

Draft Defence Procurement Procedure 2020

Analysis

Chapter II - Draft DPP 2020

Acquisition Procedures for Categories Under 'Buy', and 'Buy and Make'
Schemes

Structure of Chapter II

Main Body (183 Paragraphs) {Several features which were earlier buried in Schedule and Appendices have now been brought into the main body also.}

Appendix-A : Defining Attributes and Decision Flow Charts

Annexure I - **Buying Priority Chart**

Annexure II - Chart 1-Buy (Indian- IDDM)

Annexure III - Chart 2-Buy Indian

Annexure IV - Chart 3-Buy & Make (Indian)

Annexure V - Chart 4 -Buy & Make

Annexure VI - Chart 5-Buy (Global) and **Buy (Global – Manufacture in India)**

Annexure VII - Chart 6-Make Procedure

Appendix-B : Vendor Information Proforma

Appendix-C : Statement of Case for categorisation and accord of AON

Appendix-D : Defence Offset Guidelines

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Appendix-E : Draft format: nature of information regarding cases which are recommended to be placed on MOD website

Appendix-F : Guidelines to be followed when change of name of vendor is involved while participating in the procurement process

Appendix-G : Standard CNC Composition

Appendix-H : Broad Timeframe for Procurement activities

Appendix J : Guidelines on procedure for determining the applicability of Imposing liquidated damage (LD)

Schedule I : Draft Format / Guidelines for Request for Proposal {with Appendices & Annexures}

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- FET Related aspects
- Flowchart assisted guidelines for preparation of SOC and RFP
- Military Materials Classification
- PBL - Indicative List of Performance Matrices for PBL Contract, responsibility matrix, scope of work etc

There are also a volume of loose text in Chapter II in the form of Appendices or Annexures not properly linked to main body.

Acquisition Process.

Evaluation of Offset Offers by **Technical Offset Evaluation Committee** (TOEC) has been shown as a separate step in the acquisition process.

In DPP 2016, this was conducted as part of Technical Evaluation of the bids.

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Request for Information (RFI)

- ✓ Text of DPP has been arranged in a logical manner.
- ✓ Clarified that issue of **RFI is not a commitment for procurement**.
- ✓ RFI to also have **Vendor Qualification Criteria**. Guidelines for framing the same are given at Appendix-C of Chapter II.
- ✓ RFI process should also address the various aspects of **military materials** – to **promote** use of indigenous materials or to **develop** indigenous sources for the same.
- ✓ RFI process to also similarly address various aspects to promote sourcing of **Indigenous application software** in military systems.

Services Qualitative Requirements (SQRs)

- ✓ SQRs may have Essential Parameters 'A', 'B' & Enhanced Performance Parameters {as in DPP 2016}
- ✓ **Amendments** to SQRs after accord of Approval of Necessity (AON), but **before issue of RFP**, is permitted.

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Approval of Necessity (AON)

- ✓ Department of Defence Production (DDP), through regular and structured interactions with Acquisition Wing and SHQ, besides sharing details of schemes that the SHQs are likely to pursue in the next six months, will also share schemes being fielded for categorisation in the SPB/DPB, with the industry.
- ✓ **Organisation** - Erstwhile **Services Capital Acquisition Plan Categorisation Higher Committee (SCAPCHC)** re-designated as **Services Procurement Board (SPB)**
- ✓ **AON for MOD Cases {Non-Delegated Cases, > 300 Crores}** - The finalised SoC, duly considering all comments received, **will be fielded in the DPB by the concerned SHQ.**

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- ✓ **AON for Delegated Power Cases** - The finalised SoC, duly considering all comments received, will be fielded in the **Services Procurement Board (SPB)**, erstwhile SCAPCHC (Delegated), by the concerned SHQ.
- ✓ **Production Agency** could be selected **by the foreign OEM** from any of the Indian public / private firms including a joint venture company, in multi-vendor cases, as per **eligibility criteria** to be provided in the RFP

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- ✓ AoNs accorded by SPB/DPB/DAC will be hosted on the MoD and SHQ websites by respective SHQ within one week of issue of minutes.
- ✓ 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 these websites.
- ✓ 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.

Offsets

The offset clause would be applicable for 'Buy (Global)' or 'Buy and Make' categories of procurements where the estimated 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.**

Buy and Make (Indian) Category

- ✓ **First stage vendor short-listing** by SHQs shall be carried out based on PSQRs / SQRs approved at the AoN stage.
- ✓ The RFP shall seek an **indigenisation and a technology absorption plan** in strict accordance with (i) IC requirements and (ii) technology absorption requirements (range, depth and scope of technology).

Trial Methodology

- ✓ The Trial Methodology will be part of the RFP and should be, to the extent feasible, **comprehensive and un-ambiguous** in its scope and should provide Vendor a clear and objective assessment of the extent of Trial Evaluation, including areas where **certification and trials by simulation** are accepted.
- ✓ As far as feasible, SHQs, along with trial agencies **may interact with OEM(s)/ vendors prior finalising trial methodology.**

Retention of Trial Equipment

- ✓ Trial equipment of Vendors shall be retained till the results of Staff Evaluation report are approved by competent authority.
- ✓ Once approved and commercial bids are opened, one of the NCNC equipment which is serviceable and has undergone trials will be retained for reference purpose by trial agencies till the supply order is placed and deliveries commence.
- ✓ The period of retention of the equipment of L1 Vendor shall be stipulated in the contract based on the total quantity ordered.
- ✓ The vendor will maintain the equipment during the period of retention by undertaking periodical maintenance tasks as stipulated in the technical documents and repair wherever essential.
- ✓ After the retention period is over, the equipment will be returned to the vendor.

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Transfer of Technology (ToT)

- ✓ RFP to include salient aspects of 'Legal Framework in ToT Agreements' as promulgated by DDP
- ✓ Technologies to be acquired along with their range and depth
- ✓ Minimum threshold of Indigenous Content (IC) to be achieved in the Project.
- ✓ Feasibility of setting up indigenous eco-system for manufacturing
- ✓ Feasibility of making Indian ToT partner as a global / regional hub for manufacturing
- ✓ Feasibility for Tier I/II/III/IV suppliers of the OEM to either set-up indigenous manufacturing facility or enter into a joint venture with Indian companies
- ✓ AoN according authority may choose to incentivise enhanced ToT or IC, on case to case basis.

Product Support

- ✓ To include Product Support requirements for at least 3 to 5 years beyond the warranty
- ✓ Maintenance philosophy may also address other arrangements such as Performance Based Logistics, Annual Maintenance Contract (AMC), Comprehensive Maintenance Contract (CMC), Life Cycle Support Contract (LCSC) etc.

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Field Evaluation Trials

- ✓ The Services have well established training establishments with the necessary infrastructure and facilities for conducting trials. SHQs will setup Trial Wings in these institutions/establishments for their respective arms/services and all trials will be conducted under the aegis of these wings.
- ✓ Field Evaluation Trials will not be conducted as a process of elimination but with an objective to nurture competition. Vendors would, therefore, be allowed to undertake in-situ repairs during trials. Towards this, Vendors shall be adequately informed and advised at the pre-trial stage itself so that they can ensure availability of requisite maintenance teams / experts onsite during the conduct of trials.
- ✓ As far as possible, technical trials by DGQA will only be carried out of critical parameters and other parameters will be evaluated based on vendor certification duly supported by certification by NABL accredited laboratories/internationally recognised laboratories.

Costing Committee.

- ✓ In cases where DPSU equipment is being procured in a Single Vendor Case or as BNE, a Costing Committee constituted under Secretary (DP) for Pricing of DPSU equipment on orders of RM, will price the equipment post successful completion of trials and forward the same to the concerned AM/SHQ chairing the CNC.
- ✓ Such pricing by the Costing Committee shall take into account economies of scales and shall have validity of three years from its date of promulgation.

{This is a new provision in DPP 2020}

Intimation to Vendors

- ✓ The TMs would provide intimation to all participating vendors about their respective status post acceptance of TEC / Staff Evaluation/ Technical Oversight Committee Report (if TOC is held).
- ✓ Intimation with regards to Trials will be done by the conducting SHQ as per SOP promulgated on the subject.

{This is a new provision in DPP}

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Leasing.

- ✓ A new category, would be permitted in two sub-categories i.e. Lease (Indian) and Lease (Global).
- ✓ AoN for lease cases will be accorded by the DAC.
{This is a new provision in DPP 2020}

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The lease process will have the following stages:-

- (a) Request for Information (RFI)
- (b) Identification of Equipment and Operational Demonstration to identify the equipment that best meets the capability sought
- (c) Preparation of Leasing Operational Requirements (LOR)
- (d) **Obtaining of AoN**. AoN for lease cases will be accorded by the DAC. Such cases will be fielded directly in the DAC without first being examined by categorisation committee. After accord of AoN, the lease cases will be processed as per delegation of powers.

Solicitation of offers , TEC , CNC, Approval by CFA, Signing of Lease agreement, Post lease management

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Contract Negotiation Committee

- ✓ **If L1 withdraws or fails to sign the contract, L2 can be considered.** If the bidder, whose bid has been found to be the lowest evaluated bid withdraws or whose bid has been accepted, fails to sign the procurement contract as may be required, or fails to provide the security as may be required for the performance of the contract or otherwise withdraws from the procurement process, the Procuring Entity shall cancel the procurement process. Provided that the Procuring Entity, on being satisfied that it is not a case of cartelization and the integrity of the procurement process has been maintained, may, for cogent reasons to be recorded in writing, offer the next successful bidder an opportunity to match the financial bid of the first successful bidder, and if the offer is accepted, award the contract to the next successful bidder at the price bid of the first successful bidder.

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Splitting of order quantity to be published in RFP.

- ✓ In cases, **where specific approval has been taken in the AoN** to have more than one source of supply, ratio of splitting the supply will be pre disclosed in the RFP and negotiations will be done with both the L1 and L2 vendor, provided the L2 vendor agrees to match the L1 price. {DPP 2016 also permitted to CNC to take such a call}.

{These are new provision in DPP 2020}

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Finalise Acceptance Test Procedures (ATP) during CNC and include details in Contract Document.

- ✓ Quality Assurance Plan (including ATP) finalised during the Technical trials for the equipment of L1 vendor, will be placed before the CNC and included in the draft contract.
- ✓ Methodology of JRI (wherever applicable) will be finalised by SHQ along with vendor and representatives of QA agency, and will also be included in the draft contract.
- ✓ Details of the Third-Party Inspection by authorised TPI Agencies, if applicable, for Pre-Despatch Inspection/Joint Receipt Inspection will also be finalised in the ATP.
{This will ensure that there is no delay from QA side during contract execution}
{This is a new provision in DPP 2020}

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Integrity Pact Bank Guarantee

- ✓ Bidders are asked to submit IPBG based on AON estimated cost as per Table below.

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

- ✓ However, post signing of the contract, the IPBG submitted based on the estimated cost of the AoN will be replaced by a fresh IPBG based on the contracted price.
{New feature}

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Option Clause.

- ✓ Included in the main text of Chapter II.
- ✓ To be exercised to procure additional equipment, spares, facilities or services, **till last delivery of the main equipment**, as per the cost, terms and conditions set out in the original contract.
- ✓ Such cases would be included in the SoC, at the time of seeking AoN for the initial procurement.
- ✓ SHQ will, however, obtain AoN directly from the appropriate approving authority for exercising the Option clause, without progressing the same through the SCAP cycle.
- ✓ While exercising the Option Clause, **SHQ will examine the viability of the same viz-a-viz fresh procurement** and the same will be endorsed in the SoC for seeking AoN for the same.
- ✓ All terms and conditions of the original contract will apply to the case in which Option Clause is being exercised.

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Liberal provisions for “Option Clause”, ‘Repeat Order’ and ‘Upgrades’ have been made in DPP 2020.

- ✓ Notably, ‘Upgrades’ of in-service equipment can also be procured under ‘Repeat Order’ clause. Such cases are not to be treated as ‘Single Vendor’ cases.
- ✓ 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), ARC/NTRO, Central Armed Police Forces (CAPF) or any other Law Enforcement agency, after following due process, then such cases would also be treated as Repeat Order.

Inter-Governmental Agreement (IGA)

- ✓ Draft DPP 2020 has more detailed guidelines for IGA. Aspects of co-development and co-production arrangements have also been included.

Monitoring Mechanism

- ✓ To ensure that timelines of various stages are adhered to and the entire procurement schedule progresses in a time bound manner, regular feedback / update of all schemes will be conducted at SHQ/MoD levels.
- ✓ Progress of all ongoing cases including budget expenditure will be reviewed by Defence Procurement Board (**DPB**) on **quarterly** basis and by Defence Acquisition Council (**DAC**) on **six monthly** basis.

Deviations from DPP

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

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Analysis

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Acquisition Procedures for Categories Under 'Buy', and 'Buy and Make' Schemes

Comments / Suggestions from Participants