **TRANSPORTATION**

#### **TRANSPORTATION (BY SEA-FOB)**

11.1 The stores shall be delivered CIP..... (as per INCOTERMS 2010 or latest version).

11.2 The stores shall be delivered to the BUYER by Indian Ships only. Shipping arrangements will be made by the Shipping Officer, Ministry of Surface Transport, Chartering Wing, Transport Bhavan, Parliament Street, New Delhi-110011 (Telegraphic Address: TRANSCART, NEW DELHI-1, Telex "VAHAN" In 31-61157 OR 31-61158, Phone 2371 9480, Fax 2371 8614) to whom adequate notice of not less than 8 weeks about the readiness of stores for shipment should be given by the SELLER under intimation to the BUYER for finalising the Shipping arrangements.

11.3 The date of issue of the Bill of Lading shall be considered as the date of delivery.

11.4 Part shipment of goods is permitted however; trans-shipment of goods is not permitted.

OR

#### **TRANSPORTATION (BY AIR-FCA)**

11.1 The delivery of the goods shall be FCA/CIF/\_\_\_\_\_ Airport (port of Exit) (as per INCOTERMS 2010 or latest version).

11.1.2 The goods will be transported by the BUYER'S nominated freight forwarder and their associates in \_\_\_\_\_ (name of the company from which goods dispatched). The details of the BUYER's nominated freight forwarder are as follows:-

(Name and address)

11.1.3 The date of issue of the Air Way Bill shall be considered as the date of delivery.

Note:- In case of CIF/CIP contracts the following clause to be incorporated:-

"The goods shall be insured by the SELLER in favour of the BUYER on the terms and conditions (relevant clauses) according to Institute Cargo Clauses of the Institute of London underwriters to the amount of 110% of the contract value of the delivered equipment"

## **ARTICLE 12**

### **AIRLIFT**

12.1 Should the BUYER intend to airlift all or some of the stores the SELLER shall pack the stores accordingly on receipt of intimation to that effect from the BUYER. Such deliveries will be agreed upon well in advance and paid for as may be mutually agreed.

### **ARTICLE 13**

#### **LIQUIDATED DAMAGES**

13.1 In the event of the SELLER's failure to submit the Bonds, Guarantees and Documents, supply the stores/ goods, perform services, conduct trials, installation of equipment, training and MET as per schedule specified in this contract, the BUYER may, at his discretion withhold any payment until the completion of the contract. The BUYER may also deduct from the SELLER as agreed, liquidated damages to the sum of **1/100** of the **delay percentage** {Delay percentage = (Period of Delay in Delivery in Weeks) x 100 / (Delivery Period in weeks as per contract)} of the contract price of the delayed/ undelivered stores/ services mentioned above for every week of delay or part of a week, subject to the maximum value of the Liquidated Damages being not higher than **10%** of the contract price of the value of delayed stores/ services (Any extension given by the buyer for delay attributable to buyer or Force Majeure Clause to be factored in delivery period)<sup>45</sup>.

### **ARTICLE 13A**

#### **DENIAL CLAUSE**<sup>22</sup>

13A.1 In case the delay in delivery is attributable to the seller or a non-force majeure event, the Buyer may protect himself against extra expenditure during the extended period by stipulating a denial clause (over and above levy of LD) in the letter informing the supplier of extension of the delivery period. Any increase in statutory duties and/or upward rise in prices due to the Price Variation Clause (PVC) and/or any adverse fluctuation in foreign exchange are to be borne by the seller during the extended delivery period, while the Buyer reserves his right to get any benefit of a downward revisions in statutory duties, PVC and foreign exchange rate. Thus, PVC, other variations and foreign exchange clauses operate only during the original delivery period.

### **ARTICLE 14**

#### **JOINT RECEIPT INSPECTION (JRI) IN INDIA**

14.1 The Parties agree that the Joint Receipt Inspection (JRI) of delivered goods shall be conducted out on arrival in India at location to be nominated by BUYER. JRI shall be completed within 120 days (for armament/ammunition)/90 days (for other than armament/ammunition) of arrival of goods at Port Consignee. JRI will consist of:-

- (a) Quantitative checking to verify that the quantities of the delivered goods correspond to the quantities defined in this contract and the invoices.
- (b) Complete functional checking of the Equipment as per specifications in this contract and as per procedures and tests laid down by Indian DGQA/DGAQA/DGNAI. Functional checking of spares shall not be done.
- (c) Check Proof and firing shall be carried out for armament and ammunition, as per procedure and tests laid down by Indian DGQA/DGAQA/DGNAI.

14.2 JRI will be carried out by the BUYER's representative. The BUYER will invite the SELLER with a minimum fifteen (15) days prior notice to attend the JRI for the delivered goods. The

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<sup>22</sup>Amendment issued vide Enclosure C to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 06.12.2018

<sup>45</sup>Amendment issued vide Enclosure O to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019

SELLER reserves the right not to attend the JRI. The bio data of the SELLER's representative will be communicated fifteen (15) days prior to the despatch of goods to the BUYER for obtaining the necessary security clearance in accordance with the rules applicable in the BUYER's country.

14.3 Upon completion of each JRI, JRI proceedings and Acceptance Certificate (Certificate of Conformity) as per **Annexure VI**, will be signed by both Parties. In case the SELLER's representative is not present then the JRI proceedings and Acceptance Certificate shall be signed by the BUYER's representative only and the same shall be binding on the SELLER. Copy of JRI proceedings and Acceptance Certificate shall be despatched to SELLER within 30 days of completion of JRI. In case of deficiencies in quantity and quality or defects, details of these shall be recorded in the JRI proceedings, Acceptance Certificate shall not be issued and claims raised as per Article on Claims in this contract. In case of claims, Acceptance Certificate shall be issued by BUYER's representative after all claims raised during JRI are settled.

14.4 If the BUYER does not perform the JRI as per reasons mentioned above for reasons exclusively attributable to him, then the JRI in India shall be deemed performed and the equipment fully accepted.

## **ARTICLE 15** **WARRANTY CLAUSE**

(To be amended as per requirement and no blanks to be left)

15.1. The **SELLER** warrants that the goods/services supplied under this contract conform to technical specifications prescribed and shall perform according to the said Technical Specifications.

15.2. The **SELLER** warrants for a period of \_\_\_\_\_ months/years/operational hours from the date of acceptance of stores by Joint Receipt Inspection or date of installation and commissioning whichever is later/earlier (as applicable on case to case basis), that the goods/stores supplied under this contract and each component used in the manufacture thereof shall be free from all types of defects/failures.

15.3 If within the period of warranty, the goods/services are reported by the **BUYER** to have failed to perform as per the specifications, the **SELLER** shall either replace or rectify the same free of charge, maximum within \_\_\_\_ days of notification of such defect by the **BUYER** provided that the goods are used and maintained by the Buyer as per instructions contained in the Operating Manual. Warranty of the equipment would be extended by such duration **of downtime**. Record of the down time would be maintained by user in log book. Spares and **all consumables** required for warranty repairs shall be provided free of cost by **SELLER**. The SELLER also warrants that the special oils and lubricants required for the warranty repair of the equipment shall be provided by the SELLER himself. **All activities including diagnosis, rectification, calibration, transportation etc, required for making equipment serviceable and available would be the SELLER's responsibility.** The Seller also undertakes to diagnose, test, adjust, calibrate and repair/replace the goods/equipment arising due to accidents by neglect or misuse by the operator or damage due to transportation of the goods during the warranty period, at the cost mutually agreed to between the Buyer and the Seller. The seller shall intimate the assignable cause of the failures.

15.4 **SELLER** hereby warrants that necessary service and repair back up during the warranty period shall be provided by the **SELLER** and he will ensure that the cumulative downtime **period for the**



equipment does not exceed \_\_\_\_\_ of the warranty period

15.5 If a particular equipment/goods fails frequently and/or, the cumulative down time exceeds \_\_\_\_% of the warranty period or a common defect is noticed in more than \_\_\_\_% of the quantity of goods with respect to a particular item/component/sub-component, that complete item/equipment shall be replaced free of cost by the SELLER within a stipulated period of \_\_\_\_days of receipt of the notification from the BUYER duly modified/upgraded through design improvement in all equipment supplied/yet to be supplied and ESP supplied and yet to be supplied.

15.6 SELLER shall associate technical personnel of maintenance agency and QA of BUYER during warranty repair and shall provide complete details of defect, reasons and remedial actions for averting recurrence of such defects.

15.7 In case the complete delivery of the Engineering Support Package is delayed beyond the period stipulated in this contract, then the Seller undertakes that the warranty period for the goods/stores shall be extended to that extent.

15.8 The SELLER warrants that the goods supplied will conform to the Temperature and Humidity conditions as mentioned at Appendix A to RFP.

***Note:** Wherever applicable the clause related to MTBF related warranties may be added as part of this Appendix*

#### **ARTICLE 16**

#### **INDIGENOUS CONTENT (IC)<sup>5</sup>**

16.1 The Seller commits to ensure minimum \_\_\_\_\_% Indigenous Content (IC) on cost basis of the total contract value in case of Buy (Indian-IDD) and Buy (Indian) cases or a minimum \_\_\_\_ % of IC on cost basis of the Make portion of the contract in case of Buy & Make (Indian) & Buy & Make cases (as applicable). Vendor to adhere to the indigenisation plan as appended to this Contract. Apart from the overall IC as mentioned above, the same percentage of IC will also be maintained in (a) Basic Cost of Equipment; (b) Cost of Manufacturer Recommended List of Spares (MRLS); and (c) Cost of Special Maintenance Tool (SMT) & Special Test Equipment (STE) taken together at all stages. The Seller also commits to comply with all provisions of **Appendix\***\_\_ to this contract document, in this regard.

(\*Appendix A to Chapter I of DPP 16)

#### **ARTICLE 17**

#### **CLAIMS**

17.1 The claims may be presented either:

- (a) **On Quantity of the stores.** In case it does not correspond to the quantity shown in the Packing List/Insufficiency in packing or,

<sup>5</sup>Amended vide MoD ID No. 1(13)/D(Acq)/16-Pt. dated 18.08.2017

(b) **On Quality of the stores.** In case it does not correspond to the quality mentioned in this contract.

17.2 The quantity claims for deficiency of quantity shall be presented within 45 days of completion of JRI and acceptance of goods. The quantity claim shall be submitted to SELLER in the form at **Annexure-VII** (To be provided by MGO (PPO)) to this Contract.

17.3 The quality claims for defects or deficiencies in quality noticed during the JRI shall be presented within 45 days of completion of JRI and acceptance of goods. Quality claims shall be presented for defects or deficiencies in quality noticed during warranty period earliest but not later than 45 days after expiry of the guarantee period. The quality claims shall be submitted to SELLER in the form at **Annexure-VIII** to this contract.

17.4 The description and quantity of the stores are to be furnished to the SELLER along with concrete reasons for making the claims. Copies of all the justifying documents shall be enclosed to the presented claim. The SELLER will settle the claims within 45 days from the date of the receipt of the claim at the SELLER's office, subject to acceptance of the claim by the SELLER. In case no response is received during this period the claim will be deemed to have been accepted.

17.5 The SELLER shall collect the defective or rejected goods from the location nominated by the BUYER and deliver the repaired or replaced goods at the same location under SELLER's arrangement.

17.6 Claims may also be settled by deduction of cost of goods under claim from bonds submitted by the SELLER or payment of claim amount by SELLER through demand draft drawn on Indian Bank, in favour of PCDA HQ, New Delhi, payable at New Delhi.

17.7 The quality claims will be solely raised by the BUYER and without any certification/countersigning by SELLER's representative stationed in India.

## **ARTICLE 18** **TAXES AND DUTIES**

18.1 All taxes, duties, levies and charges which are to be paid for the delivery of goods, including advance samples, shall be paid by the parties under the present contract in their respective countries.

## **RTICLE 19** **TERMINATION**

19.1 The BUYER shall have the right to terminate this Contract in part or in full in any of the following cases:-

- (a) The delivery of the material is delayed for causes not attributable to Force Majeure for more than ( \_ months) after the scheduled date of delivery.
- (b) The SELLER is declared bankrupt or becomes insolvent.
- (c) The delivery of material is delayed due to causes for Force Majeure by more than ( \_\_ months).

(d) The buyer has noticed that the Seller has utilised the services of any person, party, firm or institution engaged as Agent, in getting this contract wherein any payment is made or penalty is levied, directly or indirectly, on success or failure of the award of contract including any such payment made or penalty levied to his Agents already intimated to MoD.

(e) As per decision of Arbitration Tribunal (Article 21).

## **ARTICLE 20** **LAW**

20.1 The present Contract shall be considered and made in accordance to the laws of Republic of India. This contract shall be governed by and interpreted in accordance with the laws of the Republic of India.

## **ARTICLE 21A** **ARBITRATION** (For Foreign Vendors)

21A.1 All disputes or differences arising out of or in connection with the present contract, including the one connected with the validity of the present contract or any part thereof, shall be settled by bilateral discussions.

21A.2 Any dispute, disagreement or question arising out of or relating to this contract or relating to construction or performance (except as to any matter the decision or determination whereof is provided for by these conditions), which cannot be settled amicably, shall within sixty (60) days or such longer period as may be mutually agreed upon, from the date on which either party informs the other in writing by a notice that such dispute, disagreement or question exists, will be referred to the Arbitration Tribunal consisting of three arbitrators.

21A.3 Within sixty (60) days of the receipt of the said Notice, one arbitrator shall be nominated in writing by SELLER and one arbitrator shall be nominated by BUYER.

21A.4 The third arbitrator, who shall not be a citizen or domicile of the country of either of the parties or of any other country unacceptable to any of the parties shall be nominated by the parties within ninety (90) days of the receipt of the notice mentioned above, failing which the third arbitrator may be nominated under the provisions of Indian Arbitration and Conciliation Act, 1996 (as amended from time to time)<sup>18</sup> or by dispute resolution institutions like Indian Council of Arbitration and ICADR. In case, nomination of third arbitrator under Indian Arbitration and Conciliation Act, 1996 (as amended from time to time)<sup>18</sup> or by dispute resolution institutions like ICA and ICADR are not acceptable to the SELLER, then the third arbitrator may be nominated by the President of International Chamber of Commerce, Paris, but the said nomination would be after consultation with both the parties and shall preclude any

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<sup>18</sup>Amendment issued vide Enclosure M to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

citizen with domicile of any country as mentioned above. The arbitrator nominated under this Clause shall not be regarded nor act as an umpire.

21A.5 The Arbitration Tribunal shall have its seat in New Delhi or such other place in India as may be decided by the arbitrator.

21A.6 The Arbitration Proceedings shall be conducted in India under the Indian Arbitration and Conciliation Act, 1996 (as amended from time to time)<sup>18</sup> and the award of such Arbitration Tribunal shall be enforceable in Indian Courts only.

21A.7 The decision of the majority of the arbitrator shall be final and binding on the parties to this contract.

21A.8 Each party shall bear its own cost of preparing and presenting its case. The cost of arbitration including the fees and expenses of the third arbitrator shall be shared equally by the SELLER and the BUYER, unless otherwise awarded by the Arbitration Tribunal.

21A.9 In the event of a vacancy caused in the office of the arbitrators, the party which nominated such arbitrator, shall be entitled to nominate another in his place and the arbitration proceedings shall continue from the stage they were left by the retiring arbitrator.

21A.10 In the event of one of the parties failing to nominate its arbitrator within sixty (60) days as above or if any of the parties does not nominate another arbitrator within sixty (60) days of the place of arbitrator falling vacant, then the other party shall be entitled after due notice of at least thirty (30) days to request the President of International Chamber of Commerce, Paris or dispute resolution institutions in India like Indian Council of Arbitration and ICADR to nominate another arbitrator as above.

21A.11 If the place of the third arbitrator falls vacant, his substitute shall be nominated according to the provisions herein above stipulated.

21A.12 The parties shall continue to perform their respective obligations under this contract during the pendency of the arbitration proceedings except in so far as such obligations are the subject matter of the said arbitration proceedings.

**ARTICLE 21B**  
**ARBITRATION**  
(For Indian Private Vendors)

21B.1 All disputes or differences arising out of or in connection with the present contract, including the one connected with the validity of the present contract or any part thereof, shall be settled by bilateral discussions.

21B.2 Any dispute, disagreement of question arising out of or relating to this contract or relating to construction or performance (except as to any matter the decision or determination

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<sup>18</sup>Amendment issued vide Enclosure M to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

whereof is provided for by these conditions), which cannot be settled amicably, shall within sixty (60) days or such longer period as may be mutually agreed upon, from the date on which either party informs the other in writing by a notice that such dispute, disagreement or question exists, will be referred to the Arbitration Tribunal consisting of three arbitrators.

21B.3 Within sixty (60) days of the receipt of the said Notice, one arbitrator shall be nominated in writing by SELLER and one arbitrator shall be nominated by BUYER.

21B.4 The third arbitrator, shall be nominated by the parties within ninety (90) days of the receipt of the notice mentioned above, failing which the third arbitrator may be nominated under the provision of Indian Arbitration and Conciliation Act, 1996 (as amended from time to time)<sup>18</sup> or by dispute resolution institutions like Indian Council of Arbitration or ICADR at the request of either party, but the said nomination would be after consultation with both the parties. The arbitrator nominated under this Clause shall not be regarded nor act as an umpire.

21B.5 The Arbitration Tribunal shall have its seat in New Delhi or such other place in India as may be decided by the arbitrator.

21B.6 The Arbitration Proceedings shall be conducted in India under the Indian Arbitration and Conciliation Act, 1996 (as amended from time to time)<sup>18</sup> and the award of such Arbitration Tribunal shall be enforceable in Indian Courts only.

21B.7 The decision of the majority of the arbitrators shall be final and binding on the parties to this contract.

21B.8 Each party shall bear its own cost of preparing and presenting its case. The cost of arbitration including the fees and expenses of the third arbitrator shall be shared equally by the SELLER and the BUYER, unless otherwise awarded by the Arbitration Tribunal.

21B.9 In the event of a vacancy caused in the office of the arbitrators, the party which nominated such arbitrator, shall be entitled to nominate another in his place and the arbitration proceedings shall continue from the stage they were left by the retiring arbitrator.

21B.10 In the event of one of the parties failing to nominate its arbitrator within sixty (60) days as above or if any of the parties does not nominate another arbitrator within sixty (60) days of the place of arbitrator falling vacant, then the other party shall be entitled after due notice of at least thirty (30) days to request dispute resolution institutions in India like Indian Council of Arbitration and ICADR to nominate another arbitrator as above.

21B.11 If the place of the third arbitrator falls vacant, his substitute shall be nominated according to the provisions herein above stipulated.

21B.12 The parties shall continue to perform their respective obligations under this contract during the pendency of the arbitration proceedings except in so far as such obligations are the subject matter of the said arbitration proceedings.

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<sup>18</sup>Amendment issued vide Enclosure M to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

**ARTICLE 21C**  
**ARBITRATION**  
(For Central & State PSEs)

21C.1 In the event of any dispute or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party for Arbitration to the sole Arbitrator in the Department of Public Enterprises to be nominated by the Secretary to the Government of India in-charge of the Department of Public Enterprises. The Arbitration and Conciliation Act, 1996 (as amended from time to time)<sup>18</sup> shall not be applicable to arbitration under this clause. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law & Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary/Additional Secretary, when so authorised by the Law Secretary, whose decision shall bind the Parties finally and conclusively. The Parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator.

**ARTICLE 21D**  
**ARBITRATION**  
(For Defence PSUs)

21D.1 In the event of any dispute or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party to the Arbitrator appointed by the Defence Secretary. The award of the Arbitrator shall be binding upon the parties to the dispute.

**ARTICLE 22**  
**PENALTY FOR USE OF UNDUE INFLUENCE**

22.1 The SELLER undertakes that he has not given, offered or promised to give, directly or indirectly any gift, consideration, reward, commission, fees, brokerage or inducement to any person in service of the BUYER or otherwise in procuring the contracts or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the contract or any other contract with the Government for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Government. Any breach of the aforesaid undertaking by the SELLER or any one employed by him or acting on his behalf (whether with or without the knowledge of the SELLER) or the commission of any offers by the SELLER or anyone employed by him or acting on his behalf, as defined in Chapter IX of the Indian Penal Code, 1860 or the Prevention of Corruption Act, 1988 or any other Act enacted for the prevention of corruption shall entitle the BUYER to cancel the contract and all or

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<sup>18</sup>Amendment issued vide Enclosure M to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 23.07.2018

any other contracts with the SELLER and recover from the SELLER the amount of any loss arising from such cancellation. A decision of the BUYER or his nominee to the effect that a breach of the undertaking had been committed shall be final and binding on the SELLER.

22.2 Giving or offering of any gift, bribe or inducement or any attempt at any such act on behalf of the SELLER towards any officer/employee of the BUYER or to any other person in a position to influence any officer/employee of the BUYER for showing any favor in relation to this or any other contract, shall render the SELLER to such liability/penalty as the BUYER may deem proper, including but not limited to termination of the contract, imposition of penal damages, forfeiture of the Bank Guarantee and refund of the amounts paid by the BUYER.

### **ARTICLE 23** **AGENTS**

23.1 The Seller confirms and declares to the Buyer that the Seller is the original manufacturer of the stores referred to in this contract. The Seller confirms that he has not engaged any person, party, firm or institution as a Agent, including his Agents already intimated to MoD; to influence, manipulate or in any way to recommend to any functionaries of the Govt of India whether officially or unofficially, to the award of the contract to the Seller, or to indulge in corrupt and unethical practices. The Seller has neither paid, promised nor has the intention to pay to any person, party, firm or institution in respect of any such intervention or manipulation. The Seller agrees that if it is established at any time to the satisfaction of the buyer that the present declaration is in any way incorrect or if at a later stage it is discovered by the Buyer that Seller has engaged any such person, party, firm or institution and paid, promised or has intention to pay any amount, gift, reward, fees, commission or consideration or consideration to such person, party, firm or institution, whether before or after the signing of this contract, the Seller will be liable for any or all of the following actions:-

- (a) To pay to the Buyer any such amount paid as gift, reward, fees, commission or consideration along with interest at the rate of 2% per annum above LIBOR rate.
- (b) The Buyer will also have a right to put on hold or cancel the Contract either wholly or in part, without any entitlement or compensation to the Seller who shall in such event be liable to refund all payments made by the Buyer in terms of the Contract along with interest at the rate of 2% per annum above LIBOR rate.
- (c) The Buyer will also have the right to recover any such amount referred in (a) and (b) above from other contracts of the Seller with the Government of India.
- (d) At the discretion of the Buyer, the Seller shall be liable for action as per extant policy on Putting on Hold, Suspension and Debarment of Entities.

### **ARTICLE 24** **FORCE MAJEURE**

24.1 Should any Force Majeure circumstances arise, each of the contracting party shall be excused for the non-fulfillment or for the delayed fulfillment of any of its contractual obligations, if the affected

party within (\_\_\_ days) of its occurrence informs in a written form the other party.

24.2 Force Majeure shall mean fires, floods, natural disasters or other acts, that are unanticipated or unforeseeable and not brought about at the instance of, the party claiming to be affected by such event, or which, if anticipated or foreseeable, could not be avoided or provided for and which has caused the non-performance or delay in performance, such as war, turmoil, strikes, sabotage, explosions, beyond the control of either party.

24.3 A party claiming Force Majeure shall exercise reasonable diligence to seek to overcome the Force Majeure event and to mitigate the effects thereof on the performance of its obligations under this contract.

24.4 Provided the acts of The Government or any state parties of the seller which may affect the discharge of the Seller's obligation under the contract shall not be treated as Force Majeure.

## **ARTICLE 25**

### **NON DISCLOSURE OF CONTRACT DOCUMENTS**

25.1 Except with the written consent of the BUYER/SELLER, other party shall not disclose the contract or any provision, specification, plan, design, pattern, sample or information thereof to any third party.

## **ARTICLE 26**

### **NOTICES**

26.1 Any notice required or permitted by this contract shall be written in English language and may be delivered personally or may be sent by FAX, TELEX, Cable or registered pre paid airmail, addressed to the last known address of the party to whom it is sent.

## **ARTICLE 27**

### **TRANSFERAND SUB-LETTING**

27.1 The SELLER has no right to give, bargain, sell, assign or sublet or otherwise dispose of the Contract or any part thereof, as well as to give or to let a third party take benefit or advantage of the present Contract or any part thereof except, with the prior consent of the BUYER, in case of merger, amalgamation, consolidation, acquisition, change in control or similar transaction. For granting such consent, BUYER may require SELLER to enter into a Novation Agreement.

## **ARTICLE 28**

### **PATENTS AND OTHER INDUSTRIAL PROPERTY RIGHTS**

28.1 The prices stated in the present Contract shall be deemed to include all amounts payable for



the use of patents, copyrights, registered charges, trademarks and payments for any other industrial property rights.

28.2 SELLER shall indemnify the BUYER against all claims from a third party at any time on account of the infringement of any or all the rights mentioned in the previous paragraphs, whether such claims arise in respect of manufacture or use. The SELLER shall be responsible for the completion of the supplies including spares, SMTs/STEs, technical literature and training aggregates irrespective of the fact of infringement of the supplies, irrespective of the fact of infringement of any or all the rights mentioned above.

## **ARTICLE 29** **AMENDMENTS**

29.1 No provision of this contract shall be changed or modified in any way (including this provision) either in whole or in part except by an instrument in writing made after the date of this contract and signed on behalf of both parties and which expressly states to amend this contract.

## **ARTICLE 30** **PRODUCT SUPPORT**

30.1 The SELLER agrees to provide Product Support for the stores, assemblies/subassemblies, fitment items and consumables, SMTs/STEs subcontracted from other agencies/manufacture by the SELLER for a minimum period of (\_\_\_years) including (\_\_\_years) of warranty period after the delivery of (name of equipment). Even after the said mandatory period, the vendor would be bound to give at least two years notice to the Government of India prior to closing the production line so as to enable a Life Time Buy of all spares before closure of the said production line. The SELLER agrees to undertake MAINTENANCE CONTRACT for a minimum period of (\_\_\_months), extendable till the complete Engineering Support Package is provided by the SELLER, at a time, at terms and conditions mutually agreed between the Supplier and the Indian manufacturer.

30.2 In the event of any obsolescence during the above mentioned period of product support in respect of any component or sub-system, mutual consultation between the SELLER and BUYER/Indian manufacturer will be undertaken to arrive at an acceptable solution including additional cost, if any.

30.3 Any improvement/modification/up gradation being undertaken by (M/s name of company) on (name of equipment) or their sub suppliers will be communicated by the SELLER to the BUYER and, if required by the BUYER, these will be carried out by the SELLER at BUYER's cost.

30.4 The SELLER agrees to provide an Engineering Support Package as specified in Article 34 as modified after confirmatory MET. The SELLER agrees to undertake the repair and maintenance of the equipment, SMTs/STEs test set up, assemblies/sub assemblies and stores supplied under this contract for a period of five years as maintenance contract specified at para 30.1 above or provision of complete ESP to the BUYER viz EME whichever is later, as per terms and conditions mutually agreed between the SELLER and the BUYER.

### **ARTICLE 31** **TRAINING**

31.1 The SELLER shall provide the following training to the personnel of the BUYER free of charge:-

(a) **Operator Training.**

- (i) (Duration) at OEM'S premises for a maximum of ( ) officers.
- (ii) ( ) days per group in India, to a maximum of ( ) personnel in ( ) groups of ( ) each.

(b) **Repair and Maintenance Course.**

- (i) Field Repair/Maint. ( ) weeks) at OEM'S premises for (composition of the team to be specified).
- (ii) Base Repair/Maint. ( ) weeks) at OEM, premises for (composition of the team to be specified).

(c) The SELLER will provide training to the QA reps of the BUYER for ( ) days on various aspects of quality assurance of equipment.

(d) The syllabus of training as above will be decided within \_\_\_\_ months of MET by the BUYER and shall meet the needs of repair and maintenance of the complete equipment, SMTs/STEs, test set up, assemblies/sub assemblies as per the existing repair concept of Indian Army as covered under Article 32.

31.2 The training for the first group of operators and users will be organised and conducted so that its termination does not go beyond ( ) days) of the scheduled delivery of the first equipment. Training of second group of operator and users will be conducted within ( ) months thereafter. Repair and maintenance course will be conducted within ( ) months of signing of the contract and before expiry of warranty.

### **ARTICLE 32** **OPTION CLAUSE**

32.1 The BUYER shall have the right to place separate order on the SELLER on or before----- (----- year from the date of this contract) for the main equipment, spares, facilities or services as per the cost, terms and conditions set out in this contract up to a maximum of 50% quantity and during the original period of contract provided there is no downward trend in prices. The price of the system, spares etc shall remain same till ----- year from the effective date of the contract.

**ARTICLE 33**  
**BUYER FURNISHED EQUIPMENT (BFE)**

33.1 The following equipment will be provided by the BUYER at his own expense:-

- (a)
- (b)

(NAME OF THE EQUIPMENTS TO BE PROVIDED BY THE BUYER ALONGWITH THE MAIN EQUIPMENT) This provision is in addition to the provisions set forth in **Annexure III** (Statement of Work).

**ARTICLE 34**  
**ENGINEERING SUPPORT PACKAGE**

34.1 **Repair Philosophy.** The Engineering Support Philosophy shall conform to repair philosophy as follows:-

- (a) **Field Repairs.** Envisages diagnosis and repair assemblies/PCBs/modules (called rotables) and discreet components not forming part of these rotables.
- (b) **Component Level Repair.** This level of repair envisages diagnosis and repairs of notables as defined at sub para (a) above.
- (c) **Base Overhaul.** This level of repair defines stripping and rebuilding of equipment in a Base workshop.

34.2 **Accompanied Accessories/User Replaceable Parts/Expendables.** Accompanied accessories/User Replaceable Parts/Expendables as per the list, which will be prepared by the BUYER within \_\_ months of completion of operator and operator trainer training. for the amount specified at Ser No \_\_ of **Annexure I**. The list of items required to be supplied will be taken from **Appendix-A to Annexure-IX** duly incorporating Adequacy Clause (Article 34.9 below refers).

34.3 **Spares.** Spares requirement for carrying out maintenance and repair up to component level will be provided by the SELLER as per the list, which will be prepared by the BUYER within \_\_ months of completion of MET, within the amount specified at Ser No \_\_\_\_ of **Annexure I**. The list of spares required to be supplied will be taken from **Appendix-A to Annexure-IX** duly incorporating Adequacy Clause.

34.4 **Special Maintenance Tools, Special Test Equipments and Test Jigs (SMTs/STEs/Test Jigs).** SMTs/STEs/Test Jigs requirement for carrying out maintenance and repair up to ( ) level of repair will be provided by the SELLER as per the list, which will be prepared by the BUYER within \_\_ month of completion of MET, within the amount specified at Ser No \_\_\_\_ of **Annexure-I**. The list of equipment required to be supplied will be taken from **AppendixAto Annexure IX** duly incorporating Adequacy Clause.

34.5. **Training.** Training of operators, operator trainers and maintenance personnel will be carried out as per details given in **Appendix-B to Annexure IX** at \_\_\_\_\_ in English Language. The syllabus given at Appenidx-B will be refined by the SELLER in consultation with the BUYER at the time of MET. The SELLER confirms to the BUYER that the maintenance training will be imparted to the satisfaction of the BUYER and SELLER ensures that the training content and period will be extended so as to impart working proficiency up to ( ) level repairs. All training requirements such as training aids, projection system, complete equipment with accessories/optionals, technical literature, spares, test equipment/test set up, charts etc will be catered for by the SELLER.

34.6 **Technical Literature.** The SELLER shall provide ----- sets of Technical Literature. (Specify format to the vendor if required). Inadequacy/voids in Technical Literature identified during the Maintenance Evaluation Trials will be rectified by the SELLER at the time of delivery of Technical Literature to the satisfaction of maintenance agency of the BUYER.

34.7 **Maintenance Evaluation Trials (MET).** BUYER will depute within (\_\_\_\_) months After Receipt of Order (ARO), a team of (\_\_\_\_) personnel to SELLER's country for (duration), to conduct a Maintainability Evaluation (MET) for (Name of the Equipment) at SELLER's premises. SELLER will provide all necessary assistance to carryout MET. In case the MET is to be conducted in the BUYER's premises, all infrastructures should be ready by (duration to be mentioned). The team will study applicability of SMTs/STE/Test jigs, spares and adequacy of technical literature and documentation provided under this contract. If, as a result of the above mentioned evaluation, BUYER decides to augment its spare parts or STE quantities, BUYER will then exercise the additional order through the provisions of Article 30 (Option Clause). BUYER may also adjust the quantities of spare parts SMTs/STEs/Test jigs provided that the total price of the spare parts SMTs/STEs/Test jigs listed is not changed and provided also that the adjustment is made not later than (\_\_\_\_months) after the conduct of the MET evaluation in (name of the country) and before the delivery schedules of spare parts/SMTs/STEs/Test jigs stipulated in the contract.

34.8 **Maintenance Evaluation Trials (MET).** (Users handbook, operators manual, ISPL, check proof details, fixtures required for Acceptance Test/check proof, technical specifications, etc). Specimen of documents required is attached at **Appendix C to Annexure IX**. The details of items and inputs required for MET are given in \_\_\_\_\_ (Specify Appendix/Annexure as applicable) to the contract. The SELLER shall allow stripping/opening of the equipment during MET. The SELLER's technical representative(s) who is/are competent to clarify all the issues pertaining to maintenance and repair up to ( ) level shall be present during the complete duration of MET. Inadequacies in items/inputs, if any, brought out during MET must be rectified and would be presented for re-evaluation by the SELLER along with the JRI.

34.9 **Adequacy Clause.** The SELLER confirms to the BUYER that the range and depth of Accompanied Accessories/User Replaceable Parts/Expendables, Spares and SMT/STE/Test Jigs given in Appendix\_\_of Annexure\_\_of this contract are complete and exhaustive for use and carrying out repairs up to ( ) level for the equipment procured under this contract by the BUYER. Any additional items, spares, tools and equipment up to the lowest level needed for use, maintenance and repair will be supplied by the SELLER at mutually agreed prices within 60 days of receipt of notification from the BUYER for the period specified in Article 30 (PRODUCT SUPPORT). The SELLER also confirms to the BUYER that the overall cost of one set of complete list of spares and parts used to make one functional (Equipment \_\_\_\_\_) as per the specifications given at Annexure\_\_

(Technical Specifications) along with accompanied accessories as per Annexure\_\_ as per the cost given in Appendix\_\_of Annexure\_\_ will not exceed the cost of the equipment as given in Appendix \_\_. The SELLER also confirms that, if two different prices have been given for the same/similar item in Appendix\_\_to Annexure\_\_, then the lower price quoted will prevail. In case, the quoted accessories has several items viz Sampling Accessory Kit and add up price of these items is higher than the quoted price of the accessory then the price will be lowered/adjusted proportionately for the items.

34.10 A malicious code certificate as given in Appendix K&M (Chapter II & IV respectively) to the RFP is attached herewith.

### **ARTICLE 35** **ACCESS TO BOOK OF ACCOUNTS**

35.1 In case it is found to the satisfaction of the BUYER that the SELLER has engaged an Agent, or paid commission or influenced any person to obtain the contract as described in clauses relating to Agents and Penalty for Use of Undue Influence, the SELLER, on demand of the BUYER shall provide necessary information/inspection of the relevant financial documents/information, including a copy of the contract(s) and details of payment terms between the vendors and Agents engaged by him.

35.2 **Testimonial and Signature Clause.** The authorised representative of the SELLER should be shown to have been so authorised by the Resolution of the Board of Directors of the Company of the SELLER or duly authorised by the Memorandum/Articles of Association of the Company along with supporting documents for the same.

### **LEGAL ADDRESSES OF THE CONTRACTING PARTIES**

1. Judicial addresses of both contracting parties:

SELLER

.....  
.....  
.....  
.....

BUYER:

GOVERNMENT OF INDIA  
MINISTRY OF DEFENCE  
SOUTH BLOCK  
NEW DELHI -110011  
REPUBLIC OF INDIA

\*\*\*\*\*

**Annexure I**

(Refers to Articles 1 and 34 of Standard Contract Document)

**STATEMENT OF PRICES AND QUANTITIES**

<b>Ser No</b>	<b>Item</b>	<b>Qty</b>	<b>Unit Price (US Dollars/Euros/ Pouds)</b>	<b>Total Value (US Dollars)</b>	<b>Remarks</b>
1.	Description of Main Equipment along with accessories, optional items etc.				
2.	ESP/MRLS				
3.	Technical manuals				
4.	Training Package				
	Total				

Total (in words)\_\_\_\_\_

\*\*\*\*

**Annexure II**  
(Refers to Article 1 and 6 of Standard  
Contract Document)

To Contract No. \_\_\_\_\_

Dated: \_\_\_\_\_

**TECHNICAL SPECIFICATION**

All Technical parameters listed in terms of size, weight, performance, operating environment, power, utility life storage shelf life etc, both in terms of essential and desirable levels as applicable to the equipment.

(The Technical parameters of the equipment being contracted also to be included)

\*\*\*\*\*

### **Annexure III**

(Refers to Article 10 and 33 of Standard Contract Document)

To Contract No. \_\_\_\_\_

Dated : \_\_\_\_\_

#### **STATEMENT OF WORK (SOW) AND DELIVERY SCHEDULE**

1. General.
2. Abbreviations/Definitions.
3. Equipment, Materials And Services

The SELLER shall deliver the goods and perform services as following:

##### 3.1 Deliverable Items and Schedule:

###### 3.1.1 Deliverable Items:

###### 3.1.2 Delivery Schedule.

Ser No	Equipment/Service	Quantity	Month (from effective date)

##### 3.2 Modifications to be incorporated in (Name of Equipment).

##### 3.3 BUYER Furnished Data and Equipment.

#### 4. **Integrated Logistic Support (ILS).**

4.1 The maintenance of the (Name of Equipment) shall be carried out at Field and Base Level by BUYER's personnel after receiving Maintenance Documentation, CBTs Training, Special Test Equipment (STE) and test set up and Spare Parts.

4.2 The ILS package will support the following maintenance tasks: (All tasks to be listed)

###### 4.2.1 Field

###### 4.2.2 Base/Component Level.



4.3 Training & Documentation. (All details of trg to be incorporated)

4.3.1 Field Maintenance Training and Documentation.

No	Description	No of pers.	Duration	Month (from ED)	Remarks

4.3.2 Base Maintenance Training and Documentation.

No	Description	No of Persons	Duration	Month (from ED)	Remarks

4.4. Special Test Equipment and Test Setup

4.4.1 For Field Maintenance Test Equipment.

4.4.2 For Base/Component Level Maintenance.

No	Description	No of Persons	Duration	Month (from ED)	Remarks

**Buyer Furnished Test Equipment**

No	Description	Qty	Month (ARO)	Remarks

\*\*\*\*

**Annexure IV**  
(Refers to Articles 3A and 3B of  
Standard Contract Document)

**BANK GUARANTEE FORMAT FOR ADVANCE<sup>4</sup>**

To

The \_\_\_\_\_  
Ministry of \_\_\_\_\_  
Government of India  
\_\_\_\_\_ (complete postal address of the beneficiary)

1. “Whereas President of India represented by the \_\_\_\_\_ Ministry of \_\_\_\_\_ Government of India (hereinafter referred to as Buyer) have entered into a contract No. \_\_\_\_\_ (No. of contract), dated \_\_\_\_\_ (Date of Contract) with M/s \_\_\_\_\_ (Name of Seller) (referred to as Seller) and whereas according to the said Contract the Buyer has undertaken to make an advance payment of Rs. \_\_\_\_\_ being payment of \_\_\_\_\_ % of the total value of Rs. \_\_\_\_\_ of the said Contract, against issuance of an advance guarantee by a bank.”

2. We \_\_\_\_\_ (indicate the name of the bank) do hereby undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from the Buyer intimating that the Seller is in breach of the contractual obligations stipulated in the said contract. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our total liability under this guarantee shall be restricted to an amount not exceeding Rs. \_\_\_\_\_.

3. We undertake to pay to the Buyer any money so demanded notwithstanding any dispute or disputes raised by the seller in any suit or proceedings pending before any Court or Tribunal relating thereto our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be valid discharge of our liability for payment there under and the Seller shall have no claim against us for making such payment.

4. We, further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Contract and that it shall continue to be enforceable till all the dues of the Buyer under or by virtue of the said Contract have been fully paid and its claims satisfied or discharged or till \_\_\_\_\_ office / Department / Ministry of \_\_\_\_\_ certifies that the terms and conditions of the said Contract have been fully and properly carried out by the said Seller and accordingly discharges this guarantee.

5. We, further agree with the Buyer that the Buyer shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Contract or to extend time of performance by the said Seller from time to time or to postpone for any time or from time to time any of the powers exercisable by the Buyer against the said Seller and to forbear or enforce any of the terms and conditions relating to the said Contract and we shall not be relieved from our liability by reason of any such variation,

<sup>4</sup>Amendment issued vide MoD ID No. 4(50)/D(Acq)/08 dated 20.06.2016

or extension being granted to the said Seller or for any forbearance, act or omission on the part of the Buyer or indulgence by the Buyer to the said Seller or by any such matter or thing whatsoever which under law relating to sureties would, but for this provision, have effect of so relieving us.

6. The amount of this guarantee will be progressively reduced by (percentage of advance) \_\_\_\_\_ of total value of each part shipment/services against the stage payment released by the Buyer for that shipment/services made by the Seller and presentation to us of the payment documents.

7. This guarantee will not be discharged due to the change in the constitution of the bank or the Buyer/Seller.

8. We, undertake not to revoke this guarantee during the currency except with the previous consent of the Buyer in writing.

9. Notwithstanding anything contained herein above:-

(a) Our liability under this Guarantee shall not exceed Rupees \_\_\_\_\_ (in words)

(b) This Bank Guarantee shall remain valid until \_\_\_\_\_ (hereinafter the expiry date of this guarantee) the Bank Guarantee will cease to be valid after \_\_\_\_\_ irrespective whether the Original Guarantee is returned to us or not.

(c) We are liable to pay guaranteed amount or any part thereof under this Bank Guarantee only and only if you serve upon us a written demand or a claim in writing on or before \_\_\_\_\_(Expiry Date).

Dated the \_\_\_\_\_ day of \_\_\_\_\_ (month and year)

Place :

Signed and delivered by \_\_\_\_\_ (Name of the bank)

Through its authorised signatory

(Signature with seal)

\*\*\*\*

**Annexure IV (A)**  
(Refers to Articles 4A and 4B of Standard  
Contract Document)

**BANK GUARANTEE FORMAT FOR PERFORMANCE-CUM-WARRANTY BOND<sup>4</sup>**

To

The \_\_\_\_\_  
Ministry of \_\_\_\_\_  
Government of India  
\_\_\_\_\_ (complete postal address of the beneficiary)

Dear Sir,

1. Whereas President of India represented by the \_\_\_\_\_ Ministry of \_\_\_\_\_, Government of India (hereinafter referred to as BUYER) have entered into a contract No. \_\_\_\_\_ dated \_\_\_\_\_ (hereinafter referred to as the said contract) with M/s. \_\_\_\_\_ (hereinafter referred to as the SELLER) for supply of goods as per contract to the said BUYER and whereas the SELLER has undertaken to produce a bank guarantee amounting to Rs. \_\_\_\_\_ which is 10% of the contract value in aggregate which will cover 5% of total contract value each for Performance and Warranty, to secure its obligations towards Performance-cum-Warranty to the Buyers.

2. We, the \_\_\_\_\_ bank hereby expressly, irrevocably and unreservedly undertake the guarantee as principal obligors on behalf the SELLER that, in the event that the BUYER declares to us that the amount claimed is due by way of loss or damage caused to or would be caused or suffered by the BUYER by reason of breach/failure to perform by the said SELLER of any of the terms and conditions in the contract related to Performance and Warranty clauses, we will pay you, on demand and without demur, all and any sum up to (5% of total Contract Value) \_\_\_\_\_ Rupees only at any one instance and 10% of total contract value in aggregate (Rupees \_\_\_\_\_ only) under this Guarantee. Your written demand shall be conclusive evidence to us that such repayment is due under the terms of the said contract. We shall not be entitled to ask you to establish your claim or claims under this guarantee but will pay the same forthwith without any protest or demur. We undertake to effect payment upon receipt of such written demand.

3. We shall not be discharged or released from the undertaking and guarantee by any arrangements, variations made between you and the SELLER, indulgence to the SELLER by you, or by any alterations in the obligations of the SELLER or by any forbearance whether as to payment, time performance or otherwise.

4. We further agree that any such demand made by the Buyer on the Bank shall be conclusive, binding, absolute and unequivocal notwithstanding any difference or dispute or controversy that may exist or arise between you and the Seller or any other person.

5. In no case shall the amount of this guarantee be increased.

6. This Performance-cum-Warranty guarantee shall remain valid for a period until three months beyond the warranty period as specified in the contract i.e. upto \_\_\_\_\_.

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<sup>4</sup>Amendment issued vide MoD ID No. 4(50)/D(Acq)/08 dated 20.06.2016

7. Subject to the terms of this Bank Guarantee, the issuing bank hereby irrevocably authorizes the beneficiary to draw the amount of upto Rs. \_\_\_\_\_ (5% of total contract value) for breach/failure to perform by the Seller of any of the terms and conditions of the contract related to performance clauses provided that upon invocation and payment of each such claimed amount, issuing bank undertakes to reinstate the amount drawn without any requirement for notice, amendment or other formality, so that, subject to the other terms and conditions hereof, at all times prior to the Expiration Date, Rs. \_\_\_\_\_ (“Guaranteed Amount” i.e. 5% of the total contract value) shall be available for drawing by the Beneficiary hereunder to meet the obligations of the said guarantee for the Warranty clauses. Notwithstanding anything mentioned herein above, the total drawings under the Guarantee by the BUYER shall not exceed 10% of the total contract value (Rs. \_\_\_\_\_ only). Partial drawings and multiple drawings under this Bank Guarantee are allowed within the above stated cumulative amount subject to each such drawing not exceeding 5% of the total contract value (Rs. \_\_\_\_\_ only) (Mention BG amount).

8. This guarantee shall be continuing guarantee and shall not be discharged by any change in the constitution of the Bank or in the constitution of M/s \_\_\_\_\_. We undertake not to revoke this guarantee during the currency except with previous consent of BUYER in writing.

9. Notwithstanding anything contained herein above:

(a) Our liability under this Guarantee shall not exceed Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only (in words)).

(b) This Bank Guarantee shall remain valid until 3 months from the date of expiry of warranty period of the contract, i.e upto \_\_\_\_\_ (mention the date) which is 3 months after expiry of the warranty period and the BG shall cease to be valid after \_\_\_\_\_ irrespective whether the Original Guarantee is returned to us or not.

(c) We are liable to pay guaranteed amount or any part thereof under this Bank Guarantee only and only if you serve upon us a written demand or a claim in writing on or before \_\_\_\_\_ (Expiry Date).

Dated the \_\_\_\_\_ day of \_\_\_\_\_ (month and year)

Place :

Signed and delivered by \_\_\_\_\_ (name of the bank)

Through its authorised signatory  
(Signature with seal)

**Annexure IV (B)**  
(Refers to Articles 3D and 3E of Standard  
Contract Document)

**FORMAT FOR ADDITIONAL BANK GUARANTEE FOR  
ESSENTIAL PARAMETER-B CASES<sup>4</sup>**

To

The \_\_\_\_\_,  
Ministry \_\_\_\_\_,  
Government of India,  
\_\_\_\_\_ (complete postal address of the beneficiary)

1. Whereas President of India represented by the \_\_\_\_\_ Ministry of \_\_\_\_\_, Government of India (hereinafter referred to as BUYER) have entered into a contract No \_\_\_\_\_ dated \_\_\_\_\_ hereinafter referred to as the said contract) with M/s \_\_\_\_\_ (hereinafter referred to as SELLER) for supply of goods as per contract to the said BUYER and whereas the SELLER has undertaken to produce a bank guarantee for (%) of total contract value amounting to Rs. \_\_\_\_\_ to secure its obligations towards meeting the Essential Parameters B to the BUYER.

2. We, the \_\_\_\_\_ bank hereby expressly, irrevocable and unreservedly undertake and the guarantee as principal obligors on behalf of the SELLER that, in the event that the BUYER declares to us that the amount claimed is due by way of loss or damage caused to or would be caused or suffered by the BUYER by reason of breach/failure to perform by the said SELLER of any of the terms and conditions in the contract related to meeting the Essential Parameter B, we will pay you, on demand and without demur, all and any sum up to a maximum of Rupees \_\_\_\_\_ only. Your written demand shall be conclusive evidence to us that such repayment is due under the terms of the said contract. We shall not be entitled to ask you to establish your claim or claims under this guarantee but will pay the same forthwith without any protest or demur. We undertake to effect payment upon receipt of such written demand.

3. We shall not be discharged or release from the undertaking and guarantee by any arrangements, variations made between you and the SELLER, indulgence to the SELLER by you, or by any alternations in the obligations of the SELLER or by any forbearance whether as to payment, time performance or otherwise.

4. We further agree that any such demand made by the Buyer on the Bank shall be conclusive, binding, absolute and unequivocal notwithstanding any difference or dispute or controversy that may exist or arise between you and the Seller or any other person.

5. In no case shall the amount of this guarantee be increased.

6. This Guarantee shall remain valid until \_\_\_\_\_ as specified in the contract.

7. This guarantee shall be continuing guarantee and shall not be discharged by any change in the constitution of the Bank or in the constitution of M/s \_\_\_\_\_. We undertake

<sup>4</sup>Amendment issued vide MoD ID No. 4(50)/D(Acq)/08 dated 20.06.2016

not to revoke this guarantee during the currency except with previous consent of BUYER in writing.

8. Notwithstanding anything contained herein above:-

(a) Our liability under this Guarantee shall not exceed Rupees \_\_\_\_\_ (in words)

\_\_\_\_\_.

(b) This Bank Guarantee shall remain valid until \_\_\_\_\_ (hereinafter the expiry date of this guarantee). The Bank Guarantee will cease to be valid after \_\_\_\_\_ irrespective whether the Original Guarantee is returned to us or not.

(c) We are liable to pay guaranteed amount or any part thereof under this Bank Guarantee only and only if you serve upon us a written demand or a claim in writing on or before \_\_\_\_\_ (Expiry Date).

Dated the \_\_\_\_\_ day of \_\_\_\_\_ (month and year)

Place:

Signed and delivered by \_\_\_\_\_ (Name of the Bank)

Through its authorized signatory

(Signature with seal)

\*\*\*\*

**Annexure V**

(Refers to Article 8 of Standard Contract Document)

To contract No. \_\_\_\_\_

Dated : \_\_\_\_\_

**MODIFICATIONS TO BE INCORPORATED AS PER**  
**REQUIREMENTS OF THE SERVICE HQ**

(To be elaborated depending on the modification existing if any with the OEM or modifications required for suiting the buyer's requirements)

\*\*\*\*



**Annexure VI**

(Refers to Article 14.3 of Standard Contract Document)

**CERTIFICATE OF CONFORMITY**

Date:

No:

Product Name:

Product No: Lot

No : Quantity:

Contract No:

Packaging List No:

THIS IS TO CERTIFY THAT THE ABOVE MENTIONED PRODUCT HAVE SUCCESSFULLY PASSED ALL THE ACCEPTANCE TESTS IN ACCORDANCE WITH THE RELEVANT SPECIFICATIONS AND DRAWINGS.

( )

( )

( )

( )

( )

( )

\*\*\*\*

**Annexure VII**  
(Refers to Article 17.2 of Standard Contract Document)

**QUANTITY CLAIM**

To the Contract No .....

Dated .....

CLAIM PROTOCOL NO .....

Laid down

.....

For inter/tare storage

Commission, consisting of Chairman ..... and Members  
..... having examined the state  
of the delivered equipment ascertained as follows:-

1. The equipment was delivered by M/s..... against Bill of  
Lading No ..... of ..... in the quantity of  
one collie with the Marking ..... Case  
No.....

2. The obtained equipment is delivered under Contract No..... Item Srl  
No ..... Cost .....

3. The state of packing and seals on goods packages, correspondence of the gross weight and the  
weight indicated in the way bills (packing lists) Nos of the collies are to be pointed out .....  
Condition of the collie ..... Gross weight of the  
collie..... Net weight of the  
collie.....

4. While unpacking the goods packages, the following discrepancy between the shipping documents  
(packing lists as the packed equipment was discovered/separately for each package  
.....  
.....  
.....

5. Conclusion of the commission .....  
.....  
.....  
.....

6. The following documents confirming the justification of the complaint are attached to the report  
(Packing list, photos of the damaged sports and others)

.....  
.....

Chairman .....

Members .....

Place and date of issue .....

\*\*\*\*

### **Annexure VIII**

(Refers to Article 17.3 of Standard Contract Document)

#### **QUALITY CLAIM**

To the Contract No .....

dated ..... CLAIM PROTOCOL NO ..... Laid down  
on

Concerning (Name of the claimed equipment) Commission Members

.....

Chairman .....  
.....

The Commission has acquainted with the claimed equipment and made the following decision:-

1. .... Serial No.....

.....  
(equipment)

Production by the ..... Made by the manufacturer .....

.....  
..... (date of manufacture)

No of running hours ..... With guarantee period of .....  
(completed)

.....  
.....  
(years, months)

From the beginning of operation, the product has been operating for ..... hours.

2. Indicate operation conditions of the equipment .....

.....  
(State type of fuel and oil used during operation of the equipment)

3. Description of the defect ..... (the date  
and circumstances under which the defect was ascertained, short description of the probable causes  
and probable consequences of the defect)

4. List of units (or their parts)

(defective equipment will remain in that organisation store-room when it has been operating till arrival of the SELLER's instruction)

5. Conclusion of the Commission .....

.....  
.....  
.....

(on investigation the commission decided that the claimed equipment is not serviceable and that it must be subject to repair or must be replaced with a new equipment. The kind of repair and place where the repair should be carried out are to be stated).

The following parts are required for the repair of the equipment (or its parts):-

.....  
.....  
.....

The defect occurred ..... within the guarantee period from the reason as follows

.....  
..... The costs of  
the repair of the equipment or its parts .....  
.....  
.....

The defect occurred ..... within the guarantee period from the reason as follows ...

.....  
.....  
..... The costs of the repair will be debited to (.....  
manufacturer/owner.....)

To settle the claim, the SELLER has to replace the equipment and dispatch the unit and other parts, indicate the parts and where the repair should be carried out (manufacturer's side), the manner of reimbursement of costs connected with the repair of the equipment, etc.

Supplementary Data:

The equipment was handed over in accordance with the .....  
No.....on(date) .....

The following documents are enclosed to this claim protocol to support the justification of the claim(photos, samples, results of analysis, packing sheets, etc.) Signature of the Commission Members

.....

\*\*\*\*

**Annexure IX**

(Refers to Articles 10 and 34 of Standard Contract Document)

**PRICE BREAKDOWN OF SUPPLIES AND SERVICES**

<b>Sl. No</b>	<b>Item</b>	<b>Quantity</b>	<b>Ready for Shipment</b>	<b>Unit Price</b>	<b>Total Price US\$</b>
1.	EQPT _____ as per Appendix A along with accessories given at Note 1 below	221 Nos.  (Illustrative example)	As per Note 2 below		
2.	Cost of Additional Accompanied Accessories, User Replaceable Parts and Expendables (As per Appendix A)	As per Article 34.2	As per Note 2(d) below		
3.	Spares and SMT/STE/TJ (As per Appendix A)	As per Article 34.3 and 34.4	As per Note 2(d) below		
4.	Training as per the syllabus given at Appendix B	4 and 24 working days for operator & maintenance personnel respectively (Illustrative Example)			
5.	Technical Literature given at Appendix C	As per Article 34.6	As per Note 2(d) below		

TOTAL		
-------	--	--

**Notes:**

1. **Description of Equipment.** Equipment \_\_\_\_ System and the following accessories:

	<b>Part No.</b>	<b>Item</b>	<b>Quantity</b>
(a)	943013	Battery	02 Nos
(b)	943700	Manual in English	01
(c)	540006	Phillips Screwdriver #1	01

2. **Delivery Schedule.** Delivery Schedule (to be read in conjunction with Article 10 Delivery) to be completed as under:-

- (a) First consignment of \_\_\_\_\_ Nos. Equipment \_\_\_\_\_ within \_\_\_\_\_ weeks from the effective date of the contract (Article 2 refers) along with contracted ESP package viz spares, SMTs/STEs/TJs and technical literature.
- (b) Second consignment of \_\_\_\_\_ Nos EQPT \_\_\_\_\_ within \_\_\_\_\_ weeks from the effective date of the contract (Article 2 refers).
- (c) Third consignment of \_\_\_\_\_ EQPT \_\_\_\_\_ within \_\_\_\_\_ weeks from the effective date of the contract (Article 2 refers).
- (d) Fourth and last consignment of \_\_\_\_\_ EQPT \_\_\_\_\_, and Additional Accompanied Accessories/User Replaceable Parts/Expendables, Spares, SMT/STE/TJ and Technical Literature within \_\_\_\_\_ weeks from the effective date of the contract (Article 2 refers) and 34 refers.

\*\*\*\*

**Appendix A to Annexure IX**  
(Refers to Article 34 of Standard Contract Document)

**PRICE BREAKDOWN OF EQUIPMENT/ACCESSORIES,**  
**MAIN EQUIPMENT ETC FOR EQPT**

**1. Main Equipment-Price Breakdown**

Sl. No.	Sl. No of Offer	Description	Unit Cost	Qty	Total Cost

**2. Sub-Assemblies for Equipment**

Sl No	Sl. No of Offer	Part No.	Nomenclature	Schematic ref.	No. per eqpt	Unit cost in USD \$	Total cost in USD \$	Remarks
1.	1	220124	Sensor NO2	S1				
2.	2	943253	Sensor Membrane					
Total							-----	

**3. Accessories Along with the Equipment**

Sl No	Sl. No of Offer	Part No.	Nomenclature	Schematic ref.	No. per eqpt	Unit cost in USD \$	Total cost in USD \$	Remarks
1.	4	943013	Battery cartridges					
Total								



4. **Optional Items**

Sl No	Sl. No of Offer	Part No.	Nomenclature	Schematic ref.	No. per eqpt	Unit cost in USD \$	Total cost in USD \$	Remarks
1.	16	943021	External battery pack		1			
Total								

5. **Spares**

Sl No	Sl. No of Offer	Part No.	Nomenclature	Schematic ref.	No. per eqpt	Unit cost in USD \$	Total cost in USD \$	Remarks
1.	12	943046	RS232 Cable		1			
	Total	-----						

6. **Additional Items Required for Completeness of Spares and Consumables**

Sl No	Sl. No of Offer	Part No.	Nomenclature	Schematic ref.	No. per eqpt	Unit cost in USD \$	Total cost in USD \$	Remarks
1.		943018	Audio Ear Set		1			spare
Total								

7.

Sl No	Sl. No of Offer	Part No.	Nomenclature	No. per eqpt	Unit cost in USD \$	Total cost in USD \$	Remarks
1.		TJ 3000	Test Jig EVD				Component Level Checks Manufacture Supplied
Total							

**Note:** The SELLER confirms for authenticity, completeness correctness of the data given in this annexure.

\*\*\*\*

**Appendix B to Annexure IX**  
(Refers to Article 34 of Standard Contract Document)

**TRAINING**

1. **Operator Course.** This course is designed to give the student the necessary knowledge to operate an Equipment \_\_\_\_ effectively. It also covers unit maintenance procedures and procedures for unit level repair and replacement of parts.

Time	Course	Description	Materials
____ hrs		Time Course Description Materials covers the theory, operation and proper sampling techniques. It will include hands on and visual presentations.	Slide Show, User Guide
____hrs		This course allows the student to do practical exercises with Equipment _.	User Guide, Equipment ____ unit, Practical outline
____hrs		This time allows the student to ask any questions they have and review for the test.	User Guide, Equipment ____ unit
____ hrs	Operator Test	The student takes the certification test.	User Guide, Test paper

2. **Trainer Course.** This course is designed to give the student an understanding of the Equipment \_ \_\_\_\_ as well as first line maintenance techniques that will the student to keep the (Equipment) \_ \_\_\_\_ working properly. In addition to that there will be a course on training others how to use the (Equipment) \_\_\_\_ by stressing the important issues using the (Equipment) \_\_\_\_\_. Following the course there will be a certification test which will then allow the student to train other users on the (Equipment) \_\_\_\_.

Time	Course	Description	Materials
-hrs		This course covers the theory, operation and proper sampling techniques. It will include hands on and visual presentations. It will also include first line maintenance techniques used in the field.	Slide Show, Supervisor Guide
- hrs		This course allows the student to do practical exercises with an (Equipment) _____.	Supervisor Guide, (Equipment) ____ unit, Practical outline

-hrs		This course covers the important issues in training other users on the (Equipment)_____	Trainer Guide, (Equipment) _____unit
- hrs		This course allows the students to practice training other users on the (Equipment) under supervision	Trainer Guide, Slide Show, (Equipment) unit
- hr	Supervisor Test	The student takes the certification test.	Supervisor Guid, Test paper Trainer Guide

3. **Field Repair Level Maintenance Training.** This course is designed to give the student an understanding of the (Equipment) \_\_\_\_ as well as first line maintenance techniques that will the student to keep the (Equipment) \_\_\_\_\_ working properly. Then the course will discuss the Mechanical/Automotive/Electronic/Armament portion of the (Equipment) \_\_\_\_ . A break down of all components as well as the calibration procedure is taught. The student will then take apart and rebuild an (Equipment) \_\_\_\_ going over various points. Following the classes there will be a certification test which will allow the student to then do any repairs needed on the (Equipment).

Time	Course	Description	Materials
____hrs		This course covers the theory, operation and proper sampling techniques. It will include hands on and visual presentations. It will also include first line maintenance techniques used in the field.	Slide Show, Supervisor Guide
____hrs		This course allows the student to do practical exercises with an (Equipment)	Supervisor Guide, (Equipment) unit, Practical outline
____hrs		This course covers all the electronics in the (Equipment) _____. A look at all the PCBs in the unit and the procedure of analysing samples.	Trainer Guide, (Equipment) unit
____hrs		This course discusses the troubleshooting techniques used for repairing an (Equipment).	Technical Guide, (Equipment) unit
____hrs		This course covers the proper procedure in calibrating and (Equipment) _____.	Technical Guide, (Equipment) __unit

4. **Component Level Maintenance Training.** This course is designed to train students to undertake component level repair of all assemblies, subassemblies, modules, PCBs, etc.

5. **Base Repair Maintenance Training.** The syllabus for base repair maintenance training will be finalised during MET as per the requirement of the BUYER.

6. **Technical Know How.** The SELLER shall provide the complete know how on the technology used, repair and maintenance of the equipment and shall not withhold such information during the conduct of the training. Maintenance philosophy will be discussed and suggested norms for major maintenance tasks will be provided by the SELLER.

\*\*\*\*

**Appendix C to Annexure IX**  
(Refers to Article 34 of Standard Contract Document)

**MET**

1. This is carried with a view to facilitate provisioning of effective engineering support for life cycle of the equipment. This would involve stripping of the equipment and carrying out recommended tests and adjustments and establishing adequacy of maintenance spares, tools, test equipment and technical literature. To facilitate this process, the SELLER is required to provide the following in addition to one complete set of the equipment apart from the quantity being procured vide this contract.

(a) **Technical Literature**

(i) User Handbook/Operators Manual.

(ii) Design Specifications.

(iii) **Technical Manuals**

(aa) **Part-I.** Technical description, specifications, functioning of various systems.

(ab) **Part-II.** Inspection/Maintenance tasks, repair procedures, materials used, fault diagnosis and use of Special Maintenance Tools (SMTs)/Special Test Equipment (STEs).

(ac) **Part-III.** Procedure assembly/disassembly, repair up to component level safety precautions.

(ad) **Part-IV.** Part list with drawing reference and list of SMTs/STEs Test Bench.

(iv) Manufacturers Recommended List of Spares (MRLS) with schematic references and part numbers for all the items.

(v) Illustrated Spare Part List (ISPL).

(vi) Technical Manual on SMT/STE with drawing reference.

(vii) Complete Equipment (TOTE) & carried spares.

(b) One set of Gauges.

(c) One set of complete SMTs/STEs/TJs and Test set up.

(d) Servicing Schedule and condemnation limits.

(e) Permissive Repair Schedule for repairs possible at various levels with available infrastructure.

(f) Packing specification/instructions.

(g) Any additional information suggested by the OEM such as infrastructure/facilities/BUYER

furnished items for use and maintenance/repair of equipment.

2. The vendor technical representative shall be present during complete duration of MET. On completion of MET, the SELLER can take back all the items produced for evaluation and maintenance training.

\*\*\*\*

**Annexure X**

(Refers to Articles 5A and 5C of Standard Contract Document)

**LETTER OF CREDIT**

Form of Doc Credit	(40A)	:	Irrevocable/revocable/revolving/confirming.
Doc Credit Number	(20)	:	
Expiry	(31D)	:	Date : 12 months after issuance of Documentary credit.
Applicant bank	(51)	:	----- ----- -----
Beneficiary	(59)	:	----- -----
Amount	(32B)	:	Currency: Amount:
Max Credit Amount	(39B)	:	Not Exceeding
Available with/By	(41)	:	By payment.
Partial Shipments	(43P)	:	Allowed/Not Allowed. Transhipment (43T) : Not allowed/allowed.
Loading in Charge	(44A)	:	(Port of Loading).
For Transport to	(44B)	:	----- (Port of Discharge).
Shipment Period	(44D)	:	-----
Descript of Goods	(45A)	:	-----
Documents Required	(46A)	:	+ Signed commercial invoice in six copies.

+ Two copies of original clean on board bills of lading made out to order and endorsed in blank, showing applicant as notify party and marked: Freight payable at destination.

+ Packing list in six copies.



+ Certificate or origin issued by a chamber of commerce.

+ Lot acceptance certificate signed by the seller's and the Buyer's quality assurance representatives or alternatively the seller's quality assurance representative and armscor.

Additional Condition (46A) : + Telegraphic reimbursement is allowed.

+ This credit will automatically revolve cumulatively on an annual basis as indicated below and will accordingly be automatically extended upon transmission of a notice to this effect by means of an authenticated telex/swift message from the beneficiary's bank to the issuing bank not later than 15 days prior to the expiry of the relevant validity period.

Stage	Amount	Validity Period

+ Maximum utilisation under the credit will be

+ Confirmation charges for the LC are for the beneficiaries account.

+Late Shipment is acceptable.

Details of Charges (71B) : All charges outside India are for beneficiary account.

Presentation Period (48) : Within 21 days after shipment date.

Confirmation (49) : Confirm.

Reimbursing Bank Instructions (53) : -----

(78) : + Documents must be forwarded to us by courier in one lot.

+ We hereby engage that payments made under and in compliance with all the terms and conditions of this credit will be duly honoured by us upon presentation of the stipulated documents.

+ Paying bank may claim reimbursement telegraphically from the reimbursing bank for value 3 days after their authenticated telex/swift advice to the issuing bank of any conform drawing presented under this credit.

Advise through (57) : -----

Send to Recd Info (72) : -----

\*\*\*\*\*

## **CHAPTER VII**

### **REVITALISING DEFENCE INDUSTRIAL ECOSYSTEM THROUGH STRATEGIC PARTNERSHIPS**<sup>3</sup>

#### **Preamble**

1. The production of major defence platforms and equipment such as aircraft, submarines, helicopters and armoured vehicles in India are currently carried out by Defence Public Sector Undertakings (DPSU) and the Ordnance Factory Board (OFB). Though defence manufacturing has been open to private sector participation for well over a decade, private companies have pointed to the lack of a level playing field compared to DPSUs and Ordnance Factories (OFs), which continue to enjoy a commanding role based on various forms of governmental support over the past decades, including long-term purchase arrangements. There is thus a need to institutionalise a transparent, objective and functional mechanism to encourage broader participation of the private sector, in addition to capacities of DPSUs/OFB, in manufacturing of major defence platforms. Expert Committees set up by Ministry of Defence (MoD) provided a detailed road map for development of defence industrial base through the 'Strategic Partnership' route.

2. As with the liberalization of the Indian economy in the 1990s, active involvement of the private sector in the manufacturing of major defence equipment will have a transformational impact. It will serve to enhance competition, increase efficiencies, facilitate faster and more significant absorption of technology, create a tiered industrial ecosystem, ensure development of a wider skill base, trigger innovation, promote participation in global value chains as well as exports. From a strategic perspective, this will help reduce current dependence on imports and gradually ensure greater self-reliance and dependability of supplies essential to meet national security objectives.

3. Defence procurement is entirely government led and functions in a monopsony. The current defence procurement procedures focus on short/medium term contracts. The emphasis on purchase of equipment alone does not promote the creation of a defence industrial eco system. Achieving self-reliance and selfsufficiency calls for assimilation of technology, extensive indigenisation, developing an ecosystem of Tier I, II & III partners and undertaking long term upgrades of the platforms through R&D. This will require the private sector partner selected through a laid down procedure by the government to make necessary long term investments in manufacturing infrastructure, an eco-system of suppliers, skilled human resources, R&D for modernization and upgrades as well as and other capabilities, besides production of equipment. Such a partnership between the Ministry of Defence and the Indian private entity will be known as Strategic Partnership. The overall aim will be to progressively build indigenous capabilities in the private sector to design, develop and manufacture complex weapon systems for the future needs of the Armed Forces. This will be an important step towards meeting broader national objectives, encouraging self-reliance and aligning the defence sector with the 'Make in India' initiative of the Government.

4. This Chapter is divided into the following sections:-

(a) **Section I.** Introduction to the Strategic Partnership model, Segments for Strategic Partnership and Organisation Structure in the Ministry of Defence.

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<sup>3</sup>Amendment issued vide MoD ID No. 1(1)/D(Acq)/16(Pt-VI) dated 31. 05.2017

- (b) **Section II.** Procedure for selection of Strategic Partners (SPs).

**SECTION I**  
**THE STRATEGIC PARTNERSHIP MODEL**

5. The Strategic Partnership model is being implemented to enable participation of private Indian firms in Make in India in defence. The SP is expected to play the role of a System Integrator by building an extensive eco-system comprising development partners, specialised vendors and suppliers, in particular, those from the MSME sector.

6. The selection criteria for Strategic Partners (SP) will be based on the inherent capacity and ability of the vendor to emerge as a systems integrator and to set up a vendor network for sourcing. The criteria for selection should be fair, reasonable, non-arbitrary, transparent and rational, and based upon the broad parameters of financial strength, technical capability and capacity/infrastructure. It is acknowledged that in the Indian private sector currently there is limited experience in defence manufacturing and even lesser in respect of final integration of complex defence systems and sub-systems. Therefore, besides any experience in defence manufacturing, potential SPs will be identified primarily based on their experience and competence in integration of multi-disciplinary functional system of systems, engineering and manufacturing. Further, to ensure that the chosen platform for manufacturing meets all the operational requirements of the Armed Forces and to access advanced and appropriate technologies, the SP will need to enter into relevant tie-ups with foreign Original Equipment Manufacturers (OEM). Accordingly, MoD will shortlist, through an open process based on Staff Qualitative Requirements (SQRs), Technology Transfer needs and indigenisation roadmap, a list of potential OEMs. Government to government support for licensing and transfer of technology as well as provisions for IPR issues shall be worked out. At the same time, to introduce needed competition among potential private sector participants in the process and to ensure that the best interests of government are fully safeguarded, final selection of SPs will be guided by the price quoted by the potential SPs.

**Segments for Strategic Partnership**

7. In the initial phase, strategic partners will be selected in the following segments:-

- (a) Fighter Aircraft.
- (b) Helicopters.
- (c) Submarines.
- (d) Armoured fighting vehicles (AFV)/Main Battle Tanks (MBT).

8. To ensure that larger number of companies participate in the process of defence manufacturing in the private sector, and the SP maintains focus on a core area of expertise, only one SP will generally be selected per segment. Addition of more segments or further subdivision of the identified segments may be considered by the MoD as deemed necessary.

9. Strategic Partnerships seek to enhance indigenous defence manufacturing capabilities through the private sector over and above the existing production base. Keeping this broad objective in view, MoD may consider the role of DPSUs/OFB at the appropriate stage(s) keeping in view the order book position, capacity and price competitiveness.

10. Cooperative arrangements including transfer of technology and teaming arrangements between DRDO/OFs/DPSUs with the SP could be envisaged to enable defence related capacities to be developed in the country or for other reasons as decided by MoD.

### **Applicant Companies**

11. As the Strategic Partnership model is designed to build indigenous manufacturing capacity in major defence platforms, the Applicant Company and subsequently the Strategic Partner when appointed should be an Indian company (as defined under the Companies Act, 2013), owned and controlled by resident Indian citizens. The management of the Applicant Company should be in Indian hands with majority representation on the board of directors. The chief executive(s) of the Applicant Company shall be resident Indians who are part of the Indian group owning and controlling the Applicant Company or the Strategic Partner. 'Control' shall include the right to appoint a majority of the directors or to control the management or policy decisions, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.

12. Further, a company shall be considered as 'Owned' by resident Indian citizens if more than fifty percent (50%) of the capital in it is directly or beneficially owned by resident Indian citizens and/or Indian companies, which are ultimately owned and controlled by resident Indian citizens. This implies that the maximum permitted FDI shall be forty nine percent (49%). No pyramiding of FDI in Indian holding companies or in Indian entities subscribing to shares or securities of the Applicant Company or the Strategic Partner shall be permitted. Indirect foreign investment shall be accounted for in counting the forty-nine percent (49%) FDI. The consolidated characteristics of ownership and provisions governing Applicant Companies are given at **Appendix A**.

13. Any subsequent change in shareholding pattern/ownership of the SP shall require prior approval of MoD.

### **Role of Original Equipment Manufacturer (OEM)**

14. To manufacture major defence platforms, the SP will require tie-ups with foreign Original Equipment Manufacturers (OEM), to cover manufacturing, transfer of technology (ToT), assistance in training skilled human resources and other support. Such partnerships or tie-ups between SP and OEM may take the form of joint ventures (JV), equity partnerships, technology-sharing, royalty or any other mutually acceptable arrangement between the companies concerned, subject to the ownership conditions indicated in Para 11, 12 and 13 above. The limit for equity participation will not preclude other arrangements for sharing management rights in the JV mutually agreed between the SP and OEM. Changes in the ownership structure of JV/SPV shall require approval of MoD.

15. The OEM will be jointly responsible along with the SP for certification and quality assurance of the platforms supplied to MoD. Rights and obligations in this regard will be subject to detailed contracts to be developed subsequently.

16. To facilitate selection of OEMs, MoD will implement a process of shortlisting of OEMs for each segment simultaneously with the process of identifying SPs. This shortlisting of eligible OEMs will be

through an Expression of Interest (EOI).

17. Technical Evaluation will also be carried out strictly adhering to specified timelines. Even if only one OEM submits a proposal in any given segment, the process of technical evaluation will be completed.

18. As part of the EOI, OEMs will provide a formal acceptance of their government(s) that necessary licenses to transfer technology will be granted in case the OEM is selected as a partner for the SP to manufacture the platforms/equipment in India, wherever required, prior to issue of RFP. Such a commitment may also be supported by Inter-Governmental agreements to be signed between India and the country(ies) concerned, at the stage of award of contract.

19. Contract between the SP and OEM will cover provisions for protection of classified information and technology transferred by the OEM. Shortlisted OEMs will provide an undertaking confirming their willingness to cooperate with the SP to manufacture the platform in India, including handholding and support, transfer of technology and indigenisation. OEM will also confirm life-cycle support for the platform along with the SP.

### **Organisational Structure at MoD**

20. An appropriate institutional and administrative mechanism for effective implementation of the Strategic Partnerships will be set up within the MoD, with adequate expertise in relevant fields like procurement, contract law and TOT arrangements.

## **SECTION II**

### **PROCEDURE FOR SELECTION OF STRATEGIC PARTNERS**

21. The selection process of SP will broadly have following procedure:-

- (a) Issue of Expression of Interest (EOI) to Indian private companies for selection of Strategic Partners in identified segments seeking details of Minimum Qualification Criteria.
- (b) Submission of response to EOI by applicant companies, indicating inter alia choice for segments in which they wish to participate.
- (c) Evaluation of the companies based on Minimum Qualification Criteria.
- (d) Segment-wise verification of Segment Specific criteria.
- (e) Shortlisting of companies who meet the minimum qualification criteria, for issue of segment-wise RFP.
- (f) Issue of segment-wise RFPs with DAC approval to short-listed companies based on their options of segment submitted in EOI response.

- (g) Submission of techno-commercial offer in response to RFPs by companies, in collaboration with one of the short-listed OEMs or in exceptional cases with two OEMs in segments with diverse platforms.
- (h) Opening and evaluation of technical offer of the companies.
- (j) Conduct of Field Evaluation Trials (FET) and Staff Evaluation.
- (k) Opening of commercial offers of companies that are technically compliant with the RFP, segment wise.
- (l) Selection of SP having the lowest bid, segment-wise, with DAC approval.
- (m) Commencement of contractual negotiations.
- (n) Finalisation and signing of contract.

### **Expression of Interest (EOI)**

22. MoD shall issue an EOI to seek applications from Indian private companies for selection of Strategic Partner in identified segments. EOI shall *inter alia* seek information related to Minimum Qualification Criteria comprising of financial, technical and segment-specific parameters. The EOI shall be given wide publicity both in print and electronic media. A suitable time period shall be given to the industry to respond.

23. The Application should be accompanied by an Affidavit testifying to the truth and accuracy of the information supplied. The financial information shall be accompanied by unqualified report from the statutory auditor appointed under Section 139 of the Companies Act, 2013 or corresponding sections under the previous Companies Act, about the correctness and accuracy of the financial information submitted. For any materially false statement, the Applicant Company shall be disqualified.

### **Evaluation of Response to EOI**

24. Based on the response to EOI the companies would be evaluated for minimum qualifying criteria comprising technical, financial and segment specific aspects. Indicative qualifying criteria for various segments is placed at **Appendix B**.

25. Evaluation may inter-alia include on-site verification. All companies compliant with minimum qualifying criteria shall be short-listed for issue of RFP in the relevant segment.

26. In the event of the Applicant Company not having segment specific experience, flexibility is provided to the Applicant Company to rely upon group company(ies)'s experience in that particular segment. The segment group company(ies) however will not be appointed as the Strategic Partner, as only its experience will be considered for evaluation. The specific segment group company(ies) whose experience and expertise is considered shall execute a deed of adherence and confirmation cum undertaking providing the MoD and the Strategic Partner an irrevocable right to access, enter upon and

use the facilities of the segment group company for the duration of the Strategic Partnership, subject to applicable laws. An agreement evidencing this right in a form prescribed by MoD should be submitted along with the application. The restrictions on FDI as prescribed for the Applicant Company as a Strategic Partner will also be applicable to the segment group company.

### **Shortlisting of OEMs**

27. The process of shortlisting of OEMs will be done simultaneously with the process of identifying potential SPs. Shortlisting of OEM will involve the following processes:

- (a) Issue of RFI to potential OEMs.
- (b) Formulation of SQRs. The SQRs will cover aspects of the platform as well as weapons required, wherever feasible.
- (c) Based on SQRs and information already available/collected, an EOI will be issued to OEMs in each segment.
- (d) EOI shall define the technologies to be acquired including the details of the weapons and associated sensors along with the range and depth of transfer of technology (ToT) to achieve the stipulated level of indigenisation and development of industrial eco-system in India.
- (e) OEMs shall provide response to the EOI within two months.
- (f) Based on the responses TEC will be carried out. Besides compliance to SQRs, TEC will also check compliance to issues listed at Para 27.
- (g) OEMs that meet TEC requirements will be shortlisted for each segment, with the approval of DAC.
- (h) Even if only one OEM is shortlisted, the process will be taken forward.

28. As ToT is one of the main factors in selection of OEM, the quantum and scope of Technology being offered for transfer by the OEM will be a primary consideration in the selection procedure, besides compliance to SQRs. Towards this, the shortlisting of OEM will inter-alia take into consideration the following factors:-

- (a) Range, depth and scope of technology transfer offered in identified areas.
- (b) Extent of indigenous content proposed.
- (c) Extent of eco-system of Indian vendors/manufacturers proposed.
- (d) Measures to support SP in establishing system for integration of platforms.

- (e) Plans to train skilled manpower.
- (f) Extent of future R & D planned in India.

### **Issue of RFP**

29. Based on the AON approved by DAC, segment-wise RFPs shall be issued to the short-listed Indian companies. RFP shall broadly seek following details:-

- (a) Technical details of the equipment.
- (b) Commercial offer for the identified platform and 10-years Performance Based Logistics (PBL)/other maintenance arrangements specified.
- (c) Mandatory requirements related to indigenisation roadmap, Transfer of Technology, creation of R&D capabilities and skilling provisions etc.

30. The list of short-listed OEMs shall also be annexed to the RFP, so that the short-listed Indian companies can freely engage with such OEMs and finalise their techno-commercial offer in agreement with any of these OEMs. One Indian company can engage with any or all OEMs, but can finally submit only one offer in agreement with any one of the OEMs. As an exception, in segments with diverse platforms such as Helicopters, potential SPs may submit response with more than OEM to have best technology solution.

31. A minimum number of platforms, not exceeding 10-15% of the number of units being procured, may be manufactured in the OEMs premises for the purposes of training and skill development of the SP's manpower.

### **Response to RFP**

32. Response to RFP shall be in two parts, a technical offer and a commercial offer. The technical offer shall include details of the equipment, company's willingness to meet mandatory requirements related to indigenisation roadmap, transfer of technology, creation of R&D capabilities and skilling provisions etc. The commercial offer shall include the price of the platform along with maintenance related costs as required in RFP.

### **Evaluation of Response to RFP**

33. Technical offer, which contains details of the equipment, company's adherence to certain mandatory requirements related to indigenisation, technology transfer, creation of R&D capabilities and skilling etc. shall be opened first.

34. Field Evaluation Trials (FET) are to be conducted, except where the equipment has been evaluated earlier or where FET is not applicable (such as submarines), in which case the requirement of



FET could be waived. Further, to expedite FET, evaluation trials could be carried out at the vendor premises as necessary.

35. Based on results of FET, Staff Evaluation will be carried out and platforms that meet minimum SQRs and ToT requirements will be shortlisted.

36. After evaluation of the technical aspects, and completion of FET, the commercial offers of the companies that are compliant with the technical aspects shall be opened and the company having lowest bid shall be designated as SP in that segment.

37. The order of selection of SPs, segment-wise, and implementation of Strategic Partnerships shall be decided by MoD.

### **Contractual Aspects**

38. MoD shall constitute a Contract Negotiation Committee to conduct negotiations with the selected SP and sign a contract for deliverables. OEM may participate in these negotiations if needed.

39. Contract for supply of the platform will be signed between MoD and the SP, and with OEM if necessary. In case a JV/SPV is formed by the OEM and SP, a tripartite contract between MoD, SP and the JV/SPV will be considered, provided this does not dilute responsibilities of the SP individually, jointly and severally for implementation of contractual delivery timelines, quality and other criteria.

### **Indigenisation Roadmap**

40. The selected SP in each segment will be required to present a roadmap for future development including PBL, upgrades, etc. as indicated below:-

(a) **Indigenisation Content Requirements.** The SP shall commit to a plan to indigenise, in terms of value of production, manufacturing of the platform over a set period for each platform as defined in each RFP.

(b) **Eco-system of Domestic Manufacturers.** SP shall develop tiered industries in each segment by entering into teaming agreements and development partnerships with other industries, including micro, small and medium enterprises (MSMEs), DPSUs, OFs, other PSUs, DRDO and foreign companies that are part of the global supply chain in the relevant sector, so that an eco-system of domestic manufacturers in the Indian defence sector is developed, including for spares and capacities for repair and maintenance of the platform. SP is required to submit an action plan to MoD in this regard, the implementation of which will be monitored by MoD.

(c) **R & D Roadmap.** The Strategic Partner shall formulate a research and development roadmap to achieve self-reliance within the country in respect of the Segment. The road-map is to be mutually finalised along with the MoD.

### **Test and Evaluation Facilities**

41. MoD will make available existing test and evaluation facilities to the SP. The terms of such access as well as cost or fees for the same shall be mutually decided.

### **Periodic Assessment**

42. MoD shall have a right to periodically assess level of technology absorption carried out by the SP and development of a domestic ecosystem for manufacturing. MoD may carry out this assessment either itself or by appointing subject matter experts.

### **Audit**

43. Besides examination of periodic audited reports, MoD shall have the right to conduct special audits of all certifications and costs relevant to the Segment at all or any stages (tiers) of manufacturing/ production/ assembly.

### **Termination**

44. MoD shall have the right to terminate the Acquisition Contract in the following cases:-

- (a) If there is material breach of the Acquisition Contract or an integrity related provision by the SP or the JV/SPV.
- (b) If the SP or the JV/SPV loses 50% (fifty percent) of net worth as submitted in its application (for appointment as strategic partner) or is unable to pay its dues.
- (c) If the SP or the JV/SPV is adjudged insolvent, commences a voluntary winding-up, is subject to the appointment of a receiver, administrative receiver, official liquidator, trustee or a similar person over its assets or undertaking or any part thereof.
- (d) Any other contractually relevant issue.

### **Subsequent Acquisitions**

45. To achieve self-reliance within the country, subsequent acquisitions in the identified segments/platforms should ideally be carried out from Indian companies under Buy (IDDM), Buy (Indian), Buy and Make (Indian) and Make categories of acquisition under DPP. This can be accomplished only when Indian companies make considerable, long term investments in capacity creation and capability development including infrastructure, tiered ecosystem of vendors, skilled human resources, futuristic R&D etc.

46. To incentivize and motivate Indian companies to achieve these objectives, the process for evaluation of bids for subsequent acquisitions in the identified segments/platforms may provide adequate weightage for the following factors pertaining to their experience and track record in the respective segment:-

- (a) Investments by Indian companies to construct and improve segment specific infrastructure like workshops and production lines as well as availability of skilled manpower.
- (b) The nature of R&D investments made by the companies including test and evaluation facilities and infrastructure.
- (c) Development and acquisition of relevant technologies and execution of advanced and state of the art manufacturing processes.
- (d) The extent of the ecosystem created such as the number of vendors developed and the value of orders placed on these vendors.

47. Further, in order to encourage spiral development of technologies and systems, the above factors may be given adequate weightage in deciding upon development partners for projects, including those of DRDO, as well as those under Make procedure of DPP.

48. The above factors may also be given adequate weightage in deciding upon Indian partners for enhancing the production capacities/establishing workshare with DPSUs/OFs in future.

### **Conclusion**

49. Fostering a constructive partnership with Indian private defence industry is considered not just a sound economic option but a strategic imperative to minimise dependence on imports and infuse self-sufficiency in defence manufacturing. Larger and sustained production volumes of a system will lead to optimisation of cost, improved production efficiency and ability to absorb higher end technologies, besides creating an extensive eco-system of defence related industries in the country so that defence manufacturing emerges as a key driver in India's economic growth and development.

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## Appendix A to Chapter VII

(Refers to Para 12)

### OWNERSHIP STRUCTURE

1. **Ownership Structure and Form.** The applicant must be a public company as defined under the Companies Act, 2013 (“**Applicant Company**”). The objective of the Strategic Partnership model is to build capabilities in India to manufacture defence equipment. In certain extreme circumstances of conflict like war, the GoI would have the right to acquire control over the intellectual property used and facilities developed pursuant to the Strategic Partnership.
2. The Applicant Company and subsequently the Strategic Partner when appointed should be an Indian company **owned and controlled** by resident Indian citizens. The management of the Applicant Company should be in Indian hands with majority representation on the board of directors. The chief executive(s) of the Applicant Company shall be resident Indians who are part of the Indian group owning and controlling the Applicant Company or the Strategic Partner.
3. The calculation of foreign investment in the Applicant Company shall include:-
  - (a) The paid up equity share capital held by the foreign company either by itself through its subsidiary companies or nominees in the Applicant Company;
  - (b) The paid up equity share capital held by other foreign investors in the Applicant Company; and
  - (c) The quantum represented by that proportion of the paid-up equity share capital to the total issued equity share capital held or controlled by persons mentioned in (a) or (b) above in an Indian company or a limited liability partnership which is a shareholder in the Applicant Company (“**Indian Entity**”). It is pertinent to note that, for the calculation of foreign equity in the Indian Entity equity held by Foreign Portfolio Investors (“**FPI(s)**”) (category I and II only) and Indian mutual funds will not be included.<sup>1</sup>
4. Further, a company is considered as ‘Owned’ by resident Indian citizens if more than fifty percent (50%) of the capital in it is directly or beneficially owned by resident Indian citizens and / or Indian companies, which are ultimately owned and controlled by resident Indian citizens. This implies that the maximum permitted FDI shall be forty nine percent (49%). No pyramiding of FDI in Indian holding companies or in Indian entities subscribing to shares or securities of the Applicant Company or the Strategic Partner shall be permitted. Indirect foreign investment shall be accounted for in counting the forty-nine percent (49%) FDI.
5. ‘Control’ shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.

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<sup>1</sup>For example, in the event Company A, having twenty five percent (25%) FDI (and no other foreign investment), holds fifty percent (50%) of the Applicant Company, presuming the Applicant Company has no other foreign investment, it shall be construed to have twelve point five percent (12.5%) of foreign investment.

6. The application should be supported by an Affidavit testifying to the truth and accuracy of the information supplied.

7. The financial information shall be accompanied by unqualified report from the statutory auditor appointed under Section 139 of the Companies Act, 2013 or corresponding sections under previous Companies Act, about the correctness and accuracy of the financial information submitted. For any materially false statement, the Applicant Company shall be disqualified.

8. The Strategic Partner shall be permitted to incorporate subsidiary companies in the nature of SPV or use existing subsidiaries as SPVs in respect of specific projects or contracts awarded by the MoD when procurement contracts are required. No other assignment of the contract or project shall be permitted. The status and contract with the Strategic Partner is not assignable. Final integration of system of systems shall be carried out by the Strategic Partner or its SPV in India. SPV shall be wholly owned by the Strategic Partner and the shareholding of such a Strategic Partner in the SPV should be locked in for the term of the Strategic Partnership. The only permitted exception to this condition is that in case of company(ies) or entity(ies) providing technology for a project or a contract so requires such company(ies) or entity(ies) shall together be allowed a maximum of forty nine percent (49%) in the SPV without loss of control or ownership of the SPV by the Strategic Partners. The making of the SPV and the terms of the joint venture shall be scrutinised by the MoD to ensure that the SPV and/ or the Strategic Partner are Indian owned and majority controlled by resident Indian citizens as defined in **Paras 3, 4 and 5 above**. Such SPVs should be set up in compliance with the policies and guidelines issued from time to time by the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry. However, the overall responsibility of performance as owed to the MoD shall always be that of the Strategic Partner. Strategic Partner and SPV(s) would be jointly and severally liable. SPV's joint and several liability (ies) with the Strategic Partner shall be prorated to the extent of its work share, as agreed at the time of approval of the SPV by the MoD.

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## **Appendix 'B' to Chapter VII**

(Refers to Para 24)

### **MINIMUM QUALIFYING CRITERIA**

1. **Technical Gate.** Demonstrated capability of integration of “System of Systems”, which refers to any system with multiple technologies of major systems like aircrafts, ships, chemical plants, power plants, automobiles etc as specified in the EOI.
2. **Financial Gate.** Following aspects inter-alia would be considered, as specified in the EOI/RFP:-
  - (a) Consolidated Turnover.
  - (b) Networth.
  - (c) Rating.
3. **Other Conditions.** Promoters and directors of the Applicant Company and the Segment Group Company should not be wilful defaulters to the banking system as on the date of this application.

### **Segment Specific Criteria**

#### 4. **Submarines.**

Ser	Attributes	YES/NO
(a)	Availability of at least one suitable Dry dock or Building bay with ship lift/ floating dock for submarine of 3000T displacement and length of 90m.	
(b)	Availability of at least two slots for water frontage/wet basin/outfitting berths/outfitting bays for submarine of 3000T displacement and length of 90m.	
(c)	Should have successfully delivered a Warship/Ship as lead or prime contractor in the past five years.	

#### 5. **Fighter Aircraft/Helicopters.**

Ser	Attributes	YES/NO
(a)	Availability of hangar and land space exclusively for production, assembly and testing of Aircraft/Helicopters.	
(b)	Experience in production of Aircraft/Helicopters/ systems and components thereof.	
(c)	Availability of special machining/processing facilities for composites for Aircraft/Helicopters.	

6. **Armoured Fighting Vehicles (AFV)/ Main Battle Tank (MBT).**

Ser	Criteria	YES/NO
(a)	Mobility track, Test driving track and adequate land bank available.	
(b)	Simulation and Modelling capabilities for complex systems.	
(c)	Integration of complex automotive and/or armament systems.	
(d)	Processing facilities for metals and composites including forging, casting, machining and forming/moulding.	

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### **ABBREVIATIONS AND ACRONYMS**

<b>Sl. No.</b>	<b>Abbreviation</b>	<b>Full Form</b>
1.	AAP	Annual Acquisition Plan
2.	Acq	Acquisition
3.	Addl FA	Additional Financial Advisor
4.	AIP	Approval In Principle
5.	AGM	Annual General Meeting
5A	AHSP	Authority Holding Sealed Particulars <sup>44</sup>
6.	AM	Acquisition Manager
7.	AMC	Annual Maintenance Contract
8.	AoN	Acceptance of Necessity
9.	APBG	Advance Payment Bank Guarantee
10.	AS	Additional Secretary
11.	ATP	Acceptance Test Procedure
12.	BC	Bank Commission
13.	B&D	Base and Depot
14.	BER	Beyond Economical Repairs
15.	BFE	BUYER Furnished Equipment
16.	BG	Bank Guarantee
17.	BNE	Buyer Nominated Equipment
17A	BPC	Bulk Production Clearance <sup>44</sup>
17B	BPR	Business Process Reengineering <sup>44</sup>
18.	CAE	ComputerAided Engineering
19.	CAM	ComputerAided Machining
20.	CCS	Cabinet Committee on Security
21.	CDA	Controller of Defence Account
21A	CDEC	Customs Duty Exemption Certificate <sup>44</sup>



22.	CFA	Competent Financial Authority
23.	CFO	Chief Financial Officer
24.	CFR	Cost and Freight
25.	CIF	Cost Insurance and Freight
26.	CIP	Carriage and Insurance Paid to
27.	CIR	Cargo Integration Review
28.	CKD	Complete Knocked Down
28A	CLR	Component Level Repair <sup>44</sup>
29.	CNC	Contracts Negotiation Committee
30.	CMD	Chairman & Managing Director
31.	CMMi	Capability Maturity Model.Integration
32.	COD	Central Ordinance Depot
33.	CPT	Carriage Paid to
34.	CST	Comparative Statement
35.	CTOT	Complete Transfer of Technology
36.	CWP&A	Controller of Warship Production and Acquisition
37.	COTS	Commercial Off The Shelf
37A	DA	Development Agency <sup>44</sup>
38.	DAC	Defence Acquisition Council
39.	DCAS	Deputy Chief of Air Staff
40.	DCF	Discounted Cash Flow
41.	DDP	Department of Defence Production
41A	D&D	Design & Development <sup>44</sup>
42.	DDP&S	Department of Defence Production & Supplies
43.	DGICG	Director General of Indian Coast Guard
44.	DGNAI	Director General Naval Armament Inspectorate
45.	DGQA	Director General of Quality Assurance

46.	DGAQA	Director General of Aeronautical Quality Assurance
47.	DGS&D	Director General of Supply and Disposal
48.	DIPP	Department of Industrial Policy and Promotion
49.	Dir	Director
50.	DPB	Defence Procurement Board
51.	DPP	Defence Procurement Procedure
52.	DPR	Detailed Project Report
53.	DPSU	Defence Public Sector Unit
54.	DRDO	Defence Research and Development Organisation
55.	DD	Demand Draft
56.	DoD	Department of Defence
57.	DG	Director General
58.	DIITM	Directorate of Industry Interface and Technology Management
59.	DOMW	Defence Offsets Management Wing
60.	EFC	Expenditure Finance Committee
61.	ESP	Engineering Support Package
62.	EMI	Electro Magnetic Interference
63.	EMC	Electro Magnetic Compatibility
64.	EME	Electronic and Mechanical Engineers
65.	EIC	Equipment Induction Cell
65A	EoI	Expression of Interest <sup>44</sup>
66.	EPP	Enhanced Performance Parameters
67.	ERV	Exchange Rate Variation
67A	EUC	End User Certificate <sup>44</sup>
68.	FDI	Foreign Direct Investment
69.	FET	Field Evaluation Trials
70.	FF	Fully Formed

71.	Fin	Finance
72.	FM	Financial Manager
73.	FMS	Foreign Military Sales
74.	FMECA	Failure Mode, Effect and Criticality Analysis
75.	FOB	Free on Board
75A	FOPM	First Off Production Model <sup>44</sup>
76.	FPGA	Field Programmable Gate Array
77.	GSQR	General Staff Qualitative Requirement
77A	GSEPC	General Staff Equipment Policy Committee <sup>44</sup>
78.	iaw	In accordance with
79.	IC	Indigenous Content
80.	ICA	Indian Council of Arbitration
81.	ICADR	International Centre for Alternative Dispute Resolution
82.	ICG	Indian Coast Guard
83.	IDS	Integrated Defence Staff
84.	IDDM	Indigenously Designed & Developed Manufactured
84A	IEC	Independent Experts Committee <sup>44</sup>
84B	IEM	Independent External Monitors <sup>44</sup>
85.	IETMs	Interactive Electronic Training Manuals
86.	IGA	Inter Governmental Agreement
87.	IM	Indigenously Manufactured
88.	IOP	Indian Offset Partner
89.	IP	Integrity Pact
90.	IPBG	Integrity Pact Bank Guarantee
90A	IPMT	Integrated Project Management Team <sup>44</sup>
91.	IPR	Intellectual Property Right
92.	IPL	Itemised Price List

93.	ISPL	Illustrated Spare Part List
94.	JS	Joint Secretary
95.	JSEPC	Joint Staff Equipment Policy Committee
96.	JSQR	Joint Service Qualitative Requirement
97.	JRI	Joint Receipt Inspection
98.	L1	Lowest Bidder
99.	LC	Letter of Credit
100.	LOI	Letter of Intent
100A	LPP	Last Purchase Price <sup>44</sup>
101.	LRU	Line Replaceable Unit
102.	LTIPP	Long Term Integrated Perspective Plan
103.	MET	Maintainability Evaluation Trial
104.	MF	Main File
105.	MGO(PPO)	Master General of Ordinance ( Planning and Policy Office)
106.	Mil	Military
107.	MoD	Ministry of Defence
108.	MOU	Memorandum of Understanding
109.	MoQ	Minimum Order Quantity
110.	MRL-OBS	Manufacturer's Recommended list of On Board Spares
110A	MPG	Manual for Procurement of Goods <sup>44</sup>
111.	MTBF	Mean Time Between Failure
112.	MTBO	Minimum Time Before Overhaul
113.	MTBUR	Mean Time Between Unit Replacement
114.	MTTR	Mean Time To Repair
115.	MRLS	Manufacturer Recommended List of Spares
116.	MSME	Micro Small & Medium Enterprises
117.	MSP	Maintenance Support Package

118.	MToT	Maintenance Transfer of Technology
119.	NCNC	No Cost No Commitment
120.	NHQ	Naval Headquarters
121.	NPV	Net Present Value
122.	OEM	Original Equipment Manufacturer
123.	OF	Ordnance Factory
124.	OFB	Ordnance Factory Board
125.	O, I, D	Operator, Intermediate, Depot Level
126.	OM	Office Memorandum
127.	ORs	Operational Requirements
128.	PA	Production Agency
129.	PBG	Performance Bank Guarantee
130.	PCB	Printed Circuit Board
131.	PCDA	Principal Controller of Defence Accounts
131A	PCIP	Pre Contract Integrity Pact <sup>44</sup>
131B	PDD	Project Definition Document <sup>44</sup>
132.	PDI	Pre Dispatch Inspection
133.	PERT	Programme Evaluation & Revenue Technique
134.	PIB	Public Investment Board
135.	PMS	Project Management System
136.	PMT	Project Monitoring Team
137.	POL	Petroleum, Oil and Lubricant
137A	POV	Professional Officers Valuation <sup>44</sup>
138.	Proc	Procurement
139.	PROM	Programmable Read Only Memory
140.	PSO	Principal Staff Officer
141.	PSR	Preliminary Staff Requirements

142.	PSU	Public Sector Undertaking
143.	PWBG	Performance-cum-Warranty Bank Guarantee
144.	QA	Quality Assurance
145.	QRs	Qualitative Requirements
146.	R&D	Research and Development
147.	RFI	Request for Information
148.	RFP	Request for Proposal
149.	RM	Raksha Mantri
150.	ROC	Registrar of Companies
150A	RoD	Record of Discussion <sup>44</sup>
151.	SA to RM	Scientific Advisor to Raksha Mantri
152.	SBI	State Bank of India
153.	SCAP	Services Capital Acquisition Plan
154.	SCAPCC	Services Capital Acquisition Categorisation Committee.
155.	SCAPCHC	Services Capital Acquisition Categorisation Higher Committee.
155A	SCoC	Standard Clauses of Contract <sup>44</sup>
156.	SEPC	Staff Equipment Policy Committee
157.	SHQ	Service Headquarters
158.	SKD	Semi Knocked Down
159.	SMD	Storage Module Device
159A	SME	Subject Matter Expert <sup>44</sup>
160.	SMT	Special Maintenance Tool
161.	SO	Supply Order
162.	SoC	Statement of Case
163.	SOP	Standard Operating Procedure
164.	SQR	Services Qualitative Requirement
165.	SR	Short Refit

166.	SRAM	Sideways Random Access Memory
167.	SRU	Shop Replaceable Unit
168.	SS	Special Secretary
169.	STE	Special Test Equipment
169A	SVC	Single Vendor Case <sup>44</sup>
170.	TAC	Technology Acquisition Committee
171.	TCA	Technical Collaboration Agreement
172.	TEC	Technical Evaluation Committee
173.	TM	Technical Manager
174.	TNC	Technical Negotiations Committee
175.	TOC	Technical Oversight Committee
176.	TOEC	Technical Offsets Evaluation Committee
177.	TOOC	Technical Offer Opening Committee
178.	ToT	Transfer of Technology
179.	TOTE	Table of Tools and Equipment
180.	TPCR	Technology Perspective and Capability Road Map
180A	UATT	User Assisted Technical Trials <sup>44</sup>
181.	UCPDC	Uniform Customs and Practice for Documentary Credit
182.	USD	United States Dollars
183.	UW	Under Water
184.	VCNS	Vice Chief of Naval Staff
185.	VCOAS	Vice Chief of Army Staff
186.	VTMS	Vessel Traffic Management Systems
187.	WE	War Establishment
188.	WLR	Weapon Locating Radar
189.	WWR	War Wastage Reserve

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<sup>44</sup>Amendment issued vide Enclosure N to MoD ID No. 1(13)/D(Acq)/16-Vol.III dated 07.03.2019