



DEFENCE ACQUISITION PROCEDURE 2020



आत्मनिर्भर भारत
ATMANIRBHAR BHARAT



सत्यमेव जयते

DEFENCE ACQUISITION PROCEDURE 2020

Government of India, Ministry of Defence
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FOREWORD

The Defence Acquisition Procedure (DAP) derives its ethos and spirit from the clarion call of an **'Atmanirbhar Bharat'** and **'Make in India'** which define India's growth story and the dream to become a USD 5 trillion economy by 2024. Defence is a key sector that will help achieving these objectives. Defence manufacturing is unique and complex due to fast changing cutting-edge technologies. It demands major impetus in Research and Development, creation of intellectual capital as well as augmentation of defence production facilities within the country. A smooth, efficient and well defined acquisition procedure is the pre requisite for giving an impetus to Defence manufacturing in India.

The DAP introduces a slew of conceptual, structural and procedural reforms in the acquisition procedure to create a climate in which the industry can thrive while meeting the security and operational needs of the Services. The focus of DAP lies in ensuring that contemporary technology based equipment is made available to the Services in a time bound manner, to further expedite the modernisation of the Armed Forces.

India has a huge defence industrial base of Defence Public Sector Undertakings, Ordnance Factories and dedicated establishments under the umbrella of the Defence Research and Development Organisation augmented by a thriving private sector. The increase in the Foreign Direct Investment sectoral limits to 74% becomes a catalyst for the foreign players to develop India as international manufacturing hub. The DAP accordingly focuses on **'Ease of Doing Business'** to encourage Foreign Manufacturers to setup manufacturing entities in the defence industrial corridors established in the country and elsewhere.

The DAP also focuses on **'Self Reliance'** wherein indigenisation and innovation is enabled through processes of **'Make'**, **'Design & Development'** and **'Strategic Partnership'**. Import substitution has been facilitated through various schemes with an aim to reduce Life Cycle Costs and build a robust eco system based on domestic MSMEs.

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राजनाथ सिंह
RAJNATH SINGH



रक्षा मंत्री
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DEFENCE MINISTER
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I take this opportunity to reassure all stakeholders in the Defence Sector that this Government is open to new ideas and is committed to fully harnessing the energies, entrepreneurship spirit and enterprise of one and all in the area of defence. We are determined to further our vision and purposeful implementation in the same spirit and energy, as was evident in the DEFEXPO 2020 at Lucknow, in all our future endeavours.

I sincerely hope that the DAP 2020 energises Defence Acquisition and ensures achievement of our collective aspirations of a capable and **'Atmanirbhar Bharat'**.

New Delhi
30th Sept, 2020


(Rajnath Singh)

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PREAMBLE TO THE DEFENCE ACQUISITION PROCEDURE

1. Defence Acquisition Procedure is based on the concept of “Womb to “Tomb” and has certain unique aspects such as supplier constraints, technological complexity, foreign suppliers, high cost, foreign exchange implications and geo-political ramifications, and therefore is not a standard open market commercial form of procurement. 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 acquisition remains distinctive and complex.

2. *Atmanirbhar Bharat Abhiyan* clarion call given by the Hon’ble Prime Minister, further accentuated by Policy Reforms in the Defence Sector as part of Phase IV ‘New Horizons of Growth’ are focussed towards enhancing self reliance in defence production, indigenisation of spares, overhauling of Trial and Testing procedures based on realistic Services Qualitative Requirements and requisite monitoring by Project Management Unit (PMU) for time bound procurement. There is a need to institute enabling provisions for utilisation and consolidation of design, development 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. The visionary FDI policy statement of enhancing FDI through automatic route from 49% to 74% in defence will enable in making ‘Manufacture in India’ a lucrative option for foreign equipment manufacturers.

3. DAP 2020 focuses on simplifying the Defence acquisition procedure and institutionalising monitoring mechanism with concurrent actions using digital technologies & data base for selection of best equipment in a transparent and competitive manner giving adequate opportunities to capable vendors. Make in India initiative of the Government of India focuses on increasing participation of Indian Vendors including MSMEs, and therefore “Make” procedure has been further refined in DAP 2020 to make it more objective and time bound with focus on Indian industry especially MSMEs. Cutting down permissible timeframes for various activities and institutionalising robust mechanisms to monitor for probity at various stages of the acquisition process are the attributes of this DAP.

4. While the Defence Acquisition involves long gestation periods, where as the needs of the Armed Forces being non negotiable, flexibility in the procedure has been provisioned for, to ensure timely availability of important equipment. Thus, the DAP favours swift decision making, provides for suitable timelines and delegates powers to the appropriate authorities to ensure an efficient and effective implementation of the acquisition process, by all stakeholders concerned.

5. **DAP 2020**, a product of extensive analysis, deliberations, interactions and focused formulations, aims to further ‘*Self Reliance*’ of the country in the defence sector and implement ‘*Ease of Doing Business*’ with emphasis on *Simplification, Delegation, Reduced Timelines* and making the process as *Industry friendly* as possible. Separate chapters have been formulated to incorporate specialised acquisition through the DRDO/OFB/DPSUs, procurements related to Information and Communication Technology Systems, enable Leasing of equipment as also address issues related to Post Contract Management.

CHAPTER I

ACQUISITION CATEGORIES, **ACQUISITION PLANNING** **AND INDIGENOUS CONTENT**

CHAPTER I

ACQUISITION CATEGORIES, ACQUISITION PLANNING AND INDIGENOUS CONTENT

1. **Aim.** The aim of the **Defence Acquisition Procedure (DAP)**, erstwhile Defence Procurement Procedure (DPP), is to ensure timely acquisition 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, DAP 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 focus of the DAP with an ultimate aim to develop India as a global defence manufacturing hub.

2. **Scope.**

(a) The DAP will cover all Capital Acquisitions other than Works and Land undertaken by the Ministry of Defence (MoD) and Service Headquarters (SHQ) both from indigenous sources and ex-import, except for medical equipment. SHQ for the purpose of DAP would include HQ Integrated Defence Staff, Integrated HQ of the MoD (Army), Integrated HQ of the MoD (Navy), Integrated HQ of the MoD (Air Force) and the Indian Coast Guard. 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 new legislation or change or amendment or enforcement of any Act or Law or Policy, rules or regulations or guidelines of MoD or Government of India or body such as Chief Vigilance Commission (CVC), which becomes effective after the date of last amendment to this DAP, the same will automatically be deemed as replacement to the one referred to in this DAP.

Capital Acquisitions

3. **Definition.** Acquisition of goods and services which are booked under the Capital Budget Head will follow the procedure as laid down in the DAP and will be termed as 'Capital Acquisitions'. However, if the SHQ wishes to procure goods and services from the Capital Budget through any other procedure, specific approval of the Defence Acquisition Council (DAC) may be obtained for each such case.

4. Capital Acquisition schemes are broadly classified as, 'Buy', 'Buy and Make', 'Leasing', 'Make', 'Design and Development (D & D)' and Strategic Partnership Model (SPM). Other Capital Procurement Procedure (OCPP) may be followed for overhaul, major refits, upgrades and replacement of items of Capital nature. Under the 'Buy' scheme procurements are categorised as 'Buy (Indian - IDDM)', 'Buy (Indian)', and 'Buy

(Global)’. Under the ‘Buy and Make’ scheme, the procurements are categorised as ‘Buy and Make (Indian)’ and Buy (Global - Manufacture in India).

5. **Priority of Categorisation.** Acquisition of defence equipment under this procedure will be based on the above-mentioned categories. The categories, except Make, Leasing, D & D and SPM, have been prioritised based on their relative importance towards indigenisation. However, there is no embargo on a vendor qualifying in a higher category to participate in the lower category in case all requirements of the lower category are met. In decreasing order of priority, the priority of categories will be as follows: -

- (a) Buy (Indian – Indigenously Designed Developed and Manufactured) i.e. Buy (Indian-IDDM).
- (b) Buy (Indian).
- (c) Buy and Make (Indian).
- (d) Buy (Global - Manufacture in India).
- (e) Buy (Global).

6. **Weapons/Platforms Banned for Import.** With a view to promote domestic and indigenous industry as also align the DAP with the reforms enunciated in the ‘*Atmanirbhar Bharat Abhiyan*’, the MoD has notified a list of weapons/platforms banned for import, as updated from time to time on the MoD website and guidelines thereon, and SHQ will ensure that no weapon/platform figuring on the list is procured ex import. These equipment may, therefore, be procured under the Buy (Indian - IDDM), Buy (Indian), Buy and Make (Indian) (only if Buy quantities are zero) and Buy (Global - Manufacture in India) (only if Buy quantities are zero) categories of acquisition.

7. In addition to the above listed categorisation, the Make, D & D and SPM categorisations aim 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 and D & D category of acquisition 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 Defence Capital Acquisition Plan (DCAP) and Annual Acquisition Plan (AAP).

Definition of Acquisition Categories

8. **Buy (Indian-IDDM).** ‘Buy (Indian-IDDM)’ category refers to the acquisition of products from an Indian vendor that have been indigenously designed, developed and manufactured with a minimum of 50% Indigenous Content (IC) on cost basis of the base contract price i.e. total contract price less taxes and duties.

(a) The Request For Information (RFI), incorporating questions to confirm that the equipment has been indigenously designed and developed, shall be formulated by SHQ, in consultation with DRDO and/or other experts from IIT/IISc and other Government agencies. Post receipts of responses from interested vendors, a Committee convened by SHQ shall examine the responses received from vendors and recommend categorisation as 'Buy (Indian – IDDM). The Committee shall also recommend documentation and other requirements which the vendor shall have to submit with their technical bids.

(b) These documents and other requirements to be produced by the vendor along with the technical bid shall be specified in the Request For Proposal (RFP) and shall be scrutinised at the Technical Evaluation Committee (TEC) stage. Vendors should also furnish an undertaking (format attached at Appendix A) for their claim to indigenous design. The TEC may include a DRDO representative/ other experts from IIT/IISc and other Government agencies to verify vendor claims of indigenous design only. However, on a case to case basis, TEC may carry out on site verification to ascertain any aspect of the vendor's claims on indigenous design and development.

9. **Buy (Indian)**. 'Buy (Indian)' category refers to the acquisition of products from an Indian vendor which may not have been designed and developed indigenously, having 60% IC on cost basis of the base contract price. Vendors eligible in 'Buy (Indian-IDDM)' category will also be permitted to participate in this category with indigenous design and a minimum of 50% IC on cost basis of the base contract price.

10. **Buy and Make (Indian)**. 'Buy & Make (Indian)' category refers to an initial acquisition of equipment in Fully Formed (FF) state in quantities as considered necessary, from Indian vendor(s) engaged in a tie-up with a foreign Original Equipment Manufacturer (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 acquisition, a minimum of 50% IC is required on cost basis of the Make portion of the contract less taxes and duties. Acquisition under this category can also be carried out without any initial procurement of equipment in FF state.

11. **Buy (Global - Manufacture in India)**. Buy (Global - Manufacture in India) category refers to an outright purchase of equipment from foreign vendors, in quantities as considered necessary, followed by indigenous manufacture of the entire/part of the equipment and spares/assemblies/sub-assemblies/Maintenance along with Repair and Overhaul (MRO) facility (only in cases these are part of the main contract) for the equipment, through its subsidiary in India/through a Joint Venture/through an Indian Production Agency (PA) (with ToT of critical technologies as per specified range, depth and scope to the Indian PA), meeting a minimum of 50% IC on cost basis of the Base Contract Price. Indian vendors will be permitted to participate in Buy (Global - Manufacture in India). Acquisition under this category can also be carried out without any initial procurement of

equipment in FF state. All payments for the 'Manufactured' portion will be paid to the vendor in Indian Rupees as per contract provisions.

12. **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 (G2G) route/Inter Government Agreement (IGA) may also be adopted, for equipment meeting strategic/long term requirements. An Indian Vendor participating in this category would be required to meet minimum 30% IC, failing which such vendor would be required to discharge offsets as applicable in the case. Foreign vendors will need to discharge offsets in all Buy (Global) cases with Acceptance of Necessity (AoN) cost of ₹ 2000 crores or more, other than all ab-initio Single Vendor Cases, including procurements based on IGA/FMS.

13. **Participation in Lower Category**. Vendors eligible for participating in a higher category will be permitted to participate in the lower category, provided they meet the requirements for the same.

14. **Applicability of Offsets**. The Offsets clause would be applicable for Buy (Global) categories of procurement where the estimated AoN cost is ₹ 2000 crores or more. An Indian Vendor participating in the Buy (Global) category would be required to meet minimum 30% IC, failing which such vendor would be required to discharge offsets as applicable in the case. In certain cases, the DAC may consider partial or full waiver of the Offsets clause. In case of a waiver for a particular acquisition case, eligible/selected Indian vendors need not be exempted from the corresponding IC stipulations. No offsets will be applicable in all ab-initio Single Vendor Cases, including procurements based on IGA/FMS.

15. **Make and Innovation**. Acquisitions covered under the Make and Innovation including Innovation in Defence Excellence (iDEX) and Technology Development Fund (TDF) categories refer to equipment/system/sub-system/assembly/sub-assembly, major components, or upgrades thereof, to be designed, developed and manufactured by an Indian vendor/processed by the Services through their internal organisations, such as Base Workshop/Dockyards/ Base Repair Depots etc. with or without participation of Private industry, as per procedure and norms in Chapter III.

16. **Design and Development (D & D)**. Design and Development (D & D) cases progressed by DRDO/DPSUs/OFB for acquisitions of equipment/system/sub-system/assembly/sub-assembly, major components, or upgrades thereof, to be designed, developed and manufactured by an Indian vendor, will be as per procedure and norms in Chapter IV of this DAP.

17. **Strategic Partnership Model (SPM)**. Acquisitions under the Strategic Partnership model refer to participation of private Indian firms along with foreign OEM in 'Make in India' in defence and 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. Strategic Partnerships will seek to enhance indigenous defence manufacturing capabilities through the private sector over and above the existing production base. Detailed norms and procedures of the same are as given in Chapter VII of this DAP.

18. **Leasing.** Leasing has been introduced as another category for acquisition in addition to the existing 'Buy' and 'Make' acquisition categories as it provides for an innovative technique for financing of equipment/platforms. Leasing provides means to possess and operate the asset without owning the asset and is useful to substitute huge initial capital outlays with periodical rental payments. Leasing would be permitted in two sub categories i.e. Lease (Indian), where Lessor is an Indian entity and is the owner of the asset, and Lease (Global). The procedure for Leasing will be as laid down in Chapter IX of the DAP.

19. **Other Capital Procurement Procedure (OCPP).** Overhaul, major refits, upgrades and replacement of items of Capital nature , will be procured following a simplified procedure as laid down in Chapter X of this DAP.

20. **Definition of Indian Vendor.** Unless specifically provided for in a clause/section/chapter or elsewhere of the DAP, 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, and the guidelines/licensing requirements stipulated by the Department for Promotion of Industry and Internal Trade (DPIIT) as applicable. 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 will be classified as an Indian Vendor. The following two additional conditions will apply to the definition for Buy(Indian-IDDM), Make I, Make II, Development cum Production Partner (DcPP) in D & D acquisitions through DRDO/DPSUs/OFB and SP Model categories:-

(a) **Ownership by Resident Indian Citizen(s).** 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 Foreign Direct Investment (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.

(b) **Control by Resident Indian Citizens(s) (As defined in Companies Act 2013).** '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.

21. **Indigenous Content (IC)**. For IC referred to in Paragraphs 8–12(Chapter I) and stipulated in the RFP for Strategic Partnership model cases, the vendor will ensure compliance as detailed in Appendix B to Chapter I. The category wise (less Strategic Partnership model cases) summary of IC as per cost of the **Base Contract Price (i.e. Total Contract Price less taxes and duties)** will be as under: -

<u>Ser</u>	<u>Category</u>	<u>IC</u>
(a)	Buy (Indian-IDDMM)	Indigenous design and $\geq 50\%$
(b)	Buy (Indian)	In case of indigenous design $\geq 50\%$, otherwise $\geq 60\%$
(c)	Buy and Make (Indian)	$\geq 50\%$ of the 'Make' portion
(d)	Buy (Global Manufacture in India) -	$\geq 50\%$
(e)	Buy (Global)	Foreign Vendor – Nil Indian Vendor $\geq 30\%$

22. In case where niche technology-based equipment, like in aerospace, with no or miniscule availability of desired material in the country, the SHQ may recommend lower IC than that stipulated in the category. In cases, if IC becomes less than 30% of the base contract price, discharge of Offsets will be applicable. The AoN according authority may approve higher or lower threshold of IC than that stipulated for various categories. Detailed justification for the same should be submitted while seeking AoN. In cases involving BNE, the cost of the BNE will be excluded from the base contract price for the purpose of calculating IC.

23. **Upgrades/Life Extension**. Cases involving upgrade to 'in service' weapon systems /equipment/assemblies/sub-assemblies/sub-systems and life extension of 'in service' weapon systems/equipment will also be covered by this procedure. Categorisation of the proposal may be carried out depending on scope, availability of indigenous technology and need for seeking critical technologies from foreign vendors.

Acquisition Planning Process

24. To address the current and futuristic security needs, the Services will need to engage in capability development in a prioritised manner based on long term perspective plan from which should flow procurements planned for modernisation of the Services based on Capital Acquisition Plans. Proposals for acquisition of capital assets will cover the long-term, medium-term and short-term perspectives as under: -

- (a) 10 years Integrated Capability Development Plan (ICDP).
- (b) Five years Defence Capital Acquisition Plan (DCAP).
- (c) Two years Annual Acquisition Plan (AAP).

25. **Planning Process.** The planning process would evolve from the National Security Strategy/Guidelines (as and when promulgated) and Raksha Mantri's Operational Directive. The following planning process would be adopted to address the current and future needs of the Services: -

- (a) HQ IDS will prepare a 10-year ICDP in consultation with the SHQ, every (five years), comprising of two five-year plans. This will be prepared, along with a Technology Perspective and Capability Roadmap (TPCR) reflecting the details of technologies and capabilities that could be made public for use by the industry. The ICDP will be approved by the Defence Acquisition Council (DAC) prior to promulgation. ICDP would be translated into appropriate problem definition statements and R&D establishment and industry would be given time and resources to enable transition from technology development for testing, trials and production to take place. This would help set the requirements clearly and help in deriving the system specifications so that grant of AoN for major systems included in the ICDP, take note of the lead times needed to develop, test, evaluate and productionise the systems required.
- (b) HQ IDS will thereafter prepare the DCAP based on recommendations of SHQ, which will include acquisitions planned for the next five years culled out from the ICDP, based on prioritised operational requirements. The DCAP will be approved by the DAC prior to promulgation. The ICG Capital Acquisition Plan will be processed separately by HQ ICG along with the DCAP for approval of DAC.
- (c) Based on the DCAP, each SHQ shall prepare a two-year roll-on acquisition plan, to be called Annual Acquisition Plan (AAP), before the commencement of each financial year, which shall form the basis for initiation of every acquisition proposal for AoN. The draft AAP will be submitted by the SHQ to HQ IDS by 31st of December each year, after obtaining comments of the concerned Joint Secretary & Acquisition Managers (JS & AMs), Additional Director Generals (ADGs) Acquisition Technical and Finance Managers (FMs) of the MoD (Acquisition).
- (d) A consolidated AAP will be prepared by HQ IDS along with prioritisation of schemes based on the overall financial limits linked to the anticipated budget (limits being fixed in consultation with MoD (Fin)). HQ IDS will obtain approval of the AAP from Defence Procurement Board (DPB) latest by 15th of March. Approval of DPB of AAP in respect of Indian Coast Guard (ICG) will be processed by HQ ICG after due prioritisation.

Annual Acquisition Plan (AAP)

26. The AAP will comprise of four sections; Part A will contain a list of all carry-over acquisition proposals from the previous year and those for which AoN has been accorded during the year, Part B will include acquisition proposals likely to be initiated for AoN in the forthcoming year, Part C will list out cases under the 'Make' and 'Design & Development' category and Part D will list out amount earmarked/ quoted for procurement under OCPP.

27. Acquisition proposals not included in the AAP may also be initiated by SHQ on account of unforeseen circumstances and will be included in the relevant section of the AAP after grant of AoN. However, AoN for such cases being processed within the overall budget estimates as prescribed for AAP. The AAP will be accordingly revised and brought up for approval of the DPB as per next scheduled revision.

28. The DPB may also carry out amendments to the AAP, if considered necessary, on account of national security requirements, operational urgencies and budgetary provisions or any other exigency based on recommendations made by SHQ/HQ IDS/Department of Military Affairs (DMA)/MoD (Finance)/Department of Defence (DoD).

29. **Miscellaneous Issues.**

(a) **Independent External Monitors (IEMs).** Complaints arising at any stage of the acquisition process could be examined by a panel of nominated IEMs based on referral by the MoD (Acquisition)/any other Department of the MoD or suo-moto complaints by the vendors/any other agency. The details of the IEMs will be intimated in the RFP. The IEMs would submit their report to the Defence Secretary for decision. The IEMs will have the following role and duties: -

(i) For ensuring the desired transparency and objectivity in dealing with the complaints arising out of any tendering process, the matter should be examined by the full panel of IEMs jointly as far as possible, who would look into the records, conduct an investigation and submit their joint recommendations to the MoD (Acquisition).

(ii) IEMs should examine the process integrity; they are not expected to concern themselves with fixing of responsibility of officers. Complaints alleging malafide on the part of any officer of the organisation should be looked into by the CVO of the concerned organisation.

(iii) The role of IEMs being advisory, would not be legally binding and be restricted to advising on issues raised by an intending bidder regarding any aspect of the tender which allegedly restricts competition or bias towards some bidders.

(b) **Subject Matter Experts (SMEs).** SMEs from the fields of academia, legal, finance or industry associations may be approached at various stages of the acquisition cycle. Details of all such interactions will be highlighted in the respective minutes/reports as applicable at that particular stage of acquisition.

(c) **Institutionalised Training of Personnel.** In order to increase efficiency of all entities involved in the acquisition cycle, personnel of SHQ and various departments of MoD, including MoD(Finance) associated with the acquisition process will be imparted training with regards to the nuances of all acquisition processes at training institutions in the country and abroad. Subsequently, formalised training on the subject will be planned as part of the curriculum of Indian National Defence University (INDU). Industry associations should also conduct training of their personnel on the nuances of the Acquisition process and the DAP from time to time.

(d) **Incorporation of Artificial Intelligence (AI).** AI is a rapidly growing field of technology with potentially significant implications for national security. HQ IDS will examine the possibility of inclusion of AI in various platforms/systems and apprise the SHQ of the same from time to time.

(e) **Military Materials.** Indigenous availability of high-end Military Materials and Special Alloys is an important facet of self-reliance in defence sector. Guidelines for promotion of use of materials already available in the country and development/ manufacture of materials for future needs are as follows: -

(i) **Ongoing Projects.** In order to promote the use of Military Materials known to be available in the country, acquisition projects, other than 'Buy Global' projects, for platforms and major equipment, with substantial material component may be examined by SHQ at RFI stage, to ascertain the feasibility of using and rewarding use of indigenous materials. In case of 'Buy and Make (Indian)' category, if the material is not being manufactured in the country, ToT for manufacture of materials may be sought.

(ii) **Development for Future Needs.** As an ongoing process to achieve phased development/ manufacture of materials within the country for use in future projects, DPSU/ PSU platform manufacturers, R&D establishments and SHQ are to carry out environment scan and identify various materials that can be developed in the country by various methods including, but not limited to the following: -

(aa) Phased development of materials by platform manufacturers and R&D establishments through own resources or Indian Industry.

(ab) Inclusion of ToT for manufacture and validation of materials in licensed manufacture projects by Production Agencies (PAs) or suitable Indian Material Manufacturers.

(ac) Seeking and prioritising/ promoting ToTs for military materials against Offsets through Indian industry.

(ad) Taking up Make or Technology Development Fund (TDF) projects for development of materials.

(iii) **Development For Future Needs of Indian Material Manufacturers.** Indian Material Manufacturers can identify suitable military materials to meet the future requirements and share the details with DPSU/PSU platform manufacturers, Research and Development (R & D) establishments and SHQ for factoring in their developmental plans. Further, they may take up projects under Technology Development Fund (TDF)/iDEX for consideration by stakeholders.

(f) **Indigenous Software.** In order to leverage the highly developed indigenous software expertise existing in the country, it is pertinent that maximum equipment should function with indigenous software (certification by the Statutory Auditor of the Bidder that the software has been developed within India) driving the desired applications while the backend software i.e. Operating Systems continues to be OEM defined. The RFI process should clearly identify availability of indigenous software for running applications on the equipment/system and should be included in Buy (Indian – IDDM) and Buy (Indian) cases mandatorily or as Enhanced Performance Parameters (EPP).

(g) **Aero-engines and Fabrication Plants (Fab).** Aero engines and *Fab*(facilities manufacturing silicon wafers) manufacture need to be taken up as projects of National importance. Aero engines and *Fab* manufactured in India will mandatorily be procured for applicable defence equipment as Buyer's Nominated Equipment (BNE)/ sub-assemblies. These procurements will not be considered as Single Vendor Cases (SVC).

Project Management Unit (PMU)

30. As part of the Defence Reforms announced in the *Atmanirbhar Bharat Abhiyan*, setting up of a PMU has been mandated to support contract management so as to usher in faster decision making and time bound defence acquisition process. The PMU will facilitate obtaining advisory and consultancy support in specified areas to streamline Acquisition process. The case for establishment of the PMU and its charter and responsibilities are being processed separately and further details will be promulgated accordingly.

Re-designations in MoD (Acquisition)

31. The following appointments of the MoD (Acquisition), headed by the Additional Secretary and Director General (Acquisition), will hence forth be re-designated as under: -

<u>Ser No</u>	<u>Current Appointment</u>	<u>Re-designation</u>
(a)	Technical Manager (Land Systems)	Additional Director General Acquisition Technical (Army)/ ADG Acq Tech (Army)
(b)	Technical Manager (Maritime & Systems)	Additional Director General Acquisition Technical (Maritime & Systems)/ ADG Acq Tech (Maritime & Systems)
(c)	Technical Manager (Air)	Additional Director General Acquisition Technical (Air)/ ADG Acq Tech (Air)
(d)	Deputy Technical Manager (Army/Maritime & Systems/Air)	Deputy Director General Acquisition Technical (Army/Maritime & Systems/Air)/ DDG Acq Tech (Army/Maritime & Systems/ Air)

Applicability of DAP

32. Defence Acquisition Procedure 2020 would be in supersession of Defence Procurement Procedure 2016 and will come into effect from 01 October 2020. This DAP would remain in force till 30 September 2025 or till reviewed.

33. **Applicability of DAP 2020 to Ongoing Cases.** Applicability of provisions of DAP to ongoing cases will be as under:-

(a) **Pre-AoN Stage (Hosting of RFI Till Circulation of SoC for External Comments).** SHQ will intimate all respondents about change in requirement of IC in various categories. All SQRs will be classified as per new format through internal process by SHQ without need for any specific approval from SEPCs.

(b) **AoN Stage (SoC Circulated for External Comments Till Prior to Issue of RFP).**

(i) In cases where AoN has not been granted, an addendum to the SoC, as per provisions of DAP 2020, will be circulated by SHQ to all stakeholders and AoN processed under DAP 2020.

(ii) In cases where SQRs have already been approved, as a onetime measure, AoN may be taken within one year of promulgation of DAP 2020, irrespective of time lapsed.

(iii) In cases, other than FTP and Emergency Powers cases, where AoN has been accorded but RFP has not been issued, all AoNs granted under previous

versions will automatically be deemed to be issued under provisions of DAP 2020 and suitably aligned to DAP 2020. AoN validity will automatically be increased by three months and RFP in these cases will be issued as per DAP 2020.

(c) **RFP Issued.** All cases, where RFP has been issued, will be progressed as per provisions of the earlier DPP under which the AoN has been accorded.

Note:- Waiver to any of the provisions above at Paragraphs 33 (a) to (c) may be obtained by SHQ from DG(Acquisition) on a case to case basis.

(d) **Make and D & D Cases.** All Make and D & D cases, where commercial RFP has not been issued, will be migrated to DAP 2020 and AoN will be automatically deemed to have been accorded under provisions of DAP 2020 and suitably aligned.

(e) In case of clarifications with regards to clauses and provisions of the DAP as also their applicability, the same would be examined by the MoD (Acquisition), in consultation with MoD (Finance) and guidelines issued accordingly.

34. **Amendments to DAP 2020.** MoD (Acquisition), in consultation with MoD (Finance), will be authorised to issue clarifications required to remove difficulties arising due to typographical, referencing and syntax errors. The DAC will be informed of all such clarifications carried out by the MoD (Acquisition) after one year. Any amendments to the DAP 2020 will be approved by the DAC, post recommendations of the DPB, based on proposals initiated by the MoD (Acquisition). All guidelines referred to in the DAP will, however, be amended based on the approval of the guidelines according authority. Amendments to various templates, formats, flowcharts etc. included in the DAP may be amended by the MoD (Acquisition) as required.

Appendix A to Chapter I
(Refers to Para 8(b) of Chapter I)

UNDERTAKING TO COMPLY WITH INDIGENOUS DESIGN

We, _____ (“Name of Vendor”), do hereby certify, undertake and confirm that:

1. The Design of _____ (“Named Product”), as claimed by us in response to the RFP No _____ dated _____ is owned partly or wholly by us/by an Indian entity.

2. Further, we confirm that the Design of the Named Product, as claimed by us, has not been licensed from a foreign third party except for standard software licences such as, but not limited to OS / Database / _____ (Strikeout / Specify as applicable).

3. The ownership of the Design, as claimed by us, enables us to manufacture, realise, sell, provide Through Life Support, modify and upgrade the Named Product without any encumbrances, except as specified below: (If any form of encumbrances exist on the product or any of its subsystems these should be elaborated here)

4. We further claim that we own the following Intellectual Property (IP) Rights in relation to the design of the Named Product: (Specify any Patents, Registration of Designs, if any, held by the Vendor)

5. We also undertake to permit MoD/MoD appointed Specialists Committee, to inspect/ carry out technical verification at our premises of the applicable documents, such as Design Reports, Drawings, Specifications, Software Documents & Codes , Gerber files, etc, as may be reasonably necessary and required to prove the above claim of ownership of the Design of the Named Product. (Examination on site at company’s premises only. Documents, in any form, are not be sought nor required to be submitted for examination outside the Company’s premises)

6. Failure on our part to prove the ownership of the Design of the Named Product by us/by an Indian entity or submission of any false undertaking or claim as indicated in the response at any post contract stage of the intended procurement may make us liable to forfeiture of the PWBG to the extent of any direct losses or damages suffered by the MoD as a consequence of such false undertaking or failure to prove the ownership of the Design.

Appendix B to Chapter I
(Refers to Para 21 of Chapter I)

INDIGENOUS CONTENT ASPECTS

Definitions

1. For the purposes of the DAP, Indigenous Content (IC) for acquisition case shall be arrived at based on the Base Contract Price (i.e. the Total Contract Price less taxes and duties) of that equipment/item by excluding the following elements of manufacturing/production/assembly: -

(a) Direct costs (including Custom Duties, 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.

2. The format for computation of IC, 'Indigenous Content (IC) Proforma' by the Prime Vendor is placed as Annexure 1 to this Appendix. The Prime Vendor i.e. the vendor with whom the contract is signed, is required to maintain this Proforma for the purpose of any Verification by the MoD during the tenure of the contract.

3. Further, in all cases where IC is stipulated, it shall imply that IC is required at base contract price i.e. total contract price less taxes and duties as specified in the DAP, read in conjunction with additional specific requirements in this regard, if any, mentioned in the RFP. In cases involving BNE, the cost of the BNE will be excluded from the base contract price for the purpose of calculating IC.

Reporting Requirements

4. An Indigenisation Plan for Buy (Indian-IDD), Buy (Indian), Buy & Make (Indian) and Buy (Global – Manufacture in India) cases will be required to be submitted by the vendor as part of his bid to meet the requirement of IC as specified in Para 8 to 11 of Chapter I of DAP. Considering the vast set of vendors in multiple tiers involved in production of Defence System/Equipment/item, the requirement for reporting IC are framed such that maximum coverage is achieved with practical & reasonable efforts for ensuring compliance. IC should be mandatorily reported (as per Annexure 1 and 2) by the Prime Vendor and by all tier vendors, who meet either of the under-mentioned conditions, whichever is lower: -

(a) Base Contract price of the Tier Vendor exceeds ₹10 crores; or

(b) Base Contract price of the Tier Vendor is greater than 5% of the base contract price of the Prime Vendor.

Note: For this computation, the base contract price of Tier Vendor should include the price of all contracts of the Tier Vendor relating to the main contract of the Prime Vendor.

5. For supplies from the balance tier suppliers and components/equipment bought through traders, stockists and/or local agents of foreign suppliers, the foreign content shall be aggregated in the IC Proforma by the Prime Vendor, under the head 'Others' at a flat estimated rate of 90% of the total value of supplies. In case the Prime Vendor desires, he may include import certification for suppliers covered in 'Others', over and above the tier suppliers considered in paragraph 4 above.

6. All Contracts, sub-contracts, agreements and MoUs made by the Prime Vendor with their business partners/vendors, in so far as they relate to the main contract of the Prime Vendor, shall mandatorily incorporate the definition and reporting requirements for IC as above. Similarly, these business partners/vendors shall sequentially incorporate these definitions and reporting requirements with their next levels of business partners/vendors and so on, covering lower tiers in the manufacturing/production/assembly chain, in respect of those tier vendors who meet the conditions mentioned above.

7. The Prime Vendor should use the inputs received from all applicable Tier Vendors as per Paragraph 4 and 5 above, to compute IC as per Annexure I and II.

Computation of IC

8. The Foreign Content (FC) for the Prime Vendors is included in every contract along with break-up for each currency. Further, the FC is also monitored while the vendor seeks adjustments for Foreign Exchange Rate Variation (FERV) from the Ministry of Defence (MoD) as well as at the stage of filing for GST. The final aggregation of FC and thus the Computation of IC, shall be undertaken by the Prime Vendor, with whom the contract is signed by the MoD/SHQ, as per Annexure -1 to this Appendix. This will be based on certifications and inputs received by the Prime Vendor from its' lower Tier Vendors applicable as per paragraph 4 above, as well as on the basis of Prime Vendor's own acquisition actions and manufacturing activities undertaken.

Payments

9. In Buy (Global – Manufacture in India) cases, all payments for the Manufactured portion will be paid to the vendor in Indian Rupees as per contract provisions.

Verification

10. The MoD can exercise its right to conduct verification with reasonable notice of relevant certifications and costs pertaining to imports for the Contract at all or any stages (tiers) of manufacturing/production/assembly, starting from the Prime Vendor downwards. The Verification could be conducted by the MoD itself and/or by an agency/institution/officer(s) nominated by the MoD, as may be decided by the MoD during the tenure of the Contract and completed within one year of the last delivery under the contract. However, financial records will only need to be maintained for duration as stipulated by the existing Income Tax regulations at the time of signing of contract. Verification of IC will mandatorily be carried out in case where incentivisation/reward for higher IC is to be granted and in all Make cases above ₹ 500 crores.

Certification

11. All relevant deliveries made under contract shall be accompanied by a certificate of IC issued by the 'Responsible Designated Official' i.e. the Contract Signing Authority, Authorised Signatory etc., of the Prime Vendor and certified by the Statutory Auditor or Cost Auditor of the Company (in case of companies) or by a practising Cost Accountant or practicing Chartered Accountant (in respect of suppliers other than companies). Further, the equipment offered for trial shall be accompanied with a certificate of IC issued similarly, in case the RFP mandates IC content during trials. The format for certification of IC by the 'Responsible Designated Official' and Statutory Auditor/Cost Auditor/ certified or licensed Cost Accountant/Chartered Accountant shall be as per Annexure II to this Appendix.

12. Performance cum Warranty Bank Guarantee (PWBG) shall be released only after the submission of a certificate (as per Annexure II) of meeting the overall IC at Contract level furnished by the 'Responsible Designated Official' of the Prime Vendor, after completion of all the contractual deliveries, in addition to any other requirements specified elsewhere in the contract.

13. Deliveries by the final stage of contract must conform to IC requirements and categorisation relevant to that particular stage. The Performance cum Warranty Bank Guarantee (PWBG) shall not be released before completing an Verification of the IC in all relevant deliveries by the MoD or its nominated agency/institution/officer(s), if such an verification is notified and initiated by the MoD.

Withholding of Payments and Imposition of Penalties

14. In case the vendor fails to certify achieving mandatory IC for the project, 5% of contract value will be withheld till verification of IC as per contract. All such payments withheld above shall be forfeited upon failure to achieve required IC post verification. In addition, the PWBG shall also be forfeited upon failure to discharge IC obligations as per

contract. In case of incentivisation/ reward for higher IC, the payment of incentivisation/ reward will be made only after verification of IC.

15. In case mandatory IC is not achieved by a vendor and/or if a false certificate is furnished by a vendor/sub-vendor, other than the forfeiture of the Vendor's IPBG and PWBG, the Ministry can impose any other penalty.

Miscellaneous

16. In the event of non-incorporation of the definitions and/or verification requirements laid down in contracts or agreements by 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 DAP. 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 DAP. In such cases, the MoD can take any of the steps as per Paragraphs ~~13~~ 14 and 14 15 above against the Prime Vendor.

Annexure I to Appendix B

INDIGENOUS CONTENT (IC) PROFORMA

Name of the Project / Contract Details						
Ser No.	Description	(In USD)	(In EURO)	(In GBP)	(.....)	Total (₹)
1.	Foreign Content (FC) ¹including excluding Custom Duties					
	- Basic Equipment and Material (by Prime Vendor and Tiers Vendors, as applicable)					
	- Manufacturer's Recommended List of Spares (MRLS) (by Prime Vendor and Tiers Vendors, as applicable)					
	- Special Maintenance Tools (SMT) (by Prime Vendor and Tiers Vendors, as applicable)					
	- Special Test Equipment (STE)(by Prime Vendor and Tiers Vendors, as applicable)					
	- Freight / Transportation & Insurance (if paid by supplier)					
	By 'Others' (@ 90% FC)					
	Sub Total (A)					
2.	Import of Services					
	- Royalty Fee					
	- Licence Fee if any					
	- Technical know-how fee					
	- Consultation fees					
	- Other fees/payment					
	Sub Total (B)					
	FC = (A+B)					
Computation of Indigenous Content						
3.	Base Exchange Rate (D)					
4.	FC in INR E=(FC x D)					
5.	Base Contract Price (F)					
6.	Indigenous Content G = (F - E)					
	Indigenous Content (%) G x100 / F					

Note:

- (a) Base Exchange Rate will be Selling Rate of Parliament Street Branch of State Bank of India, New Delhi as on the last date of submission of bid.
- (b) Consolidated IC Proforma/ Certificate of Prime Vendor and applicable Tiers vendors will be maintained by Prime Vendor and made available on demand for verification by MoD.
- (c) IC Proforma / Certificate are to be submitted along with or before the final invoice of the contract. At all prior stages the Prime Vendor shall submit an undertaking of compliance.

¹ Amendment issued vide Appendix A to MoD ID No 1(8)/D(Acq)/21 dated 11.11.2021.

Annexure II to Appendix B**FORMAT FOR CERTIFICATION OF INDIGENOUS CONTENT****VENDOR'S CERTIFICATE**

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

Signed by:

'Responsible Designated Official'
----- (Name of Vendor)

Seal of Vendor
Date:

AUDITOR'S CERTIFICATE

We (legal name of Verification Firm) _____, established in _____ (Full address) represented for signature of this Verification Certificate by _____ (Name and designation of Authorised Representative), hereby certify that: -

The above mentioned Indigenous Content (IC) proforma has been examined and all checks of the supporting documentation and accounting records deemed necessary were carried out in order to obtain reasonable assurance that, in our opinion, based on our Verification, the Indigenous Content percentage _____ % (in numbers and words) reflected in the above mentioned proforma has been achieved by _____ (Name of Vendor) during the manufacture of _____ (Name of Equipment).

Certified by:

Statutory Auditor/ Cost Auditor/Certified or
Licensed Cost Accountant / Chartered Accountant
(as applicable)
(Name /Name of Firm)
Membership Number / Registration Number

Seal of Verification Firm
Date:

CHAPTER II

ACQUISITION PROCEDURES FOR CATEGORIES UNDER 'BUY' AND 'BUY AND MAKE' SCHEMES

CHAPTER II

ACQUISITION PROCEDURES FOR CATEGORIES UNDER 'BUY' AND 'BUY AND MAKE' SCHEMES

Acquisition Process

1. The acquisition process for the categories under the 'Buy' and 'Buy & Make' schemes will involve the following processes:-

- (a) Request for Information (RFI).
- (b) Formulation of Services Qualitative Requirements (SQRs).
- (c) Acceptance of Necessity (AoN).
- (d) Solicitation of offers through Request For Proposal (RFP), including Offset offer, if applicable.
- (e) Evaluation of Technical offers by Technical Evaluation Committee (TEC).
- (f) Evaluation of Offset offers by Technical Offset Evaluation Committee (TOEC).
- (g) Field Evaluation Trials (FET).
- (h) Staff Evaluation.
- (j) Oversight by Technical Oversight Committee (TOC), if required.
- (k) Contract negotiations by Contract Negotiation Committee (CNC).
- (l) Approval of the Competent Financial Authority (CFA).
- (m) Award of Contract/placing of Indents.
- (n) Post-Contract Management.

Request for Information (RFI)

2. Request for Information (RFI), as the name suggests is a means to seek information from the vendors; to inter-alia explore suitability of products available to meet the Operational Requirements (ORs) of the Services, and to formulate SQRs, maintenance philosophy, as well as other contractual provisions. SHQ may explore the feasibility of

subscribing to renowned defence equipment databases/specialist tools/consulting services available in the market to assist in examining the types and nature of equipment being deployed by our adversaries, as also available in the world as well as domestic market, so as to help SHQ in formulation of Integrated Capability Development Plans (ICDP), as well as drafting of realistic SQRs, besides assisting CNCs to arrive at realistic benchmarking price.

3. The RFI would be hosted on MoD's Website and SHQ Website, besides being sent to known vendor base, for seeking relevant information, on specific acquisition schemes. In order to enable wider market survey and participation, SHQ may seek information from multiple sources, such as Defence Attaches, internet, other MoD/MHA/law enforcement agencies, defence journals/magazines/exhibitions, previously contracted cases and any other relevant information source, including renowned defence equipment databases. The issue of RFI is not a commitment for procurement.

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

- (a) To formulate/refine/rationalise SQRs based on a rational combination of different product specifications resulting in product requirements that can be objectively evaluated.
- (b) To aid in deciding the acquisition category.
- (c) To determine the indicative budgetary and cost implications.
- (d) To seek inputs for formulating Draft Trial Methodology and identify Indian/International Standards applicable for evaluating the SQRs.
- (e) To generate inputs for structuring of the AoN and RFP.

5. **Contents of the RFI.** The RFI should clearly indicate the capabilities sought in the equipment/system/platform, quantities required, anticipated delivery timeframes and tentative time schedule for the acquisition processes (issue of RFP). A suggested format of the RFI is attached at Appendix A to this Chapter. The RFI should inter-alia seek the following inputs from the vendors: -

- (a) Specifications of available product for deriving SQRs from ORs.
- (b) Scope, depth and range of ToT being offered as well key technologies and materials required for manufacturing, identified by SHQ in consultation with other stakeholders, as applicable.
- (c) Ascertain capability of Indian vendors to indigenously design and develop the required equipment along with level of indigenisation including use of indigenous military material, delivery capability, maintenance support, Life Cycle Support etc.

(d) In cases where requisite expertise to indigenously design or manufacture the equipment is not available and procurement is envisaged from global vendors; explore willingness of global vendors to:-

(i) Enhance indigenisation and setup dedicated manufacturing line, including design, integration and manufacturing processes in India, either through its own subsidiary or in a joint venture with an Indian company. Willingness and ability to transfer desired technologies to Indian industry or to a Joint Venture (JV), in case Transfer of Technology (ToT) is envisaged.

(ii) Progressively undertake indigenous manufacture of systems, sub-systems, components, consumables, spares, ammunition, materials, etc, of the main equipment/platform in India, either through its own subsidiary or in a Joint Venture with an Indian company or transfer know how to an Indian Company.

(iii) To transfer technology for maintenance infrastructure, where applicable. Set-up an ecosystem of indigenous vendors/manufacturers for sustenance of the equipment in terms of repairs of systems, sub-systems, assemblies, components, etc. as also testing facilities.

(iv) Consider making India, a regional/global hub for manufacturing/ Maintenance, Repair & Overhaul (MRO) of the equipment.

(v) To procure indigenous raw materials or facilitate ToT for production of raw materials.

(e) Approximate cost estimation and suggestions for alternatives to meet the same objective as mentioned in RFI.

(f) Inputs for evolving Maintenance Philosophy, including aspects such as Engineering Support Package (ESP), Annual Maintenance Contract (AMC), Life-Cycle Support, Performance Based Logistics and other maintenance arrangements, training requirements etc.

(g) Inputs on compliance to test standards followed in India, certifications available with vendor pertaining to quality management and quality of product/systems and their accreditation bodies, test facilities available for certification in firm premises or in the country of OEM.

6. **Formulation of RFI.** RFI will be formulated by SHQ, in consultation with DRDO, DDP and HQ IDS. A copy of the draft RFI will be shared with DRDO, DDP, HQ IDS and other Services (for comments on issues of commonality and interoperability), to ensure that comprehensive response is generated from vendors to facilitate addressing all aspects of

operational requirements and defining attributes. All agencies should provide their comments within six weeks of receiving the draft RFI, post which 'Nil' comments will be assumed. The comments obtained would be incorporated, where applicable. RFI will also ask for details about the vendors as per the 'Information Proforma' attached at Annexure II to Appendix A, Questionnaire attached at Annexure III to Appendix A and 'Guidelines for Framing Criteria for Vendor Selection' attached at Annexure IV to Appendix A, which will be appended to the RFI. SHQ should clearly bring it to the notice of the respondents that non conformity/ no response to any query in the RFI would in no way debar them from issue of RFP. RFI is also meant to provide advance intimation to the vendors to obtain requisite government clearances.

7. **Interaction with Vendors.** Extensive interactions should be held by the SHQ with the vendors/industry after uploading the broad details of the scheme on MoD and SHQ websites. After interaction, vendors should be given sufficient time (not less than eight weeks) to respond to the RFI. Extension of time for submission of RFI responses may be given by SHQ. Prior to finalisation of SQRs, SHQ may also interact again with the industry, if required. The inputs so obtained should result in the form of a compliance table of SQRs, vis-à-vis technical parameters of equipment available.

8. **Competency Map.** Based on the RFI responses from the vendors, a 'Competency Map' of the indigenous manufacturing industry and raw material producers should be prepared/updated by Department of Defence Production (DDP) and shared with the SHQ on a bi-annual basis.

Military Materials

9. Indigenous availability of high-end materials and special alloys is an important pre-requisite for self-reliance. The methodology of classification of military material and process of classification/ identification/ development to aid in formulation of suitable approach for promotion of use of indigenous materials and in encouraging their development will be promulgated separately.

10. **Dissemination of Information on Materials.** MoD may obtain information of material requirement and their availability, from all relevant stakeholders like various platform manufacturers, material manufacturers/ developers, DPSUs/ Industry Associations/ DRDO/ Services/ HQIDS and provide a suitable platform for periodic interaction between all stakeholders including material manufacturers.

11. **Promotion of Use of Military Materials.** To ascertain the feasibility of use of indigenous military materials already being manufactured in the country, SHQ during the RFI stage may examine acquisition projects for platforms and other equipment/ systems other than 'Buy Global' projects, with substantial material component. If the material is known to be available, an RFI to material manufacturers may be issued and further information may be

sought on the following aspects: -

- (a) Identification of the main material in case of platforms and details of major input materials in case of equipment/ systems.
- (b) Availability in the country and known sources with material designation, standard/code and grade, and test standards.
- (c) Equivalence of standard/code at paragraph 3 (b) above with those required.
- (d) Vendor's likely plan for sourcing the material(s).
- (e) Likely cost of material(s) if sourced from Indian vendors as compared to their import cost.

12. Based on the outcomes of the above exercise/internal Feasibility Study and approximate cost of material as arrived from RFI response from Main Vendor or Material Manufacturer, if the feasibility of inclusion of use of indigenous material(s) within the project timelines is ascertained, SHQ, at the time of seeking AoN, may include the proposed methodology for sourcing the material for the project in the SoC (in 'The Scope for Use of Indigenous Materials' section of SoC) as per following:-

Ser No	Reason for Not Using Indigenous Raw Material	Suggested Methodology
(a)	Material(s) available in India but not being utilised for military applications due to lack of knowledge of availability of material(s) in India and/ or for convenience of use of material(s) from established import source	Define the requirement of use of only indigenous material(s) and/ or; Provide reward upto 5% of the cost of the material subject to a cap of 0.5% of total order value. In case of more than one material being used, the reward for each material should be in proportion to relative value and/ or; Indicate likely sources as BNE material.
(b)	Not being utilised for military applications due to cost of indigenous material(s) being marginally higher compared to import cost	Define the requirement of using only indigenous material(s) and/ or; Provide reward up to 10% of the cost of the material subject to maximum ceiling of 0.75% of total order value. In case of more than one material being used, the reward for each material should be in proportion to relative value.
(c)	Not being utilised as the indigenous material(s) not	Provide reward up to 15% of the cost of the material subject to max ceiling of 1.0% of

Ser No	Reason for Not Using Indigenous Raw Material	Suggested Methodology
	validated	total order value. In case of more than one material being used, the reward for each material should be in proportion to relative value. Based on number of materials identified and value addition to the manufacturing eco-system, additional reward may be granted by DAC on case to case basis. However, in all cases the cap for reward would remain at 1% of total project cost.

Note.

(i) Validation of the materials would be undertaken in accordance with Quality Assurance Plan (QAP) and would be the responsibility of the vendor, to be eligible for the reward towards use of indigenous Military Materials. MoD may consider constitution of a suitable committee to monitor/qualify the materials, where required, on a case to case basis. For the purpose of calculating the reward, the estimated value of material as obtained from RFI data is to be indicated in the RFP.

(ii) In cases where the utilisation of indigenous materials has distinct advantages, to justify by extending the ‘Upper Cap’, specific approval of the DAC may be sought.

Indigenous Software

13. In order to leverage the highly developed indigenous software expertise existing in the country, it is pertinent that maximum equipment should function with indigenous software (certification by the Statutory Auditor of the Bidder that the software has been developed within India) driving the desired applications while the backend software i.e. Operating Systems continues to be OEM defined. The RFI process should clearly identify availability of indigenous software for running applications on the equipment/system and its analysis should determine whether the project should mandatorily require the vendors to base applications being run on their solution (especially critical components like Fire Control System, Radars, Communications, Encryption sub systems) on indigenous software in Buy (Indian – IDDM) and Buy (Indian) cases. In case the requirement is not made mandatory, Enhanced Performance Parameters (EPP) with respect to indigenous software should be defined with commensurate credit score (as per Paragraph 14 (c) of Chapter II) in the SQRs to provide for the enhanced capability being offered.

Services Qualitative Requirements (SQRs)

14. **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 realistic, achievable and verifiable and must avoid ambiguity of any type. SQRs 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 Services. The SQRs would be based primarily on operational, technical, maintainability, ergonomic and enhanced performance parameters. 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. The parameters of SQRs, which are generated through RFI process, are classified as under and further detailed as part of the RFP:-

(a) **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.

(b) **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 (ABG) 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 cum Warranty Bank Guarantee, Additional Bank Guarantee and Advance Payments 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 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 prior to commencement of FET by SHQ). However, failure to comply with Essential Parameters - B at the FET stage will not be criteria for rejection and the Vendor will be evaluated for the same post contract. 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 approval of AoN according authority 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.

(c) **Enhanced Performance Parameters (EPP).** EPP are those parameters that enhance the capability of the equipment, vis-à-vis the operational, technical, maintainability/ergonomic parameters; a SQR may not 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. 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.

15. **SOR Formulation.** The SQRs would be drafted by the concerned User directorate at SHQ. In addition to obtaining the required inputs from RFI analysis, SHQ will seek information from Defence Attaches, internet, defence journals/magazines/exhibitions, previously contracted cases in such category and any other relevant and credible information source. Due cognisance will be paid to the capabilities of appreciated adversaries while formulating the SQRs. A 'Comparative Analysis of Specifications' of similar products available in the World and domestic market will be carried out and draft SQRs will be prepared. Draft SQRs would be circulated by SHQ to all external stakeholders to include HQ IDS, DRDO, DDP, Quality Assurance (QA) agencies, Directorate of Standardisation, ~~Technical Managers~~ **Acquisition (Technical) Wing** and any other necessary department for obtaining their views/comments.

16. **Format of SQRs.** The SQRs, as far as possible, would follow a standardised format as under :-

(a) Introduction & Operational Philosophy/Proposed Employment of

equipment/system/platform.

(b) **Essential Parameters-A.**

(i) **Operational Parameters.** Unambiguous, non-negotiable, essential functional requirements laid down by the Services, which clearly define basic profile of an equipment/system, specifying minimum acceptable performance requirements thereby defining 'Core Capabilities' of the equipment/system would be termed as Operational Parameters.

(ii) **Technical Parameters.** Based on the Operational Parameters, scientific and technical characteristics required in the system to achieve these operational capabilities would be drawn out after due analysis of contemporary and developing technology in the field.

(iii) **Maintainability & Ergonomic Parameters.** These parameters will primarily relate to aspects like maintenance, crew comfort, storage of equipment, packing material etc.

(c) Essential Parameters-B.

(d) Enhanced Performance Parameters (EPP) along with proposed credit scores.

17. **Formulation of Joint Service Quality Requirements (JSQRs).** In cases where other Services also intend to procure similar equipment in the next three years, the lead Service will process the JSQRs through the Integrated Staff Equipment Policy Committee (ISEPC). Conversion of SQR to JSQRs will not be mandatory in cases where the other Service(s) accept the SQRs. Also, in cases where quantities required by other Service(s) is 20% or less as compared to the lead service, joint procurement case would be progressed on the lead Service SQRs itself. In cases, where a Service opts to join an ongoing procurement case of other service at the time of seeking AoN, with no change in the SQRs, the case would be progressed on the lead service SQRs, and the same SQRs would be subsequently converted into JSQRs, for future procurements.

18. **Approval of SQRs/JSQRs.** SQRs (except Shipbuilding cases) will be fielded for approval of the respective Staff Equipment Policy Committees (SEPC) within six months of the receipt of RFI responses. SHQ should satisfy that the stipulations mentioned in the DAP have been followed while recommending the SQRs for the approval of the respective Staff Equipment Committees. SEPCs will be authorised to consult Subject Matter Experts as deemed necessary while finalising SQRs. In cases of JSQRs, the same would be approved by the ISEPC. A copy of the approved SQR/JSQR along with the 'Comparative Analysis of Specifications' of similar products available in the World and domestic market as per Paragraph 15 above would be submitted along with the 'Statement of Case' (SoC) for seeking AoN.

19. **Amendment to SQR Parameters.** There may be situations wherein SQRs need to be amended post accord of AoN, till issue of RFP. In case the requirement is to amend Operational and Technical parameters of SQR, the approval for same would be accorded by AoN according authority. However, for amendment of Maintainability and Ergonomic parameters of SQR, the approval may be accorded by Staff Equipment Policy Committee (SEPC)/ Integrated Staff Equipment Policy Committee (ISEPC). No amendment to SQRs will be carried out after issue of RFP without approval of DAC.

20. Quality standards such as JSS/other relevant standards will be mentioned in the SQRs. Based on the operating conditions stipulated in the SQRs by the User, selection and sequence of tests for checking compliance to the standards shall be formulated by QA agencies. SQRs should contain specific and verifiable parameters for the capabilities sought. Generic terms such as 'all weather capability', 'state-of-the-art', etc, are not to be included.

Acceptance of Necessity (AoN)

21. AoN based on SQRs/JSQRs will be obtained by SHQ within one year of their approval by the respective SEPC /ISEPC. Extension for obtaining AoN till upto six months after the stipulated one year may be granted by respective CISC/VCOAS/VCNS/DCAS/DGICG and a further extension of six months by DG (Acquisition). In order to seek AoN, the SHQ will carry out detailed internal consultations and prepare a draft Statement of Case (SoC) as per format at Appendix B, assisted by guidelines at Appendix C. The draft SoC would be approved by the Head of the respective User/Plans Directorate/equivalent of the Services.

22. **Processing of AoN : Non Delegated Power Cases.** Copies of the draft SoC would be forwarded to DDP, DRDO, Acquisition Wing (with additional copies for the concerned JS & AMs, ADG Acquisition Technical and FM) and HQ IDS. Quantity vetting would be carried out by FMs as per SOP promulgated by MoD (Finance). HQ IDS would examine aspects of interoperability and commonality of equipment for the three Services. All addressees will forward their comments within four weeks of receipt. The finalised SoC, duly considering all comments received, will be fielded in the Defence Procurement Board (DPB) by the concerned SHQ. A copy of the approved SQRs/JSQRs along with the 'Comparative Analysis of Specifications' of similar products available in the World and domestic market as per Paragraph 15 above would be submitted along with the SoC for seeking AoN. Secretariat of DPB will circulate the SoC to all Members and invitees as applicable. AoN for all cases more than ₹ 300 crores and upto ₹ 500 crores will be accorded by the DPB. In cases beyond ₹ 500 crores, DPB will recommend categorisation, based on the proposal of the SHQ and refer these to the Defence Acquisition Council (DAC) for accord of AoN. The SoC, duly amended as per recommendations of the DPB, will be forwarded to the DAC Secretariat for fielding in DAC. Secretariat of DAC will circulate the SoC being fielded in DAC to all Members and invitees. A draft RFP will also be forwarded by SHQ to respective ADGs Acquisition Technical along with a copy of the SoC being fielded in DPB/DAC for accord of AoN. The

DPB and DAC will be held at least once every two months and minutes of the same should be issued within two weeks of the meeting.

23. **Processing of AoN: Delegated Power Cases.** Copies of the draft SoC for cases with AoN cost \leq ₹ 300 crores would be forwarded to DDP, DRDO, PIFA/IFA (Capital), HQ IDS and the respective ADG Acquisition Technical. Quantity vetting would be carried out by PIFA/IFA (Capital) as per SOP promulgated by MoD (Finance). HQ IDS would examine aspects of interoperability and commonality of equipment for the three services. All addressees will forward their comments within four weeks of receipt. The finalised SoC, duly considering all comments received, will be fielded in the Services Procurement Board (SPB), erstwhile SCAPCHC (Delegated), by the concerned SHQ for accord of AoN. A copy of the approved SQRs/JSQRs along with the 'Comparative Analysis of Specifications' of similar products available in the World and domestic market as per Paragraph 15 above would be submitted along with the SoC for seeking AoN. Secretariat of SPB will circulate the SoC to all members and invitees as applicable. SPB will be held at least once every month and minutes of the same should be issued within two weeks of the meeting. Post accord of AoN, SHQ will hold an internal collegiate for RFP vetting and forward the draft RFP to respective ADGs Acquisition Technical. Cases with AoN cost \leq ₹ 100 crores will be reserved for MSMEs, provided there are at least two or more MSMEs eligible to participate in the category.

24. **Categorisation of Schemes.** Preference will be given to indigenous design, development and manufacturing of defence equipment. 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. Therefore, wherever Indian Industry is capable of manufacturing the required equipment within the timelines required by the Services, the procurement will be made from indigenous sources. The MoD has notified a list of weapons/platforms banned for import, updated from time to time and SHQ will ensure that no weapon/platform figuring on the list is procured ex import. These equipment may, therefore, be procured under the Buy (Indian - IDDM), Buy (Indian), Buy and Make (Indian) (only if Buy quantities are zero) and Buy and Make (only if Buy quantities are zero) categories of procurement. In accordance with the priority of categorisation given at Paragraph 5 of Chapter I and based on 'Defining Attributes and Decision Flowchart' attached at Appendix D to this Chapter, SoC seeking AoN shall contain detailed justification for recommending categorisation as well as reasons why each of the higher priority categories have not been considered suitable for the purpose. AoN according authority will consider the same while carrying out categorisation. The AoN according authority may accord AoN with higher or lower threshold of IC than those stipulated for various categories on a case to case basis. Detailed justification for the change approved/recommended will be included in the minutes of the SPB/DPB/DAC.

25. **Option Clause.** In cases where Option Clause is being exercised, SHQ will examine the viability of the same vis-à-vis fresh procurement and the same will be endorsed in the SoC for seeking AoN.
26. **Splitting Source of Supply.** In cases, where it is decided in advance to have more than one source of supply, specific approval will be taken in AoN for ratio of splitting the supply between (first lowest bidder) L1 and (second lowest bidder) L2 vendors, provided L2 vendor accepts the price and terms and conditions quoted by/negotiated with the L1 vendor, and the same will be pre-disclosed in the RFP.
27. **Interaction with Industry.** Cases where participation by Indian industry is envisaged, the SPB/DPB may invite representatives nominated by industry associations to provide inputs related to the scheme. The representatives would, however, not be present in the internal discussions and during the decision making process of the SPB/DPB. The inputs received from Industry and recommendations of the SPB/DPB (as applicable) would be included in the minutes and highlighted before the AoN according authority.
28. **AoN for Fast Track Procedure (FTP).** Cases where expeditious procurement for urgent operational requirements foreseen as imminent or for situations in which a crisis emerges without a prior warning, or where undue/unforeseen delay due to reasons beyond the control of the acquisition set up, are seen to be adversely impacting the capacity and preparedness of the Forces, may be recommended by SHQ for pursuance of FTP. Considering the merits of the case and the timelines required, DAC may approve any procurement to be pursued under FTP while according AoN. Post grant of AoN, FTP cases would be processed as per non-delegated/delegated power cases as per provisions of Chapter V of DAP 2020.
29. **Offsets.** The Offsets Clause would be applicable for Buy (Global) categories of procurement where the estimated AoN cost of the Buy portion is ₹ 2000 crores or more. An Indian Vendor participating in the Buy (Global) category would be required to meet minimum 30% IC, failing which such vendor would be required to discharge offsets as applicable in the case. In certain cases, the DAC may consider partial or full waiver of the Offsets clause. In case of a waiver for a particular acquisition case, eligible/selected Indian vendors need not be exempted from the corresponding IC stipulations. No offsets will be applicable in all ab-initio Single Vendor cases, including procurements based on IGA/FMS etc. The procedure for implementing the Offsets provisions is attached at Appendix E.
30. **AoN Validity.** AoN for categories under 'Buy' schemes will be valid for six months, while AoN will be valid for one year in case of 'Buy and Make (Indian)' category and all Turnkey projects. The validity of AoN would commence from the date of formal issue of Minutes of Meeting of the AoN according authority. AoN would lapse for all cases where the RFP is not issued within the original validity period of AoN. In such cases, the SHQ would need to either seek re-validation of AoN or obtain a 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 time period not exceeding the original validity period of the AoN, from the date of retraction of original RFP.

31. **Ab-initio Single Vendor Cases.** Progressing of ab-initio Single Vendor cases may be carried out by the SHQ in the following cases:-

(a) If certain 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, after proper technology scan is carried out by SHQ, in consultation with DRDO/other stakeholders, as applicable.

(b) Cases which are being undertaken by DRDO/DPSUs/OFB/Indian private industry as Design and Development projects or ToT has been obtained earlier by an Indian vendor, would not fall in the category of Single Vendor cases. However, approval of the AoN according authority for carrying out these projects needs to be sought prior to commencement of the Design and Development process.

(c) 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. 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.

Turnkey Projects

32. 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 the country. Such projects 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. SOP for undertaking Turnkey Projects has been promulgated vide MoD ID No. 3(65)/D(Acq)/14 dated ~~17 April 2014~~ [17 October 2014](#) and the same would be followed as amended from time to time.

Leasing

33. Leasing will be another Category for acquisition in addition to the existing 'Buy' and 'Make' acquisition categories and would be permitted in two sub categories i.e. Lease

(Indian) and Lease (Global). 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) AoN for lease cases upto ₹ 500 Cr will be accorded by the DPB (after being recommended by the SPB) and cases above ₹ 500 Cr by the DAC (after being recommended by the DPB).
- (e) Solicitation of offers.
- (f) TEC.
- (g) CNC.
- (h) Approval by CFA.
- (i) Signing of Lease Agreement.
- (j) Post Lease management.

34. Various aspects of a lease case, including types of lease, details to be included in the abridged SoC, sample lease agreements, etc, will be as per Chapter IX of the DAP.

Hosting of AoN Details

35. Subsequent to the accord of AoN, the broad details of the projects/procurement would be hosted on the MoD and SHQ websites within one week of issue of minutes, less AoN for classified cases that shall not be uploaded on the MoD and SHQ websites, keeping security aspects in mind. 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.

Special Provisions for Buy and Make (Indian) Category

36. **Finalisation of SQRs and Accord of AoN.** SQRs in Buy and Make (Indian) cases may be finalised after the issue of AoN, but prior to issue of RFP. Preliminary SQRs (PSQRs)/SQRs will 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.

37. **Transfer of ToT.** While seeking AoN, the SHQ shall specify in the SoC, the technologies required to be absorbed by the Indian vendor, as per categorisation given at Paragraph 1(k) of Appendix G to Schedule I of this Chapter. These technologies shall be identified in consultation with other stakeholders (DRDO/DPSU/OFB/Private Industry), as applicable.

38. **Shortlisting of Vendors.** First stage vendor short-listing shall be carried out by SHQ based on PSQRs/SQRs approved at the AoN stage. However, after accord of AoN but prior to issue of RFP, the SHQ, along with other stakeholders (as applicable) shall hold consultations with the first stage short-listed vendors. These consultations may relate to PSQRs, delivery timelines and technology absorption aspects.

39. **RFP Provisions.** The RFP shall seek an 'Indigenisation and Technology Absorption Plan' in strict accordance with IC requirements and technology absorption requirements (range, depth and scope of technology). If required, representatives of DDP may be associated with the collegiate vetting of these RFPs. However, representatives of DRDO will be associated with in the collegiate vetting of RFPs involving ToT.

40. **Undertaking by Participating Vendors.** Vendors, while responding to the RFP, shall ensure that their foreign partner(s) from whom ToT 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 and will furnish details of such ban / debarment along with copy of Government letter under which this ban / debarment / suspension was lifted / revoked along with justification for participation of that partner in the procurement case. MoD shall take a call on the matter based on penal provisions on the subject.

Request for Proposal (RFP)

41. **Solicitation of Offers.** 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. In cases where no TEC and FET are envisaged, approval to issue Commercial RFP/placing of Indent would be solicited as part of the AoN.

42. **Layout of RFP.** The RFP will be a self-contained document that shall clearly bring out the requirements of the deliverables and the timelines of delivery to enable vendors to make their offer after consideration of full requirements of the acquisition. A standardised RFP format is attached as **Schedule I** to this Chapter for guidelines. Various flowcharts driven guidelines are placed at **Appendix C** to aid in framing the RFP. RFP may be varied based on these guidelines, depending on the user requirements, type/complexity of equipment/machinery/test equipment and operational imperatives, scope of Engineering Support

Package (ESP), expected timelines for commissioning etc. RFP will generally consist of five parts as under:-

- (a) **Covering Letter.** The covering letter provides a brief synopsis of the project giving the broad description of equipment and systems, various timelines of bidding process and special features of the RFP.
- (b) **General Requirements.** The first part elaborates the general requirement of the equipment, the numbers required, the time frame for deliveries, Non-Disclosure, Business Eligibility, Indigenous Content, Preservation, Training and ToTs for Maintenance Infrastructure, Offset obligations (if applicable) and warranty/guarantee conditions etc. It specifies the prescribed procedure and last date and time for submission of offers.
- (c) **Technical Requirements.** 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 Paragraph 67 of this Chapter. The details of environmental parameters for functioning, conditions of usage and maintenance, requirement for training, Engineering Support Package (ESP), Life Cycle Support, aspects related to Performance Based Logistics or/and Annual Maintenance Contract (AMC), Quality Assurance, Packaging and Marking, Detailed Project Report (DPR) and Project Monitoring will also be included here. Compliance of offers would be determined based on the parameters spelt out in the RFP.
- (d) **Commercial Requirements.** 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. DPSUs/OFB will also furnish all Bank Guarantees, as applicable, while participating in multi vendor cases along with private vendors. DPSUs/OFB will, however, be exempted from submitting all Bank Guarantees when nominated as Ab-initio Single Vendor in the AoN. In cases where only Indian Vendors participate, a Price Variation Clause (PVC) may also be incorporated in the RFP for all cases where the period of deliverables commencing post contract is more than 36 months in accordance with General Financial Rules (GFR) guidelines. PVC will be applicable from 18 months after last date of bid submission till bid opening date, provided the delay is not on account of the bidder and thereafter from contract effective date onwards, on the cost of the basic equipment and separately on AMC/CMC/PBL/LCSC as relevant. Formula and application of the PVC will be as per guidelines given at Paragraph 10 of [Appendix M](#) to Schedule I of Chapter II. PVC formula will apply only to the Indian Rupees component of the

price. Exchange Rate Variation will be applicable to the Foreign currency component of the price, if stated as part of the RFP. PVC may also be applied in all ab-intio SVC with foreign vendors progressed through agreements like IGA or otherwise. Indices to be applied for such cases will be decided by the Collegiate for RFP vetting.

(e) **Bid Evaluation and Acceptance Criteria.** 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.

43. **Retention of Trial Equipment.** For trials conducted in the country, trial equipment of compliant vendors may be retained till the approval of Staff Evaluation report. In case, SHQ desires to retain trial equipment beyond the Staff Evaluation stage, the same will be stated upfront in the RFP.

44. **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. SHQ will ensure that trial methodology is realistic and commensurate to employability and applicability based QR validation. The Trial Methodology should provide the vendors a clear and objective assessment of the extent of trial evaluation, including parameters where vendor certification, certification from accredited labs and trials by simulation are accepted. As far as feasible, SHQ, along with trial agencies may interact with OEM(s)/vendors prior to finalising the Trial Methodology.

45. **Contents of Trial Methodology.** This following should be included in the Trial Methodology:-

(a) **Trial Matrix.** Trial methodology shall inter-alia include a 'Trial Matrix' giving details of qualifying parameters that will be part of trial evaluation, i.e. physical characteristics, operational and technical and environmental parameters, MET and EMI / EMC tests, as applicable.

(b) **Certificate of Conformance (CoC).** Attributes/parameters for which Certificate of Conformance (CoC) along with test standards and test results from NABL/ internationally accredited and government designated labs are acceptable, should be clearly mentioned, so as to enable prospective vendors to obtain necessary certifications for submission as part of RFP response or as part of FET, as applicable. In such cases, RFP shall indicate the CoC format (where applicable) which is required to be submitted along with technical bids for validating CoC.

(c) Cases where either FET in total, or parts thereof are not envisaged, the same should be stated upfront in the Trial Methodology.

46. **Quality Assurance (QA) Aspects.** QA agencies will formulate specific QA Instructions and technical evaluation plan, as per relevant tests mentioned in standards like JSS 55555 and the same will form part of the RFP. The following issues will be clearly stated as part of the QAP:-

(a) QA Parameters where vendor certification, certification from accredited labs and trials by simulation are accepted will be given out in the QA Instructions.

(b) For technical trials by QA agencies, the vendor will arrange for requisite test facilities at OEM premises/accredited laboratories/facilities for conduct of static and dynamic testing of armament stores for establishing conformance. The successful bidder would also be required to provide those test facilities at OEM premises/accredited laboratories for quality assurance, which are not available with QA agencies. Details of the same will be intimated to the bidder during finalisation of ATP in Technical Trials.

(c) **Details Related to Acceptance Test Procedure (ATP).** The QA Instructions, as part of the RFP, will clearly specify indicative reference for number of samples for destructive tests planned to be carried out during Acceptance Tests, which will be provided at the Seller's cost, over and above the quantities to be delivered. These would include missiles/ammunition to check proof firing, assemblies/sub-assemblies for destructive test etc, required to assure quality and reliability of the equipment. In case, additional quantities than those mentioned in the RFP, are required by QA agencies during ATP, the same will be provided for by the vendor at the Buyer's cost. The RFP will accordingly inform vendors to submit draft ATP, as applicable, along with their Technical Bid or at least one month before commencement of FET. Based on the draft ATP, ATP will be finalised by the QA agency with vendor along with SHQ/User representative during Technical Trials (QA and Environmental Testing). In cases where no FET is to be conducted, ATP will be finalised at the CNC stage. ATP shall be included in the contract at the time of finalisation with successful bidder and will lay down the tests to be carried out during Pre Dispatch Inspection (PDI) and Joint Receipt Inspection (JRI). It will be ensured that there are no repetitions of QA tests in PDI and JRI. JRI should normally be restricted to quantitative checks only, except where check proof is required to be carried out. SHQ, along with QA agencies, should ensure that only necessary tests are undertaken during PDI/JRI and not the complete parameters as evaluated during FET. In case PDI/JRI are planned to be conducted by authorised Third Party Inspection (TPI) Agencies, the same will be spelt out in the QA Instructions and details included in the finalised ATP.

(d) **Details of Authority Holding Sealed Particulars (AHSP).** The QA Instructions will also give out the details of the nominated AHSP and time for handing

over required particulars to the AHSP, if applicable and should not delay the acceptance inspection due to AHSP issues. In case the acceptance is delayed beyond 15 days, the total period of delay will be excluded from the delivery period of the vendor.

(e) In case, the procurement is being done for more than one service, the QA of the lead service will be responsible for all QA aspects for the entire case, to include PDI and JRI for the entire quantities.

Transfer of Technology (ToT)

47. In cases where ToT is being sought, SHQ, in consultation with nominated Public Sector PA/DRDO (private sector PA) and other stakeholders as applicable, would prepare detailed ToT requirements, as applicable, for inclusion in RFP as follows:-

(a) Technologies to be acquired along with the range and depth of ToT to cover technology for design/development and manufacture of systems, sub-systems, assemblies, components, materials etc by Indian ToT partner as well as for repair, overhaul, besides production from Completely Knocked Down (CKD)/Semi Knocked Down (SKD) kits, production from raw material and component level. Care should be taken that the RFP clearly brings out the verifiable scope of range and depth of ToT required. Aspects to be included in the RFP are given at Appendix G to Schedule I.

(b) Minimum threshold of Indigenous Content (IC) to be achieved in the Project. Vendors will be asked to furnish an 'Indigenisation Plan' indicating proposed stage wise IC.

(c) Setting up indigenous eco-system for manufacturing of major equipment, systems, sub-systems, assemblies, components, spares, materials, etc.

(d) Making Indian ToT partner as a global/regional hub for manufacturing systems, sub-systems, assemblies, components, spares, materials, etc of the main equipment.

(e) Tier I/II/III/IV suppliers of the OEM to either set-up indigenous manufacturing facility or enter into Joint Venture with Indian companies to progressively manufacture their equipment, systems, sub-systems, assemblies, components, spares, materials etc in India.

Note. AoN according authority may choose to incentivise enhanced ToT or IC, on case to case basis. Details of such proposals are to be included in the SoC, at the time of seeking AoN, and the Incentivisation model is to be incorporated in the RFP. Incentive will only be payable post proper verification of enhanced ToT/IC. If such incentivisation is proposed to be included in L-1 determination, suitable penalties for failure to deliver enhanced ToT or IC, must be defined upfront in RFP and Contract.

ToT For Maintenance Infrastructure

48. For Buy & Make (Indian) and Buy (Global) category cases, the provision of ToT to an Indian vendor for setting-up maintenance infrastructure would be approved by AoN according authority. The RFP would spell out specific requirements of ToT for Maintenance Infrastructure covering all/any of the following aspects:-

- (a) Ensure Indian entity is able to support operation and deployment of the platform/equipment on sustainable basis.
- (b) Ensure Indian entity is self-sustainable to provide 'Intermediate', 'Depot' and 'Overhaul' level repairs, maintenance and upgrade for entire life cycle of equipment.
- (c) Set-up requisite test facilities/infrastructure for undertaking testing/certification for the entire life cycle of the equipment.
- (d) Set-up an ecosystem for manufacture of sub-systems, assemblies, components, spares, materials, etc, in India.
- (e) Make India, a regional/global hub for MRO for the Platform/equipment.

49. Spares, repairs and services support required from vendor for ToT to Indian entity would be implemented under long term contract. The proposal for Maintenance Transfer of Technology (MToT) shall also include Active Obsolescence Management through Life Cycle Support of the equipment including upgradation of system/subsystem/components on completion of its fair service life.

50. **Indian Entity.** The Indian entity could be a Government agency such as entities like OFB/ Army Base Workshops /Naval Dockyards/Naval Aircraft Yards/ Base Repair Depots of Air Force/DPSUs/ other Govt agencies or Indian Private Vendor. In case it is a Government agency, this entity would be identified and would be included 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. In case MToT is being transferred to Indian private firms, the AoN according authority may permit foreign vendors to partner a suitable Indian industry of their choice. Wherever required, the broad eligibility criteria for selection of Indian private firms as MToT partner may also be included in the RFP.

Product Support

51. To sustain and support platform/equipment through its operational life cycle, SHQ will ensure that Product Support requirements for atleast 3 to 5 years beyond the warranty period will be procured along with the main equipment. Foreign OEM (FOEM) may utilise their 'wholly owned in-country entity' to provide the desired product support without dilution

of the Seller's obligation to execute contracted liabilities. The equipment could be provided product support through any one or combination of the following details which are elucidated in subsequent paragraphs and details given at Appendix F of this Chapter:-

- (a) Engineering Support Package (ESP).
- (b) Annual Maintenance Contract (AMC).
- (c) Comprehensive Maintenance Contract (CMC).
- (d) Life Cycle Support Contract (LCSC).
- (e) Performance Based Logistics (PBL).

RFP Vetting And Issue

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

- (a) **Preparation of Draft RFP.** All activities internal to SHQ for preparation of RFP, which includes consultation with all agencies concerned such as Procurement and Maintenance directorates at SHQ, QA agencies, DRDO etc. would be completed prior to consideration of the case by AoN according authority. All issues identified after internal vetting of draft RFP at SHQ, which merit incorporation, will be included for consideration in the SoC for accord of AoN.
- (b) **Comments on Draft RFP.** Concurrent to circulation of SoC being fielded to the AoN according authority, copies of draft RFP will be forwarded by SHQ to concerned JS & AM, ADG Acquisition Technical and FM for the non-delegated power cases, and ADG Acquisition Technical and IFA (Capital)/ PIFA for delegated power cases along with other stakeholders. Observations, if any, will be intimated to the SHQ within four weeks, based on which the draft RFP will be amended accordingly. SHQ may also interact with vendors/industry at the draft RFP stage, so that in case any changes are felt necessary, these are incorporated prior to issuance of RFP.
- (c) **Collegiate Vetting and Approval.** Single stage collegiate vetting of RFP and finalisation of Vendor List will be done after the accord of AoN in a RFP Vetting Collegiate comprising of JS & AM, ADG Acquisition Technical, FM, representatives of SHQ and QA agency in non-delegated power cases, and representatives of ADGs Acquisition Technical, SHQ, QA agency and IFA(Capital) in all delegated power cases. Advisor/Director (Cost) will be member of the RFP Collegiate Vetting of non-delegated/delegated power cases respectively. Post the Collegiate Vetting, the draft RFP, duly amended, will be forwarded for approval of DG (Acquisition)/CISC

/VCOAS/VCNS/DCAS/DGICG (as applicable) along with the minutes of the collegiate meetings through respective ADG Acquisition Technical.

(d) **Issue of RFP.** Post approval, RFP in all cases will be issued by the respective ADG Acquisition Technical. No addition to the vendors list would be allowed after issue of the RFP.

53. **Pre Bid Queries and Bid Submission.** Twelve weeks from date of issue of RFP, will normally be given to the vendors for submission of bids. However, in nominated SVC and Repeat Order/Option Clause cases, the time for submission of bids will not be more than eight weeks. 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. Pre-bid meeting(s) of all the vendors would be conducted by the User Directorate along with representatives from Procurement Directorate of SHQ, representatives of Defence Offset Management Wing (DOMW) for Offset matters, representatives of PA for ToT/MToT matters, representatives of trial agencies for trial methodology related issues, representatives of JS & AM, ADG Acquisition Technical and FM (for non-delegated cases)/IFA(Capital) (for delegated power cases). The clarifications should be processed by the SHQ and be given in writing to all the vendors by the concerned ADG Acquisition Technical preferably within three weeks of the pre-bid meeting. In case a need arises to modify the RFP owing to typographical errors, the amendment will be issued after due approval of the DG(Acquisition) for non-delegated cases and CISC/VCOAS/VCNS/DCAS/DGICG in delegated power cases. In all other cases, amendments to the RFP may be issued after approval of AoN according authority, provided that the change does not put any vendor at a disadvantage. Copies of such amendment/modification would be simultaneously sent to all vendors to whom RFP has been issued. After such amendments, the time and date of submission bids may also be extended suitably, with the approval of the AoN according authority/DG(Acquisition)/CISC /VCOAS /VCNS/DCAS/DGICG, as the case may be.

Offer Opening

54. **Offer Opening Committee.** In cases of Techno Commercial RFP, the bids received will be opened on the notified date & time by the Offer Opening Committee chaired by the ADG Acquisition Technical/SHQ, 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 offers will be opened by the committee and sent to SHQ for evaluation by a Technical Evaluation Committee (TEC) and the unopened sealed commercial offers will be sent to the AM/SHQ. In cases where only a Commercial RFP has been issued, the Offer Opening Committee will forward the Technical Compliance received from the vendor(s) to the SHQ for confirming the same. SHQ will forward the confirmation or otherwise to the technical compliance within one week to the Chairman of the CNC. Offers which do not conform to the prescribed procedure for submission of offers or are not accompanied with all requisite documents, as laid down in

Schedule I of Chapter II or which are received after the scheduled time for submission of offers or unsolicited offers i.e. other than those vendors to whom a RFP has been issued, will not be accepted.

55. **Single Vendor Situation.** In multiple vendor cases, if a single bid is received at the bid submission stage, SHQ may proceed with the process and complete the TEC without retracting the RFP. Such cases will be referred directly to the AoN according authority within four weeks from the acceptance of the Technical Evaluation Committee (TEC) report. In case it is concluded that any change in SQRs would not meet the operational requirements of the Service; or any change in other conditions of the RFP is unlikely to increase the vendor base; or it may inordinately delay the procurement, then the case may be progressed with the approval of AoN according authority, 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.

56. **Buy and Make (Indian) Cases.** 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 AoN according authority.

57. **Extension of Time for Submission of Bids.** 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 ADG Acquisition Technical/SHQ concerned from the vendor at least two weeks prior to bid submission date, failing which such requests may not be entertained. Extension of upto four weeks could be given by SHQ and the approval for further extension has to be sought from the DG (Acquisition)/CISC/VCOAS/VCNS/DCAS/DGICG as per applicability of Non Delegated/Delegated Power Cases.

Technical Evaluation Committee (TEC)

58. A TEC will be constituted by the SHQ for evaluation of the technical bids received in response to the RFP. The TEC will include representatives of the User Service, Maintenance Agency and QA agency. Representative of FM (in non delegated cases) and PIFA/IFA (Capital) (in delegated power cases) will also be part of the TEC to verify financial criteria as laid down for Vendor Selection Criteria, if applicable. In addition, cases where ToT is involved, TEC may also include representatives of PA nominated by AoN according authority for absorption of ToT/ DRDO (in cases involving ToT or Indigenous design).

59. **Evaluation of Technical Offer.** 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 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. 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 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 as that of the OEM, only the bid of the OEM will be accepted. However, in Buy (Global) and Buy (Global - Manufacture in India) categories, Indian vendors offering FOEM product will also be permitted to bid along with the FOEM.

60. **Vendor Interaction.** The TEC may invite the vendors for presentations/clarifications on technical issues. 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; except in case of Essential Parameters-B.
- (c) No dilution of SQR is carried out.
- (d) Original commercial quote submitted earlier cannot be revised by the vendor.

61. **Approval of TEC Report.** TEC should be concluded within four weeks of its constitution and its report submitted to the concerned procurement directorate in the SHQ. Approval of the TEC Report will be done within the SHQ in all cases, except where any vendor(s) is found non-compliant or cases involving ToT or cases with additional reward for higher IC, wherein approval of DG (Acquisition)/CISC/VCOAS/VCNS/DCAS/DGICG for non-delegated/delegated power cases respectively will be obtained through respective ADG Acquisition Technical.

62. **Single Vendor Situation.** In multi-vendor cases, a single vendor situation may emerge post technical evaluation by TEC. The procurement process may be continued as planned provided the vendor agrees not to revise the commercial bid, during the remaining part of the acquisition process. SHQ will examine reasons for this single vendor situation, record the same in their report and submit the report to the AoN according authority. In case it is concluded that any change in SQRs would not meet the operational requirements of the Services; or any change in other conditions of the RFP is unlikely to increase the vendor base,

or it may inordinately delay the procurement, then the case may be progressed with the approval of the AoN according authority, provided the vendor agrees to hold the original commercial bid till completion of the procurement process. In such situation, efforts should be made to complete the acquisition process before expiry of original validity of commercial bid.

63. **Sharing of Details of Technical Bid.** To ensure timely completion of the trial evaluation process, Certification of Conformance (CoC) along with test standards and test results, graphs and accredited lab certifications and draft ATP submitted by vendor as part of the Technical bid, where applicable, would be shared with representative(s) of QA and EMI/EMC Evaluation agency at the commencement of the TEC. Respective trial agency, after consultation with SHQ, would reserve the right to undertake random/sample test to validate the CoC submitted by the vendor/OEM during FET.

Technical Offset Evaluation Committee (TOEC)

64. The Technical Offset Evaluation Committee (TOEC) will be constituted by the concerned ADG Acquisition Technical with approval of the DG (Acquisition), wherever applicable. The TOEC will be chaired by JS (DOMW) and will include representatives of the SHQ, FM and DRDO. The Committee may also include experts as may be deemed necessary with approval of the DG (Acquisition). The TOEC Report will be forwarded by the Chairman to DG (Acquisition) for acceptance, through the concerned ADG Acquisition Technical.

Field Evaluation Trials (FET)

65. FET for equipment of all TEC compliant vendors will be conducted by SHQ on the basis of Trial Methodology given in the RFP. The conduct of trials will be based on the principles of transparency, fairness, equal opportunities to all and meticulous attention to details. Parameters evaluated at TEC stage, based on documents or certificates rendered by accredited agencies, may not be included in the FET. Guidelines with regards to FET related aspects are attached at Appendix G to this Chapter.

66. **Conduct of FET.** FET will not be conducted as a process of elimination but with an objective to nurture competition. The primary focus of the evaluation should, therefore, be towards testing the equipment based on its anticipated employability. Wherever feasible, the entire trials should be conducted simultaneously in order to save time. All efforts should be made to get adequate pieces of the equipment, to allow concurrent trials, through the RFP. All shortlisted vendors would be asked to provide their equipment for trials in India, except when trials are to be conducted at vendor premises abroad. In cases where the trials are planned abroad, approval of AoN according authority is to be sought at the time of seeking AoN. FET would consist of all or any of the following trials:-

- (a) User Trials.

- (b) Technical Trials i.e. DGQA Evaluation including Environmental testing.
- (c) Maintainability Evaluation Trials (MET).
- (d) Electro Magnetic Compatibility (EMC)/Electro Magnetic Interference (EMI) Evaluation.
- (e) Secrecy Testing – where required.

67. **Non Applicability of Trials.** FET/NCNC Trials will not be applicable for procurement cases where there is no prototype available for conduct of NCNC Trials as is the case in acquisition/construction of Ships, Submarines, Yard Craft, Tugs, Ferry Craft and Barges (only for capacity cleared yards). FET/NCNC Trials will also not be applicable for simulators being built for the first time where there is no possibility of testing on a similar existing simulator. However, Technical Evaluation and Delivery Acceptance Trials for these will be carried out. Commercially Off-The-Shelf (COTS) equipment, meeting requisite IS/BIS or equivalent certifications, may be accepted on the basis of vendor certification without conduct of Technical, EMI-EMC and MET.

68. **Simulation Based Trials.** In cases where trials are not visualised or where field evaluation is not feasible due to terrain, time or operational restrictions, there may be possibility of conducting evaluation through computer simulations or documented historical data of validation of the parameters produced by the vendor. In such cases, the exact scope of the trials shall be included in the SoC while seeking the AoN. The AoN according authority shall debate the scope of trials and approve suitable options, as applicable.

69. **Trial Directive.** SHQ, in consultation with TEC compliant vendors, will formulate a detailed Trial Directive in conformity with the Trial Methodology given in the RFP. ²Trial directive will be issued within two weeks post approval of TEC report. The Trial Directive must specify the fundamental points that need to be addressed for validation of RFP parameters in terms of ‘Compliance cum Responsibility Matrix’. Parameters not mentioned in the RFP will not be included in the Trial Directive and no variation to the SQRs will be introduced in the compliance matrix. Responsibility for testing each parameter must be fixed for a single agency. Trial Directive, would also list out exact location and detailed trial schedule keeping in mind availability of the requisite infrastructure (ranges/labs), as also readiness of vendors. Parameters/tests acceptable by certification through accredited labs will be clearly specified in the Trial Directive. Respective trial agency, after consultation with SHQ, would however reserve the right to undertake random/sample test to confirm the certified parameters. The nomination of the Trial Wing/Team will also be done in the Trial Directive.

70. **Trial Wings/Teams.** SHQ should preferably setup Trial Wings at Training Institutions/Establishments for their respective arms/services and trials should be conducted under the aegis of these wings. However, where ever such establishments are not available, as in cases of Navy and Air Force, SHQ may follow norms/procedures in vogue. Representatives of QA agencies, EMI-EMC Cell and Maintainability Evaluation Trials

² Amendment issued vide Appendix A to MoD ID No 1(8)/D(Acq)/21 dated 11.11.2021.

(where applicable) may be co-opted, based on requirement. Endeavours should, however, be made by all Services to establish dedicated Trial Nodes at the earliest. In cases, where the equipment is being procured for more than one Service, the Trial Team will have representatives of each Service for whom equipment is being procured, headed by representative from the Lead Service. For trials of equipment involving ToT, representative of Production Agency (PA)/Development cum Production Partner (DcPP), may be included as an Associate Member. In certain cases, SHQ may conduct concurrent trials by constituting a Composite Trial Team (CTT), comprising of representatives of the User, QA agency, Maintenance agency and EMI/EMC evaluating agency, in order to hasten the evaluation process.

71. **Multi-Disciplinary Technical Delegation (MDTD).** In certain cases, particularly in those involving integration of systems or sensitive equipment, there may be a need to depute a MDTD for carrying out evaluation abroad and the same may be constituted post approval of the AoN according authority. An Empowered Committee could also be deputed along with MDTD for negotiation purposes. The delegation will have representatives from the User service, Maintenance agency, QA agency and the concerned ADG Acquisition Technical. In addition, JS & AM and FM or their representatives for non-delegated cases and IFA (Capital) / PIFA for delegated power cases may be included in the Empowered Committee.

72. **Submission of Equipment Under Trial (EUT).** Vendors will be asked to field the desired number of units of the equipment/ weapon system for FET as per dates promulgated in the Trial Directive. Vendor(s) failing to produce equipment by date decided in the Trial Directive may be given a grace period of 30 days authorised by the concerned PSO at the SHQ and additional grace period of up to 30 days approved by the CISC/VCOAS/VCNS/DCAS/DGICG, on a case to case basis. Equal opportunity would be provided to all vendors while granting such grace period. Vendors, who fail to produce the EUT even after providing 60 days grace period would be asked to explain reasons for the same and in case these are found satisfactory by SHQ, case for granting grace period beyond 60 days would be processed by SHQ for approval of DG (Acquisition). To prevent deliberate delays in fielding the equipment by the vendor(s), the Trial Directive may include a provision of disqualifying vendors who fail to position the equipment on time. EUT not fielded at the start of trials would not be considered at a later point of time. In an eventuality where only one vendor has submitted the equipment, the case may be progressed as Resultant Single Vendor after approval of the AoN according authority. (Also refer to Paragraph 43 above)

73. **Joint Trials.** Single OEM equipment being fielded by multiple Indian vendors may have joint trials if two or more Indian vendors so desire. Indian vendors who agree to field the equipment jointly may do so after providing an undertaking that they will accept the trial results.

74. **User Trials.** Trials will be conducted 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 vendor certifications confirming the functional effectiveness under such conditions may be obtained and simulations based testing may be resorted to wherever applicable. Equipment fielded may require repairs/modifications during the course of trials and these in situ servicing, repair, maintenance actions or modifications as requested by the vendor will be permitted. 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 on site during the conduct of trials. SHQ may also accord permission for trial equipment to move out of the trial location for a defined period for such repairs or modifications on a case to case basis. In Single Vendor Cases, permission for the above may be permitted by the OIC Trials itself.

75. **Technical Trials.** Technical trials will be conducted by QA agency to assess conformance to the quality requirements, standards and specifications. As far as possible, physical evaluation and environmental tests will only be carried out for critical parameters and other parameters will be evaluated based on vendor certification duly supported by certification by NABL accredited laboratories/internationally recognised laboratories. The same will be clearly spelt out in the Trial Directive. Towards this, vendor will submit the technical documentation and draft ATP as part of technical bid or at least one month before commencement of FET. QA Agency will finalise the ATP in respect of all participating vendors during Technical Trials.

76. **Maintainability Evaluation Trials (MET).** MET to address maintenance, repair and spares support aspects of acquisition should preferably be undertaken through the OEM documentation concurrent to the User Trials. Only essential tests focussing towards establishing maintainability should be carried out to establish adequacy of maintenance tools, test equipment and spares utilisation. Actual stripping of the equipment should only be undertaken where considered of absolute necessity by the User. Failure in MET should, preferably, not be criteria for rejection and the Vendor will be given a maximum of two additional opportunities to ensure compliance within a definite period of time including certification by vendor for submission at delivery/FoPM stage, failing which such vendor would be non-compliant.

77. **EMC/ EMI Evaluation.** EMC/ EMI Evaluation would be carried out by designated testing centers like Army Center for Electromagnetics (ACE), Mhow etc. based on desired standards as given out in the Trial Directive. In most cases, evaluation of only those parameters having direct bearing on the operational employability of the equipment should be carried out and certification of accredited labs may be accepted for the remainder parameters.

78. **Validation at Vendor Premises Abroad.** It may emerge during the process of trials in India that certain validations need to be carried out abroad at the vendor premises owing to export restrictions, security related issues, availability of testing infrastructure/ platforms or such like reasons. SHQ will seek permission for conduct of such validations to be carried out abroad from the DG (Acquisition) for non-delegated cases and CISC/VCOAS/VCNS/DCAS/DGICG for delegated cases.

79. **Debriefing of Vendors.** After each stage of the trials, a debriefing of all the vendors would be carried out by the evaluating agency with regards to the performance of their equipment. Compliance or otherwise, vis-à-vis parameters listed in the trial directive, 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.

80. **Trial Report.** Trial Reports submitted by all evaluating agencies must give unambiguous Compliance / Non-Compliance to RFP parameters evaluated by that Agency. It will be ensured that comments and recommendations are restricted to RFP parameters only.

81. **Confirmatory Trials.** On completion of all trials, when no equipment has fully met all the RFP parameters, but there is reason to believe, that vendors would be able to quickly overcome the drawbacks noticed, confirmatory trials may be conducted by the SHQ. In multi vendor cases, confirmatory trials will be conducted with the approval of concerned PSO at SHQ. However, in Single Vendor cases, the OIC Trials will be authorised to order confirmatory trials in specified time period. A separate Trial Directive will be issued for conduct of confirmatory trials which must be specific about what needs to be checked. Vendors may be permitted to take the equipment to their premises for repairs / modifications, prior to fielding it in the confirmatory trials. Vendors could also be permitted to field a new piece of equipment for confirmatory trials within a stipulated time, on a case to case basis. In cases where modification undertaken by the vendor affects results of other parameters, these affected parameters will also need to be re-evaluated.

82. **Overseeing of Trials.** In order to provide timely guidance to trial teams in overcoming impediments encountered, SHQ will depute suitable representatives, associated with preparation of Trial Methodology/Directive, to oversee the trials. In addition, the Officer-in-Charge or a senior member of the Trial Team may also be called to SHQ for central briefing, to better understand the scope and extent of the trials. Representative of the concerned ADG Acquisition Technical may also oversee the FET as observers.

83. **Timelines.** The Trial Methodology should ensure that FET is completed within a standard time period of 16 to 24 weeks (additional 12 weeks for winter trials). However, SHQ may seek additional time during accord of AoN owing to nature and scope of the trials. In case of delay, SHQ will update the under mentioned authorities as follows: -

- | | |
|---|----------------------------------|
| (a) DG (Acquisition) (for non-delegated cases) | - for slippage beyond six months |
| (b) CISC/VCOAS/VCNS/DCAS/DGICG
(for delegated cases) | - for slippage beyond six months |
| (c) AoN According authority | - for slippage beyond 12 months |

84. **Benchmark Models Committee.** On receipt of Trial Report by SHQ, concurrent benchmarking will be carried out by a Benchmark Models Committee headed by the Advisor (Cost)/Director (Cost) in non-delegated/delegated cases respectively and representatives of concerned SHQ Directorates, as per guidelines issued by Principal Advisor (Cost) and as amended from time to time. This process will be automatically undertaken once SHQ informs Advisor (Cost) /Director (Cost) about receipt of Trial Report. Along with this information, SHQ will also provide Advisor (Cost) /Director (Cost) with details of representatives of SHQ Directorates nominated as members of the concerned Benchmark Models Committee. The recommendations of the Benchmark Models Committee may be accepted as such/deliberated upon by the CNC post approval of GS Evaluation and promulgation of CNC. Till then, the Benchmark Models Committee benchmark models and costing data will be kept in a sealed cover with the Chairman, CNC.

85. **Costing Committee for DPSUs/OFB.** In cases where DPSU/OFB equipment is being procured in a Single Vendor Case or as BNE, on recommendations of the CNC, a Costing Committee constituted by DDP will price the DPSU/OFB 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 and such price may be adopted by the CNC. The CNC may not furnish reasonability of cost certificate for such DPSU/OFB items.

86. **Costing Committee for JVs Through IGAs.** In cases where procurement is undertaken from a Joint Venture between an Indian DPSU/OFB/ DRDO and a Foreign/ Domestic Entity, formed on the basis of an IGA or otherwise, nominated as Single Vendor, a Committee constituted based on the approval of DG(Acquisition), may be tasked to carry out fixation of reasonable price for basic version of the product being procured. It will be incumbent upon the JV to share its Costing data with the Costing Committee, as and when requested. The Costing Committee will submit its report to the DG (Acquisition) in these cases and the CNC will establish reasonability of the overall cost.

Staff Evaluation

87. **Approval of GS Evaluation.** The Staff Evaluation will analyse the field evaluation results and shortlist the equipment recommended for introduction into Service. Approval of the GS Evaluation will be done within the SHQ in all cases, except where any vendor(s) is found non-compliant or cases involving ToT or cases with additional reward for higher IC, wherein approval of DG (Acquisition)/CISC/VCOAS/VCNS/DCAS/DGICG for non-delegated/delegated power cases respectively will be obtained through respective ADG Acquisition Technical, prior to progressing the case further. Issues, if any, raised by the ADG Acquisition Technical on the Staff Evaluation Report, should be addressed in a collegiate manner within the SHQ. After due examination, the ADG Acquisition Technical will submit the report to the DG (Acquisition)/CISC/VCOAS/VCNS/DCAS/DGICG for non-delegated and delegated power cases respectively, with recommendations for acceptance or otherwise.

In case no vendor meets the SQRs in the FET, then the case would be foreclosed and RFP retracted on approval of DG (Acquisition)/CISC/VCOAS/VCNS/DCAS/DGICG for non-delegated/delegated power cases through respective ADG Acquisition Technical.

88. Cases, in which bids have been submitted by more than one bidder in a competitive manner and the Staff Evaluation shortlists only one equipment for 'Introduction into service', would not be considered as a single vendor situation. In these cases, the commercial bids were submitted in an open competition before the trials and the vendors were not aware of a single bidder getting approved after the trials.

Technical Oversight Committee

89. 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 (Acquisition) 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 of a Convener nominated by the lead SHQ of the rank of Major General/equivalent and one member each from two sister services other than the lead agency of the rank of Brigadier/equivalent. Members 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 verify whether prescribed procedure has been followed in the procurement case. 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 30 days, with the consent of the DG(Acquisition). ADG Acquisition Technical 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. In case of complaints, cases may be referred to the nominated Independent Expert Monitors (IEMs) by the Acquisition Wing/any other department of the MoD or initiated suo-moto by the vendors/any other agency. Post analysis, the IEMs report will be submitted to the Acquisition Wing. All reports opined by the IEMs as vexatious or frivolous or lacking cogent evidence will be put up for acceptance of the Defence Secretary. IEM Reports which ascertain genuineness of the complaint and recommend that cognisance of the complaint/action be taken, the same will be forwarded to the Raksha Mantri for acceptance.

Intimation to Vendors

90. The ADGs Acquisition Technical 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 to vendors with regard to Trials will be done by the conducting SHQ.

Procurement of Already Inducted Equipment

91. To enhance standardisation and reduce inventory cost, as also training effort, Services may opt to procure equipment/systems/platforms already inducted into Service through the original OEM/vendors. These cases would not be construed as ab-initio Single Vendor Case and could be on basis of 'Option Clause', 'Repeat Order' or 'Upgrade' cases. These would be fielded directly to the AoN according authority, depending upon the financial value of the case.

93 91A. **Option Clause.** Where only part quantity of an equipment is being procured, SHQ may built-in provision for an 'Option Clause' in the main contract 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. 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. Price Variation Clause, FERV etc, if applicable and included in the original Contract, will also be applicable for Option Clause Contract. For arriving at prices payable, the Price Variation will be applied on the Base Contract price of the original Contract with the month and year of Effective date of Contract (T_C) as Base Level Indices.

92. **Repeat Order.** For equipment/systems/platforms already inducted into service/contracted by DPSUs and PSUs including Shipyards, 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. In such cases it may be ensured that as far as possible the SQRs of the equipment are as per the previous order. Repeat Order cases would not be construed as Single Vendor Cases. Repeat Order would generally be limited to quantity not exceeding 100% of the original contract. Specific approval of DPB (in acquisition cases up to ₹ 500 Crores) or DAC (in acquisition cases excess of ₹ 500 Crores) as the case may be, would be obtained for Repeat Order of quantity exceeding 100% of the original order quantities. 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.

93. **Repeat Order of Other Services/Agencies.** If equipment proposed to be procured has already been procured by a sister Service, Border Roads Organisation (BRO), other MoD agencies, other Government agencies (i.e. DPSUs/ PSUs including shipyards), Paragraph Military Forces (PMF), ARC/NTRO, Central Armed Police Forces (CAPF) or any other Law Enforcement agency, after following due process, then such cases would be treated as Repeat Order.

94. **Repeat Order with Change in SQRs.** Repeat Order cases, related to obsolescence management and product/technology improvement involving changes in SQRs, may be accorded approval by the DAC.

95. **Upgrades.** Due to constant changes in technology, various weapons, equipment, etc. which are already in service, may need to be upgraded/refurbished/modified/overhauled to incorporate advancements in technology. All cases, where an upgrade to an in Service weapon system/equipment is being planned through the OEM/Vendor (view proprietary equipment or where the OEM/Vendor is offering to upgrade the same equipment as part of Life-Cycle Support, etc), will also follow the 'Repeat Order' procedure.

96. **Validation Trials.** In cases of 'Option Clause' and 'Repeat Order', generally no FET would be conducted and only a commercial RFP would be issued to the vendor. However, limited Validation trials for cases involving changes to SQRs/upgrades may be conducted after including the same in the SoC while seeking AoN.

Contract Negotiation Committee (CNC)

97. **Constitution.** The CNC will be constituted after the TEC/Staff Evaluation/TOC report, as applicable, has been accepted. CNCs in Non Delegated cases will be chaired by the respective AMs, while Delegated Power cases upto ₹ 150 crores will be chaired by a Brigadier or equivalent officer of the SHQ and cases above ₹ 150 crores to 300 crores will be chaired by a Major General or equivalent officer of the SHQ. In cases where there is no FET, the CNC would be constituted within a week of acceptance of TEC Report by the competent authority. The standard composition of the CNC is as indicated at Appendix H to this Chapter. Suitable technical member(s) may be co-opted by the Chairman to negotiate Life Cycle Support Contract (where applicable), along with the Main Contract. Any change in the composition of the CNC may be effected with the approval of DG (Acquisition) and CISC/VCOAS/VCNS/DCAS/DGICG for non-delegated and delegated

power cases respectively. 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. 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.

98. **Benchmarking.** In all cases, CNC will deliberate/accept recommendations of the Benchmark Models Committee and establish reasonability of the benchmarked price, in an internal meeting before opening the commercial offer. Wherever necessary, additional inputs from other sources may be obtained by the CNC. In cases where no field evaluation is to be undertaken or there has been oversight in constituting a Benchmark Models Committee earlier or proceedings of the Benchmark Models Committee have not been completed, the entire benchmarking activity will be undertaken by the CNC itself. In cases where DPSU/OFB equipment has been already priced by the Costing Committee constituted under DDP for Pricing of DPSU/OFB equipment, such price may be adopted by the CNC and the CNC may not furnish reasonability of cost certificate for such DPSU/OFB items.

99. **Revision of Commercial Bid.** In cases where the PVC is not applicable, situations would arise when the validity of the commercial offers submitted by vendors expire before acceptance of Staff Evaluation. 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 in cases where the same is not permitted. For cases where vendors want to submit fresh commercial proposal, their old proposals would be returned unopened to them by the respective AM/SHQ.

100. **Opening of Commercial Bids.** The sealed commercial bids of the compliant vendors will be opened by the CNC at a predetermined date and time, previously intimated to these vendors. Such vendors or their authorised representatives will be permitted to be present during the opening of the commercial bids. The bids of the compliant vendors shall be read out to all members present and signed by all members of the CNC.

101. **Preparation of Compliance Statement.** The CNC will prepare a 'Compliance Statement' incorporating the commercial terms offered in the RFP and those 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), Life Cycle Support etc.

102. **Comparative Statement of Tenders (CST) and Declaration of L1 Vendor.** The CNC would prepare a CST for evaluating the offers and determine the lowest acceptable offer (L1 Vendor). Declaration of the L1 Vendor will be done by the CNC at a predetermined date and time, previously intimated to these vendors. Such vendors or their authorised representatives will be permitted to be present during the opening of the commercial bids.

103. **Negotiations with L1 Vendor.** The RFP in multi-vendor cases should clearly lay down that no price negotiations would be carried out with the L1 vendor once the reasonability of the price quoted by the vendor is established. Once the commercial offers are opened and the price of the vendor is found to be within the benchmarked price, there should be no need to carry out any further price negotiations.

104. **Negotiations with L2 Vendor.** 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/negotiated price of the first successful bidder, and if the offer is accepted, award the contract to the next successful bidder at the financial bid/negotiated price of the first successful bidder, subject to reasonability of the price bid being established by the CNC.

105. **Negotiations in Cases of Splitting of Source of Supply.** 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 accept the price and terms and conditions quoted by/negotiated with the L1 vendor.

106. **Previously Contracted Cases.** 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 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. For certain category of items, where orders have been placed in the past or involves invoking of the Option Clause, there could be downward trend 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.

107. **Cases Involving Buyer Nominated Equipment (BNE).** In cases where BNE is being procured from a common single source, whether OFB, DPSU or private vendor, the commercial bid will clearly indicate the cost of BNE as quoted by DPSU/OFB/private vendor, with documentary proof. The scope of BNE cost indicated shall include the basic cost of the Main Equipment and OEM Training, Training Aggregates, Documentation, SMT/STE, Freight and MRLS as applicable/as indicated in the RFP, which are exclusively sourced from the nominated vendor (OEM). L1 in such cases will be determined after deducting the cost of the DPSU/OFB/private vendor supplied BNE, from the total cost quoted by the vendor. However, payment will be made to the vendor after adding the actual cost of BNE, at the time of purchase from DPSU/OFB/private vendor, to the L1 cost determined as mentioned above;

the cost of equipment supplied by DPSU/OFB/private vendor will be considered minus GST and other taxes and duties. This provision is applicable only in cases where the BNE has to be procured from a common single source, whether DPSU, OFB or private vendor and BNE rate in such cases would also be separately negotiated with the nominated BNE vendor. If the number of single vendor BNE items is large, the RFP Collegiate may restrict the list of items to be excluded from L1 determination, based on the total cost of each item and its impact on L1 determination and included in the RFP accordingly.

108. **Offer of Latest Specifications at CNC Stage.** In cases, owing to longer gestation time, the L1 vendor may offer latest specifications for obsolescence management of the equipment at no additional cost, at the CNC stage. The CNC will be empowered to negotiate and recommend acceptance of the same to the CFA provided all parameters are met. Limited Validation may accordingly be carried out in these cases by the SHQ on the FoPM before grant of BPC.

109. **Maintenance ToT Contract.** 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.

110. **Life Cycle Support Contract (LCSC).** The CNC would also negotiate the terms of Life Cycle Support Contract along with the Main Contract, where applicable, and 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.
- (d) LCSC would be signed along with the Main Contract and would clearly stipulate the obligations of vendor towards provisioning Life Cycle Support for the equipment.

111. **Acceptance Test Procedure (ATP).** ATP for the equipment of L1 vendor finalised during the Technical Trials will be submitted during the process of the CNC and included in the draft contract. Details of the Third Party Inspection(TPI) by authorised agencies, if applicable, for PDI/JRI will also be finalised in the ATP.(Also refer to Paragraph 46 above)

112. **CNC Report.** The CNC will document the selection of vendor using a formal written recommendation report addressed to the relevant approval authority. 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 Draft 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. The report must be complete in all respects and should be checked by the members of the CNC. 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. The CNC Report 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.
- (f) A summary of the recommendations.

113. **Processing of CNC Report.** The CNC Report, along with the summary of recommendations, would be processed by respective AM/SHQ, as applicable, for obtaining expenditure clearance and CFA approval. In cases where CNC, constituted based on AoN cost, negotiates a contract price of higher/lower delegated powers, the proceedings of the CNC would be finalised and send to the applicable CFA (as per total contract price) for approval along with the Draft Contract Document.

114. **Return of Commercial Offers.** For cases where the RFP is retracted after submission 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 along with BGs and PCIP, as submitted, would be returned unopened to such vendors by the ADG Acquisition Technical/SHQ.

115. **CFA Approval.** The Cabinet Committee on Security (CCS) has approved delegation of financial powers to sanction Capital Acquisition proposals covered in the Services Capital Annual Acquisition Plans vide MoD ID No. F. No.470/Dir (Acq)/07 dated 12 September 2007, attached at Appendix J and last updated vide MoD ID 20(11)/2015-D(GS-IV) dated 19 February 2019, as follows:-

- (a) Upto ₹ 300 crores - CISC, VCOAS, VCNS, DCAS and DGICG

- (b) Above ₹ 300 crores and upto ₹ 500 crores - Defence Secretary.
- (c) Above ₹ 500 crores and upto ₹ 2000 crores - Raksha Mantri.
- (d) Above ₹ 2000 crores and upto ₹ 3000 crores - Finance Minister.
- (e) Beyond ₹ 3000 crores - CCS.

Award of Contract/Placing of Indents

116. **Standard Contract Document (SCD)**. 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 the contract specifies otherwise. The proposed Standard Clauses need not be applicable to IGA/ FMS procurements etc.

117. **Delivery Schedule**. The date of commencement of delivery schedule would be reckoned from the date of release of Advance payment by the Buyer to the Seller, provided the Seller submits the documents mandated by the DAP 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 45th 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 First Off Production Model (FOPM) is successfully validated. In such cases, date of accord of Bulk Production Clearance will be the date for reckoning date of delivery. 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 DAP. Consequent to the approval of the CFA, the contract(s)(including Offset Contract and Life Cycle Support 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.

118. **Placing of Indents**. SHQ will obtain AoN for placing of indent on OFB and the Competent Authority to place such indents will be as under:-

- (a) Upto ₹ 300 crores - CISC, VCOAS, VCNS, DCAS and DGICG
- (b) Above ₹ 300 crores and upto ₹ 500 crores - Defence Secretary.
- (c) Above ₹ 500 crores - Raksha Mantri.

119. **Pre Contract Integrity Pact (PCIP).** All vendors will be required to submit a PCIP along with their technical and commercial offers. An Integrity Pact Bank Guarantee (IPBG) will also be submitted for all procurement schemes over ₹ 20 crores. Format of the PCIP is as given at Annexure I to ~~Appendix M~~ **Appendix O** of Schedule I. Post contract, a fresh IPBG based on the Contract Price will be submitted by the vendor in place of the IPBG submitted along with the bids. DPSUs/OFB are, however, not required to submit PCIP and IPBG when nominated as Ab-initio Single Vendors. They shall enter in to a PCIP, on the same lines, with its sub-vendors individually in case the estimated value of each sub-contract(s) exceeds ₹ 20 crores. DPSUs/OFB will submit all BGs, as applicable, while participating in multi vendor cases with private vendors.

120. 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 and as hosted on MoD website, will be applicable on procurement process and bidders.

Post-Contract Management

121. Post Contract Management involves ensuring compliance with the terms and conditions of contract, managing contractual amendments, quality assurance, timely payment and deliveries, and resolving claims and disputes. While responsibility for contract administration and management would be that of the SHQ concerned, post contract monitoring would be conducted by the Acquisition Wing. All issues related to Post Contract Management will be governed as per Chapter XI of this DAP.

Change of Name of Vendor

122. 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 K 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 K to this chapter. Grant of consent for change of name by authorities concerned at SHQ/MoD is subject to submission of all relevant documents. The Acquisition Wing will inform all concerned organisations of MoD regarding the change of name of vendor.

* **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.

Inter Government Agreement (IGA)

123. There may be occasions when procurements would have to be done from friendly foreign countries which may be necessitated due to geo-strategic advantages or imperatives of strategic partnerships or major military, technological, economic, diplomatic or political benefits. These principal factors may determine the choice of a specific platform or equipment on a single vendor basis. 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. The procurements in such cases may be based on technical specifications and testing procedures of the OEM itself. Such procurements will be done based on an Inter-Governmental Agreement (IGA) after clearance from CFA and would be progressed with approval of AoN according authority. The broad procedure for concluding of an IGA will be as under:-

- (a) Approval of broad framework related to the proposed IGA along with AoN will be approved by the DAC.
- (b) Negotiations with the foreign Government agency/OEM will then be carried out by a Committee comprising of representatives of the Acquisition Wing, concerned SHQ, Defence (Finance) and the nominated domestic manufacturer, if any, to determine draft terms of the IGA to include estimated price, availability, indigenisation plan etc.
- (c) The MoD will then obtain the approval of the CCS on the draft IGA post which the IGA will be concluded with the foreign government.

124. For other arrangements like FMS/SCOC, the case could be progressed with approval of AoN according authority.

125. AMs/SHQ would be authorised to issue the RFP/LoR/Memorandum/LoI and sign the Contract/LoA, as applicable. The following cases would fall under the purview of this provision:-

- (a) When equipment of proven technology and capabilities belonging to a friendly foreign country is identified for procurement by our Armed Forces.
- (b) When very large value weapon system/platform, which was in service in a friendly foreign country, is available for transfer or sale (ex stock or fresh production).

(c) When specific equipment/platform, is under restriction for sale by the Government of the OEM's country, 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.

126. 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.

127. **Co-development.** There may be cases where it is proposed to co-develop a product/equipment offering transformative/unique/niche technology; or a futuristic equipment/platform with a foreign country; or where co-development is likely to benefit ongoing indigenous projects in India. Such cases will be progressed under an IGA/specific Project Agreement after clearance from the AoN according authority based on the estimated cost of the project.

128. **Co-production.** Similarly, there may be cases where it is proposed to work with a foreign entity to co-produce equipment/assemblies/sub-assemblies/spares for defence usage in India. Co-production opportunity may be progressed in any of the following cases with approval of the AoN according authority based on the ultimate estimated cost of the project:-

(a) **Import Substitution.** Proprietary equipment or assemblies/sub-assemblies/spares of equipment in service with Indian Armed Forces and where production in India would lead to reduction in Life Cycle Cost, besides contributing towards building a robust defence eco system.

(b) The platform/equipment is of unique nature, not available or not being offered by other nations, and/or

(c) Equipment where co-production of the platform/equipment will contribute towards making India a global/regional hub for manufacture/MRO/spares, and/or provide a boost to defence exports.

(d) Where collaboration between Indian and foreign entity(ies) may lead to co-development/co-production of products/components with potential for usage by Indian Armed Forces in future.

Note. In all such cases, SHQ would prima facie establish rationale for processing the case on a Single Vendor Basis; that is to examine that no other Nation can (e.g.

proprietary equipment) or is likely to offer higher IC prior to seeking AoN. The guiding principle in such cases shall be to maximise IC as well as ToT.

Foreclosure of Cases

129. **Authority for Foreclosure of AoN.** Cases where the AoN is required to be foreclosed due to change in operational philosophy, change in prioritisation for procurement or budgetary constraints will be approved by AoN according authority. Foreclosures for reasons other than the above may be approved by DG (Acquisition) and CISC/VCOAS/VCNS/DCAS/DGICG for non-delegated and delegated powers cases respectively. In cases where RFPs have been issued, these would also be retracted.

130. **Authority for Retraction of RFP.** Retraction of RFPs will be approved on file by the DG (Acquisition) and CISC/VCOAS/VCNS/DCAS/DGICG for non-delegated and delegated powers cases respectively. Validity of the AoN would recommence from the date of retraction of RFP.

Processing of Procurement Cases

131. 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 L 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 for non-delegated cases, consolidated observations/ clarifications sought from and including the level of AM in the MoD and MoD (Finance) should be clarified in a discussion and minutes of the same recorded on file. For delegated power cases, the same will be ensured by respective PIFA/IFA(Capital) for observations related to financial effects.

~~135~~ 132. **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 as under:-

<u>Ser No</u>	<u>Stage of Procurement</u>	<u>Delegated Powers</u>	<u>Non Delegated Power</u>
(a)	Delay of more than 52 weeks in fielding case for AoN from approval of SQRs	SPB	DPB
(b)	Delay of more than 104 weeks in fielding case for AoN from approval of SQRs	DPB	DAC
(c)	Review of AoN and abnormal delays	DG(Acquisition)	DAC

<u>Ser No</u>	<u>Stage of Procurement</u>		<u>Delegated Powers</u>	<u>Non Delegated Power</u>
(d)	Delay in FET beyond 3 months		Vice/Deputy Chief/equivalent	DG(Acquisition)
(e)	Delay of CNC beyond eight weeks of acceptance of Staff Evaluation/TOC			
(f)	Delay of approval of CFA beyond eight weeks of submission of CNC report and draft CFA Note			
(g)	Progress of all ongoing cases including budget expenditure	Quarterly (April, July, October and January)	DPB	
		Six Monthly (April and October)	DAC	
(h)	Delayed deliveries of cases > 1000 crores & FTP cases	Six Monthly (April and October)	DAC	
(j)	Delay in ongoing cases (update by Acquisition Wing)	Six Monthly (April and October)	DPB	
		Yearly (July)	DAC	

Deviations from DAP

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

137 134. Acquisition Wing, in consultation with MoD (Finance), will be authorised to issue amendments required to remove difficulties arising due to typographical, referencing and syntax errors. Situations not foreseen and explained in the DAP 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.

Appendix A to Chapter II
(Refers to Paragraphs 5 and 6 of
Chapter II)

DRAFT FORMAT: REQUEST FOR INFORMATION

(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 Information (RFI) consists of three parts as indicated below:-
 - (a) **Part I.** The first part of the RFI 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 RFI states the methodology of seeking response of vendors. Submission of incomplete response format will render the vendor liable for rejection.
 - (c) **Part III.** Guidelines for Framing Criteria for Vendor Selection/Pre Qualification in Buy Indian (IDDM), Buy (Indian) and Buy & Make (Indian) Cases.

PART-I

- 3 **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 last date of submission 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 VI of DAP.
- (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**).
- (h) **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**).
- (j) **Performance-cum-Warranty Bond**. Performance-cum-Warranty Bond both equal to 5% value of the contract inclusive of taxes and duties is required to be submitted after signing of contract.
- (k) **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 **Annexure II to Appendix A 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

ADG Acquisition Technical):-

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 DAP.

Annexure I to Appendix A**REQUEST FOR INFORMATION: PROCEDURE FOR RESPONSE****Request for Information for**

1. The Indian Army/Navy/Air Force is planning to procure _____. With the view to identify probable vendors who can undertake the said project, OEMs/ Authorised Vendors are requested to forward information on the product which they can offer. The parameters/ broad specifications of the item are mentioned in the questionnaire attached as per Appendix B. In addition the vendors are required to furnish details as per Proforma at Annexure II to Appendix A.
2. Apart from the information as per the Appendices the vendors may also forward technical details/product brochures/literature etc pertaining to the item in question.
3. The required information/ details may please be forwarded at the following address by _____:-
 - (a) User Directorate (Furnish postal address, telephone No, Fax No and Email ID)
 - (b) Procurement Directorate (Furnish postal address, telephone No, Fax No and Email ID)
 - (c) Planning Directorate (Furnish postal address, telephone No, Fax No and Email ID)
 - (d) ADG Acquisition Technical (Furnish postal address, telephone No, Fax No and Email ID)

Annexure II to Appendix A

VENDOR INFORMATION PROFORMA1. **Name of the Vendor/Company/Firm.**

(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)

3. **Contact Details.****Postal Address:**

City: _____

State: _____

Pin Code: _____

Tele: _____

Fax: _____

URL/Web Site: _____

Email: _____

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

Name & Address: _____

Pin code: _____ Tel: _____ Fax: _____

Email: _____

5. **Financial Details.** Category of Industry (Large/Medium/Small Scale): _____

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

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

7. **Details of Registration.**

Agency	Registration No.	Validity (Date)	Equipment
GeM			
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: Paragraph 44 and Appendix F to Chapter II may be referred.

(Authorised Signatory)

Annexure III to Appendix A

REQUEST FOR INFORMATION: QUESTIONNAIRE

<u>Ser No</u>	<u>Specifications/ Parameters</u>	<u>Reply</u>
<i>(Details desired from the Vendor w.r.t technical, performance, maintenance, environmental, raw material and other characteristics may be obtained in form of a questionnaire)</i>		

Annexure IV to Appendix A

**GUIDELINES FOR FRAMING CRITERIA FOR VENDOR SELECTION/
PREQUALIFICATION IN 'BUY (INDIAN-IDDMM)' 'BUY (INDIAN)'
AND 'BUY & MAKE (INDIAN)' CASES**

1. The guidelines prescribed for short-listing/ pre-qualification of Indian vendors in Buy (Indian-IDDMM), Buy (Indian) & Buy & Make (Indian) cases are enumerated in the succeeding paragraphs. **Paragraph 2** deals with the parameters that may be considered for short-listing of vendors, whereas **Paragraph 3** amplifies the process for applying selected parameters to the process of Vendor Short listing.

2. **Parameters.**

(a) **General Parameters.**

(i) Applicant Entity should be an Indian Vendor as defined at Paragraph 20 of Chapter I of DAP 2020.

(ii) Business dealing with applicant Entity or any of its allied entities should not have been suspended or banned, by MoD/ SHQ or any Government Department or organization (as defined in Guidelines for Penalties in Business Dealings with Entities issued vide Ministry of Defence, D(Vigilance) MoD ID No 31013/I/2006-D(Vig) Vol II dated 21 Nov 2016). None of the Promoters and Directors of applicant entity should be a wilful defaulter.

(iii) "Entities" will include companies, with whom the Ministry of Defence has entered into, or intends to enter into, or could enter into contracts or agreements.

(iv) "Applicant entity" may be a company, subsidiary, an associate company (as defined in the Companies Act, 2013), a consortium or a Joint Venture (JV).

(b) **Technical Parameters.**

(i) Vendor shall be a manufacturing entity or a system integrator of defence equipment and not a trading company, except in cases where the OEM participates only through its authorised Vendors.

(ii) Minimum **two years** experience in **broad areas like manufacturing/ electronics/ explosives etc. as applicable in the instant procurement case.**

If not, then cumulative experience of at **least three years in above areas**, resulting in gaining of competence for manufacturing the proposed product. (In case the SHQ feels that for a particular equipment a lesser experience could be accepted, then the same should be got approved by the competent authority before including the same in the RFP).

(iii) Where product involves integration, previous experience **of not less than one year/ one project** in integration of systems/ equipment shall be required.

(iv) **Turnkey Projects.** Experience of successful completion of one Turnkey project of similar nature within last five years with value of at least 20% of AoN cost or currently executing a contract of similar nature with value of at least 30% of the AoN cost. In case of no experience in Turnkey projects, the vendor for main component of the Turnkey project may be selected if it has experience as per paragraph 2 (b) (ii) above and experience of installation or integration of similar equipment/system or system of systems.

(v) **ICT Cases.**

(aa) Certification to be included if linked to scope of work – Gartner Quadrant/ISO9001/CMMi3 or more (specifying development/service/acquisition models)/ISO27001. For Information Security and large value projects preferably CMMi5 may be specified.

(ab) Compliance with IEEE/ ITU standards depending upon nature/type of project or solution required.

(c) **Financial Parameters.**

(i) **Average Annual Turnover.** Minimum average annual turnover for last three financial years, ending 31st March of the previous financial year, should not be less than 30% of estimated cost of the Buy (Indian-IDDMM) and Buy (Indian) project and for Buy & Make (Indian) should not be less than 30% of estimated cost of the Make portion.

(ii) **Net Worth.** Net worth of entities, ending 31st March of the previous financial year, should not be less than 5% of the estimated cost of the Buy (Indian-IDDMM) and Buy (Indian) project and for Buy & Make (Indian) should not be less than 5% of estimated cost of the Make portion. For orders above ₹ 5000 crores, the Networth of group companies can be considered on production of suitable documentary assurance.

(iii) **Insolvency.** The entity should not be under insolvency resolution as per Indian Bankruptcy Code at any stage of procurement process from the issuing of RFP to the signing of contract.

(iv) **Credit Rating (Desirable Financial Parameter).** Long term credit rating equivalent to CRISIL rating on Corporate Credit Scale as **CCR-BBB or better**, and **SME-04 or better for SMEs** issued by credit rating agencies recognized by SEBI. Credit rating should be as on 31st March of the previous financial year.

(Note 1: All the above Financial Parameters, except Paragraph 2(c)(iii) above (Insolvency) will not be applicable for Capital Acquisition cases where estimated cost is ₹150 crores and below. However, Net worth of entities should not be **negative**.

Note 2: The turnover and net worth of the vendor shall be rounded off to the nearest lower ten/ hundred crores so as to keep the estimated cost of procurement confidential).

(d) **Other Parameters.**

(i) **Industrial License (IL).** Vendors should be either holding a valid defence industrial license or should have applied for the same before responding to RFP. In any case the vendor must confirm holding of IL before commencement of FET. (Items requiring IL will be as per DIPP Press Note 3 of 2014 as amended from time to time).

(ii) **Registration.** Registered for a minimum of two years (one year for SMEs). Minimum number of years not applicable for JVs constituted specifically for a project.

3. **Stipulations for Applying Parameters.**

(a) **Areas like manufacturing/ electronics/ explosives etc.** referred to at Paragraph 2(b)(ii) should be defined in each case of procurement.

(b) In case the Applicant Entity is unable to meet the Financial Parameters by itself, it may rely on its **Holding Company** (as defined in the Companies Act, 2013 and amendments thereof) (“Companies Act”) for fulfilment of the Financial Parameters, in which case reliance must be placed on the Holding Company towards fulfilment of **ALL** the Financial Parameters.

(c) In case the Applicant Entity is unable to meet one or more of the Technical Parameters by itself, it may rely on a Group Company(ies) for fulfilment of the Technical Parameters. A Group Company in relation to the Applicant Entity may be:-

(i) A company of which the Applicant Entity is an Associate Company. Such company should have ownership, directly or indirectly, of at least **26%** of the voting shares of the Applicant Entity.

(ii) A company which is an Associate Company of the Applicant Entity. The Applicant Entity should have ownership directly or indirectly, of at least **26%** of the voting shares of such Associate Company.

(iii) A Company with whom the Applicant Entity is commonly owned, directly or indirectly, for at least **26%** of the voting shares by another company. For example: An Applicant Company A is an Associate Company of Company B, in which B holds at least 26%. Further, C is also an Associate Company of B, in which B holds at least 26%. In this case the Applicant Company may use the credentials of C as well.

(iv) The Holding Company and Subsidiary Companies (as defined under the Companies Act) of the Applicant Entity.

(d) The Applicant entity may be a single entity or a group of entities (the “Consortium”), coming together to implement the project. In such case:-

(i) The credentials of only those members or their related entities may be counted, who have at least **26%** equity stake in the Consortium.

(ii) Each Consortium should have a designated **Lead Member**.

(iii) For Technical Parameters, **any of the Consortium members or their Group Companies** may meet the criteria.

(iv) For Financial Parameters; the Turnover and Net Worth of the Consortium Member shall be reckoned **proportionate to Consortium Member’s equity stake** in the Consortium, and each Consortium member should meet the other criteria pertaining to Insolvency and Credit Rating. In case the Consortium Member relies on its Holding Company for any one of the above-mentioned Financial Parameters, then reliance must be placed on the Holding Company for meeting **all the financial Parameters**.

(e) Vendors should provide all necessary self-authenticated documentation in support of their achievement of criteria. Such documentation should inter-alia include:-

- (i) Details of projects/ supply orders successfully executed in the last two years.
- (ii) Annual reports for three years of applicant entity, parent and associate companies, consortium and JV partners.
- (iii) Details of shareholders, promoters, associated, allied and JV companies.
- (iv) Details of vigilance action, viz. ongoing investigation and suspension/ debarment/ blacklisting actions against the applicant entity or any of its allied entities, parent company or consortium and JV partners, if any by any Department/agency of Central Government.
- (v) A certificate from CA/CS indicating the financial parameters for the last three years as per Paragraph 2(c).

(Note: If a vendor is already a supplier to MoD and/ or has already provided the above documents in such cases, it should be necessary for the vendor to resubmit only such documentations as is necessary to update the above).

- (f) Any vendor furnishing false information will be liable for action as per existing guidelines.
- (g) Based on these generic parameters, more specific criteria should be evolved by the SHQ with regard to Technical and Financial parameters {Paras 2(b) and 2(c) above} in each procurement case depending upon requirements peculiar to each case keeping in view the overall need to ensure wider vendor participation. The specific criteria evolved by the SHQ for each case, as per these guidelines, may be got approved by the competent authority before including the same in the RFPs.

5. **Start Ups/ MSMEs.** Start ups would be defined as per G.S.R. 127 (E) dated 19 Feb 2019 (as amended from time to time). For procurement cases where the estimated cost is not exceeding ₹100 crores/ year based on delivery schedule at the time of seeking AoN or ₹ 150 crores, whichever is higher, to encourage the Start Ups/ MSMEs and build Industrial ecosystem, the recognized Start Ups/ MSMEs in the relevant fields may be considered for issue of RFP without any stipulation of Financial parameters, except Paragraph 2(c)(iii) above (Insolvency) and with General and Technical parameters to be decided on case to case basis.

(Note: Start Ups should not be confused with New entrants who may be high/ mid-sized groups having financial support and manufacturing experiences and now venturing into Defence Production).

6. The criteria for vendor selection shall be clearly stipulated in RFPs so as to maintain transparency. Care shall be taken to ensure that the stipulated criteria are not open to subjectivity and arbitrary interpretation.

Appendix B to Chapter II
 (Refers to Paragraph 21 of
 Chapter II)

STATEMENT OF CASE TO BE CONSIDERED BY SPB/DPB/DAC
FOR CATEGORISATION AND ACCORD OF AON

NAME OF PROPOSAL	-
SERVICE	-
CATEGORISATION STATUS	-
REFERENCE NO ALLOCATED	-
(To be entered by concerned Secretariat)	
(a) SPB	-
(b) DPB	-
(c) DAC	-

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 ICDP.
 - (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 (Quantity vetting to be completed prior to SPB/DPB 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?

(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?

(iii) How are the D Level repairs planned to be carried out? OEM/Vendor or Indian partner or Services Maintenance Agency.

(g) **Details of GSQR/JSQR.** (Copy of approved GSQR/ JSQR/PSQR 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 certain cases, SHQ may conduct concurrent trials by constituting a Composite Trial Team (CTT), comprising of representatives of the User, QA agency, Maintenance agency and EMI/EMC evaluating agency and AoN for the same may be obtained.
- (k) Time Schedule for induction (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?
- (q) **Timeline for Procurement.** Are there likely to be deviations to the timelines given at Appendix L to Chapter II of DAP? If so, deviations and week-wise targets to be proposed by SHQ with justification.
- (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/ SHQ website/ Central Procurement Portal.
4. **Financial Aspects.**
- (a) To include cost of proposal (including all taxes and duties) 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.

(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 – Manufacture in India), Buy (Global), 'Make' with justification. (Appendix D 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) **Weapons/Platforms Banned for Import.** SHQ will ensure that no weapon/platform figuring on the MoD list of weapons/platforms banned for import is procured ex import. Equipment on the ibid list may be procured under the Buy (Indian - IDD), Buy (Indian), Buy and Make (Indian) (only if Buy quantities are zero) and Buy (Global - Manufacture in India) categories of procurement.

(c) Has the time required for the procurement and delivery from foreign source vis a vis the time required for making it within India along with urgency and criticality of requirement been examined?

(d) Justification for Procurement from a Single Vendor (If applicable).

(e) Detailed justification in cases SHQ proposes higher or lower IC.

7. **Comments of HO IDS.** (issues of commonality and interoperability will also be commented upon).

8. **Comments of HO DRDO.**

(a) To develop and productionise items and certify lack of capability to meet the needs if above not feasible.

(b) Offset Clause, as per applicability given at Paragraph 29 of Chapter II. (Recommendation as to the offset amount/percentage or any other comment).

9. **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).

10. **Comments of QA Agency.**

11. **Comments of Acquisition Wing.**

12. **Comments of MoD (Finance).** Quantity vetting would be approved by FMs/PIFA/IFA(Capital), as applicable

13. **Final Comments of SHQ Based on inputs of DRDO, DDP, Acquisition Wing and MoD (Finance).**

14. **Details of Approvals Sought.**

(a) AoN.

(b) Categorisation to include variation in IC, if any.

(c) Quantity.

(i) Buy quantities to be given out as FF, SKD and CKD as applicable.

(ii) Details of Indent to be placed for Make quantities after absorption of ToT.

(d) Estimated cost (including all taxes and duties). In case of Make cases, cost to be split into Prototype Development Phase and Procurement Phase.

(e) Essential Parameters B (if applicable).

(f) Weightage/Credit Scores of EPP (if applicable).

- (g) ToT including details of PA.
- (h) MToT including details of PA.
- (j) Trials (Waiver/Vendor Premises etc).
- (k) Timelines for Trials for Essential Parameters B (if applicable).
- (l) Offsets.
- (m) Option Clause.
- (n) AMC Service.
- (o) Any other aspect that require specific approval, including Open Tendering.

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 Concerned Secretariat

- 15. Recommendation of DPB including Reference No Allotted.
- 16. Decision of DAC/DPB and Reference No allotted.
- 17. Recommendation for Offset Clause Implementation (if applicable).

Appendix C to Chapter II
(Refers to Paragraph 21 of
Chapter II)

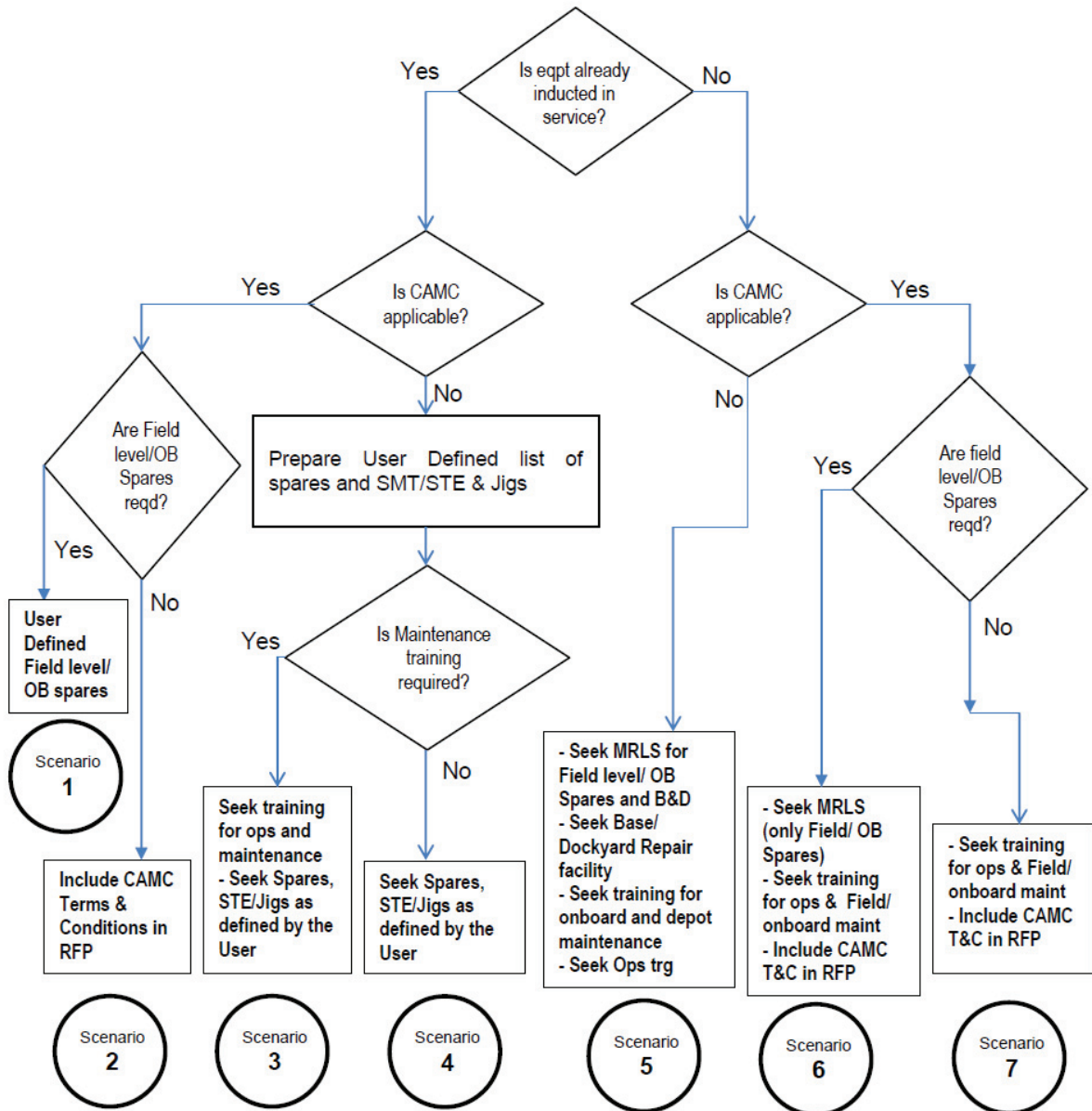
GUIDELINES FOR PREPARATION OF SOC AND RFP

1. The aim of this Appendix is to act as a guide in preparation of SoC and/or RFP as relevant at the time of seeking AoN to facilitate arriving at optimal.
2. Flowcharts assisted guidelines with relevant instructions for following requirements are placed at Annexure to this Appendix:-

<u>Ser No</u>	<u>Requirement</u>	<u>Annexure No</u>
(a)	Engineering Support Package, MRLS and Training	I
(b)	Scope of Trials and Production Stage QA and Acceptance	II
(c)	Packaging, Preservation, Delivery, Acceptance, Payment Terms and Warranty	III

3. It is recommended that the SoC and RFP shall clearly bring out all the aspects of acquisition project like broad deliverables, proposed repair and maintenance philosophy, delivery schedule, broad scope of validation trials, time lines of procurement, Packaging & Preservation needed and financial aspects, etc.
4. It is reiterated that these guidelines are indicative and do not limit the acquisition planner in visualising various additional scenarios that are likely to arise in individual cases.

Annexure I to Appendix C

ESP, MRLS AND TRAININGInstructions to the Acquisition Planners

1. *Engineering Support Package (ESP) in terms of Field/ OB spares and B&D spares to be supplied along with the type of training required viz Operator training and Maintainer training are important to ensure correct and fault free operation as well as for undertaking first line, routine and breakdown maintenance.*

2. *The spares required to be supplied along with the equipment or platform are, however, dependent upon the type of equipment/system/platform, intended usage, operation cycle and the maintenance support envisaged for the entire service life cycle of the equipment/system/platform. The maintenance support to be sought is also dependent upon the*

complexity of the equipment, availability of the OEM for service support as well as the time required for delivery of the deficient spares. Further, for equipment already inducted in service, it is imperative to seek spares based on experience gained in operation and maintenance to arrive at optimum spares requirement and to avoid wasteful expenditure.

3. *The above **flowchart aims in aiding the analysis of an acquisition scheme for the above aspects.** Acquisition planners are to follow following steps while formulating the RFP:-*

(a) *Analyse in detail the equipment/system/platform required based on its usage, complexities in operations, criticality, likely OEM support for service and spare and past experience (if any) to arrive at the most optimum requirement of spares and training. Based on the envisaged maintenance support, the levels of training required by operators and maintainers are to be arrived at.*

(b) *Various likely scenarios of relevant clauses in RFP and Standard Contract Document are as follows: -*

(i) **Scenario 1.** *Goods that are already in service and maintenance support is to be through comprehensive AMC (CMC). Field level/ OB Spares in respect of these goods can be forecasted based on their exploitation pattern.*

(ii) **Scenario 2.** *Goods that are already in service and maintenance support is to be through comprehensive MAC (CMC) but there is no requirement of stocking any Field level/ OB Spares based on past experience in exploitation and maintenance.*

(iii) **Scenario 3.** *Goods that are already in service but needs to be repaired and maintained by Services/ICG crew and technicians. Field level/ OB Spares and B&D Spares in respect of these goods can be forecasted based the past experience on the same equipment and on their exploitation pattern. However, depending upon its place of operation and maintenance, it needs additional training as well as SMT/STE for the same.*

(iv) **Scenario 4.** *Goods already in service but needs to be repaired and maintained by Services/ICG crew and technicians. Field level/ OB Spares and B&D Spares in respect of these goods can be forecasted based on their exploitation pattern, however, there is no requirement of additional training.*

(v) **Scenario 5.** *Goods that are being inducted for the first time and based on its envisaged operation and maintenance philosophy needs to be repaired and maintained by Services/ICG crew and technicians. These goods would require MRLS from OEM, operation and maintenance training and may require Base Repair depot/ dockyard repair facility.*

(vi) **Scenario 6.** *Goods being inducted for the first time with maintenance support through CMC and only Field level/ OB Spares are to be provided by the OEM along with operation and maintenance training.*

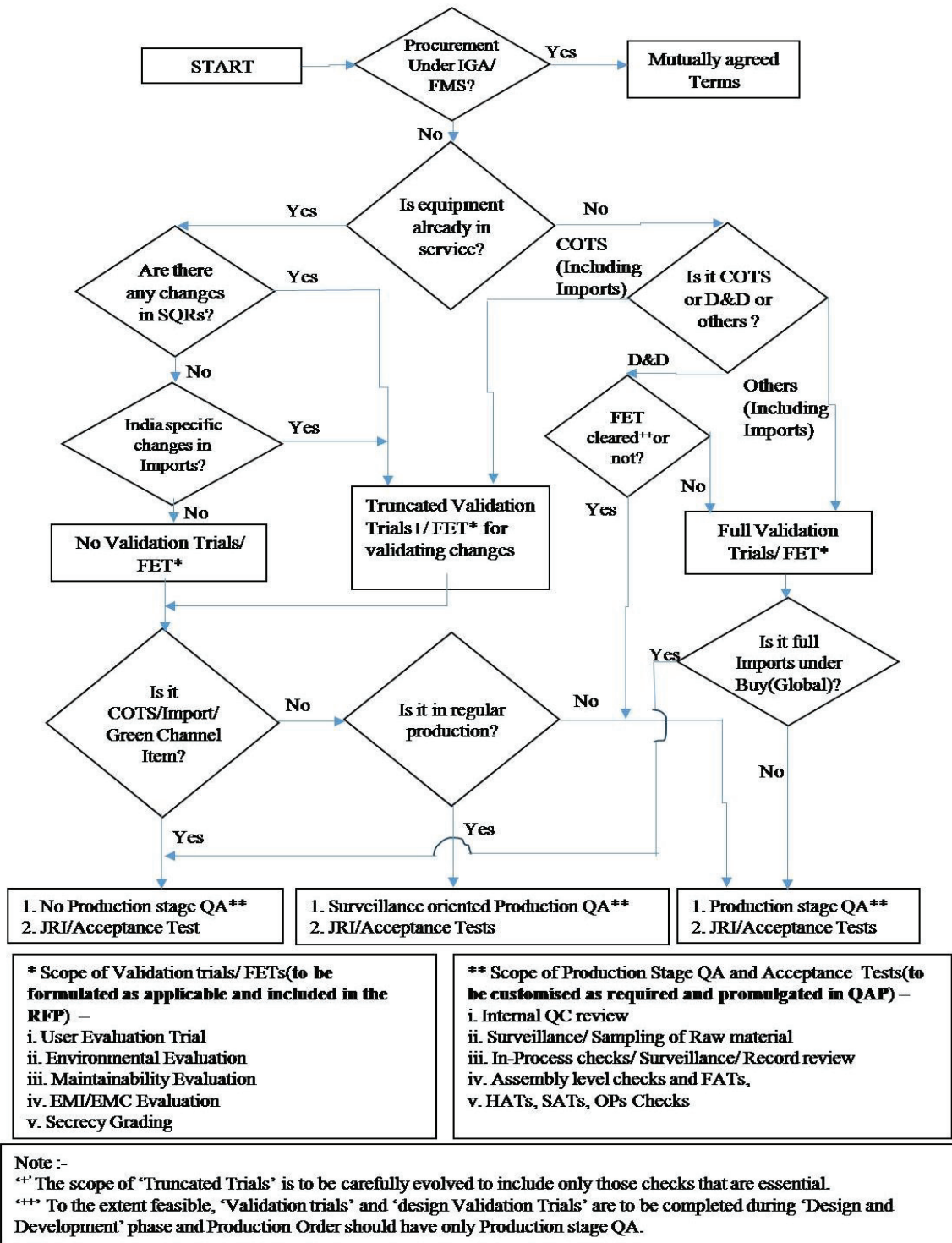
(vii) **Scenario 7.** Goods being inducted for the first time with maintenance support through CMC with no requirement of Field level/ OB Spares but OEM is to provide operation and maintenance training.

(c) In case of requirement of User defined Field level/ OB Spares and B&D Spares, the list needs to be prepared and vetted by both user and maintenance directorate.

(d) Terms of CMC need to unambiguously bring out the type of repairs/routines, allowable down time, level of spares support required as well as obsolescence management and upgrades requirement.

(e) LD for CMC needs to be formulated and included in the commercial clauses. The various scenarios where LD may be imposed include exceeding downtime beyond contractual terms either in single case or overall down time in a given period, non-stocking or non replenishment of spares, large number of defects leading to unreliability of equipment availability.

SCOPE OF TRIALS, PRODUCTION STAGE QA AND ACCEPTANCE



Instructions to the Acquisition Planners

- The selection of right equipment largely depends the strength of criterion adapted for validation trials and post induction its intended reliable performance will depend on soundness of production stage QA & Acceptance trials.

2. The principle to be adopted during finalizing the validation trials and production stage QA & acceptance trials is that they should be **sufficient and just**. Any over specification will add to delays and cost whereas any under specification will result in sub standard equipment availability.

3. **Validation Trials.** Validation trials are usually done on prototype set during design & development or equipment being inducted for first time in service. These are done only on one set i.e. first of type/prototype. If the same is not possible for reasons beyond control, a subsequent set may be used for validation. Where ab-initio design & development is involved then these are to be part of validation process of design. These are not necessary to be done for already in –service/ bulk orders/ repeat orders or on all sets of the equipment unless specifically needed and included in SQRs/AoN. The validation trials may consist of User trials/FET, Technical & Environmental Evaluation, Maintainability Evaluation Trial, EMI/EMC Evaluation and Secrecy grading depending on the SQRs. The above Flow Chart assists in arriving at necessary details.

4. **Production Stage QA & Acceptance.** The requirements of Production stage QA & Acceptance trials are to be indicated in the RFP based on the type/origin of equipment, SQRs and categorisation. The complexity of manufacturing and end use of equipment are also to be kept in mind while specifying the QA requirements and Acceptance procedures respectively. The production stage QA may involve verification of internal QC reports and random surveillance/sampling for Raw Material, In-process, Assembly level, ESS for electronic components and FATs/HATs/SATs/OPs Checks. The flow chart enclosed gives the various scenarios and resultant formulations to aid in arriving at the requirements.

5. It is therefore imperative that the validation trials, quality assurance and acceptance process is properly analysed and mandatory requirements incorporated in the RFP as many of these requirements may have significant performance, reliability, cost and time implications.

6. The above **flowchart aims in aiding the analysis of an acquisition scheme for the above aspects**. Various likely scenarios of relevant clauses in RFP and Standard Contract Document are as follows: -

(a) **Scenario 1.** Goods that are already in service. They have been procured after validation trials and have been type certified. The type certification is valid. The manufacturing stage QAP and acceptance procedure is existing & approved. This will normally be in case of repeat orders. In such cases no Validation Trials/Type Testing is needed and one has to simply specify the correct references of the approved documents.

(b) **Scenario 2.** Goods that are already in service but are being procured with minor modifications. In such cases the requirement of repeating limited type tests and modification in QA & acceptance has to be ascertained and included in RFP.

(c) **Scenario 3.** Goods that are being inducted for first time in service. In this case first it has to be ascertained whether they are Military grade/Ruggedised/COTs from the SQRs. In case of COTs, the scope of manufacturer's certification/ CoC has to be finalised and included in RFP. Then the need for Acceptance tests is to be

established. If, acceptance tests are not required then only JRI/On Receipt Inspection for quantity has to be included in RFP.

(d) **Scenario 4.** Goods falling in Scenario 3 above but requiring Acceptance tests are part of this Scenario. In such cases the need and scope of Acceptance tests has to be specified in RFP.

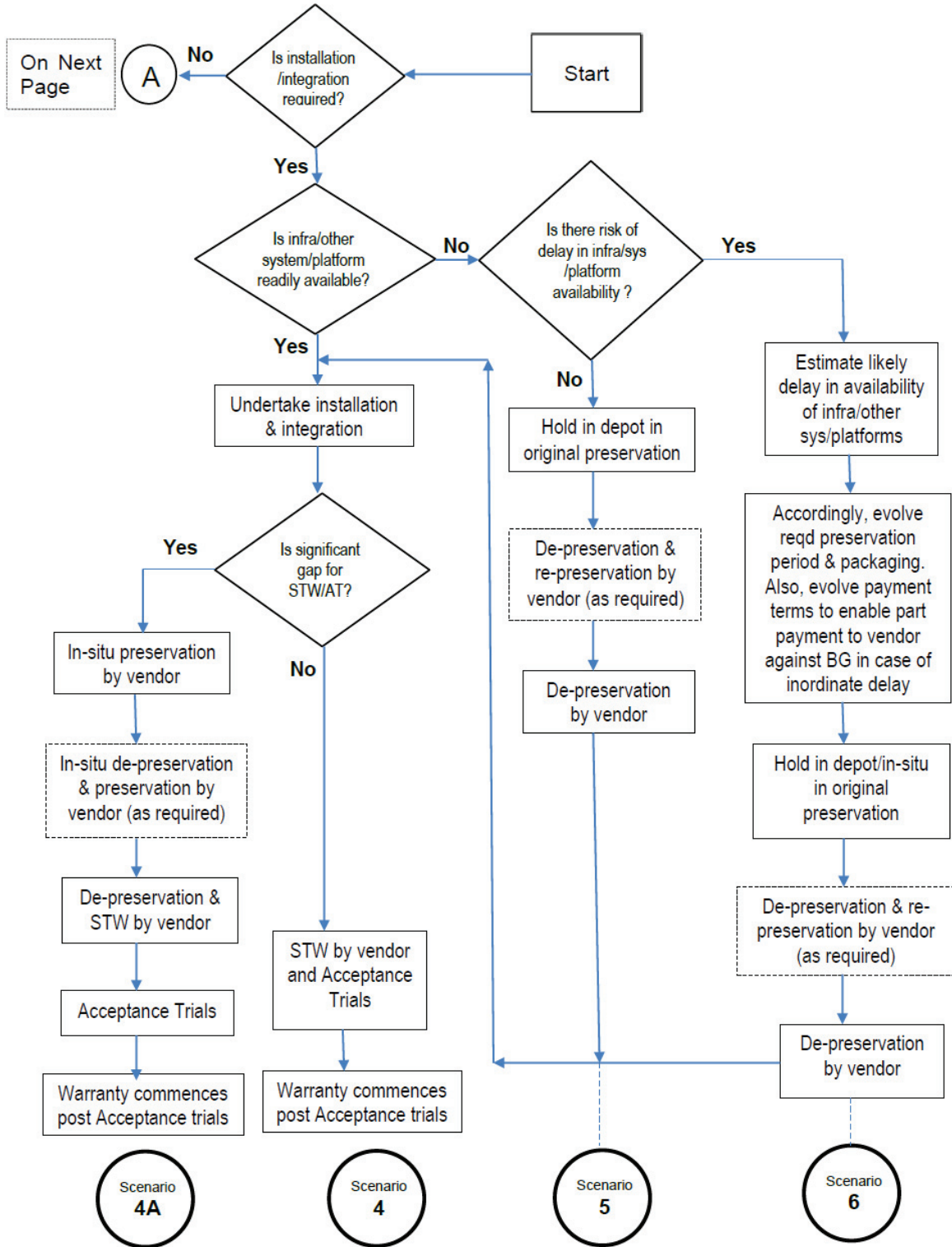
(e) **Scenario 5.** Goods that are being inducted for first time in service and are required to be Ruggedised as per SQRs. The scope of Validation trials/Production stage QA & Acceptance will depend on the Categorisation of the equipment as per AoN. In cases categorised as Buy(Global), the equipment may be outrightly purchased or may contain India specific modifications. In outright purchase, the scope of Induction trials will be maximum (except Environmental tests which may be limited to the extent of Ruggedisation) and should cover all aspects and accordingly specified in RFP. However, the scope of production stage QA & Acceptance will depend on whether vendor is in India or abroad, manufacturing process, duration of delivery, order quantity and number of sub-vendors involved. The clarity on same can emerge only after vendor selection. Hence, the RFP has to be worded carefully to indicate requirement of evolving the same with mutual consent prior contract finalisation.

(f) **Scenario 6.** Goods falling in Scenario 5 but are Categorised Buy(I-IDDM) or Buy(Indian). Here, the scope of Validation trials will be maximum (except Environmental tests which may be limited to the extent of Ruggedisation) and should cover all aspects and accordingly specified in RFP. However, the scope of production stage QA & Acceptance will depend on complexity of equipment, maturity of manufacturing process for indigenous content, order quantity etc. The clarity on same can emerge only after vendor selection and level of indigenisation achieved. There may be a need to evolve and rationalise QA process with increasing indigenous content. Hence, the RFP has to be worded carefully to indicate requirement of evolving the same with mutual consent prior contract finalisation.

(g) **Scenario 7.** Goods falling in Scenario 5 but are Categorised Buy & Make(Indian) or Buy& Make or Make. Here, the scope of Validation trials will be maximum (except Environmental tests which may be limited to the extent of Ruggedisation) and should cover all aspects and accordingly specified in RFP. However, the scope of production stage QA & Acceptance will get derived from the developer(in make case)/foreign partner's processes, technology transfer, and Indian vendor/PA's processes. The clarity on same can emerge only after vendor selection and level of technology absorption achieved in various stages. In make case the vendor will have to evolve QA along with developmental process. Hence, the RFP has to be worded carefully to indicate requirement of transferring QA as part of ToT / evolving the same with mutual consent prior contract finalisation.

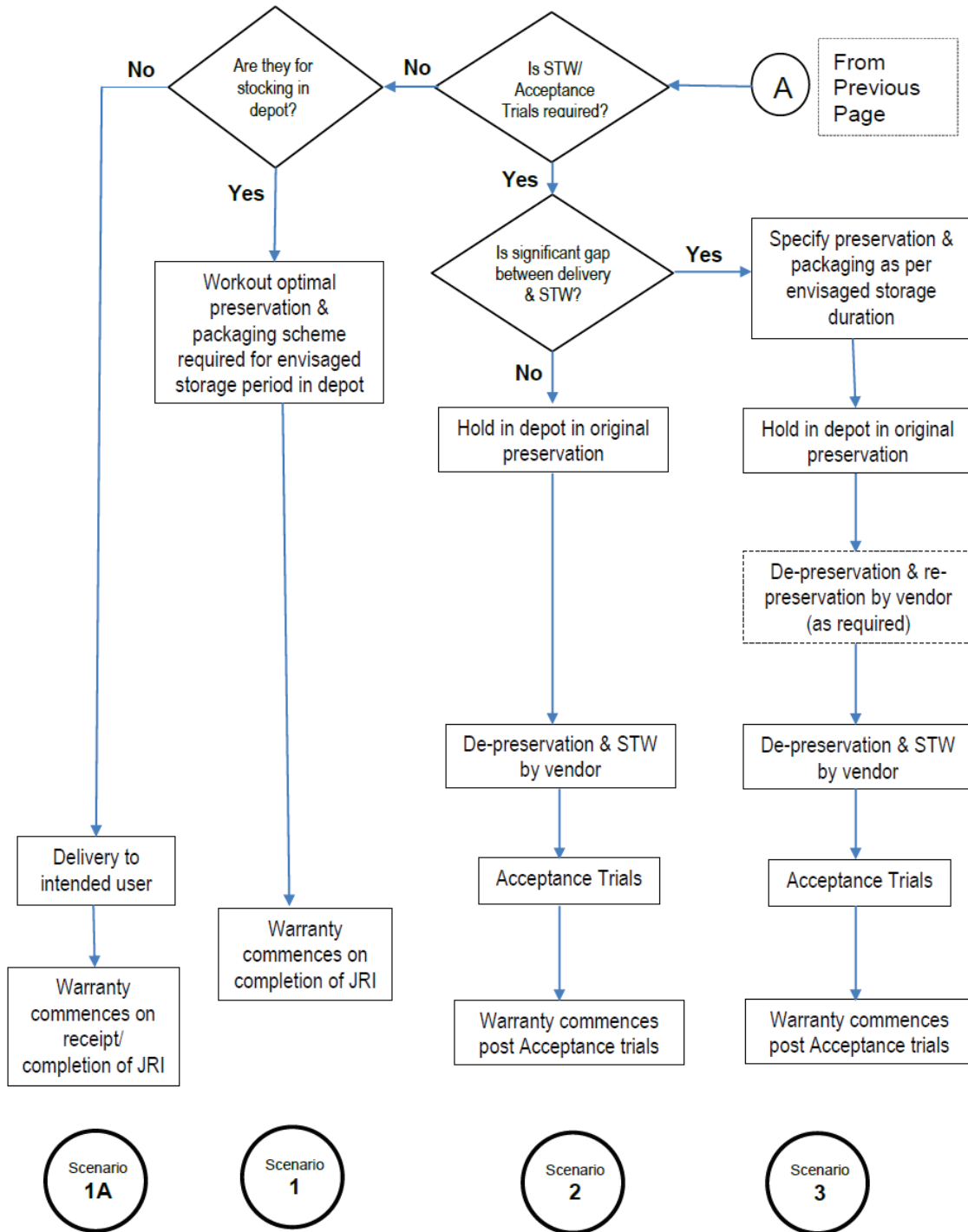
(h) **Scenario 8.** Goods that are being inducted for first time in service and are required to be of Military grade as per SQRs. The scope of Validation trials/Production stage QA & Acceptance will depend on the Categorisation of the equipment as per AoN. In respective cases the Scenarios as applicable in Ruggedised equipment as above at Paragraph (e), (f) & (g) will be applicable except that in military grade equipment the full range of environmental tests will be undertaken.

**PRESERVATION, PACKAGING, DELIVERY, ACCEPTANCE,
PAYMENT TERMS AND WARRANTY**



On Next Page

**PRESERVATION, PACKAGING, DELIVERY, ACCEPTANCE,
PAYMENT TERMS AND WARRANTY(Contd.....)**



Instructions to the Acquisition Planners

1. Goods delivered can be a standalone entity (system/ equipment) that can be independently exploited immediately on delivery **or** after storage for a certain period. It can even be a sub-system/ assembly or a standalone entity that may require 'installation on'/ 'integration with' another system for which the likely schedule of availability of premises for installation/ another system and readiness of such system for final acceptance is essential. In

a few cases, even after completion of installation/ integration of delivered goods, final commissioning and acceptance of such system cannot be progressed being linked to the readiness of a larger system or other associated systems.

2. *Comprehensive understanding of all the above requirements and realistic assessment of likely availability of 'other' systems for trials and acceptance of the delivered goods is essential to optimally plan the acquisition, to retain the shelf-life of the goods even in the worst case scenario, so that the delivered goods are accepted in conformity with the planned acceptance scheme and its warranty commences with the exploitation for the intended purpose.*

3. *These imperatives define the delivery schedule, packing, preservation (re-preservation if any) & storage conditions, scheme and schedule for final acceptance, system readiness for final exploitation and commencement of warranty. Payment terms for delivery of such goods need to be thoughtfully evolved to ensure that the payment is commensurate with the extent of fulfilment of contractual liability by the supplier. Where the supplier had fulfilled contractual liability and ready to fulfil the next stage, but the next stage cannot be fulfilled due to unavailability of associated system/ platform not attributable to the supplier, suitable provision to make a part stage payment is to be made in the payment terms so that the payment is not delayed for reasons not attributable to the supplier.*

4. ***The above flowchart aims at aiding the analysis of the project for the above aspects. Acquisition planners are to follow the following steps while formulating the RFP:-***

(a) *Analyse various stages of the project from the Delivery Schedule – Installation – Integration - Setting to Work - Commissioning - Final Acceptance as per the Flow Chart, to clearly understand the requirement, if any, of storage prior/ post installation, max duration for which the delivered goods are to be retained in preserved state (with due consideration to various risks that may delay their Installation-Integration-STW-Commissioning), analysis of likely delays in integration/ installation/ commissioning/ exploitation of the goods so as to arrive at an optimum plan and features to take care of all the possible scenarios in the RFP.*

(b) *Various likely Scenarios of relevant clauses in the RFP and SCOCs are as follows:-*

(i) **Scenario 1.** *Equipment which are not required to be installed and integrated and also no STW/Acceptance trials are involved and are meant to be delivered to depots for stocking. These needs to be preserved for long duration but in a sheltered environment. The Warranty shall commence on completion of JRI.*

(ii) **Scenario 1A.** *Equipment which are not required to be installed and integrated and also no STW/Acceptance trials are involved and are meant to be delivered to end user directly for early usage. These need not be preserved for long duration. The Warranty shall commence post JRI/on receipt inspection.*

(iii) **Scenario 2.** *Equipment which is not required to be installed/integrated but needs to go through STW/Acceptance trials. In case there is not going to be much delay in STW/Acceptance trials after delivery then*

the basic preservation for storing in Depots is needed, followed by de-preservation by vendor. The warranty shall commence post Acceptance trials.

(iv) **Scenario 3.** *Equipment which is not required to be installed/integrated but needs to go through STW/Acceptance trials. In case there is going to be much delay in STW/Acceptance trials after delivery then the proper preservation for storing in Depots is needed, followed by de-preservation/re-preservation by vendor may be needed and shall be included accordingly. The warranty shall commence post Acceptance trials.*

(v) **Scenario 4.** *Equipment which is required to be installed/integrated and needs to go through STW/Acceptance trials. In case there is going to be no delay in STW/Acceptance trials after delivery as associated systems/infrastructure is readily available then basic preservation and packing scheme should be worked out. The warranty shall commence post Acceptance trials.*

(vi) **Scenario 4A.** *Equipment which is required to be installed/integrated and needs to go through STW/Acceptance trials. In case there is going to be significant delay in STW/Acceptance trials after installation/integration due to operational/other reasons then suitable in-situ preservation/de-preservation scheme should be worked out. The warranty shall commence post Acceptance trials.*

(vii) **Scenario 5.** *Equipment which is required to be installed/integrated and need to go through STW/Acceptance trials. In case there is going to be delay in installation/integration after delivery as associated systems/infrastructure is readily not available then suitable preservation and packing scheme should be worked out. There will be requirement to de-preserve the system by vendor, the same shall be included. The warranty shall commence post Acceptance trials.*

(viii) **Scenario 6.** *Equipment which is required to be installed/integrated and need to go through STW/Acceptance trials. In case there is going to be significant delay in installation/integration trials after delivery as associated systems/infrastructure is not likely to be available in near future then robust preservation/de-preservation/re-preservation and packing scheme should be worked out. The equipment may be held in depots or may be at vendor premises. Suitable payment terms to the vendor have to be factored in. The warranty shall commence post Acceptance trials.*

(c) *Packaging/ Preservation instructions and Delivery Schedule shall take above scenarios into consideration to ensure that the installation of goods and STW and Final Acceptance is completed before the expiry of preserved life.*

(d) **Preservation & Packaging.** *The Preservation and Packaging plays a very important role in the equipment health prior installation and acceptance trials. Hence, the scheme of preservation and packaging must be carefully selected to meet the transportation and storage requirements prior fitment or delivery to depot. The kind of*

preservation scheme to be used depends on the type of the equipment & it's composition, Sub-systems and size (Electronic/ mechanical/hydraulic/composites), atmospheric conditions it will be stored in (whether the system is likely to be exposed to rain/sunlight/high temperature etc) and duration of storage. Depending on the preservation scheme and duration of storage there may be need for de-preservation and re-preservation.

(e) **Delivery Schedule.** Realistic assessment of various timelines including likely delays in the availability of associated infra/ system/ platform for installation/ integration and STW, Commissioning & final acceptance is to be made and the delivery schedule is to evolved suitably to minimise avoidable storage of goods for extended periods.

(f) **Preservation Period.** Based on the delivery schedule thus evolved, optimal preservation period is to be suitably arrived at and indicated in the RFP. If necessary, inputs on the max feasible preservation period may be obtained from the OEMs during RFI process. If the in-storage preservation period required is longer than the optimal/ max preservation period, requirement of in-storage de-preservation/ re-preservation is to be indicated in the RFP as a deliverable and contracted, with a condition that the payment will be made on actual utilisation as necessary. Similarly, if delay anticipated between installation/ integration and STW, Commissioning & Acceptance Trials, preservation during the period is to be included in the contract.

(g) **Warranty.** If the preserved state of the goods is ensured right through the storage and STW and commissioning, the warranty can commence with effective exploitation of the system, irrespective of delivery, so that the warranty can be gainfully utilised to test the equipment during exploitation. If necessary, feedback from prospective bidders on this aspect can be gathered during RFI process.

(h) **Payment Terms.** If in spite of all efforts to logically evolve the delivery schedule, the goods are ready for delivery and corresponding infrastructure/ associated system/ platform is not available as expected for installation and integration in a reasonable time, the supplier cannot be denied payment for the work accomplished in conformity with the contract schedule. The goods are to be accepted as per delivery schedule and the payment for the corresponding stage is to be made inline with the contract. If the next stage of work cannot be executed by the supplier due to delay on the part of the buyer in providing requisite infra/ associated system/ platform for STW, Commissioning and Acceptance trials in a reasonable time, the payment terms should cater for making certain part of the associated stage payment (even before accomplishing requisite work), against submission of bank guarantee for equal amount and firm undertaking from the supplier that they will fulfil all the obligations immediately on availability of requisite infra/ associated system/ platform. For the purpose of defining payment terms, following guidelines may be followed:-

(i) If Installation, Integration, STW, Commissioning and Acceptance trials of delivered goods does not involve establishing fructification of a new concept/ Development project/ validating a proof of concept/ IDDM concept,

about 10 to 15% of total value of the goods is to be retained for installation, integration, STW, Commissioning and Acceptance.

(ii) If Installation, Integration, STW, Commissioning and Acceptance trials of delivered goods involves establishing fructification of a new concept/ Development project/ validating a proof of concept/ IDDM concept, about 25 to 30% of total value of the goods is to be retained for installation, integration, STW, Commissioning and Acceptance.

Appendix D to Chapter II
(Refers to Paragraph 24 of
Chapter II)

DEFINING ATTRIBUTES AND DECISION FLOW CHARTS

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 (Global – Manufacture in India) |
| (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 Paragraph 72 of Chapter II of DPP 2016 or Chapter IV of DAP 2020 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 (Global - Manufacture in India)' 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 setup a subsidiary/JV/ToT to Indian PA with complete facilities for manufacturing of the entire/part of the equipment and spares/assemblies/sub-assemblies/Maintenance along with Repair and Overhaul (MRO) facility for the entire life cycle support of the equipment.

And

(c) The equipment/system/platform with the stipulated indigenous content, as per indicated time schedule and in requisite numbers can be affected by the OEM from the manufacturing facility in India.

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 vendor 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 Government 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.

Buying Priority Chart

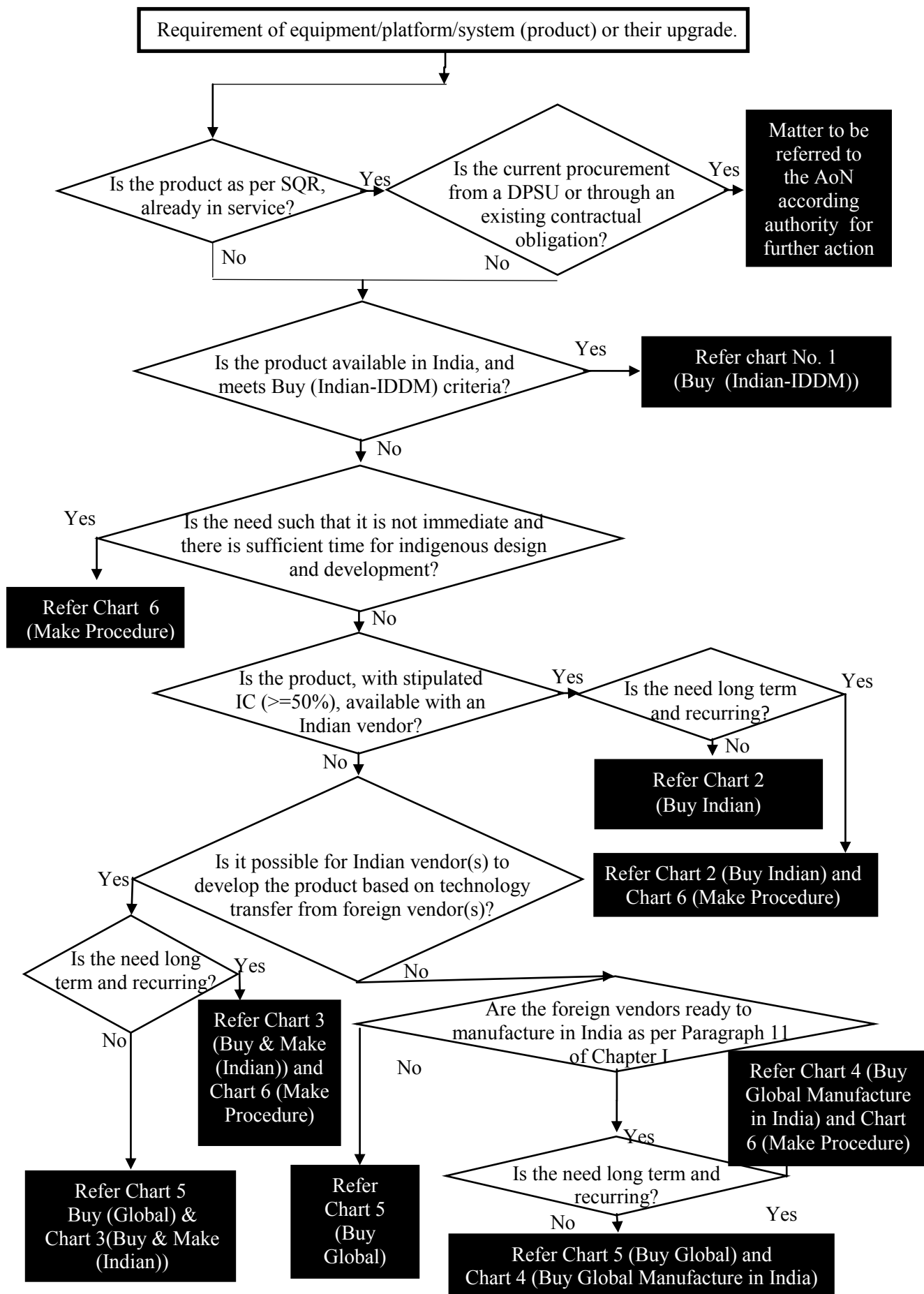
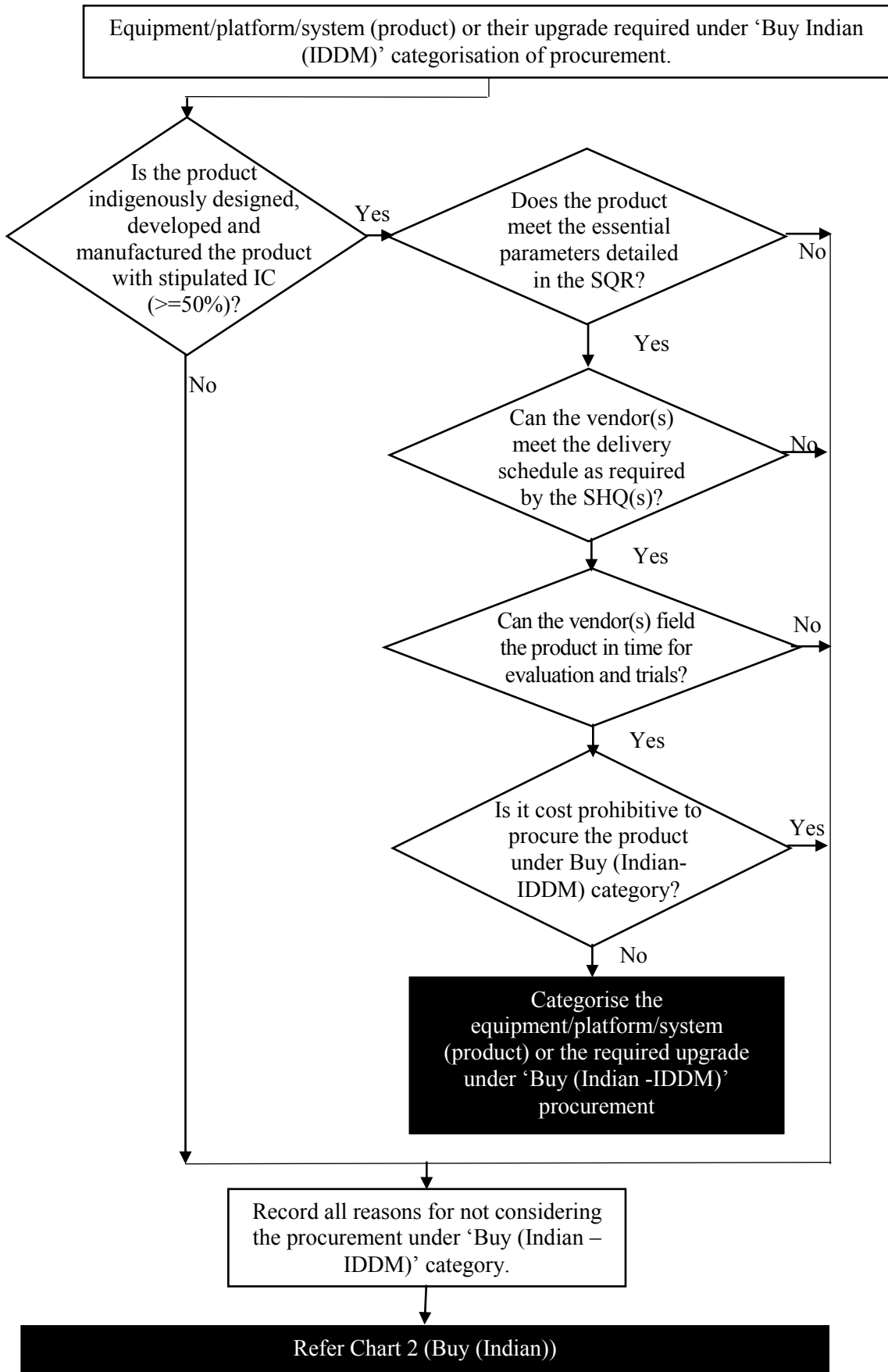
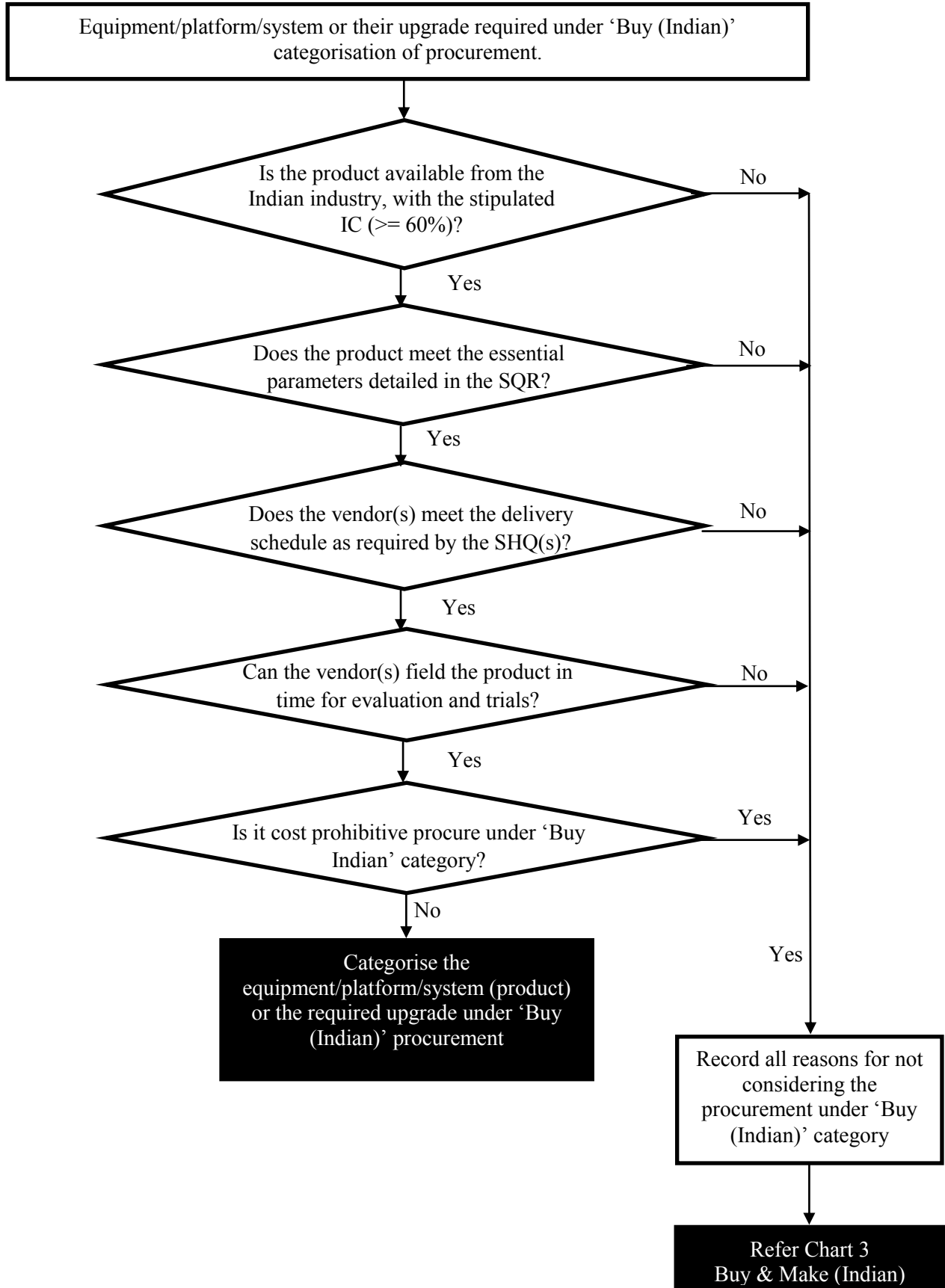


Chart 1 - Buy Indian (IDDM)

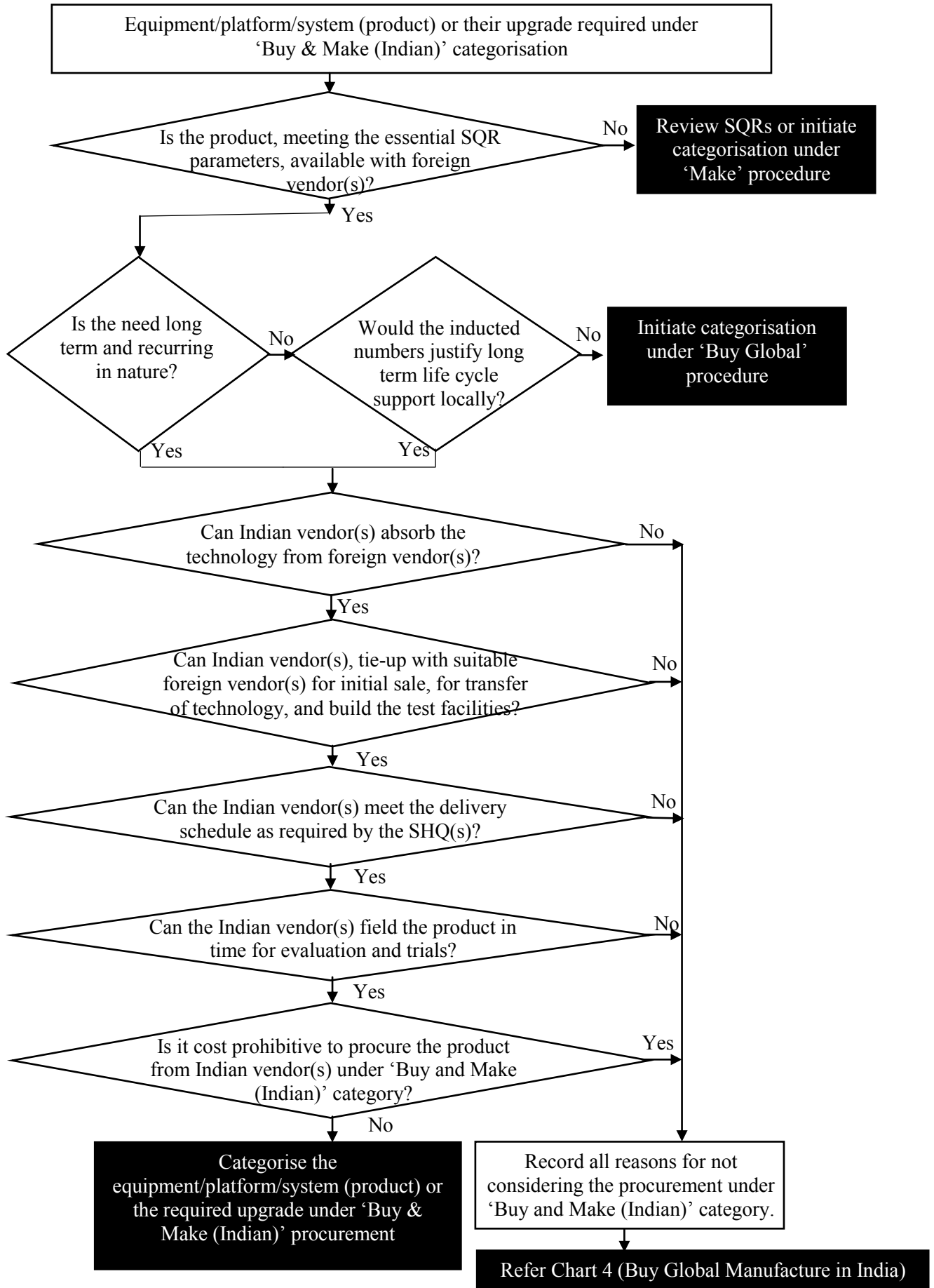


Annexure III to Appendix D

Chart 2 - Buy Indian

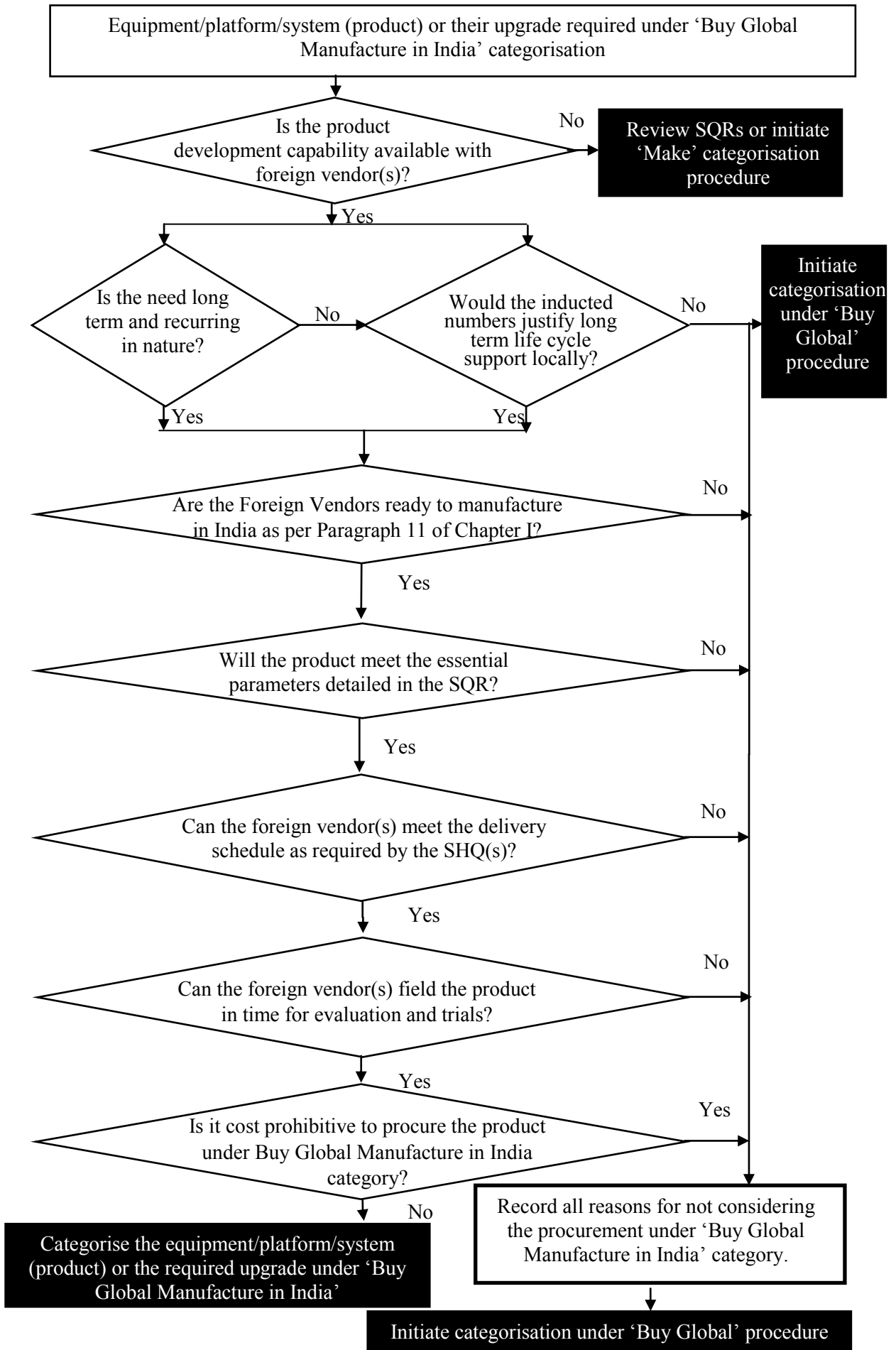
Annexure IV to Appendix D

Chart 3 – Buy & Make (Indian)



Annexure V to Appendix D

Chart 4 – Buy (Global- Manufacture in India)



Annexure VI to Appendix D

Chart 5 – Buy (Global)

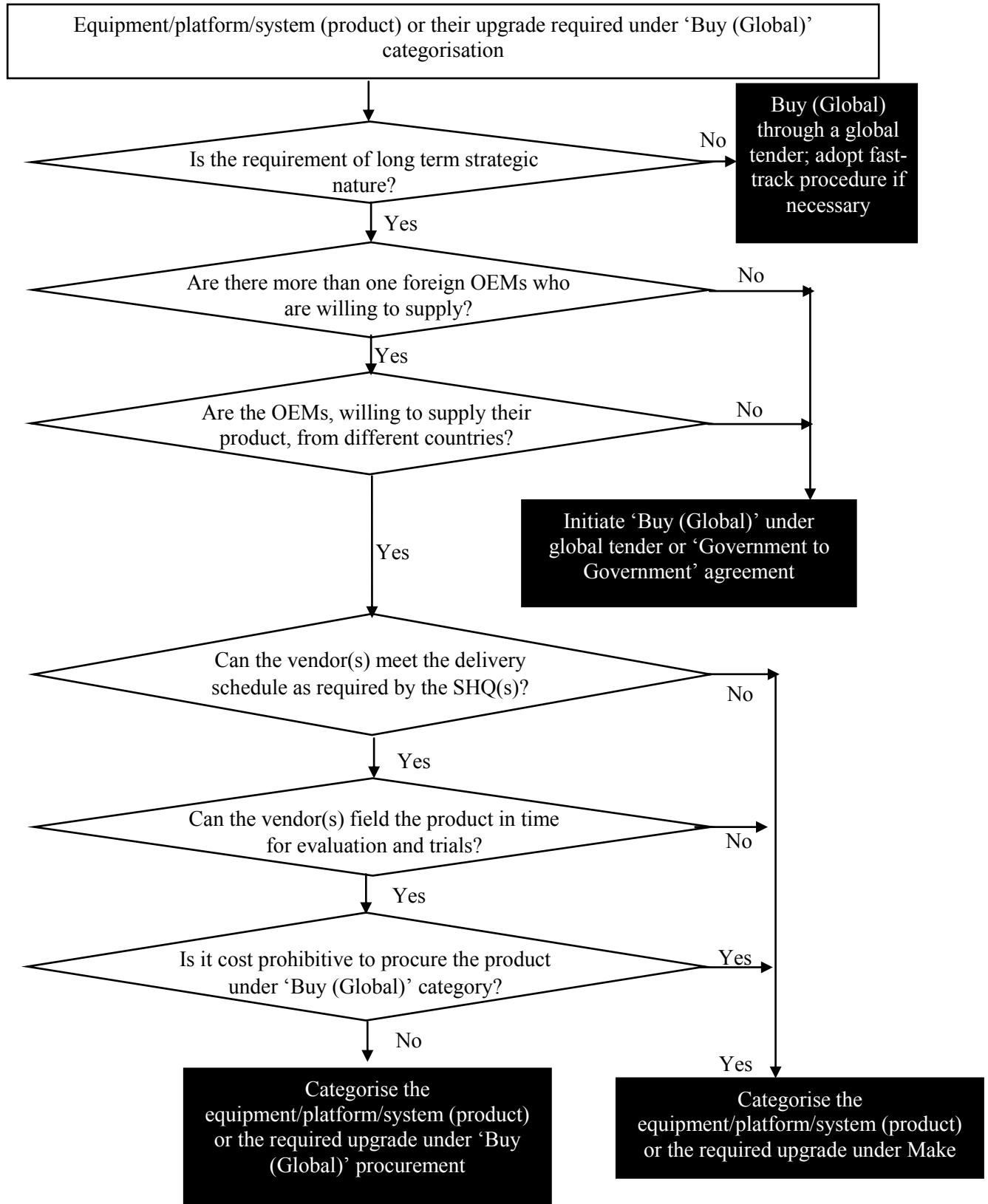
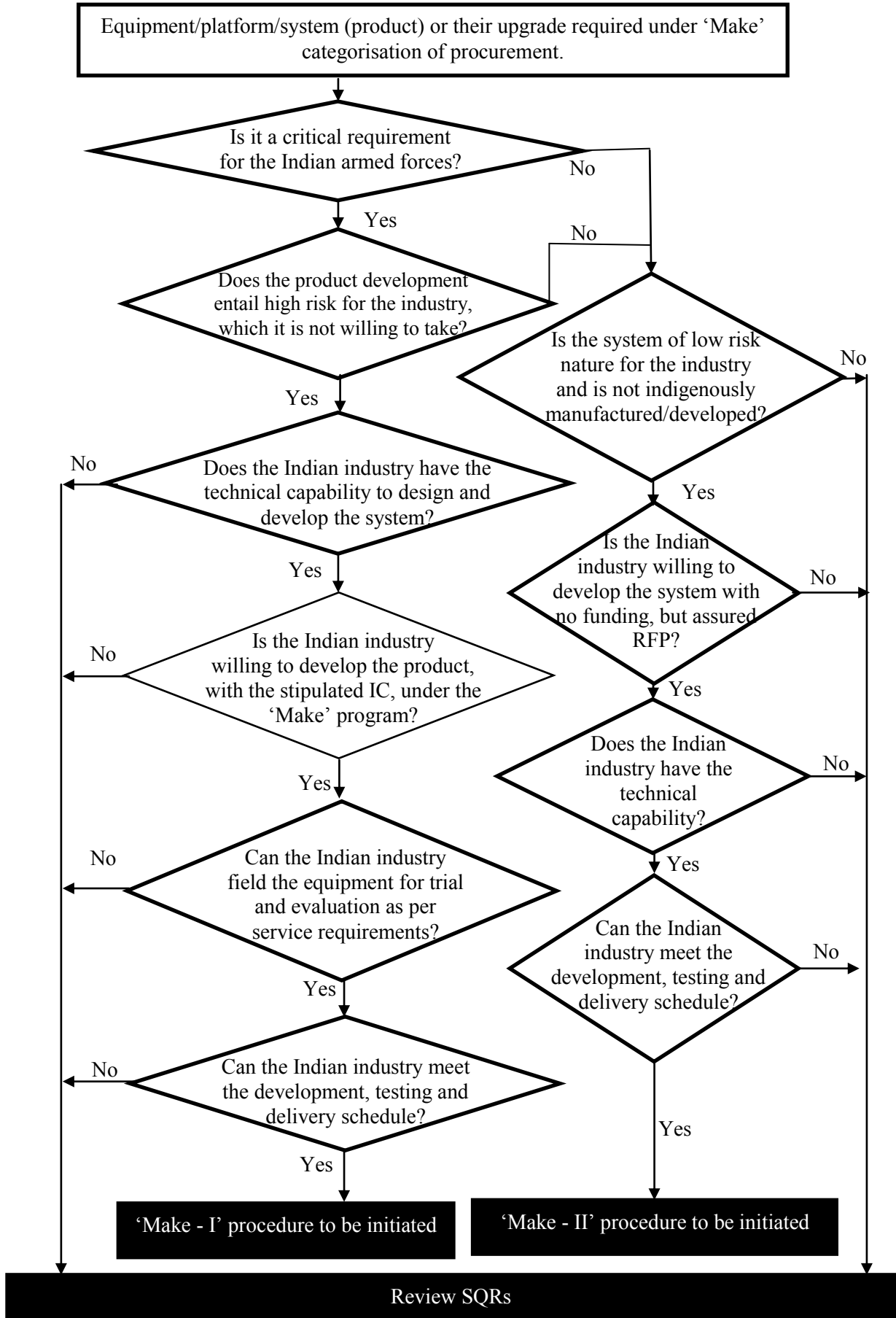


Chart 6 – Make Procedure



Appendix E to Chapter II
(Refer to Paragraph 28 29
of Chapter II)

DEFENCE OFFSET GUIDELINES

The provisions in the Defence Acquisition 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 and technology to develop Indian defence industry by (i) Fostering development of internationally competitive enterprises and (ii) Augmenting capacity for Research, Design and Development related to defence products.

2. **Quantum and Scope of Offsets**

2.1 **Applicability of Offsets.** The Offsets clause would be applicable for Buy (Global) categories of procurement where the estimated AoN cost is ₹ 2000 crores or more. An Indian Vendor participating in the Buy (Global) category would be required to meet minimum 30% IC, failing which such vendor would be required to discharge offsets as applicable in the case. In certain cases, the DAC may consider partial or full waiver of the Offsets clause. In case of a waiver for a particular acquisition case, eligible/selected Indian vendors need not be exempted from the corresponding IC stipulations. No offsets will be applicable in all ab-initio Single Vendor Cases, including procurements based on IGA/FMS.

2.1.1 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 more than 30 percent. 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% IC percentage'(IC is to be declared upfront at the time of submission of bid).In such a case, the Indian firm will clearly delineate the IC and offset portions in the offset contract and in offset claims.

2.2 30% of the estimated cost of the acquisition in 'Buy (Global)' category acquisitions will be the required value of the offset obligations.

2.2.1 In respect of Shipbuilding cases on competitive basis (Section B, Chapter XII), 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 services as described in Annexure-VI to Appendix-E.

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.~~ ³Nil.

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 **There will be no offset obligations in** (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 In compliance to Paragraph 1 above, 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. The list of products and services eligible for discharge of offset obligations is at Annexure VI to Appendix-E.

(b) Investment in defence manufacturing: This could be through FDI or direct investment or joint ventures or through the non-equity route for co-production, co-development and production or licensed production of defence products. Such investment would be subject to the guidelines/licensing requirements stipulated by the Department for Promotion of Industry and Internal Trade (DPIIT)/ Ministry of Home Affairs (MHA), Government of India. The list of ‘eligible products’ for discharge of offset obligations is at Annexure VI to Appendix-E.

(c) Investment in ToT to Indian enterprises for manufacture of eligible products. The list of eligible products for discharge of offset obligations is at Annexure VI to Appendix-E. The investment in terms of ToT must cover all documentation, training and consultancy required for full ToT (civil infrastructure and related equipment is excluded). The ToT should be provided without licence fee and there should be no restriction on domestic production, sale or export.

(d) Acquisition of technology through ToT to Government institutions and establishments engaged in the manufacture and/or maintenance of eligible products as listed at Annexure VII to Appendix-E, including DRDO and OFB/DPSUs. This will include augmenting capacity for Research, Design and Development, Training and Education but exclude civil infrastructure and related equipment.

³ Amendment issued vide Appendix A to MoD ID No 1(8)/D(Acq)/21 dated 11.11.2021.

(e) Technology Acquisition by the DRDO in areas of critical technology as listed in Annexure-VIII to Appendix-E. Guidelines for this purpose are at Annexure-IX to Appendix-E.

Note:

(i) Where ToT is proposed under Paragraph 3.1(c) and 3.1(d) above, Vendor shall ensure that the ToT is comprehensive and all aspects of design, manufacturing know-how and know-why is made available to the IOP.

4. Indian Offset Partner (IOP)

4.1 Indian enterprises, 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 DPIIT/MHA as applicable.

4.3 The 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 Ministry of Defence.

4.4 In relation to the discharge of offset obligation, the agreement between the 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 main procurement contract will be responsible for the fulfillment 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 vendor. However, overall responsibility and liability for the full discharge of offset obligations shall continue to remain with the vendor. Any shortfall by the Tier-1 sub-vendor shall be made good by the vendor, failing which the vendor shall be liable for penalty and debarment as stipulated in the offset guidelines.

5.1.1 In respect of Paragraph 3.1(b), 3.1(d) and 3.1(e) offset discharge can be permitted by entities other than vendor/Tier-1 Sub-vendor on a case to case basis.

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 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.

Offset Credits for Investment in Defence Manufacturing

5.4 Where the discharge of offset obligation is proposed in terms of Paragraph 3.1(b), L1 vendor must provide a Detailed Project Report (DPR) with cost break-up. Offset discharge shall be subject to physical completion of the project and verification of audited accounts of the company setting up the manufacturing unit.

Offset Credits for Investment in ToT

5.5 Where technology is proposed to be transferred under Paragraph 3.1(c), a third party valuation from the recognized/certified valuation firms duly accepted by the IOP to be submitted. The valuation so determined should be supported and justified through following approaches:

Cost Approach

- (i) Current cost estimate of technology development effort.
- (ii) Cost saving due to local purchase vs Global purchase.
- (iii) Net present value of the expected proceeds from future sales.

Market Approach:

- (i) Revenues generated from the technology till date.
- (ii) Exclusive use or territorial protection.
- (iii) Creation of new market for IOP.
- (iv) Jobs creation (Direct & Indirect).

Note: Cost of the valuation will be borne by the vendor and no offset credits will be admissible for the cost of valuation. It would be appropriate if the same is transferred by the vendor to the government and it then hires the valuer jointly with the vendor. Another option is for the valuer to be hired by the vendor in consultation with the Government. Detailed procedure for valuation of technology being transferred to Indian Industry, including the list of approved valuers, will be issued separately by DDP.

Value Addition

5.6 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.

Note: IC aspects are as given at Paragraph 8-12 and Appendix B to Chapter I

Multiplier

5.7 In the discharge of Offset obligation under 3.1 (a), the following multiplier will be permitted:

- (a) Eligible products - Multiplier of 1.0
- (b) Components of eligible products - Multiplier of 0.5

Provided, where Indian Offset Partner (IOP) is a Micro, Small and Medium Enterprise (MSME) and discharge of offset obligation is proposed under Paragraph 3.1(a), a multiplier of 1.5 will be permitted. MSMEs are as defined by Ministry of Micro, Small and Medium Enterprises, Government of India from time to time.

5.8 In the discharge of Offset obligation under 3.1 (b), a multiplier of 1.5 will be permitted.

Provided where the investment is under Paragraph 3.1(b) in Defence Industrial Corridors notified by the Department of Defence Production, a multiplier of 2 will be permitted.

5.9 In the discharge of Offset obligation under 3.1(c), a multiplier of 2 will be permitted.

5.10 In the discharge of Offset obligation under 3.1(d), a multiplier of 3 will be permitted

5.11 In the discharge of offset obligations under Paragraph 3.1(e), relating to critical technology acquisition by DRDO, a multiplier of 4 will be permitted.

Note: Clubbing of multipliers is not permitted.

Valuation of Offsets

5.12 All investments made after signing of the main procurement contract shall only be reckoned for discharge offset obligations. For the purpose of these offset guidelines, the date of discharge of offset obligations under Paragraph 3.1 shall be the date of completion of the transaction, based on documentary evidence 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.

5.13 Only contracts for direct purchase or export of eligible products or investments made in eligible products 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 Paragraph 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 Paragraph 3.1 (b) or other investments or ToT and Technology Acquisition covered under paras 3.1 (c), (d), and (e), 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.

Management of Offsets

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

Defence Offsets Management Wing (DOMW)

6.2 Defence Offsets Management Wing (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) Technical evaluation of Offsets
- (c) Monitoring the discharge of offset obligations, including audit and review of yearly progress reports received from vendors.
- (d) Chairing TOEC for technical evaluation of Offset proposals.
- (e) Participation in Commercial evaluation of offset proposals as members CNC.

- (f) Administration of penalties under offset contracts in consultation with Acquisition Wing.
- (g) Assisting vendors in interfacing with Indian industry.
- (h) 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. The period of main contract includes the period of warranty of the equipment being procured under the main contract.

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 Paragraph 45 of Chapter II read with Schedule I of DAP 2020 prescribes the standard RFP document. Paragraph 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-E** 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 Paragraph 8.11 and render the vendor liable for debarment from participating in future procurement contracts for a period up to five years as indicated in Paragraph 8.15. Failure to submit the undertaking in Annexure-I to Appendix-E 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 ADG Acquisition Technical will be binding. The technical and commercial offset proposal should be submitted in two separate sealed cover to the ADG Acquisition Technical 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 'E'** respectively. The commercial offset proposal must provide details of the business model for proposals relating to Paras 3.1(c) 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 Paragraph 3.1(e) of the Offset Guidelines will be forwarded by the ADG Acquisition Technical to DRDO. In case any offset credits are claimed under Paragraph 3.1(e) of the Offset Guidelines, the Technical

and commercial proposal should be submitted in a separate envelope as per format at **Annexure-IX to Appendix 'E'**. 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 ADG Acquisition Technical to the concerned SHQs and Acquisition Managers respectively.

8. **Processing of Offset Proposals**

Technical Evaluation

8.1 The Technical Offset Evaluation Committee (TOEC) will be constituted by the ADG Acquisition Technical with approval of the DG (Acquisition). The TOEC will include representatives of the SHQ, Defence (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 JS (DOMW). The Member Secretary shall be nominated by the SHQs. The TOEC Report will be forwarded to DG(Acq) through ADG Acquisition Technical for acceptance.

8.2 The TOEC will scrutinize the technical offset proposals (excluding proposals for Technology Acquisition by DRDO as per Paragraph 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 up to one year prior to discharge of offset obligations through that IOP or at the time of seeking offset credits.

(a) If the vendor submits the required documents up to 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.

(b) 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. 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.

Note:

- (i) The vendors are free to select option under Paragraph 8.2. Once approved; no change in option shall be permitted during the contract period.
- (ii) In case ToT is proposed under Paragraph 3.1(c) and 3.1(d), the vendor will be required to provide details of ToT at the time of TOEC.

Technology Acquisition

8.3 Offset Proposals relating to Paragraph 3.1(e) 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 utilizing the technology. The TAC will send its recommendations, duly approved by SA to RM, to the ADG Acquisition Technical 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-E**.

Commercial Evaluation

8.4 The Commercial Offset Offer will contain the detailed offer specifying the value of the total offset commitment components, with a yearly breakdown of the details, phasing, IOPs. 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. The commercial valuation of Technology Acquisition by TAC (refer Paragraph 8.3) will be incorporated in the CNC Report.

Approval Authority

8.6 The draft negotiated Offset Contract (Annexed with the CNC report), 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 along with the main procurement contract. Signed copies of the offset contract will be made available to DOMW for its implementation.

Model Offset Contract

8.7 A model Offset Contract is at **Annexure-IV to Appendix-E**. The provisions of Offset Guidelines as applicable will be appropriately reflected in the Offset Contract in a particular case. Any deviation from the guidelines in a particular case will be put up to DAC through DPB for approval. The offset contract shall be subject to the laws of India.

Submission of Offset Discharge Claims

8.8 The vendor shall submit offset discharge claims in the format in **Annexure-V to Appendix E** to the DOMW through the online portal. DOMW may conduct an audit by a nominated officer or agency to verify the actual status of implementation.

Discharge of Offset Obligations

8.9 On approval of offset claims by the competent authority from time to time, DOMW shall convey discharge of offsets to the vendors.

Yearly Offset Obligations

8.10 A vendor shall be required to fulfill offset obligations in accordance with the annual phasing plan as agreed in the offset contract.

Penalties

8.11 If a vendor fails to fulfill 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 be re-phased as per Paragraph 8.14. 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.

Re-phasing of offset obligations

8.12 A vendor may, by giving reasons, request re-phasing of the offset obligations within the period of the offset contract. The re-phasing request of the vendor will be processed without any disincentives if the shortfall is re-phased to the following year. However, if the re-phasing of offset value is proposed over the subsequent years, then 5% additional obligation will be imposed on re-phased value of every year. The re-phasing request for

second and subsequent attempts will be processed by imposing additional 5% on proposed yearly re-phased offset value irrespective of the spread of re-phasing. This yearly additional 5% offset obligation for processing re-phasing request will be over and above the outright financial penalty on shortfall specified at Paragraph 8.11 of Defence Offset Guidelines. JS (DOMW) may allow the request, with the approval of Secretary, Defence Production. Re-phasing will not be permitted beyond the period stipulated in Paragraph 5.2 of the guidelines.

Change in IOP or Offset Avenue

8.13 DOMW may recommend change in offset partner or offset avenue on being convinced that the change is necessary to enable the vendor to fulfill offset obligations. The vendor will be required to submit such request through DOMW online portal and which shall be disposed of within 03 months. Any change in IOP/offset avenue of a Tier-1 sub-vendor will have to be forwarded to DOMW through the vendor. The overall value of offset obligations shall, however, remain unchanged. Any change in the IOP and Offset Avenue shall be approved by the Secretary, Defence Production.

Offset Contract Amendment

8.14 Any amendments to the offset contract due to changes in paras 8.12 and 8.13 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.

Debarment

8.15 Any vendor failing to implement the offset obligations will be liable for action under Paragraph 120 of Chapter II.

Clarifications

8.16 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.

8.17 Any differences or disputes with vendors will be settled through discussion and, if not resolved, will be referred to the Independent External Monitors (IEMs) for advice with the approval of Secretary (Defence Production). IEMs would provide their advice preferably within 02 months. 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

8.18 The Acquisition Wing will submit an annual report to the Defence Acquisition Council in June of each year regarding the details of offset contracts signed during the previous financial year. DOMW will also submit an annual report to the Defence Acquisition Council in June each year regarding the status of implementation of all on-going offset contracts during the previous financial year.

Miscellaneous Provisions

8.19 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.

8.20 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 DPIIT, MHA, Department of Commerce and Ministry of Finance, etc.

8.21 These Defence Offset Guidelines shall come into force with effect from 01 October 2020.

Annexure I to Appendix E
(Refer to Paragraph 7.1 of
Appendix E)

UNDERTAKING TO COMPLY WITH OFFSET OBLIGATIONS

1. The Bidder (name of the company) hereby
 - (a) Undertakes to fulfill the offset obligation as laid down in the Request For Proposals.
 - (b) Undertakes to ensure timely adherence to fulfillment 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 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 E
(Refer to Paragraph 7.2 of
Appendix E)

FORMAT FOR SUBMITTING TECHNICAL OFFSET OFFER

1. The bidderhereby 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 Paragraph of 3.1)	Multiplier Applicable (quote applicable Paragraph)	Percentage of Total Offsets	IOP/ agency for discha rge	Time Frame for Discharge of Offset	Whether Related to Main Equipment Being Supplied (Yes/No)	Remarks

Note: Bidder 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.*
- f) *List of Tier-I 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 Paragraph 3.1(e) of Appendix E should be submitted separately in the format at Annexure IX to Appendix E.*
- h) *Details of banked offset credits accumulated under earlier DPPs, as certified by DOMW (Pre-approved banked offset credits will be considered for discharge of offset obligation subject to maximum of 50 percent of the total obligation under each procurement contract).*

Annexure III to Appendix E
(Refer to Paragraph 7.2 of
Appendix E)

FORMAT FOR SUBMITTING COMMERCIAL OFFSET OFFER

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

S No	Eligible Offset Products /Services Being Offered	Avenue for Discharge (quote sub Paragraph of 3.1)	Multiplier Applicable (quote applicable Paragraph)	Percentage of Total Offsets	IOP /agency for discharge	Time Frame for Discharge of Offset	Whether Related to Main Equipment Being Supplied (Yes/No)	Remarks

Note: Bidder 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-I sub-contractors, if any.*
- d) *Letter of IOP/agency confirming acceptance of the offset project in case of direct purchase or investment.*
- e) *Value of investment supported by documentary evidence.*
- f) *Bidder to provide Detailed Project Report (DPR) with cost break-up relating to Paragraph 3.1(b) and(c) of the offset guidelines at Appendix E to Chapter II should be indicated, as applicable*
- g) *Details of banked offset credits accumulated under earlier DPPs, as certified by DOMW (Pre-approved banked offset credits will be considered for discharge of offset obligation subject to maximum of 50 percent of the total obligation under each procurement contract).*

Annexure IV to Appendix E
(Refer to Paragraph 8.7 of
Appendix E)

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 _____ herein after 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-E of Chapter-II of the ~~DPP~~ **DAP 2020**, 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 fulfillment 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, 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. Further, within ninety (90) calendar days from the effective date of Contract, the seller shall, in writing, provide to DOMW, Department of Defence Production with a copy of the Offset programme contracts entered into with Indian Offset Partners (IOPs) in case the details of IOPs have been provided at TOEC stage/ up to one year prior to discharge of offset obligations/ at the time of seeking offset credits, as the case may be. In case of offset discharge through ToT, the ToT details will be provided by the vendor at the TOEC stage.

(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 fulfillment of the Seller's remaining Offset obligations.

(7) This Contract, and any and all matters relating to the fulfillment 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.

Annexure V to Appendix E
(Refer to Paragraph 8.8 of
Appendix-E)

REPORT ON FULFILLMENT OF OFFSET OBLIGATIONS

1. MAIN CONTRACT NO AND EFFECTIVE DATE _____
2. INDIAN OFFSET PARTNER _____
3. OFFSET CONTRACT NUMBER _____
4. PRODUCT NUMBER AND NAME _____
5. SCHEDULE OF OFFSET OBLIGATIONS AND FULFILMENT

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

6. Explanatory notes, if any
7. Supporting enclosures with respect to column 5 above for actual value fulfilled.
8. Value of investment must be supported by documentary evidence.
9. In respect of Technology Acquisition proposals under Paragraph 3.1 (e) of Defence Offset Guidelines, a copy of this report may also be sent to DIITM, DRDO.

Annexure VI to Appendix E
 (Refer to Paragraph 2.2.1 and
 3.1(a), (b) and (c) of Appendix E)

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

1. **Arms.** Small arms, mortars, cannons, guns, howitzers, anti-tank weapons.

2. **Ammunition and Explosives.**

(a) Bombs, torpedoes, rockets, missiles.

(b) Energetic materials, explosives, propellants and pyrotechnics.

3. **Armoured Vehicles.**

Tracked and wheeled armoured vehicles, vehicles with ballistic protection designed for military applications, mine protected vehicles.

4. **Naval Platforms.**

(a) Vessels of war and special naval systems.

(b) Weapons, sensors, armaments, propulsion systems, machinery control systems, navigation equipment/instruments, hull forms of warships, submarines, auxiliaries related to Paragraph 4(a) above.

(c) Other Vessels/crafts/boats related to Paragraph 4(a) above.

5. **Aircraft.**

(a) Aircraft including helicopter, unmanned airborne vehicles, aero engines for military use.

(b) Maintenance, Repair and Overhaul (MRO) related to aircrafts and helicopters.

6. **Electronics and Communication equipment.** Electronics and communication equipment specially designed for military use such as electronic counter measure and countermeasure equipment surveillance and monitoring, data processing and signaling, guidance and navigation equipment, imaging equipment and night vision devices, sensors.

7. **Other Defence Products.**

- (a) Forgings, castings and other unfinished products which are specially designed for products for military applications.
- (b) Personal Protective Equipment.
- (c) Troop Comfort Equipment.
- (d) Parachutes.
- (e) Direct energy weapon systems, counter-measure equipment, super conductive equipment.

Note:

- (i) Components related to above categories are also eligible for offset discharge.*
- (ii) Investment in civil infrastructure and related equipment is excluded from the list of eligible products and services, unless specifically indicated.*

Annexure VII to Appendix E
(Refer to Paragraph 3.1(d) of
Appendix E)

LIST OF TECHNOLOGY ELIGIBLE FOR DISCHARGE
OF OFFSET OBLIGATIONS
(To be reviewed periodically)

- i. 250 KW Silver Zinc Battery
- ii. *Guidance wire for Torpedo*
- iii. Helicopter Fire Control System
- iv. Mine Counter Measure Vessel
- v. Early Warning Suite for fighter aircraft
- vi. Diesel engine technology for ships
- vii. Powder Metallurgy Technology (for 3D printing – TI Alloys, Tungsten Alloy and Super Alloy)
- viii. Single crystal/Dissolved crystal
- ix. Magnetic signature duplicator (MSD) or Electro-magnetic device (EMD) for use in conjunction with mine plough attachments for main battle tank.
- x. Light weight armoured composite material and fabrication/manufacturing technology.
- xi. Engine for Futuristic Infantry Combat Vehicle.
- xii. Marine Gas turbine for warship propulsion
- xiii. Propeller and Shafting
- xiv. Magazine Fire Fighting System
- xv. Propulsion Motor Technology
- xvi. Cognitive Computing
- xvii. Waveforms for Cognitive Radios
- xviii. WIFI Technology for Smart Next Generation Radios
- xix. Advance OFDM Waveform with MANET features
- xx. RAS equipment's & NATO Probes
- xxi. Machine Learning
- xxii. Cyber Technologies
- xxiii. AESA Radar
- xxiv. Optics
- xxv. RLG Sensors
- xxvi. Flight Control Servers
- xxvii. HUMS- sensors technology, integration, data storage and analysis
- xxviii. Smart MFDs Algorithms, open system architecture
- xxix. Large Area Displays with touch screens- display, data handling
- xxx. Electro-Optic Sensors technology and integration
- xxxi. Infra-Red Sight and Target sensors technology and integration

- xxxii. Encryption Techniques for Video/ Audio/ Digital Data in Variable Frequency Bands
- xxxiii. Encryption Techniques for Secured Data Links
- xxxiv. Digital Flying Controls computational techniques
- xxxv. Automatic Flying Controls Systems and sensors—Design Process
- xxxvi. Light weight rugged ship borne radar antenna design technology
- xxxvii. Intermediated Frequency Stage Video Extractor for Radar.
- xxxviii. Light weight Base Line Interferometry (BLI) and Circular Interferometry (CI) wide band ESM antenna
- xxxix. Active sonar system with multi-static capability
 - xl. Flex-tensional low frequency transducer.
 - xli. Micro Electro Mechanical System (MEMS) elements and fiber optic sensor based underwater transducer
 - xlii. Acoustic sensor with passive Target Motion analysis (TMA) capabilities
 - xl.iii. Mine and Obstacle avoidance Tools
 - xliv. Artificial Intelligence Enabled Systems Technology
 - xl. v. MPMSDF/TERA
 - xlvi. Unmanned Under Water Vehicles (UUVs)
 - xl. vii. AI Enabled Automatic Test Equipment
 - xl. viii. Air Independent Propulsion (AIP) like Fuel Cells and Sterling Engine System for marine application
 - xl. ix. Non-Hull penetrating Masts for submarines.
 - l. Li-Ion Batteries for submarines
 - li. Radar absorbent paints for submarine and masts
 - lii. Multi-phased generators and special rectifiers
 - liii. Specialized cables associated with weapons and sensors.

Note: (i) All items above will be restricted to defence sectors only.

(ii) Investment in civil infrastructure is excluded unless specifically indicated.

Annexure VIII to Appendix-E
(Refer Paragraph 3.1(e) of
Appendix-E)

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

(To be reviewed periodically)

Critical Technology Areas*

- (i) Seeker Technology
- (ii) Jet engine above 90KN
- (iii) Technology Modules for High Performance Drones
- (iv) MMIC for usage in high performance RF Design for Radios
- (v) Robotics for smart Ammunition
- (vi) Balance life assessment technology/Medium Refit Life Certification
- (vii) Graphite Block with high flexural strength for application in nozzles for rockets.
- (viii) Smart Ammunition including precision guided ammunition, course correction fuzes.
- (ix) Fiber Optics data bus(CANBUS/ARINC 818 /AFDX), Data Bus cards and associated accessories
- (x) Single Crystal Blade Manufacturing Process
- (xi) Stealth Technology
- (xii) Variable Exhaust Nozzle actuation mechanisms for straight and Vectored Thrust application
- (xiii) Sensors, actuators, RF devices, Focal plane arrays.
- (xiv) Nano technology based sensors and displays.
- (xv) EM Rail Gun technology.
- (xvi) High efficiency flexible Solar Cells technology.
- (xvii) Molecularly Imprinted Polymers.
- (xviii) Technologies for Hypersonic flights (Propulsion, Aerodynamics and Structures).
- (xix) Technologies for generating High Power Lasers and CW Fiber Lasers.
- (xx) Pulse power network technologies.
- (xxi) Tera Hertz Technologies.
- (xxii) Surface Coated Double Base (SCDB) Propellant
- (xxiii) Shock Hardened Sensors
- (xxiv) Shared Aperture Antenna
- (xxv) Space Time Adaptive Processing (STAP) methodologies
- (xxvi) Optical TRMM's/optical to RF units
- (xxvii) Aramid Fiber & High Performance Polyethylene Fiber Production Technology.
- (xxviii) Manufacturing of 1,2,4-Butanetriol by Microbial synthesis (Biotechnology)
- (xxix) Super Capacitors
- (xxx) Tactical sensors for detecting biological agents.
- (xxxii) Artificial Intelligence based under water target detection.
- (xxxii) Extended Range Guided Munition (ERGM) projectiles for larger calibre guns.

Visit DRDO website (www.drdo.org) for more details.

Annexure-IX to Appendix-E

(Refers to Paras 3.1(e), 7.2
and 8.3 of Appendix E)

GUIDELINES FOR TECHNOLOGY ACQUISITION

1. Technology Acquisition (TA) proposals are a valid method for discharge of offset obligations under Paragraph 3.1(e) of Appendix-E.
2. All offset proposals will be submitted by the Vendors to the concerned ADG Acquisition Technical in Acquisition Wing as per Paragraph 7.2 of the Defence Offset guidelines. Proposals submitted under Paragraph 3.1 (e) of Appendix-E 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 ADG Acquisition Technical 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 organizations 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 ADG Acquisition Technical. Recommendations of TAC will be incorporated in the TOEC report under Paragraph 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 4, with detailed justification, as indicated in Paragraph 5.11 of the Offset guidelines.

8. Recommendations of TAC will include the following:-

(a) Merits of the Technology Acquisition proposal, including timeframe for absorption, with phasing.

(b) Value of offset credits to be assigned for the proposal with detailed justification.

(c) 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 ADG Acquisition Technical after approval by SA to RM within a period of 4-8 weeks of its constitution.

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.
- Offset credits claimed.
- Any other relevant aspect.

Appendix F of Chapter II
(Refers to Paragraph 51 of
Chapter II)

PRODUCT SUPPORT

1. Product Support is a mechanism to ensure maintainability, performance and reliability throughout the operational life of the equipment, thereby ensuring 'Capability Sustainance' along with 'Capability Acquisition'. The structure of the Life Cycle Support package is to be aligned with the envisaged Repair and Maintenance Philosophy which inter-alia would include supply of spares, special tools, repairs of defective equipment / modules / LRUs, services of specialists and creation of maintenance eco-system, etc.

2. **Maintenance Philosophy.** Maintenance of the equipment is structured on three different levels. The Maintenance philosophy can be categorised into 'O', 'I' & 'D' levels depending upon the technological complexity of the equipment as under :-

(a) **'O' Level.** Includes Unit and Field Repairs (1st & 2nd Level).

(i) **Unit Repairs.** Repairs, carried out within the unit holding the equipment using tools supplied by the manufacturer as per scaling. These repairs generally pertain to cleaning, lubrications, minor repairs and replacement of components and minor assemblies including Line Replaceable Units (LRUs) etc, carried out without any sophisticated tools or test equipment. The manufacturer is required to provide the following as per provisions in the RFP for carrying out such repairs :-

(aa) Table of Tools and Equipment (TOTE) including operators manual.

(ab) Scaling of Special Maintenance Tools (SMT), Special Test Equipment (STE) and Special Equipment (SE).

(ii) **Field Repairs.** Repairs carried out at field/flotilla/station level or equivalent service organisation by technicians specially trained for the purpose, requiring special tools and spares provided additionally for the class of the equipment. These repairs comprise replacement of common Line Replaceable Units (LRUs), sub-modules, other components beyond the holding of units and repairs undertaken beyond a unit level. Normally, a field/station workshop covers such repairs of a group of units holding the said class of equipment and their number will be stated based on equipment deployment pattern. The manufacturer in addition to the basic unit level SMTs/STEs/SE, is required to provide the following:-

(aa) Quantity and specification of spares up to sub-module level, other replaceable components that need to be stocked for a specified population and class of the equipment.

(ab) Additional Special Maintenance Tools and Test Equipment needed for each such field/flotilla/station work shop.

(b) **'I' Level.** Includes 3rd level Intermediate Repairs by Corps Zone workshop/Dockyard/Base Repair Depot or other similar service organisation. These are extensive or special repairs carried out to include component level repairs. This level of repair envisages special diagnosis and repairs of the repairable inventory up to Printed Circuit Board (PCB) level, major assemblies, interface equipment/software and other components beyond the scope of field/flotilla/station level repairs. These repairs are carried out in the designated workshops by technicians specially trained for this purpose requiring special tools and spares and the number of such facilities will be stated based on equipment deployment pattern. The manufacturer is required, among others, to provide the following:-

(i) Quantity and specification of spares up to PCB level that need to be stocked for a population of the equipment.

(ii) Special Maintenance Tools and Test Equipment that has to be provided to each of these workshops.

(iii) Oils and lubricants necessary for Servicing.

(iv) All necessary technical literature.

(v) Calibration facilities for test equipment, where applicable.

(c) **'D' Level.** These repairs include 4th level extensive Base Overhauls (BOH)/ Depot level Repairs which are either routine and planned or necessitated due to major repairs/renewal requirements requiring stripping and rebuilding of equipment. Extensive repairs of components / sub-assemblies and overhaul of the complete equipment is carried out by this facility and due to the complexity requires specific technical knowledge, infrastructure, related documentation, experience and proper quality control. Post such repairs, detailed trials are conducted usually by the overhauling agency, prior to handing over of the equipment to the unit for operational exploitation. Depending on the population of the equipment, such facilities may be established in the country. For this, the manufacturer is required to provide the following:-

(i) All Special Maintenance Tools, jigs, fixtures and test equipment for carrying out repairs up to component / PCBs/ module level.

- (ii) Oils and lubricants necessary for overhaul.
- (iii) All necessary technical literature.
- (iv) Calibration facilities for test equipment.

3. To sustain and support platform/equipment through its operational life-cycle, SHQ will ensure that Product Support requirements for at least 3 to 5 years beyond the warranty period will be procured along with the main equipment. The equipment could be provided product support through any one or combination of the following details which are elucidated in subsequent paragraphs :-

- (a) Engineering Support Package (ESP)
- (b) Annual Maintenance Contract (AMC).
- (c) Comprehensive Maintenance Contract (CMC)
- (d) Life Cycle Support Contract (LCSC)
- (e) Performance Based Logistics (PBL)

Engineering Support Package (ESP)

4. ESP is the basic engineering support the Seller needs to provide to the Buyer for undertaking essential repairs and maintenance of the equipment during its exploitation. These repairs and maintenance would be in consonance with the Maintenance Philosophy enunciated above. ESP would constitute the following aspects:-

- (a) Spares.
- (b) SMTs/STEs test set-up.
- (c) Technical Documentation.
- (d) Training.

5. **Spares.**

- (a) **Manufacturer's Recommended List of Spares (MRLS).** List of spares, recommended by the manufacturer, for maintaining operational serviceability of the equipment and sustain it for the period as stipulated in the RFP. Cost of the MRLS, along with likely consumption rate of spares would be provided with the Technical proposal. The MRLS will be supported by Reliability & Maintainability (R&M)

report for the proposed spares along with their Mean Time Between Failure (MTBF). MRLS would be provided separately for each such sub system. In order to prevent manipulation of the quantum of MRLS for commercial competitiveness or overload unnecessary MRLS, 'Adequacy' clause and 'Buy Back' clause will be co-opted in the contract as under:-

(i) **'Adequacy' Clause.** The Seller will confirm to the Buyer the range and depth of Accompanied Accessories/ User Replaceable Parts/Expendable, Spares and SMT/STE/Test Jigs being supplied are complete and adequate for carrying out repairs on the equipment up to the specified level. The Seller will also commit that any additional items, spares, tools and equipment needed for use, maintenance and repair will be supplied by the Seller at prices and within a period as specified in the contract, on receipt of notification from the Buyer for the Life-Cycle Support period. The Seller will confirm that, if two different prices have been given for the same/similar item, 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 would be lowered / adjusted proportionately for the items.

(ii) **'Buy Back' Clause.** The Buyer would have the option to amend the Manufacturer's Recommended List of Spares (MRLS) proposed by the Seller within a period specified in the contract, post expiry of the warranty period. The Seller needs to agree to 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.

Note. Vendors quoting lesser ESP / MRLS in terms of range and depth will be governed by the Adequacy Clause. The vendors quoting surplus items in ESP / MRLS would have to buy back the surplus spares as per the Buy Back Clause.

(b) **User Defined List of Spares (UDLS).** Cases where the equipment is already in use with the Service, the initial lot of spares will be procured based on the UDLS, as recommended by the Maintenance Agency instead of the MRLS.

6. **Special Maintenance Tools (SMTs), Special Test Equipment (STE) and Test Jigs.** SMTs, STE and Test Jigs are essential tools/Jigs/fixtures required to undertake effective engineering support / repairs on the equipment and its systems, based on the Maintenance Philosophy. This would be formulated in a similar manner as explained for MRLS and details are to be included in both Technical and Commercial Proposals. SMTs, STEs and Test Jigs will be provided by the Seller, as per the list prepared by the Buyer on completion of MET, where applicable. The list of equipment required to be supplied will incorporate Adequacy Clause, as elaborated above.

7. **Technical Documentation.** The Bidder will be required to provide the technical literature preferably in IETM (Interactive Electronic Training Manuals) Level 4 format or higher. An illustrated list of documents which may be submitted by the Seller is as under:-

- (a) User Handbook/Operators Manual in English and Hindi.
- (b) **Technical Manuals.** (as per governing JSG/Guide for other technologies)
 - (i) **Part I.** Tech description, specifications, functioning of various systems.
 - (ii) **Part II.** Inspection/Maintenance tasks repair procedures, materials used, fault diagnosis and use of Special Maintenance Tools (SMTs)/Special Test Equipment (STEs).
 - (iii) **Part III.** Procedure for assembly/disassembly, repair up to component level, safety precautions.
 - (iv) **Part IV.** Part list with drawing reference and List of SMTs/STEs Test Bench.
 - (v) Rotable list, norms of consumption, mandatory/ non-mandatory spares list for each system.
- (c) Table of Tools & Equipment (TOTE) & carried spares.
- (d) Complete Equipment Schedule.
- (e) Repair and Servicing schedule.
- (f) Design Specifications.
- (g) Technical Manual on STE with drawing references.
- (h) Condemnation limits.
- (j) Packing specifications /instructions.
- (k) Any additional information suggested by the OEM.

8. **Details of OEMs.** For major / complex equipment, a large number of other OEMs may also be involved in manufacture of various systems/sub systems / support equipment.

Details of such OEMs will also be intimated by the Seller as per table below:-

Table 1 - Format for Submitting Details of OEMs

Ser No	Equipment	Part No	OEM	Contact Details (Tel/Fax/Email)	Details of Government License to OEMs

9. **Training.** A training package for operators, operator trainers and maintenance personnel to undertake operation and maintenance of equipment (level 1 to 4 or 'O' / 'I' / 'D') and QA personnel for QA of equipment as stipulated in respective contract, along with tools and test jigs training would be required to be carried out in English and Hindi (if required) language. Requirements such as training aids, projection system, complete equipment with accessories, technical literature, spares, test equipment, test set up, charts, training handouts, power point presentations, Computer Based Training (CBT), Documentation, Simulators etc will be provided by the Seller for the conduct of training. Training should preferably be conducted before the induction of the equipment. The Seller will provide the Operator and Maintenance & Repair training, for the duration, strength and locations specified in the RFP and Contract.

Maintenance Contracts

10. Maintenance Contracts are recommended for conclusion along with the acquisition of the equipment for providing maintenance support. These would be covered under Annual or Comprehensive Maintenance Contracts (CMCs) for a period of at least three to five years beyond the warranty period. The AMC/ CMCs would be provided by the OEM / licensed entity / OEM authorised representative and would commence on completion of warranty period.

11. **Annual Maintenance Contracts (AMC).** AMC will include Maintenance and Repair services by the Seller in order to ensure serviceability of the equipment covered / services desired for pre-determined annual periods. The spares consumed in execution of these services are to be provided by the Buyer or cost paid to the Seller, in addition to the AMC charges. In these contracts the services of the specialist are costed based on the pre-determined Man-day rates. Therefore, the rates for Services of Specialists and hiring Special Tools comprising all-inclusive man-day rates at shore, and on operational platform viz, ship at sea, aircraft will have to be submitted. The following AMC clauses will form part of the contract: -

- (a) **Period.** The Seller would provide AMC for a period as stipulated in the contract covering repair and maintenance of the specified equipment and systems purchased under the present contract. The Buyer Furnished Equipment which is not covered under the purview of the AMC should be separately listed by the Seller.

(b) **Spares.** The Spares will be provided by the Buyer and would be supplied through the spares contracted under the Engineering Support Package mentioned above or the cost of spares paid to the Seller, in-addition to the AMC charges.

(c) **Response and Repair Time.** During the AMC period, the Seller would carry out all necessary servicing/repairs to the equipment/system under AMC at the current location of the equipment. The response time of the Seller should not exceed the time specified in the contract from the moment the breakdown intimation is provided by the Buyer. Prior permission of the Buyer would be required in case certain components/sub systems are to be shifted out of location. Maximum repair turnaround time for equipment/system would also be as specified in the contract. However, the spares for other systems should be maintained in a serviceable condition to avoid complete breakdown of the equipment/system.

(d) **Termination of Contract.** The Buyer may terminate the maintenance contract at any time without assigning any reason after giving a suitable notice as agreed to in the contract. The Seller will not be entitled to claim any compensation against such termination and, if any payment is due to the Seller for maintenance services already performed, the same would be paid as per the contract terms.

12. **Comprehensive Maintenance Contracts (CMC).** Comprehensive Maintenance Contracts are concluded for a pre-determined period in multiples of annum. The scope of CMC, in addition to services of the Specialists as mentioned for AMC, include provisioning of spares, tools and equipment as required for maintenance and repair of the equipment. In this arrangement, the OEM will ensure that the down time of the equipment does not exceed the minimum period stipulated in the CMC. In such cases, Engineering Support Package may be reduced proportionately based on the operational requirements and functional sensitivities such as geographical spread, remote location, poor connectivity, intense threat environment precluding employment of civil support, etc. CMC will include all corrective and preventive maintenance of the systems, equipment and machinery in satisfactory working order and 'Planned Preventive Maintenance' (PPM), repairs, servicing, calibration, replacement of defective parts, sub-assemblies, equipment, preservation /de-preservation as applicable. All equipment supplied under the proposed contract will be maintained on site by the Seller. CMC will ensure performance of the equipment in the range and accuracies as set in equipment Technical Manual. The equipment proposed to be under CMC would be listed along with their locations. An equipment repair Log book will be maintained to keep a record of the equipment down time during defect rectification. The scope of work would also involve the following:-

(a) **Preventive Maintenance.** The maintenance of the equipment is to be carried out by the Seller at the Buyer premises. The equipment will be maintained as per the OEM specified maintenance schedules and equipment manuals. However, the number of visits by the supplier to the customer premises should be at least once a

quarter or as agreed to in the contract. The preventive maintenance team visiting the unit should be composite and possess sufficient expertise and spares to carry out preventive maintenance activities and resolve any pending unserviceability issues of the equipment.

(b) **Breakdown Maintenance.** In addition to preventive maintenance, the supplier will also be responsible to undertake breakdown maintenance of the equipment. Defects on the equipment as and when observed, will be intimated to the Seller by telephone/ fax. The Seller will depute a team for undertaking repairs of the equipment within two working days from the reporting of the defect, in order to make the equipment operational. The supplier will need to diagnose, test, adjust, calibrate and repair / replace the goods/equipment during the CMC period. However, defective hard disks, strong devices, if any, of the equipment, will not be returned to the supplier and would be retained for destruction / safe custody. The downtime of the equipment will commence from the time a defect is reported by the user and the log of the same would be maintained.

(c) **Calibration.** Periodic inspection and calibration services as set forth in the equipment manual shall be provided by the supplier, to ensure operational availability of the equipment. Requisite certificates may be rendered whenever major repairs/maintenance on equipment is undertaken.

(d) **Spares.** Supply of all parts (spares sourced from the OEM/OEM authorised vendor), including consumables, if any and material required for the optimal performance of the equipment as per the designed specifications mentioned in the equipment manual would be the responsibility of the Seller.

(e) **Software.** The supplier will provide support for maintenance of the software(s) during the period of CMC and would include the following:-

- (i) Upgrades, patches, fixes to the OS and the Application software.
- (ii) Back-up and restoration of software, as and when required.
- (iii) No malware certificate.
- (iv) Version of the software and IV & V (Independent verification and validation) certificate as per the applicable CMM Level, depending on the criticality of the equipment.
- (v) Method of checking the health of the software and debugging methods.

(f) **Obsolescence Management.** The obsolescence management for the equipment delivered under the scope of contract would form part of CMC Services.

The obsolescence management will include providing “Form, Fit and Function” replacement of any system/sub system rendered obsolete during the period of CMC.

Life Cycle Support Contract (LCSC)

13. A life cycle support contract (LCSC) would be signed along with the main acquisition contract where applicable. Life-cycle support for all types of equipment through its service life would be provided by the Seller through a LCSC, which inter-alia would include supply chain to ensure platform supportability and availability in accordance with specifications, supply of spares, special tools, repair of defective equipment / modules / LRUs, services of specialists, creation of maintenance eco-system, obsolescence management, etc.

14. The Seller will provide life-cycle support through a Life Cycle Support Contract (LCSC) as per the agreed terms. LCSC would bind the Seller to provide product support through Long Term contract (for 5 to 8 years) for supply of spares, repairs and Man-day rates of Specialists. The RFP shall clearly mention that the vendor would have to finalise the terms for the life time product support and the LCSC along with the current contract only. LCSC, will also include active obsolescence management, wherein even after the mandatory period, the Seller would be bound to give at least two years notice to the Government of India prior to closing the production line to enable a Life Time Buy of all spares. Under the LCSC, Spares and Repair support would be provided by the Seller through the following Rate contracts which would be signed with the main contract:-

(a) **Itemised Spare Parts Price Lists (ISPPL)**. ISPPL for all Spares or Line Replaceable Units (LRUs) of the equipment along with their Base price, annual escalation, delivery period and the MTBF (where applicable) be provided, at the time of submission of offer. The ISPPL shall also include details of the source, especially for items which are COTS, bought-out, proprietary, etc. ISPPL shall also indicate interoperability of spares across projects, in case spares/equipment is already inducted in the Indian Armed Forces. The Seller would submit a comprehensive Itemised Spare Parts Price Lists (ISPPL) comprising the following: -

(i) Complete Part Identification List (PIL) for all Spares or Line Replaceable Units (LRUs), along with corresponding unique part numbers. The list is not to be limited to MRLS (Depot spares) or On-board Spares (spares along with the system) and should comprise entire list of spares.

(ii) Base Price list of each of the spares along with annual escalation at time of submission of the offer.

(iii) Delivery Period of each spare after receipt of Order.

(iv) Mean Time Between Failure (MTBF), where applicable.

Note: - The following aspects to be ensured:-

- (i) Repair costs to be all-inclusive (collection/delivery ex-Depot).
 - (ii) Warranty post repairs will be as specified in the contract document.
- (c) **Man-Day Rates for Services/Special Tools.** Man-day Rates for Services/Special Tools of Specialists (where applicable) should be specified corresponding to the categorisation of specialists, e.g. Designers, Engineers and Technicians, as applicable. Man-day Rates for hiring Special Tools, where applicable will also be provided.

Performance Based Logistics (PBL)

15. For certain equipment /platforms, the life cycle support could also be provided through implementation of the Performance Based Logistics (PBL). The requirement of PBL would be specified in the RFP. The PBL is a Supply Chain concept for optimising the availability of spares and services support to meet the pre-determined level of operational availability. The criteria for the PBL supply chain is based on approved Performance Metrics. The OEM or the contracted Vendor would implement the desired Supply Chain Management system for meeting the operational performance level. The vendor shall provide overall logistics support and perform tasks, functions and responsibilities to support the equipment as a PBL package. PBL Contract will be finalised in the CNC between the Buyer and Seller as applicable to the case.

16. The PBL package is inter-alia based upon the following aspects :-

- (a) Type and number of Equipment.
- (b) PBL Duration
- (c) Desired Exploitation Rate per equipment per year.
- (d) Desired average and overall equipment availability.
- (e) Maximum acceptable downtime.
- (f) Acceptable MTBF and time for repairs.
- (g) Mode and timelines for replenishment of Spares

17. **Equipment Delivery & Base Opening Plan.** The PBL package would be designed based on the equipment deliveries and the number of bases where equipment will be deployed.

18. **Performance Metrics.** The performance metrics are measurable performance indicators. Seller/buyer agree on, what is a successful outcome of the metric and mutually agree on performance of each metric. Both, the level of required outcome and, the related key metric need to be spelt clearly. This is necessary to manage performance and consequent remuneration, which can be an incentive in case of exceedance in performance, and penalty, in case there is short fall in desired outcome.

19. **Vendor Responsibilities.** Division of responsibilities between the vendor and buyer, for various activities under PBL would be clearly defined as per a Vendor Responsibility Matrix. The nature of such responsibilities would differ on case to case basis, but an indicative list of vendor responsibilities is as follows:-

- (a) Supply Chain Management up to the Buyer's central Warehouse.
- (b) Repair and Overhaul of all components/LRUs of the equipment delivered during the PBL period.
- (c) Repair/replacement of spare parts.
- (d) Replenishment of all expendables to support the periodic maintenance activities of equipment.
- (e) Compliance of modifications, Airworthiness Directives & Mandatory Service Bulletins (MSBs) etc.
- (f) Calibration and maintenance of the GSE, GHE, STE and role equipment.
- (g) Provide an Information Technology (IT) tool for managing information with the Buyer.

Online Inventory Management System (OIMS) (where applicable)

20. To leverage information technology and ensure expeditious order placement as well as timely product support, SHQ may ask the Seller to provide an Online Inventory Management System (OIMS), as per mutually agreed format, to place Purchase/Repair Orders (as applicable) online. The OIMS shall also provide feature to track the delivery status of the items. Further the OIMS should provide dashboard for intimation on obsolescence and offer of lifetime buy along with provision for user to interact with the OEM for technical assistance etc. The detailed scope and features of OIMS shall be finalised during the negotiations on LCSC. The OIMS may be decided on case to case basis.

Active Technology Obsolescence Management(where applicable)

21. OEM will indicate his methodology to undertake Active Obsolescence Management through life cycle of equipment which would include upgradation of systems/ subsystems/ units on completion of its fair service life. The Seller/OEM (as applicable) shall also intimate the Buyer on likely technology obsolescence of various sub-assemblies/units/modules of equipment through an Annual Bulletin. In case of impending obsolescence of components, bulletin should specify either alternate item or option for life-time buy as under:-

(a) The Seller/OEM (as applicable) will notify the Buyer not less than three years before the closure of its production line about the intention to close production of equipment for provision of purchasing spare parts, before closure of the said production line.

(b) Three years prior to completion of design/service life of equipment, the Seller/OEM (as applicable) will submit techno-commercial proposal for upgradation of equipment, wherever applicable, to mitigate technology obsolescence and for ensuring product support for next 15 years (or any other period as decided).

Appendix G to Chapter II
(Refers to Paragraph 65 of
Chapter II)

GUIDELINES: TRIALS RELATED ASPECTS

Types of Trials

1. Trials have different connotations depending on category of acquisition and have varied scope as well as stakeholders defined by the type of trial. The agency planning and ordering the trial will promulgate comprehensive instructions to include, *inter alia*, defined scope, methodology of conduct, outcomes expected, acceptance criteria and follow-on actions. Important types of trials and their broad scope is enumerated in the succeeding paragraphs.
2. **Field Evaluation Trial (FET)**. Details of these are as elaborated at Paragraphs 65 to 83 in Chapter II.
3. **Induction Trials/ Validation Trials**. Induction/ Validation trials are usually done when the design and development trials were conducted on prototype set and the equipment is productionised for first time. These are done on the First Off Production Model (FoPM) equipment to validate specified parameters and to rule out any inconsistency in the production process. Bulk Production Clearance (BPC) is invariably accorded once the FoPM equipment clears the Validation/Induction Trials. Validation trials may also be carried out on major change owing to upgrades of specified parameters or change of production line from OEM premises to Indian Production Agencies premises.
4. **Factory Acceptance Trials (FATs)**. These are functional tests which may be undertaken at vendor's premises by Services nominated team to check the equipment functional performance as per an approved test procedure prior dispatch.
5. **Installation Inspection (IIs)**. These are checks done by Services nominated team to check correct installation of equipment.
6. **Harbour Acceptance Trials (HATs)**. These are functional tests which may be undertaken after installation on-board ship in harbour by a Services nominated trial team to check the equipment functional performance as per an approved test procedure.
7. **Sea Acceptance Trials (SATs)**. These are functional tests, including proof firing in case of weapons, which may be undertaken at sea after installation on-board ship by Services nominated team to check equipment's functional performance as per an approved test procedure.

8. **Op Checks.** These are functional tests which may be undertaken after installation on-board ship at sea by a SHQ nominated team to check the equipment's functional performance as per an approved test procedure. These are normally done only on communication equipment, instead of SATs.
9. **Acceptance Test Procedure (ATP).** A functional test procedure undertaken to check functional performance of the system for acceptance at a defined stage. It may also involve proof firing in case of weapons. For details also refer to Paragraph 46 of Chapter II.
10. **Delivery Acceptance Trials.** Delivery Acceptance Trials are carried out when FET is not applicable for cases such as ships, submarines, simulators etc, where there is no prototype available for conduct of NCNC trials.
11. **Pre-Despatch Inspection (PDI).** Pre-Despatch Inspection is a part of supply chain management and an important Quality Assurance method for checking the quality and quantity of newly manufactured goods at Sellers' Premises, before they are shipped to the Buyer. These involve undertaking checks in accordance with Acceptance Test Procedures as finalised during contract negotiations. PDI helps in ensuring that production complies with the governing specifications and procedures as specified in the Contract or Purchase Order.
12. **Joint Receipt Inspection (JRI).** Joint Receipt Inspection, initiated by the Buyer, is carried out jointly by the buyer and seller on arrival of manufactured goods in India within specified number of days and at location nominated by the Buyer to check compliance with specifications. JRI consists of quantitative checking of delivered items, check proof, firing etc, as per governing specifications and procedures enumerated in the Contract or Purchase Order.

Stage Wise Inputs for Trials

13. **RFI Stage.** The following inputs should be obtained via the RFI or through vendor interaction:-
- (a) Inputs on **test standards** adopted for equipment of similar type.
 - (b) Ascertain parameters for which **Certification** applicable in lieu of trial evaluation.
 - (c) Trials for which **simulation / modelling** is available.
 - (d) **Specialised requirements** for trial evaluation to be factored while drafting SQRs.
14. **SQR Stage.** To achieve an objective trial methodology, SHQ should interact with all trial agencies prior to finalisation of SQRs to ensure the following: -

- (a) Identification and application of **correct standards**.
- (b) Environmental and material tests **essential for operational deployment and role**.
- (c) Applicability of **EMI / EMC trials** especially for non-ICT or other equipment not operating in dense EM environment. EMI/EMC trials shall be included only if operational requirements in SQR so determine and should be specifically mentioned in such cases.
- (d) SQR parameters that affect sustenance and MET related aspects and will need to be factored in trial methodology.

15. **Trial Methodology at RFP Stage.** The combination of SQR and Trial Methodology in the RFP should provide OEM / Vendor a clear and objective assessment of the scope and details of FET, including areas where certification and trials by simulation are allowed. SHQ may interact with vendors/industry and reps of trial agencies at the draft RFP stage. Maximum technical details available at this stage with regard to conduct of FET, Technical trials (including environmental tests), MET and EMI / EMC tests should be included in the Trial Methodology being issued with RFP. Due care may be exercised while defining Standards that would apply to equipment, systems or platforms. In case international standards are envisaged, then their Indian equivalent, where applicable, should also be identified. As far as possible, availability of test and certification facilities within India to evaluate the parameters governed by shortlisted Standards should be considered. In case this is not feasible, then all efforts should be made to identify international certification/accreditation agencies that would qualify the evaluation requirements. The following inputs should also be obtained along with those on the FET in Chapter II:-

- (a) QA agencies, EMI/EMC and Maintenance organisations should forward the following to SHQ for formulation of trial methodology: -
 - (i) Recommendation on qualification Standards to be adopted.
 - (ii) Details of technical trials including environmental conditions for the lab tests and also check proof of weapons and ammunition.
 - (iii) Parameters where trials can be replaced by certification along with list of accredited labs/ facilities within or outside their organisations where these trials can be conducted.
- (b) Where ***Certificate of Conformance (CoC)*** is acceptable in place of trials, trial agencies shall forward the following details to SHQ to be included in the RFP: -

- (i) List of agency/authority(ies) whose certification will be allowed.
- (ii) Details and format of test certificates and supporting documents required to be submitted by the OEM/ vendor to prove the validity of CoC.

Other Institutional Mechanisms

16. **Allocation of Ranges.** Standard Operating Procedure (SoP) for allotment and utilisation of proof and field firing ranges have been finalised and uploaded on https://www.makeinindia.defence.gov.in/admin/writereaddata/upload/updated_SOP_for_allotment_of_Ranges_5_9.19_R2.pdf. Requisite nodal Officers have also been nominated by each SHQ.

17. **Use of Test Facilities with Govt Institutions.** Test Facilities of Army, Navy, Air Force, DRDO, DGQA, DGAQA, HAL, OFB, GRSE, GSL, MDL, HSL, MIDHANI, BDL, BEL & BEML for Utilisation by Private Industry along with details of respective Nodal Officers and application procedure are hosted on the [makeinindia.defence.gov.in](https://www.makeinindia.defence.gov.in) website - <https://www.makeinindia.defence.gov.in/pages/test-facilities-for-private-sector>

18. **DGQA Test Facilities.** All test facilities available with DGQA and respective cost of utilisation of facilities are updated on DGQA website dgqadefence.gov.in - <https://dgqadefence.gov.in/test-facilities>.

19. **Indian Navy Test Facilities.** All test facilities available with Indian navy and respective cost of utilisation of facilities are updated on <https://indiannavy.nic.in/content/test-facilities-available-use-private-sector>

20. **Directory of NABL Accredited Labs.** **NABL 400: Directory of NABL Accredited Laboratories** as updated from time to time may be referred to by the industry to seek requisite test facilities as per requirements - <https://www.nabl-india.org>

Appendix H to Chapter II
(Refers to Paragraph 98 of
Chapter II)

STANDARD CNC COMPOSITION

Non Delegated Cases

1. JS & Acquisition Manager - Chairman.
2. ADG Acquisition Technical.
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-representative of DDP, DRDO and PA 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 representatives may be nominated in place of officers mentioned at Serial no. 1,2 and 3.*
- (iv) *If Offsets included, then representative of 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 composition mentioned above.*

Delegated Cases

1. Chairman nominated by CISC/VCOAS/VCNS/DCAS/DGICG (as per under mentioned norms)
 - (a) Cases above ₹150 crores and upto ₹ 300 crores- Major General / Equivalent.
 - (b) Cases upto ₹150 crores- officer not below the Rank of Brigadier / Equivalent.
2. PIFA / IFA(Capital) in respect of Army/Navy/Air Force/CG for CNCs above ₹ 150 crores and upto ₹ 300 crores and representatives of PIFA / IFAs for CNCs upto ₹ 150 crores; Representative of PIFA / IFA not to be below the rank of Deputy Secretary.
3. Representative of TM.
4. Representative of Nominated Procurement Directorate of the concerned SHQ.
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) *ToT cases -representative of DDP, DRDO & Production Agency to be included as member.*
- (ii) *Participation of Representative 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.*

Appendix J to Chapter II
(Refers to Paragraph 116 of
Chapter II)

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 crores to ₹ 30 crores 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(**re-designated as SPB in DAP 2020**) 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 HQ, 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 crores 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. HQ IDS 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)

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 (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)

Annexure I to Appendix J**FLOW CHART FOR PROPOSED CAPITAL ACQUISITION
(DELEGATED POWER CASES)**

<u>Stage</u>	<u>Responsibility</u>
QR formulation	Service HQ/Joint Staff
Categorisation/AoN/Qty. Vetting	SPB-For schemes included in 5 Year Capital Plan. Any change there from -DPB
RFP	* Collegiate Vetting by ADG Acquisition Technical, SHQ and IFA. * Issue of RFP by ADG Acquisition Technical after approval of VCOAS/VCNS/DCAS/CISC/DGICG
TEC Field Trials Staff Evaluation	} Approval through ADG Acquisition Technical (wherever applicable) by VCOAS/VCNS/DCAS/CISC/DGICG
CNC	
CFA approval	VCOAS/VCNS/DCAS/CISC/DGICG 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 is 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.

(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 SHQ/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.

Appendix K to Chapter II
(Refers to Paragraph 423
122 of Chapter II)

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 (Acquisition) for schemes granted AoN by DPB/DAC and VCOAS/VCNS/DCAS/CISC/DG ICG for schemes granted AoN by SPB (i.e. for all schemes under delegated powers).

(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 SHQ/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 SHQ/MoD at the earliest:-

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

(i) Information Proforma for Vendors as given at **Appendix A to Chapter II** of DAP.

(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 A to Chapter II** of DAP.

(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 SHQ/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 SHQ/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 Paragraph 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 (Acquisition) or VCOAS/VCNS/DCAS/CISC/DG ICG as applicable.

12. Once the consent is granted inform vendor and solicit additional documents as mentioned in Paragraph 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.

Annexure to Appendix K
(Refers to Paragraph 1 of
Appendix J)

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*]

Appendix L to Chapter II
(Refers to Paragraph 132 of
Chapter II)

PROPOSED TIMELINE FOR PROCUREMENT

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

Ser No	Stage of Procurement	Time Line as per DPP DAP (in weeks)	Time Line as per DPP DAP (Cumulative Time-in weeks)	Remarks/Reason for variation
1.	Acceptance of Necessity (Date of issue of minutes of DAC/DPB/SPB meeting)	- -	To	
2.	Issue of RFP	06	To+06	
3.	Pre Bid Meeting	06	To+12	
4.	Dispatch of Pre Bid reply	03	To+15	
5.	Receipt of Responses	03	To+18	
6.	Completion of TEC Report	08	To+26	
7.	Acceptance of TEC Report	02	To+28	
8.	Completion of Technical Offset Evaluation Committee Report	04-06>(*concurrent activity)	To+28* (*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+44-To+52\$	\$ Additional 12 weeks permitted if winter trials are required.
11.	Completion of Staff Evaluation	04	To+48-To+56\$	“
12.	Acceptance of Trials/ Staff Evaluation Report	02	To+50-To+58\$	“

13.	Acceptance of TOC Report (If applicable)	0/04* (*If applicable)		To+50-To+62\$	“
14.	(i) Finalisation of CNC Report (ii) Finalisation of Offset Contract	(i) Multi-vendor -06 (ii) Resultant Single Vendor 18-26		(i) Multivendor To+56-To+68\$ (ii) Resultant Single Vendor To+68-To+88\$	“
15.	Obtaining of CFA-MoD/ MoF/CCS approval		04-16	(i) Multivendor - To+60-To+84\$	“
	CFA-MoD	4-8		(ii) Resultant Single Vendor To+72-To+104\$	
	CFA-MoD & MoF	6-12			
	CFA-CCS	6-16			
16.	Signing of Main Contract & Signing of Offset Contract	02		(i) Multi-vendor - To+62-To+86\$ (ii) Resultant Single Vendor To+74-To+106\$	\$ Additional 12 weeks permitted if winter trials are required.

SCHEDULE I TO CHAPTER II

RFP FORMAT

(Cover Page)



REQUEST FOR PROPOSAL
BY
MINISTRY OF DEFENCE
GOVERNMENT OF INDIA
FOR PROCUREMENT OF
(With details of Project/Equipment)

This document is the property of Government of India/Ministry of Defence.
The contents of this RFP must not be disclosed to unauthorised persons and
must be used only for the purpose of submission of Bids.

This document contains ____ pages including cover page and Appendices.

(Schedule I to Chapter II)
(Refers to Para 52 of Chapter II)

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

Tele: _____
E-mail: _____

File No: _____

Additional Director General
Acquisition Technical (_____)
New Delhi-110011

(Date)

To

REQUEST FOR TECHNICAL AND COMMERCIAL PROPOSAL FOR
(GENERIC NOMENCLATURE OF EQUIPMENT)
CATEGORY: (AS PER AON)

Dear Sir/Madam,

1. The Ministry of Defence, Government of India, intends to procure _____ (generic nomenclature of equipment and quantity) and seeks participation in the procurement process from prospective Bidders subject to requirements in succeeding paragraphs.

Synopsis

2. **Broad Description of Equipment/System.**

The details of the equipment/system proposed to be acquired, along with its intended use and basic configuration/composition may be included in the Para to enable the Bidder to get a preliminary idea of the project.

(For Example: An integrated Fire Fighting Training Facility comprising of Fire Training Area, class room, change room and office space is required to be installed at designated site in Lonavla to provide basic training in firefighting to approximately 3500 trainees per year.)

3. The salient aspects and timelines of the acquisition are tabulated below. In case of any variation in the details furnished below or in any Annexures(s) with that mentioned in the RFP, information furnished in the main body of the RFP at referred Paragraph is to be followed.

Ser No.	Description	Details	Reference Para of the RFP
(a)	Equipment/System required		

(b)	Quantity Required		
(c)	Categorisation of Procurement		
(d)	Minimum IC Content required		
(e)	Place(s) of Delivery		
(f)	Warranty Period		
(g)	CAMC Period, if any		
(h)	Offsets required, if any		
(j)	IPBG Amount		
(k)	Last date for submission of Pre-bid queries		
(l)	Date and time for Pre-bid meeting		
(m)	Last date and time for Bid Submission		

4. **Special features of the RFP.**

Special requirements of RFP like the requirement of integration with other systems, linking of Trials with completion of delivery, infrastructure augmentation required etc. are to be specified to draw the attention of bidders to critical aspects of the RFP.

(For Example: The equipment to be supplied is to be interfaced with the CMS of the platform for which interfaces are to be designed by the Bidder. The Interface Protocols will be provided by the Buyer. Interfacing and proving the system will be responsibility of the Bidder.)

5. This Request for Proposal (RFP) consists of following four parts:-

Ser No.	Description	Page No.
(a)	Part I – General Requirements	
(b)	Part II - Technical Requirements	
(c)	Part III – Commercial Requirements	
(d)	Part IV – Bid Evaluation and Acceptance Criteria	

6. 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.

7. The end user of the equipment is the Indian Armed Forces.

8. 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 Bidder should it be so necessary at any stage on grounds of National Security.

9. This RFP is non-transferable.

10. In addition to various Appendices and their Annexures, attached with this RFP, reference to various paragraphs of DAP-2020 has been made in the RFP. The DAP -2020 is an open domain document that is available at GoI, MoD website www.mod.nic.in.

11. The receipt of the RFP may please be acknowledged.

Yours faithfully
O/o ADG Acq Tech
(Army/Maritime & Systems/Air
Force)

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Disclaimer

1. This RFP is neither an agreement and nor an offer by the MoD to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in submitting their proposals pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the MoD in relation to the Project. This RFP document and any assumptions, assessments and statements made herein do not purport to contain all the information that each Bidder may require. The Bidder shall bear all its costs associated with or relating to the preparation and submission of proposal pursuant to this RFP. Wherever necessary, MoD reserves the right to amend or supplement the information, assessment or assumptions contained in this RFP. The MoD reserves the right to withdraw the RFP or foreclose the procurement case at any stage. The issuance of this RFP does not imply that the MoD is bound to shortlist a Bidder for the Project. The MoD also reserves the right to disqualify any Bidder should it be so necessary at any stage on grounds of National Security.

PART I – GENERAL REQUIREMENTS

1. This part consists of the general requirement of the Goods (also referred as equipment/systems/deliverables) and Services, hereafter collectively referred as ‘Deliverables’, the numbers required, the time frame for deliveries, conditions of usage and maintenance, requirement for training, Engineering Support Package (ESP), Offset obligations and warranty/guarantee conditions, etc. It includes the procedure and the date & time for submission of bids.

Non-Disclosure

2. The Bidding documents, including this RFP and all attached documents provided by the MoD, are and shall remain or become the property of the MoD. These are transmitted to the Bidders solely for the purpose of preparation and the submission of a proposal in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their proposal. The provisions of this Para shall also apply mutatis mutandis to Bids and all other documents submitted by the Bidders, and the MoD will not return to the Bidders any proposal, document or any information provided along therewith (except unopened Commercial Bid and IPBG, as relevant).

3. Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process, or concerning the Bidding Process. The MoD will treat all information, submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. MoD may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or MoD or as may be required by law or in connection with any legal process.

4. **Confidentiality of Information.** No party shall disclose any information to any ‘Third Party’ concerning the matters under this RFP generally. In particular, any information identified as ‘Proprietary’ in nature by the disclosing party shall be kept strictly confidential by the receiving party and shall not be disclosed to any third party without the prior written consent of the original disclosing party. This clause shall apply to the sub-contractors, consultants, advisors or the employees engaged by a party with equal force.

5. **Classified RFPs** (where applicable). In case of issue of a classified RFP and/or documents as part of procurement process, applicable provisions will be as follows:-

(a) All the relevant precautions and procedures for handling the RFP/document/Information have to be followed that are applicable to the relevant level of security classification, as per extant government orders on the subject. A Non-Disclosure Agreement would have to be signed by all Bidders in accordance with the format placed at **Appendix Q**. The Non-Disclosure Agreement would have to be signed by the Bidder and forwarded along with the acknowledgement of receipt of the RFP.

(b) **‘Restricted Information’ Categories under ‘Official Secrets’ under Section 5 of the Official Secrets Act, 1923.** Any contravention to the above mentioned provisions by any Bidder, sub-contractors, consultants, advisors or the employees of a contractor, will make them liable for penal consequences under the above said legislation.

Business Eligibility

6(a). **Undertaking by Bidders.** The Bidder 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 investigation going on by MoD against them. In case of ever having been banned / debarred / suspended from doing business dealings with MoD/any other government organization, in the past, the Bidder will furnish details of such ban / debarment along with copy of government letter under which this ban / debarment / suspension was lifted / revoked. The Bidder shall also 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 Bidder are Suspended or Debarred by Ministry of Defence, the Bidder shall indicate the same with justification for participation of such sub-contractor(s)/supplier(s)/ technology partner(s) in the procurement case.

6(b). Subsequent to submission of bids if any sub-contractor(s)/supplier(s)/technology partner(s) of the Bidder is Suspended or Debarred by Ministry of Defence, the Bidder 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.

7. **Pre-Qualification Criteria {for multi-vendor cases in Buy (Indian-IDDM), Buy (Indian) and Buy & Make (Indian) cases}.** The detailed Pre-Qualification criteria for the Bidders for participation in the instant procurement case are placed at **Appendix R** to this RFP. All Bidders are to submit details as per the criteria along with the Technical Bids. These would be evaluated by the TEC.

8. **Indigenous Content.** For the purposes of this RFP and the acquisition contract (if any) signed by the Ministry of Defence with a successful Bidder, indigenous content shall be as defined under **Para 8 to 12 of Chapter I** and **Para 1 of Appendix B to Chapter I** of DAP 2020. In addition, reporting requirements for prime (main) Bidders (and for sub-contractors/suppliers/technology partners reporting to higher stages/tiers) shall be as prescribed under **Para 4 to 6 7 of Appendix B to Chapter I** of DAP 2020 **(or as approved by AoN according authority)**. The right to audit Bidder/ sub-contractors/suppliers/technology partners shall vest in the Ministry of Defence as prescribed under **Para 9 10**; and aspects of delivery, certification, payments, withholding of payments and imposition of penalties shall be as prescribed under **Para 10 11 to 14 15** thereof. Furthermore, Bidders in ‘Buy (Indian IDDM)’, ‘Buy (Indian)’, ‘Buy and Make (Indian)’, Buy (Global-Manufacture in India) and Buy (Global) (for Indian vendors) will be required to submit their indigenisation plan in respect of indigenous content as stipulated in **Para 4 to 6 7 of Appendix B to Chapter I** and **Para 39** of Chapter II of DAP 2020. The DAP 2020 is available at MoD, GoI website (www.mod.nic.in) for reference and free download.

9. **Year of Production.** Deliverables [platforms (including major equipment)/ equipment/ systems] supplied under the contract should be of latest manufacture i.e

manufactured after the date of Contract with unused components/assemblies/sub-assemblies, conforming to the current production standard and should have 100% of the defined life (other than permitted running hours during assembly/acceptance trials) at the time of delivery. Deviations, if any, should be clearly brought out by the Bidder in the Technical Proposal.

10. **Delivery Schedule.** The delivery schedule of equipment and services along with the relevant payment stages is specified at **Annexure VII to Appendix M.**

(The acceptable range of delivery schedule of the equipment & services along with the requirement of STW/Commissioning without installation (scenario 1 & 2 of flowchart at Annexure III to Appendix C to Chapter II), installation, STW and commissioning (scenario 3 of flowchart) and installation, STW, integration trials and commissioning (scenario 4 to 6 of flowchart) must be indicated clearly in the RFP. Option for the Bidder to indicate earliest delivery schedule earlier than that specified must be given only in unavoidable cases with due regards to its induction schedule and financial implications/budgetary constraints).

Realistic assessment of various timelines including likely delays in the availability of associated infra/ system/ platform for installation/ integration and STW, commissioning and final acceptance is to be made and the delivery schedule is to be evolved suitably to minimise avoidable storage for extended periods.

Various scenarios and relevant flow chart for arriving at appropriate delivery schedule is placed at Annexure III to Appendix C to Chapter II of DAP. It is recommended that the scenario applicable for the present case be identified from the flowchart and associated write-up before formulating the delivery schedule, preservations requirements and warranty conditions.

11. Once the contract is concluded and the delivery schedule is established, the Bidder shall adhere to it and ensure continuity of supply of deliverables and their components under the contract.

12. **Preservation (as applicable).** The deliverables supplied are to be preserved for _____ (months/years) post-delivery/JRI/installation (to be as per delivery schedule at Para 10). In case, JRI necessitates unpacking to the extent that the preserved life of the deliverables is affected, Bidder is to undertake re-packing to restore the preserved life to the specified period at his own cost. In cases of any delay in STW/installation/integration trials/commissioning, attributable to the Buyer, and if preservation period expires during the storage prior installation/post installation and prior trials (as applicable), the deliverables are to be re-preserved by the Bidder against payment of de-preservation/re-preservation charges as per price quoted in the Price Bid. To facilitate this, the cost of in-storage/in-situ de-preservation/re-preservation, as applicable, is to be indicated in the Price Bid. This cost quoted by the Bidders at Sl (J) of Price bid format at **Appendix N** would be counted towards determination of L1 and will be paid as per the price quoted if the service is utilized for extending the preserved life. In the cases where installation and trials is part of the Contract, the warranty will commence from the date of commissioning/acceptance. In cases where the delay for installation, trials and commissioning is not attributable to the Bidder, payment terms for the stage related to installation and commissioning will be in accordance with **Appendix M.**

Note: Applicable Scenarios and flowchart are given at Annexure III to Appendix C to Chapter II of DAP -2020

13. **Warranty.** The deliverables supplied shall carry a warranty for ___ months/years/operational hours **(not to be left blank)**. Commencement of warranty will be from the date of acceptance post JRI or from date of installation and commissioning, as at Para 12 above **(as applicable on case to case basis)**. Warranty Clause is given at **Appendix C** to this RFP.

Note: The warranty requirements shall be specified based on the delivery schedules and dependence, if any, of the acceptance of the equipment on external factors like availability of relevant platforms/associated equipment etc. Flow chart placed at Annexure III to Appendix C to Chapter II of DAP 2020 gives various scenarios and corresponding formulations to aid in arriving at warranty requirements for inclusion in RFP.

14. **Offset (If applicable).** Offset obligation shall be discharged by the Bidder in accordance with provisions of DAP 2020. The Bidder has to undertake Offset contracts amounting to ___% or (as approved by the DAC) of the value of 'Buy' portion of the Base Contract Price. 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 Bidder 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 provided at Appendix E to Chapter II of DAP 2020.

15. **In Service Life/Shelf Life.** The In Service/Shelf Life of the deliverables **(as applicable)** shall be stipulated in the offer. In case of shelf life, the relevant storage conditions should be clearly specified. The Bidder is required to give details of reliability model, reliability prediction and its validation by designer/manufacturer 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 47 of this RFP.

16(a). **Product Support.** The Bidder 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 Bidder 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 Lifetime Buy of all spares before closure of the said production line. This, however, shall not restrict the Buyer from directly sourcing sub-equipment/sub-assembly and spares from their respective OEMs/sub-vendors on completion of warranty. In case the sub-equipment/ sub-assembly/ parts require tuning/ calibration/integration by the Bidder prior replacement, the same is to be undertaken by the Bidder at fair and reasonable cost, as mutually agreed between Buyer and Bidder.

16(b). **Codification.** The Bidder agrees to provide existing NATO Stock Numbers (NSNs) of OEM for each item supplied under the contract as per part list (including MRLS). In case, the NSNs are not available, the bidder agrees to codify using basic technical characteristics as

required for codification in consultation with MoD/Directorate of Standardisation. In case of IPR issues, codification will be undertaken as Type IV codification (where only the manufacturer details and part number are to be provided).

17. **Obsolescence Management Plan (if applicable)**. An actionable obsolescence management plan is to be proposed by the Bidder along with the mechanism for intimation of notification of obsolescence. The modalities of the mechanism for intimation of notification would be deliberated during CNC. The mutually agreed mechanism for intimation would 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 as per the agreed mechanism.

18. **Training of Crew and Maintenance Personnel**. A training package for training of operators, operator trainers and maintenance personnel to undertake operation and maintenance of equipment, along with tools and test jigs and training of QA personnel for Quality Assurance of equipment would be required to be carried out in English language and Hindi language (if required). This training shall be designed to give the operators and maintainers necessary knowledge and skills to operate & maintain equipment (level 1 to 4 or 'O' / 'I' / 'D'), as applicable. The syllabus will be defined by the Bidder in consultation with the Buyer at the time of MET. The maintenance training will be imparted to the satisfaction of the Buyer and Bidder will ensure that the training content and period will be to impart working proficiency up to the required level. All training requirements such as training aids, projection system, complete equipment with accessories / optionals, technical literature, spares, test equipment / test set up, charts, training handouts, power point presentations, Computer Based Training (CBT), Documentation, Simulators etc will be catered by the Bidder.

19. The Bidder would provide the following training to the personnel of the Buyer based on agreed terms of contract details of total training duration, number of trainee, batch size, place of training etc to be included as applicable :-

(a) **Operator Training**. Operator training for ____ duration (in working days), ____ strength in ____ batch(es) are to be provided both at Bidder/Buyer premises to be indicated.

(b) **Repair and Maintenance Course**. Maintenance training for ____ duration (in working days), ____ strength in ____ batch(es) at Bidder/Buyer premises is to be undertaken both for Field and Base level repairs.

(c) The above training should meet the needs of repair & maintenance of the complete equipment, SMTs/STEs, test set up, assemblies/sub-assemblies as per the stipulated repair philosophy.

(d) Training for QA personnel as per scope mentioned in Para 51 of RFP for ____ personnel in ____ batches are to be undertaken in Bidder/Buyer premises. Bidder to provide the duration (working days) for training as per defined scope, in the Technical Bid.

SHQ to give broad details of the training sought. The training details may include Duration, Batch Size, Location, Syllabus etc. Also, division of responsibility between BUYER and Bidder is to be specified in respect of training infrastructure requirement and stay/transportation arrangements, if training is done at OEM Premises.

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

21. 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.

22. **Agents.** *(Applicable in case of foreign vendors only)* The Bidder 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 E** to this RFP. Without prejudice to the obligations of the Bidder as contained in various parts of this document, appointment of an Agent by Bidders 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 Bidder 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 Bidder at any stage that the Agent so engaged is not acceptable whereupon it would be incumbent on the Bidder 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 bid submission would be disclosed at the time of bid 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 Government of India, whether officially or unofficially, the award of the contract to the Bidder 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 Bidder 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 Bidder and the Agent engaged by him.

23. **Patent Rights.** The Bidder should confirm that there are no infringements of any Patent Rights in accordance with the laws prevailing in their respective countries.

24. **Integrity Pact.** In the subject RFP, the Bidder is required to sign and submit Pre Contract Integrity Pact (PCIP) given at **Annexure I to Appendix O** 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:-

(IFSC Code - SBIN0000691)
State Bank of India
New Delhi Main Branch
C Block, 11 Parliament Street
New Delhi, Pin: 110001

(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).

25. **Transfer of Technology (ToT)** *(If applicable)*. The Government of India, Ministry of Defence is desirous of design/development, manufacture, repair, overhaul *(as applicable)* of **(generic name of equipment)** under ToT. Aspects of ToT which are to be fulfilled by the Bidder are given at **Appendix F** to this RFP. Government reserves the right to negotiate ToT terms subsequently but the availability of ToT would be a pre-condition for any further procurements.

Note:

The ToT outcomes of the project and the methodology for assessing the delivery of ToT outcomes shall be clearly brought out in this section. The details should include the scope & depth of the technology required range of technology for design/development and manufacture of systems, sub-systems, assemblies, components, materials, etc, as well as for repair, 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 F to Schedule I. Since range and depth of technology involves cost, the criteria for selection of range and depth should be optimized based on value addition to the ecosystem and capabilities intended to be augmented. The nominated Production Agency (PA) for the receipt of technology or DRDO will be closely associated in the preparation of RFP. Reference is to be made to the 'Legal Framework in ToT Agreements' as promulgated by DDP.

26. **Transfer of Technology for Maintenance Infrastructure** *(As applicable)*. The Government 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 Entity. In case the Bidder is required to select an Indian entity, they 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 Bidder is required to set up maintenance infrastructure and facilities for third line repairs in India at the premises of the selected Indian Entity as per the terms and conditions laid down in **Appendix G** to this RFP.

27. **Fall Clause**. If the equipment being offered by the Bidder 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 Bidders 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 Bidder 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.

Bid Timelines

28. 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 Bidders up to the pre-bid meeting would be sent by SHQs to the office of ADG Acq Tech within two weeks of Pre-bid meeting and ADG Acq Tech should send the response to Bidders within one week thereafter).

29. **Pre-Bid Meeting**. A pre-bid meeting will be organised by SHQ at ____ hrs on ____ (date) at ____ (venue) to answer any 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.

30. **Submission of Bids**. The Technical and Commercial Proposals along with IP and IPBG should be sealed separately in three separate envelopes clearly indicating Commercial/ Technical/ IP and IPBG, as applicable, and then put in one envelope and sealed **(all the envelopes should clearly state the letter No of RFP and the name of equipment and Bidder name)** and submitted to the undersigned at the following address by ____ hours on ____ :-

~~O/o Technical Manager (Land Systems)~~
O/o ADG Acquisition Technical (Army)
 Room No 30, D-II Wing
 Sena Bhawan
 New Delhi-110011
 Fax No: 23792414

As applicable

31. Offer opening by a Offer opening committee will be held at ___hrs on _____ at the same venue as indicated at Para 30 above. The Bidder or his authorised representative is welcome to be present at the opening of the proposals. Necessary details may be sent atleast one week in advance (two weeks in case of foreign Bidders) to facilitate obtaining of security clearance.

PART II – TECHNICAL REQUIREMENTS

32. The second part of the RFP incorporates the aspects of SQRs describing the technical parameters of the proposed equipment, and the environmental parameters for functioning. 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 Bidder would be required to offer the equipment for field evaluation on a “No Cost No Commitment” basis.

33. **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 Bidder(s) claim that the equipment fielded by them for FET can meet Essential Parameters ‘B’ and such Bidders 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 33 above (a written undertaking in this regard will be given by such Bidder(s) to SHQ prior to date of commencement of FET.

34. **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/ relevant by the Bidder. 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. The range and depth of spares included in the proposal should be supported by necessary reliability and prediction model or authenticated by past data on the similar equipment in use. These would be evaluated during FET. Any Bidder found to be providing lesser ESP/MRLS in terms of range and depth will have to make good the deficiency at no extra cost. The revised list of MRLS to this effect is to be submitted prior Staff Evaluation.

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 Bidder 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 Bidder 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 other 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. **Submission of Project Report (where applicable)**.

For cases involving large scale integration with other systems or civil infrastructure or ToT, requirement of Project Report may be included in RFP as given below.

(a) **Preliminary Project Report (PPR)**. A PPR must be submitted along with the Technical Offer. The PPR should indicate the methodology adopted by the Bidder to execute the program and meet the delivery schedule laid down in the RFP. The PPR has to be submitted in the format placed at **Appendix H**. The PPR should broadly cover the following aspects:-

- (i) Project overview.
- (ii) Definitions of key milestones based on indicative list of milestones and broad range of timelines specified at Para 56.
- (iii) Broad plan for execution of the Project as per delivery schedule indicated at Para 10.
- (iv) Lifetime product support plan.
- (v) Plan for meeting the Indigenous Content (IC) stipulated in the RFP.
- (vi) Project organization structure as applicable.
- (vii) In case of ToTs for licensed production and MToT, information sought at Para 25, 26, 39 and Appendices F and G, Indian sub-contractor for ToT and/or manufacturing and the methodology for setting up manufacturing infrastructure shall be part of PPR.

(b) **Project Report (PR)**. Post contract, the L1 Bidder will submit a PR covering the key aspects highlighted in the PPR and detailed project implementation plan for 'Make' portion with the proposed ToT partner for Buy and Make (Indian) cases by dates indicated at Delivery Schedule and Stages of Payment (**Annexure VII to Appendix M**).

39. **Para Applicable only for M-ToT Cases**. The detailed scope of maintenance infrastructure and conditions are elaborated at **Appendix G** to this RFP. A separate proposal for 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 nominated/ selected Indian entity. It should give compliance or otherwise to the conditions that have been elaborated at **Appendix G** to this RFP for establishing the maintenance infrastructure. The spares, repairs and services support required from vendor for ToT to Indian entity would be implemented under long term contract. The proposal for Maintenance Transfer of Technology (MToT) shall also include Active Obsolescence Management through life cycle support of the equipment including upgradation of system/subsystem/components on completion of its fair service life.

40. **Malicious Code Certificate.** The Bidder 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 J** to this RFP.

41. **Field Evaluation.** The Bidder 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 Buyer, at his own expense, will depute its representatives for the Field Evaluation trials (FETs). If any part of the FETs are conducted in the Buyer’s facilities, the Bidder shall depute his personnel and equipment at his own expenses and bear the cost of all expenses of trials other than the cost of ranges, platform or facilities which the Buyer may choose to provide free of cost. *(In case payment is required by Buyer for providing ranges, platform or facilities, Buyer is to indicate the required amount in the RFP).*

(The details/scope of the trials, if other than NCNC in India, are to be included in RFP as per the AoN accorded by the SPB/ DAC/DPB).

42. **Product Support (ESP/AMC/CMC/LCSC/PBL)** *(as required)*. After induction, the equipment/system would be repaired and maintained as per the repair and maintenance philosophy at **Appendix K** to this RFP. The information on Engineering Support Package that is required to be provided is enclosed at **Annexure I to IV** to **Appendix K** to this RFP. The details of AMC/CMC/LCSC/PBL proposals, if sought, must also be submitted separately by the Bidder with technical aspects being included in the technical offer and commercial aspects being included in the commercial offer.

In case the Repair and Maintenance of equipment is through Life Cycle Support Contracts as specified at Para 12-13 of **Appendix K**, the Bidder would have to submit the complete Spare Parts list of equipment (not limited to MRLS) along with complete Repairable Parts list (in softcopy) in the Technical offer. The complete Spare Parts Price Lists, Repairs Price Lists and Man-day Rates of Specialists would have to be submitted in the Commercial offer. Negotiations for Long-Term Rate Contracts (3 to 5 years) for Spares, Repairs and Man-day rates of Specialists would be conducted concurrently with the (L1) Bidder. *In case of PBL, the SHQ would include a sample PBL contract as a separate Appendix to the RFP.*

1. In case equipment is already in usage, the User Defined List of Spares (UDLS) must be specific based on the consumption pattern, rather than being based on MRLS.

2. In case consumables are required to be supplied by the Bidder during warranty phase, the same may be included in the Para.

3. If post warranty AMC/CMC/LCSC/PBL is also being sought from the OEM, the level of

AMC/CMC/LCSC/PBL required (with spares/without spares/repair rate contract) must be clearly indicated.

Note: The ESP/AMC/CMC/LCSC/PBL to be sought needs careful deliberation as it will impact not only the operational availability and life of the equipment but also the overall Life Cycle Cost. The maintenance philosophy (by own resources/AMC/CMC/LCSC/PBL) is to be evolved and the requirement of spares/tools/documents/training shall be clearly spelt out based on the usage, operational criticality, nearest availability of shore/field support and past experience of similar equipment. The flow chart placed at Annexure I to Appendix C to Chapter II of DAP 2020 gives various scenarios and resultant formulations to aid in arriving at the requirements.

43. **Spares.** The spares requirement will be as per **Appendix K** to this RFP. The spares are required to be categorized in four categories as follows:-

- (a) Manufactured by Bidder as OEM and can be sourced as per Part No.
- (b) Bought out items and customized by the OEM for the specific purpose and such customization would require OEM intervention.
- (c) Bought out from other OEMs/Third Party as specialised items and used without any customization. Such items can be sourced by quoting their Part No./Identification No. as given by OEM/Third Party and directly utilised.
- (d) General Engineering items/COTs which can be sourced by stating the relevant standards and item description.

Note. The OEM Part No. /Identification No. of items in addition to bidder assigned part number are also required to be given. To the extent feasible, NATO Stock Number (NSN) be also provided.

44. As brought out at Para 34, the range and depth of spares included in the proposal should be supported by necessary reliability and prediction model or authenticated by past data on the similar equipment in use. These would be evaluated during FET. Any Bidder found to be providing lesser ESP/MRLS in terms of range and depth will have to make good the deficiency at no extra cost. The revised list of MRLS to this effect is to be submitted prior Staff Evaluation. The Buyer would also have the option to amend the MRLS proposed by the Bidder within _____ years of the expiry of the warranty period. The Bidders 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 Bidder, based on the prices negotiated in the contract. The 'Buy Back' clause would not be applicable for additional spares included by the Buyer in MRLS during FET and SE stage, as brought out at Para 34 of RFP.

In case there is a requirement of Online Inventory Management System and/or Active Technology Obsolescence Management, the clauses are to be included as enumerated below.

45. **Online Inventory Management System (OIMS) (where applicable).** To leverage information technology and ensure expeditious order placement as well as timely product support, the Bidder is required to provide an Online Inventory Management System

(OIMS), as per mutually agreed format, to place Purchase/Repair Orders (as applicable) online. The OIMS shall also provide feature to track the delivery status of the items. Further the OIMS should provide dashboard for intimation on obsolescence and offer of lifetime buy along with provision for user to interact with the OEM for technical assistance etc. The detailed scope and features of OIMS shall be finalised during the negotiations on LCSC.

46. **Active Technology Obsolescence Management** *(where applicable)*. Bidder is to indicate the methodology on how the Bidder intends to undertake Active Obsolescence Management through life cycle of equipment which would include upgradation of system/subsystem/ units on completion of its fair service life. The Bidder/OEM *as applicable* shall also intimate Buyer on likely technology obsolescence of various sub-assemblies/units/modules of equipment through an Annual Bulletin. In case of impending obsolescence of components, bulletin should specify either alternate item or option for life-time buy as under:-

- (a) The Bidder/OEM *as applicable* will notify the Buyer not less than two years before the closure of its production line about the intention to close production of equipment for provision of purchasing spare parts, before closure of the said production line.
- (b) Three years prior to completion of design/service life of equipment, the Bidder/OEM *as applicable* will submit techno-commercial proposal for upgradation of equipment, wherever applicable, to mitigate technology obsolescence and for ensuring product support for next 15 years (or any other period as applicable).

Evaluation of Technical Offers

47. The Technical Offer submitted by the Bidder 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 at **Appendix A**. For cases where Essential Parameters 'B' are involved, TEC will confirm that the Bidder has submitted the undertaking to this effect (Refer **Para 14(b)** of Chapter II of DAP -20) as per the format given at **Annexure I to Appendix A** to this RFP. For cases where ToT for license production/maintenance infrastructure is sought, the TEC will examine the compliance of the Bidder as per the stated requirements of RFP. Thereafter, the Bidder of the short listed equipment would be asked to provide the equipment (___Nos) for trial evaluation as per trial methodology given at **Appendix L** to this RFP, in India at 'No Cost No Commitment' basis.

Note: *The above Para is to be modified as per the requirements of the case. The details/scope of the trials, if other than NCNC trials in India, is to be included as per the decisions during AoN by the DAC/DPB/SPB.*

Field Evaluation Trials

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

(a) **User Trials.** These will involve functional testing by user of the equipment in various specified conditions as per requirement and may be done in more than one phase. Trials will be conducted 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 vendor certifications confirming the functional effectiveness under such conditions can be given and simulations based testing can be resorted to wherever applicable. In case, equipment fielded requires any repairs/modifications during the course of trials, these in situ servicing, repair, maintenance actions or modifications as requested by the vendor will be permitted. Towards this, Vendors shall ensure availability of requisite maintenance teams/ experts onsite during the conduct of trials. Permission for trial equipment to move out of the trial location for a defined period for such repairs or modifications can be permitted on a case to case basis. In single vendor cases permission for the above may be permitted by the OIC Trials itself.

In case trials are to be conducted at Buyer's premises or onboard Buyer's platform/vessel, clear demarcation of responsibilities between Buyer and Bidder towards conduct of Trials in terms of transportation, POLs, consumables and other requirements, on case to case basis, needs to be specified.

(b) **Technical Trials.** Technical trials will be conducted by QA agency as per Technical Evaluation Plan (to be specified at Para 51 below) to assess conformance to the quality requirements, standards and specifications. Equipment/assemblies/sub-assemblies will be subjected to environmental tests wherever applicable. As far as possible, physical evaluation 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. Towards this, Bidder will submit the technical documentation and draft ATP as part of technical bid or at least one month before commencement of FET. QA agencies will finalise ATP in respect of all Bidders during Technical trials.

(c) **Maintainability Evaluation Trial (MET).** MET to address maintenance, repair and spares support aspects of acquisition, wherever feasible, will be undertaken through the OEM documentation concurrent to the User Trials. Essential tests towards establishing maintainability would be undertaken to establish adequacy of maintenance tools, test equipment and spares utilisation. Actual stripping of the equipment to establish adequacy of maintenance tools, test equipment and spares utilisation will ideally be undertaken, where considered necessary by the Buyer.

(d) **EMI/EMC Evaluation.** This will consist of either review of reports of EMI/EMC tests already conducted as part of qualification testing from authorised labs or physical conduct of tests to ascertain compatibility. EMC/ EMI Evaluation would be carried out by designated testing centers like Army Center for Electromagnetics (ACE), Mhow etc. on parameters having direct bearing on the operational employability of the equipment based on desired standards as given out in the Trial Directive. For remainder parameters, certification of accredited labs can be accepted.

(e) **Secrecy Testing.** *(if applicable)*

Note: Trials. The scope of FET, Production stage QA checks/inspection and Acceptance trials shall be carefully formulated in such a way that they are adequate and justified. Where ab-initio design & development is involved then these are to be part of validation process of design. These are not necessary to be done for already in –service/ bulk orders/ repeat orders or on all sets of the equipment unless specifically needed and included in SQRs/AoN. The FET may consist of User trials, Technical & Environmental Evaluation, Maintainability Evaluation Trial, EMI/EMC Evaluation and Secrecy grading depending on the SQRs. The Flow Chart for arriving at necessary details is provided at Annexure II to Appendix C to Chapter II of DAP 2020.

49. Cases involving Essential Parameters ‘B’ (specified at Appendix A) would be trial evaluated after the signing of the contract as provided in **Para 14(b)** of Chapter II of DAP 2020. However, Trials for Essential Parameters ‘B’, may be conducted at the FET stage, if any Bidder(s) claims that the equipment fielded by them for FET can meet Essential Parameters ‘B’ and such Bidders 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 Bidder(s) to SHQ prior to date of commencement of FET).

Note: Cases involving equipment that need to undergo secrecy grading must incorporate details that the Bidders need to provide as part of the technical offer. These details can be sought by SHQ based on a Proforma to be given by HQ DRDO.

50. Commercial offers will be opened only of Bidders 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).

Quality Assurance Instructions & Technical Evaluation Plan

51. QA instructions and Technical Evaluation Plan will be stated by the concerned QA agency. Bidder is to submit a Draft Acceptance Test Procedure (ATP) along with the Technical bid or at least one month before commencement of FET, as per the QA instructions and Technical Evaluation Plan. Based on the draft ATP, the ATP will be finalised by the Buyer’s QA agency with Bidder during Technical Trials. In cases where no FET is to be conducted, ATP will be finalised at the CNC stage. ATP shall be included in the contract at the time of finalisation with successful bidder. ATP will lay down the tests to be carried out during PDI and JRI. It shall be ensured that there are no repetition of QA tests in PDI and JRI. The JRI would normally be restricted to quantitative checks only, except where check proof is required to be carried out. In case PDI/JRI are planned to be conducted by authorised Third Party Inspection (TPI) Agencies, the same will be spelt out in the QA instructions and the details included in the finalised ATP. QA of equipment will be carried out as per finalised QA plan in the contract. For technical trials by QA agencies, the Bidder will arrange for requisite test facilities at OEM premises/accredited laboratories for establishing conformance. The successful Bidder would also be required to provide those test facilities at OEM premises/accredited laboratories for quality assurance, which are not available with QA agencies. Details of the same will be intimated to the Bidder during finalisation of ATP in Technical trials.

QA agencies shall mention the broad Quality Assurance instructions) in RFP along with associated charges, if any,, which will include indicative reference for number of samples for destructive tests e.g., firing of missiles, ammunition, electronic assemblies/sub-assemblies etc, to assure quality and reliability of the equipment. In case the procurement is being done for more than one service, the QA of the lead service will be responsible for all QA aspects for the entire case, to include PDI and JRI for the entire quantities.

Note: Production Stage QA & Acceptance. The requirements of Production stage QA & Acceptance trials are to be indicated in the RFP based on the type/origin of equipment, SQRs and categorisation. The complexity of manufacturing and end use of equipment are also to be kept in mind while specifying the QA requirements and Acceptance procedures respectively. The production stage QA may involve verification of internal QC reports and random surveillance/sampling for Raw Material, In-process, Assembly level, ESS for electronic components and FATs/HATs/SATs/OPs Checks. The flow chart placed at Annexure II to Appendix C to Chapter II of DAP gives the various scenarios and resultant formulations to aid in arriving at the requirements.

Marking and Packaging

52. **Marking of Deliverables.** The Bidder shall ensure that each deliverable is marked clearly and indelibly, as follows:-

- (a) In accordance with the requirements specified in the RFP or if no such requirement is specified, with the indicated codification number or alternative reference number specified.
- (b) Ensure that any marking method used does not have a detrimental effect on the strength, serviceability or corrosion resistance of the deliverables.
- (c) Where the deliverables have a limited shelf life, with the cure date/date of manufacture or expiry date expressed as months and years.

53. Where it is not possible to mark a deliverable with the required particulars, these should be included on the package in which the deliverable is packed.

54. **Packaging of Deliverables.** The Bidder shall pack or have packed the deliverables, as applicable:-

- (a) In accordance with DEFSTAN 81-041 (Part 1)/STANAG-4280 or equivalent Military Standard.

This standard is for packaging of non-explosives only. Not to be referred in case of ordnance stores. For explosives/ordnance stores, refer to relevant JSS/Standards. In special cases, where the DEFSTAN/STANAG need not be followed, relevant packaging standards or procedure is to be included.

- (b) To ensure that each deliverable may be transported in an undamaged and serviceable condition.

55. The Bidder shall ensure that each package containing the deliverable is labeled to include:-

- (a) The name and address of the consigner and consignee including
 - (i) The delivery destination/address if not of the consignee
 - (ii) Transit destination/address (for aggregation/disaggregation, onward shipment etc)
- (b) The description and quantity of the deliverables.
- (c) The full part number in accordance with codification details or as per ____.
- (d) The makers part, catalogue, serial, batch number, as appropriate.
- (e) The contract number.
- (f) Any statutory hazard markings and any handling markings including the mass of any package which exceeds 3 kgs.
- (g) The Packaging Label (military J, N or P, special H, commercial A, C etc) (specify reference to DEFSTAN 81-041 (Part 1)/STANAG-4280 or equivalent Military Standard.)

Note 1: Packages to be used for defence material shall be designed to an appropriate Military Packaging Level. The Packaging Level as per DEFSTAN 81-041 Part 1 needs to be defined in RFP based on the type of stores, storage, handling and transportation requirements. Commercial Packaging may be either Trade Package or Export Trade Package where Code A or C is used respectively. For special requirements Code H is used. In Military Level Packaging Code P, N & J are used based on storage and distribution requirements. The details of the conditions applicable for deliverables being inducted needs to be clearly identified and compared to the conditions of each code as defined in DEFSTAN 81-041 Part 1, to arrive at correct packaging level.

Note 2: The requirements of Packing/ Storage/ Preservation/ De-Preservation/ Re-Preservation are to be indicated in the RFP based on the delivery schedules of various components of a complex system or integration requirements and availability of other systems. The flow chart placed at Annexure III to Appendix C to Chapter II of DAP 2020 gives the various scenarios and resultant formulations to aid in arriving at the requirements.

56. **Monitoring of Project Based on Contractual Milestones/PR (as applicable)**.

After placement of order, the progress of the project will be monitored by the Buyer for compliance with various activities towards achieving contractual milestones/DPR involving delivery/installation/ integration/trials etc. The contractual milestones will be integral part of the contract. In case the project does not proceed as per the indicated timelines for various contractual milestone(s), the Buyer will have the right to invoke Termination of the project. The indicative list of Contractual Milestones and broad range of

timelines (earliest and latest time for completion) for the project is as follows (to be used for preparation of PPR and PR):-

Sl	Milestone	Timeline (To+Weeks)	Remarks

57. The Bidder is to indicate the proposed timelines for the above milestones in the Technical Bid. On conclusion of the Contract, these milestones will be monitored by the Buyer.

58. The Project Monitoring Meeting is to be organized at _____ months interval. The Bidder shall attend the progress monitoring meetings through its suitably qualified representatives and shall submit progress reports to the Buyer.

PART III - COMMERCIAL REQUIREMENTS

59. 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.

Commercial Bid

60. The Bidder is requested to take into consideration the **Commercial Clauses and Payment Terms** given at **Appendix M** to this RFP while formulating the Commercial Offers. The bidders are required to quote their price in Price bid format given in **Appendix N** to this RFP.

Note: The payment terms and stages shall be specified based on the delivery schedules and any dependence of acceptance of the equipment on external factors like availability of relevant platforms/associated equipment etc. The payment terms may have provisions for payment of about 70% of the stage payment payable against installation/commissioning and final acceptance on submission of bank guarantees of equivalent amount in case of inordinate delay in acceptance of equipment due to factors attributable to the Buyer. In addition, the Bidder should submit a firm undertaking that they will fulfill all pending obligations immediately on availability of requisite infra/associated system/platform. Flow chart placed at Annexure III to Appendix C to Chapter II of DAP 2020 gives various scenarios and resultant formulations to aid in arriving at payment terms for inclusion in Appendix M to RFP.

61. Commercial offers will be opened only of the Bidder 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 last date of bid submission.

(period may be amended, if required).

Commercial Bid Opening

62. The Commercial Offers will be opened by the Contract Negotiation Committee (CNC) and if Bidder desires he may depute his representative, duly authorised in writing, to be present at the time of opening of the offers.

63. The date, time and venue fixed for this purpose will be intimated separately after the evaluations are completed.

64. The CNC will determine the lowest bidder (L1). In cases where EPP are involved, L1 would be decided based on the credit scores earned by the Bidder. The Buyer Furnished/Buyer Nominated equipment/system/components (BFE/BNE) to be procured from a single source, if any, would not be included in determination of L1. However, the interfacing cost of these with other equipment/system/components will be included. In case one of the BFE/BNE equipment/system/component supplier is also a bidder then he has to provide the complete data required for interfacing to all other Bidders through BUYER/directly under a undertaking of sufficiency and correctness.

Note: EPP parameters and respective credit scores for each should be given in the RFP

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 Bidder to formulate a comprehensive commercial proposal be indicated upfront in the RFP so that selection of LI is facilitated.

Additional Aspects

65. **Standard Conditions of RFP.** 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 conditions furnished at **Appendix O** to this RFP regarding Agents, penalty for use of undue influence and Integrity Pact, access to books of accounts, arbitration and clauses related to Law. These conditions along with other clauses of the Contract form the Standard Contract Document (as at **Chapter VI** of DAP 2020) indicates the general conditions of contract that would be the guideline for all acquisitions. The draft contract would be prepared as per these guidelines.

66. **Option Clause** *(as applicable)*. The format of option clause is placed at **Appendix P** to this RFP.

PART IV: BID EVALUATION AND ACCEPTANCE CRITERIA

67. A list of documents/details to be submitted along with the bids is placed at **Appendix S** as a reference to help in completeness of bid and meeting the procurement process schedule.

68. The bids shall be unconditional and unqualified. Any condition or qualification or any other stipulation contained in the bid shall render the bid liable to rejection as a non-responsive bid.

69. The bid and all communications in relation to or concerning the bidding documents shall be in English language.

70. **Evaluation and Acceptance Process.**

(a) **Evaluation of Technical Proposals.** The technical proposals 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 equipment offered by various Bidders with reference to the QRs and prepare a “Compliance Statement” for shortlisting the Bidders. The shortlisted Bidders 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, 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 N** to this RFP. The L-1 bidder would be determined by Contract Negotiation Committee (CNC) on the basis of **Appendix N** to this RFP. If EPP is applicable, L1 determination would be as per Para 14(c) 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.

Appendix A to Schedule I to Chapter II
(Refers to Para 32, 33, 34, 36, 37, 47 & 49
of Schedule I)

OPERATIONAL CHARACTERISTICS AND FEATURES

1. This information would be different for various 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 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 47 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 Government.

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

Appendix B to Schedule I to Chapter II
(Refers to Para 32, 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
General Conditions of RFP (Para __ to __)			
Technical Parameters as per Appendix A			
	Essential Parameters 'A'		
	Essential Parameters 'B' (if applicable)		
	Enhanced Performance Parameters (if applicable)		
Commercial Parameters as per RFP			
	Performance-cum-Warranty Bank Guarantee as per Para ___ of RFP		
	Advance Payment Bank Guarantee 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 13 of Schedule I)

WARRANTY CLAUSE

(To be amended as per requirement and all blank spaces to be filled up)

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 deliverables post Joint Receipt Inspection or from date of installation and commissioning (as per Para 13 and as applicable on case to case basis), that the goods/stores/services supplied under this contract and each component used in the manufacture thereof should be free from all types of defects/failures (including latent and patent defects).
3. If within the period of warranty, the goods/stores 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, including routine maintenance beyond Unit Level (delete if CMC/AMC is not part of the contract), 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 Appendix).*

Appendix D to Schedule I to Chapter II
(Refers to Para 14 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 DAP 2020 (available at 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~~ ADGs Acquisition Technical will be binding.** These offset offers would have to be submitted together in two separate sealed covers to the ~~Technical Manager~~ **ADGs Acquisition Technical** 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, as per 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.

Annexure I to Appendix D
(Refers to Para 2 of Appendix D)

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 (d) 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) and 3(d) 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: Bidder 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) List of Tier-1 sub-contractors, if any, through whom offset obligations are proposed to be discharged, with percentage of discharge.
- (vi) Proposals for Technology Acquisition by DRDO under Para 3.1(e) of Appendix E to Chapter II should be submitted separately in the format at Annexure IX to Appendix E to Chapter II.
- (viii) Details of banked offset credits accumulated under certain DPPs, as certified by DOMW, pre-approved banked offset credits will be considered for discharge of offset

obligations subject to maximum of 50 percent of the total obligations under each procurement contract.

Annexure III to Appendix D

[Refers to Para 3(c) and 3(d) 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)	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 : Bidder 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) Value of investment supported by documentary evidence.
- (vi) Bidder to provide Detailed Project Report (DPR) with cost breakup relating to Para 3.1(b) and (c) of the offset guidelines at Appendix E to Chapter II should be indicated, as applicable.
- (vii) Details of banked offset credits accumulated under certain DPPs, as certified by DOMW, pre-approved banked offset credits will be considered for discharge of offset obligations subject to maximum of 50 percent of the total obligations under each procurement contract.

Appendix E to Schedule I to Chapter II
(Refers to Para 22 of Schedule I)

INFORMATION PROFORMA : AGENT
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

Appendix F to Schedule I to Chapter II
(Refers to Para 37 of Chapter II and Para 25
of Schedule I)

***(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)

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/development, manufacturing know-how and detailed technical information which will enable the Production Agency to manufacture of systems, sub-systems, assemblies, components, materials etc by Indian ToT partner as well as for repair, overhaul, besides production from SKD/CKD/IM Kit, production from raw material and component level. 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:-

(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)

(iv) Relative Percentage of cost of Category 4 items (individual & composite) } Not more than 25%

(v) Relative Percentage of cost of Category 5 items (individual & composite) } Not more than 15% (to be decided on as case to case basis)

(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)
 - (ii) Relative Percentage of cost of Category 2 items (individual & composite)
 - (iii) Relative Percentage of cost of Category 3 items (individual & composite)
 - (iv) Relative Percentage of cost of Category 4 items (individual & composite)
 - (v) Relative Percentage of cost of Category 5 items (individual & composite)
- } Not less than 60% after excluding the corresponding CKD kit cost resulting in value addition of not less than 30%
- } Not more than 25%
- } 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. QA will be carried out by QA Agency as per mutually agreed ATP.

(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. QA will be carried out by QA Agency as per mutually agreed ATP.

(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 I**. Conformance of the vendor to the time schedule provided in **Annexure I** 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 Bidder 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:-

- (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.

Note: 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.

- (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 overall 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 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.

Annexure I to Appendix F
(Refer to Para 3(b) of Appendix F)

SPECIMEN FORMAT FOR PROVIDING DELIVERY SCHEDULE

Sl. No.	Description	Qty	Month after effective date	Remarks
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.

Annexure II to Appendix F
(Refers to Para 5(b), (c) & (e) of
Appendix F)

DOCUMENTATION DETAILS TO BE PROVIDED BY OEM

1.	<u>Engineering Documentation</u>
(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.	<u>Software Documentation.</u> (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.	<u>Manufacturing Documentation.</u>
(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.	<u>Test Documentation</u>
(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.	<u>Technical Manuals</u>
(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. <u>General Documentation (including Standards and Specifications).</u>
(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. <u>Additional Documentation.</u> 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.

Annexure III to Appendix F
(Refers to Para 16 of Appendix F)

SPECIMEN FORMATS FOR PROVIDING PRICE INFORMATION

ToT			
<u>S No.</u>	<u>Item</u>	<u>Price</u>	<u>Remarks</u>
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	<u>Training.</u> (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.

<u>COST OF FE, SKD, CKD AND IM KITS, AS THE CASE MAY BE, SPARES AND SMTs/STEs</u>					
<u>S. No</u>	<u>Item</u>	<u>Unit Price in USD</u>	<u>Qty</u>	<u>Total Price in USD</u>	<u>Remarks</u>
1.	_____ -System				
	(a) Fully Finished System				
	(b) SKD Kits				
	(c) CKD Kits				
	(d) IM Kits#				
2.	<u>Spares.</u>				
	(a) 'O' Level				
	(b) 'I' Level				
	(c) 'D' Level				
3.	<u>SMTs/STEs.</u> *				
	(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				

	TOTAL				
<u>Itemised SKD Kit Price</u>					
<u>Part No</u>	<u>Description</u>	<u>Qty</u>	<u>Price in USD</u>		
<u>Itemised CKD Kit Price</u>					
<u>Part No</u>	<u>Description</u>	<u>Qty</u>	<u>Price in USD</u>		

<u>LIST OF SPECIAL MAINTENANCE TOOLS (SMTs) AND SPECIAL TEST EQUIPMENT (STEs)</u>						
<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						
<u>LIST OF SINGLE SOURCE VENDOR ASSEMBLIES/ COMPONENTS AND PROPRIETARY ITEMS</u>						

<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) **'I' 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			

Appendix G to Schedule I to Chapter II
(Refers to Para 26 and 39 of Schedule I)

**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 Government 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 Entity. (These entities would normally be DPSUs/OFB/Army Base Workshops/Naval dockyards/Naval Aircraft Yards/Base Repair Depots of Air Force or any other firm as approved by AoN according authority).

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.

(c) The spares, repairs and services support required from vendor for ToT to Indian entity would be implemented under long term contract. The proposal for Maintenance Transfer of Technology (MToT) shall also include Active Obsolescence Management through life cycle support of the equipment including upgradation of system/subsystem/components on completion of its fair service life.

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. The specific requirements of technology transfer for Maintenance Infrastructure needs to cover the following aspects (choose whichever is /are applicable):-

(a) To ensure Indian entity is able to support operation and deployment of the platform/equipment on sustainable basis.

(b) To ensure Indian entity is self-sustainable to provide 'Intermediate', 'Depot' and 'Overhaul Level (2nd, 3rd and 4th level) repairs, maintenance and upgrade for the entire life cycle of the equipment.

(c) To set-up requisite test facilities/infrastructure for undertaking testing/certification for the entire life cycle of the equipment.

(d) To set-up an ecosystem for manufacture of sub-systems, assemblies, components, spares, materials, etc, in India.

(e) To make India, a regional/global hub for MRO for the Platform/equipment.

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:-

- (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.

Note: 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.

(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 equipment 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 overall 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 I.

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 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.

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.

Appendix H to Schedule I to Chapter II
(Refers to Para 38 of Schedule I)

PRELIMINARY PROJECT REPORT (PPR)

1. This PPR would broadly cover the following aspects: -
 - (a) Project Overview
 - (b) Definition of key milestones based on indicative list of milestones and broad range of timelines specified at Para 56 of RFP.
 - (c) Broad plan for execution of the Project as per delivery schedule indicated at Para 10 of RFP.
 - (d) Lifetime product support plan.
 - (e) Plan for meeting the Indigenous Content (IC) stipulated in the RFP.
 - (f) Standard of Preparation (SoP) of Platform/ equipment/ system.
 - (g) Project organisation structure as applicable.
 - (h) In case of ToTs for licensed production and MToT, information sought at Para 25, 26 and 39 of Schedule I and Appendix F and G, Indian sub-contractor for ToT/ manufacturing and the methodology for setting-up manufacturing infrastructure shall be part of PPR.

2. **Project Overview.** The '*Project Overview*' should define, organise and interlink the various project elements which are required to be established/ setup by the Bidder and his Indian Production Agency in order to manufacture and deliver the contracted products and services within the RFP specified timeframes.

3. **Definition of Key Milestones.** This Annexure should define the key milestones in the project implementation phase and the criterion for declaring accomplishment of these milestones. The key milestones would include creating necessary infrastructure and setting up of plant and machinery required to be set up at the Indian Production Agency facilities for license manufacture of _____ in India along with training of the Indian Production Agency personnel required for the purpose. These facilities need to be set up during the period commencing from To to To + __ months to ensure delivery of the Indian made ____ from To + __ months onwards.

4. **Program Schedule.** The '*Program Schedule*' should give **estimated start and end dates** for each event with respect to the award of contract (T₀) thereby creating a **calendar based schedule**.

5. **Methodology for setting up of Manufacture Infrastructure.** The Methodology for setting up of Manufacture Infrastructure at the location of his Indian Production Agency should be brought out in this section covering the infrastructure and facilities required to be created, tooling, manufacturing/ test support equipment, configuration management, production review plan, material procurement chain, training and technical assistance etc. An indicative cost for plant and machinery required for the license manufacture with the requisite

value addition also needs to be brought out in this section. The processes to achieve following milestones are to be clearly brought out in this section:-

- (a)
- (b)
- (c)

6. **Indian Production Agency for ToT & Manufacturing.** If the Bidder has to select an Indian Production Agency as per the guidelines laid down in the RFP. The details of the Indian partner with regard to the per-qualification criteria should be provided in the PPR.

7. **Standard of Preparation (SoP).** Standard of Preparation (SoP) of the platform/ equipment/ system being offered must be defined in the PPR. This must include details of operational role-oriented equipment.

8. **Life Time Product Support Plan.** This document should bring out the Bidder's plan to provide product support throughout the Total technical Life (TTL) of the platform/ equipment/ system including obsolescence management plan, mechanism to incorporate various Support Contracts in future for repairs, mechanism to work out cost spares etc. for all future procurements by applying pre-defined escalation methodologies etc.

9. **Project Organisation Structure.** This section should highlight the Bidder's organisation structure for the project implementation and define the specific organisational elements within this structure that would ~~interfere~~ interface with the GoI, SHQ and other Indian Production Agency during the program execution.

10. **Any Other Issue That the Bidder Finds Relevant.** This section would include any issues that the Bidder finds relevant for the implementation of the 'Make' portion of the program.

Appendix J to Schedule I to Chapter II
(Refers to Para 40 of the Schedule I)

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:

Appendix K to Schedule I to Chapter II
(Refers to Para 42 and 43 of Schedule I)

PRODUCT SUPPORT

***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. **Maintenance Philosophy.** Maintenance of the equipment is structured on three different levels. The Maintenance philosophy can be categorised into ‘O’, ‘I’ & ‘D’ levels depending upon the technological complexity of the equipment as under:-

(a) **‘O’ Level.** Includes Unit and Field Repairs (1st & 2nd Level).

(i) **Unit Repairs.** Repairs, carried out within the unit holding the equipment using tools supplied by the manufacturer as per scaling. These repairs generally pertain to cleaning, lubrications, minor repairs and replacement of components and minor assemblies including Line Replaceable Units (LRUs) etc, carried out without any sophisticated tools or test equipment. The manufacturer is required to provide the following as per provisions in the RFP for carrying out such repairs :-

(aa) Table of Tools and Equipment (TOTE) with each equipment including operators manual.

(ab) Scaling of Special Maintenance Tools (SMT), Special Test Equipment (STE) and Special Equipment (SE) as required.

(ii) **Field Repairs.** Repairs carried out at field/flotilla/station level or equivalent service organisation by technicians specially trained for the purpose, requiring special tools and spares provided additionally for the class of the equipment. These repairs comprise replacement of common Line Replaceable Units (LRUs), sub-modules, other components beyond the holding of units and repairs undertaken beyond a unit level. Normally, a field/station workshop covers such repairs of a group of units holding the said class of equipment and their number will be stated based on equipment deployment pattern. The manufacturer in addition to the basic unit level SMTs/STEs/SE, is required to provide the following:-

(aa) Quantity and specification of spares up to sub-Module level, other replaceable components that need to be stocked for a specified population and class of the equipment.

(ab) Additional Special Maintenance Tools and Test Equipment needed for each such field/floatilla/station work shop.

(b) **'I' Level.** Includes 3rd level Intermediate Repairs by Corps Zone workshop/Dockyard/Base Repair Depot or other similar service organisation. These are extensive or special repairs carried out to include component level repairs. This level of repair envisages special diagnosis and repairs of the repairable inventory up to Printed Circuit Board (PCB) level, major assemblies, interface equipment/software and other components beyond the scope of field/floatilla/station level repairs. These repairs are carried out in the designated workshops by technicians specially trained for this purpose requiring special tools and spares and the number of such facilities will be stated based on equipment deployment pattern. The manufacturer is required, among others, to provide the following:-

- (i) Quantity and specification of spares up to PCB level that need to be stocked for a population of the equipment.
- (ii) Special Maintenance Tools and Test Equipment that has to be provided to each of these workshops.
- (iii) Oils and lubricants necessary for Servicing.
- (iv) All necessary technical literature.
- (v) Calibration facilities for test equipment, where applicable.

(c) **'D' Level.** These repairs include 4th level extensive Base Overhauls (BOH)/ Depot level Repairs which are either routine and planned or necessitated due to major repairs/renewal requirements requiring stripping and rebuilding of equipment. Extensive repairs of components / sub-assemblies and overhaul of the complete equipment is carried out by this facility and due to the complexity requires specific technical knowledge, infrastructure, related documentation, experience and proper quality control. Post such repairs, detailed trials are conducted usually by the overhauling agency, prior to handing over of the equipment to the unit for operational exploitation. Depending on the population of the equipment, such facilities may be established in the country. For this, the manufacturer is required to provide the following:-

- (i) All Special Maintenance Tools, jigs, fixtures and test equipment for carrying out repairs up to component / PCBs/ module level.
- (ii) Oils and lubricants necessary for overhaul.
- (iii) All necessary technical literature.

- (iv) Calibration facilities for test equipment.

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.

2. To sustain and support platform/equipment through its operational life-cycle, Product Support requirements for at least 3 to 5 years beyond the warranty period will be procured along with the main equipment. The equipment could be provided product support through any one or combination of the following details which are elucidated in subsequent paragraphs:-

- (a) Engineering Support Package (ESP)
- (b) Annual Maintenance Contract (AMC).
- (c) Comprehensive Maintenance Contract (CMC)
- (d) Life Cycle Support Contract (LCSC)
- (e) Performance Based Logistics (PBL)

Engineering Support Package (ESP)

3. ESP is the basic engineering support the Seller needs to provide to the Buyer for undertaking essential repairs and maintenance of the equipment during its exploitation. These repairs and maintenance would be in consonance with the Maintenance Philosophy enunciated above. ESP would constitute the following aspects:-

- (a) Spares.
- (b) SMTs/STEs test set-up.
- (c) Technical Documentation.
- (d) Training.

Spares

- (a) **Manufacturer's Recommended List of Spares (MRLS)**. This is the list of spares, recommended by the manufacturer, for maintaining operational serviceability of the equipment and sustain it for the period as stipulated in the RFP. 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.) Cost of the MRLS, along with likely consumption rate of spares is to be provided with the Technical proposal. The MRLS will be supported by Reliability & Maintainability (R&M) report for the proposed spares along with their Mean Time Between Failure (MTBF). MRLS would be provided separately for each such sub system. In order to prevent manipulation of the quantum of MRLS for commercial competitiveness or overload unnecessary MRLS, 'Adequacy' clause and 'Buy Back' clause will be co-opted in the contract as under:-

- (i) **'Adequacy' Clause.** The Bidder will confirm to the Buyer the range and depth of Accompanied Accessories/ User Replaceable Parts/Expendable, Spares and SMT/STE/Test Jigs being supplied are complete and adequate for carrying out repairs on the equipment up to the specified level. Any Bidder found to be providing lesser ESP/MRLS in terms of range and depth will have to make good the deficiency at no extra cost (Para 34 of RFP refers). The Bidder will also commit that any additional items, spares, tools and equipment needed for use, maintenance and repair will be supplied by the Bidder at prices and within a period as specified in the contract, on receipt of notification from the Buyer for the Life-Cycle Support period. The Bidder will confirm that, if two different prices have been given for the same/similar item, 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 would be lowered / adjusted proportionately for the items.

- (ii) **'Buy Back' Clause.** The Buyer would have the option to amend the Manufacturer's Recommended List of Spares (MRLS) proposed by the Bidder within a period specified in the contract, post expiry of the warranty period. The Bidder needs to agree to 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. The 'Buy Back' clause would not be applicable for additional spares included by the Buyer in MRLS during FET and SE stage, as brought out at Para 34 of RFP.

- (b) **User Defined List of Spares (UDLS).** Cases where the equipment is already in use with the Service, the initial lot of spares will be procured based on the UDLS, as recommended by the Maintenance Agency instead of the MRLS.

- (c) The spares are required to be categorized in four categories as follows: -
 - (i) Manufactured by Bidder as OEM and can be sourced as per Part No.
 - (ii) Bought out items and customized by the OEM for the specific purpose and such customization would require OEM intervention.
 - (iii) Bought out from other OEMs/Third Party as specialised items and used without any customization. Such items can be sourced by quoting their Part No./Identification No. as given by OEM/Third Party and directly utilised.
 - (iv) General Engineering items/COTs which can be sourced by stating the relevant standards and item description.

5. **Special Maintenance Tools / Special Test Equipment and Test Jigs (SMTs/STEs/Test Jigs).** SMTs, STE and Test Jigs are essential tools/Jigs/fixtures required to undertake effective engineering support / repairs on the equipment and its systems, based on the Maintenance Philosophy. This would be formulated in a similar manner as explained for MRLS and details are to be included in both Technical and Commercial Proposals as per suggested format at **Annexure II** to this Appendix. SMTs, STEs and Test Jigs will be provided by the Seller, as per the list prepared by the Buyer on completion of MET, where applicable. The list of equipment required to be supplied will incorporate Adequacy Clause, as elaborated above.

6. **Technical Documentation.** The Bidder will be required to provide the technical literature preferably in IETM (Interactive Electronic Training Manuals) in Level 4 format or higher. 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. An illustrated list of documents which may be submitted by the Seller is as under:-

- (a) User Handbook/Operators Manual in English and Hindi.
- (b) **Technical Manuals.** (as per governing JSG/Guide for other technologies)
 - (i) **Part I.** Tech description, specifications, functioning of various systems.
 - (ii) **Part II.** Inspection/Maintenance tasks repair procedures, materials used, fault diagnosis and use of Special Maintenance Tools (SMTs)/Special Test Equipment (STEs).
 - (iii) **Part III.** Procedure for assembly/disassembly, repair up to component level, safety precautions.
 - (iv) **Part IV.** Part list with drawing reference and List of SMTs/STEs Test Bench.
 - (v) Rotable list, norms of consumption, mandatory/ non-mandatory spares list for each system.
- (c) Table of Tools & Equipment (TOTE) & carried spares.
- (d) Complete Equipment Schedule.
- (e) Repair and Servicing schedule.
- (f) Design Specifications.
- (g) Technical Manual on STE with drawing references.
- (h) Condemnation limits.
- (i) Packing specifications /instructions.
- (j) Any additional information suggested by the OEM.

7. **Details of OEMs.** For major / complex equipment, a large number of other OEMs may also be involved in manufacture of various systems/sub systems / support equipment. Details of such OEMs will also be intimated by the Bidder as per table below:-

Table - Format for Submitting Details of OEMs

Ser No	Equipment	Part No	OEM	Contact Details (Tel/Fax/Email)	Details of Government License to OEMs

8. **Training.** A training package for operators, operator trainers and maintenance personnel to undertake operation and maintenance of equipment (level 1 to 4 or 'O' / 'I' / 'D') and QA personnel for QA of equipment as stipulated in respective contract, along with tools and test jigs training would be required to be carried out in English language. Requirements such as training aids, projection system, complete equipment with accessories, technical literature, spares, test equipment, test set up, charts, training handouts, power point presentations, Computer Based Training (CBT), Documentation, Simulators etc will be provided by the Seller for the conduct of training. Training should preferably be conducted before the induction of the equipment. The Seller will provide the Operator and Maintenance & Repair training, for the duration, strength and locations specified in the RFP and Contract. 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)**.

Maintenance Contracts *(To be included as applicable)*

9. Maintenance Contracts are recommended for conclusion along with the acquisition of the equipment for providing maintenance support. These would be covered under Annual or Comprehensive Maintenance Contracts (CMCs) for a period of at least three to five years beyond the warranty period. The AMCs/ CMCs would be provided by the OEM / licensed entity / OEM authorised representative and would commence on completion of warranty period.

10. **Annual Maintenance Contracts (AMC).** AMC will include Maintenance and Repair services by the Bidder in order to ensure serviceability of the equipment covered / services desired for pre-determined annual periods. The spares consumed in execution of these services are to be provided by the Buyer or cost paid to the Bidder, in addition to the AMC charges. In these contracts the services of the specialist are costed based on the pre-determined Man-day rates. Therefore, the rates for Services of Specialists and hiring Special Tools comprising all-inclusive man-day rates at shore, and on operational platform viz, ship at sea, aircraft will have to be submitted. The following AMC clauses will form part of the contract: -

(a) **Period.** The Bidder would provide AMC for a period as stipulated in the contract covering repair and maintenance of the specified equipment and systems purchased under the present contract. The Buyer Furnished Equipment which is not covered under the purview of the AMC should be separately listed by the Bidder.

(b) **Spares.** The Spares will be provided by the Buyer and would be supplied through the Spares contracted under the Engineering Support Package mentioned above or the cost of spares paid to the Seller, in-addition to the AMC charges.

(c) **Response and Repair Time.** During the AMC period, the Bidder would carry out all necessary servicing/repairs to the equipment/system under AMC at the current location of the equipment. The response time of the Bidder should not exceed the time specified in the contract from the moment the breakdown intimation is provided by the Buyer. Prior permission of the Buyer would be required in case certain components/sub systems are to be shifted out of location. Maximum repair turnaround time for equipment/system would also be as specified in the contract. However, the spares for other systems should be maintained in a serviceable condition to avoid complete breakdown of the equipment/system.

(d) **Termination of Contract.** The Buyer may terminate the maintenance contract at any time without assigning any reason after giving a suitable notice as agreed to in the contract. The Bidder will not be entitled to claim any compensation against such termination and, if any payment is due to the Bidder for maintenance services already performed, the same would be paid as per the contract terms.

11. **Comprehensive Maintenance Contracts (CMC).** Comprehensive Maintenance Contracts are concluded for a pre-determined period in multiples of Annum. The scope of CMC, in addition to services of the Specialists as mentioned for AMC, include provisioning of spares, tools and equipment as required for Maintenance and Repair of the equipment. In this arrangement, the OEM will ensure that the down time of the equipment does not exceed the minimum period stipulated in the CMC. In such cases, Engineering Support Package may be reduced proportionately based on the operational requirements and functional sensitivities such as geographical spread, remote location, poor connectivity, intense threat environment precluding employment of civil support, etc. CMC will include all corrective and preventive maintenance of the systems, equipment and machinery in satisfactory working order and 'Planned Preventive Maintenance' (PPM), repairs, servicing, calibration, replacement of defective parts, sub-assemblies, equipment, preservation /de-preservation as applicable. All equipment supplied under the proposed contract will be maintained on site by the Seller. CMC will ensure performance of the equipment in the range and accuracies as set in equipment Technical Manual. The equipment proposed to be under CMC would be listed along with their locations. An equipment repair Log book will be maintained to keep a record of the equipment down time during defect rectification. The scope of work would also involve the following:-

(a) **Preventive Maintenance.** The maintenance of the equipment is to be carried out by the Bidder at the Buyer premises. The equipment will be maintained as per the OEM specified maintenance schedules and equipment manuals. However, the number of visits by the Bidder to the customer premises should be at least once a quarter or as agreed to in the contract. The preventive maintenance team visiting the unit should be composite and possess sufficient expertise and spares to carry out

preventive maintenance activities and resolve any pending unserviceability issues of the equipment.

(b) **Breakdown Maintenance.** In addition to preventive maintenance, the Bidder will also be responsible to undertake breakdown maintenance of the equipment. Defects on the equipment as and when observed, will be intimated to the Bidder by telephone/ fax. The Bidder will depute a team for undertaking repairs of the equipment within two working days from the reporting of the defect, in order to make the equipment operational. The Bidder will need to diagnose, test, adjust, calibrate and repair / replace the goods/equipment during the CMC period. However, defective hard disks, strong devices, if any, of the equipment, will not be returned to the Bidder and would be retained for destruction / safe custody. The downtime of the equipment will commence from the time a defect is reported by the user and the log of the same would be maintained.

(c) **Calibration.** Periodic inspection and calibration services as set forth in the equipment manual shall be provided by the Bidder, to ensure operational availability of the equipment. Requisite certificates may be rendered whenever major repairs/maintenance on equipment is undertaken.

(d) **Spares.** Supply of all parts (spares sourced from the OEM/OEM authorised vendor), including consumables, if any and material required for the optimal performance of the equipment as per the designed specifications mentioned in the equipment manual would be the responsibility of the Bidder.

(e) **Software.** The Bidder will provide support for maintenance of the software(s) during the period of CMC and would include the following:-

- (i) Upgrades, patches, fixes to the OS and the Application software.
- (ii) Back-up and restoration of software, as and when required.
- (iii) No malware certificate.
- (iv) Version of the software and IV & V (Independednt verification and validation) certificate as per the applicable CMM Level, depending on the criticality of the equipment.
- (v) Method of checking the health of the software and debugging methods.

(f) **Obsolescence Management.** The obsolescence management for the equipment delivered under the scope of contract would from part of CMC Services. The obsolescence management will include providing “Form, Fit and Function” replacement of any system/sub system rendered obsolete during the period of CMC.

Life Cycle Support Contract (LCSC)

12. A Life Cycle Support Contract (LCSC) would be signed along with the main acquisition contract for all equipment. Life-cycle support for all types of equipment through

its service life would be provided by the Bidder through a LCSC, which inter-alia would include supply chain to ensure platform supportability and availability in accordance with specifications, supply of spares, special tools, repair of defective equipment / modules / LRUs, services of specialists, creation of maintenance eco-system, obsolescence management, etc.

13. The Bidder will provide life-cycle support through a Life Cycle Support Contract (LCSC) as per the agreed terms. LCSC would bind the Bidder to provide product support through Long Term contract (for 5 to 8 years) for supply of spares, repairs and Man-day rates of Specialists. The RFP shall clearly mention that the vendor would have to finalise the terms for the life time product support and the LCSC along with the current contract only. LCSC, will also include active obsolescence management, wherein even after the mandatory period, the Bidder would be bound to give at least two years notice to the Government of India prior to closing the production line to enable a Life Time Buy of all spares. Under the LCSC, Spares and Repair support would be provided by the Bidder through the following Rate contracts which would be signed with the main contract:-

(a) **Itemised Spare Parts Price Lists (ISPPL).** ISPPL for all Spares or Line Replaceable Units (LRUs) of the equipment along with their Base price, annual escalation, delivery period and the MTBF (where applicable) be provided, at the time of submission of offer. The ISPPL shall also include details of the source, especially for items which are COTS, bought-out, proprietary, etc. ISPPL shall also indicate interoperability of spares across projects, in case spares/equipment is already inducted in the Indian Armed Forces. The Bidder would submit a comprehensive Itemised Spare Parts Price Lists (ISPPL) comprising the following: -

- (i) Complete Part Identification List (PIL) for all Spares or Line Replaceable Units (LRUs), along with corresponding unique part numbers. The list is not to be limited to MRLS (Depot spares) or On-board Spares (spares along with the system) and should comprise entire list of spares of the equipment.
- (ii) Base Price list of each of the spares along with annual escalation at time of submission of the offer.
- (iii) Delivery Period of each spare after receipt of Order.
- (iv) Mean Time Between Failure (MTBF), where applicable.
- (v) Terms and conditions for supply of spares.

Table 2 -Illustrative Format for Submitting Details of Spares

Ser No.	Part No.	Description	Qty/MoQ (where applicable)	Unit Price List (along with annual escalation)	Deliver y Period	If Recommended, as MRLS

Note:- The following details be included in the spare parts submission offer:-

- (vi) Sourcing of spares wrt COTS and Proprietary.

(vii) Interoperability of spares across projects, in case the part/system/sub-system, etc. is already inducted in some other equipment currently in service with the Indian Armed Forces, or has been contracted for supply to the Indian Armed Forces.

(b) **Repairable Items Price Lists (RIPL).** RIPL would comprise of all repairable sub systems/ blocks and units. Wherever applicable, source of components required for repairs of units should also be specified. RIPL will also indicate reparability of these in India. The Bidder should submit the RIPL comprising the following:-

(i) Complete catalogue of repairable spares (at LRU level), along with their Part numbers. Source of components required for repairs of units should also be specified, wherever applicable.

(ii) Base Price list for repairs clearly indicating repairs that can be undertaken in India and at OEM premises. RIPL will comprise of all repairable sub systems/ blocks and units.

(iii) Terms and conditions for undertaking repairs be specified.

(vi) Delivery Period after receipt of order must be mentioned.

(vii) For imported equipment, the impetus is to undertake repairs in India. Repair list in such cases should clearly segregate the list of items that can be repaired in India and those that have to be undertaken to the OEM premises.

Table 3 - Illustrative Format for Submitting Details of Repairable Spares

Ser No.	Part No.	Description	Repairs to be Undertaken		Unit Qty	Price Lists (along with annual escalation)	Delivery period
			In India	OEM premise			

Note: - The following aspects to be ensured:-

- (i) Repair costs to be all-inclusive (collection/delivery ex-Depot).
- (ii) Warranty post repairs will be as specified in the contract document.

(c) **Man-Day Rates for Services/Special Tools.** Man-day Rates for Services/Special Tools of Specialists (where applicable) should be specified corresponding to the categorisation of specialists, e.g. Designers, Engineers and Technicians, as applicable. Man-day Rates for hiring Special Tools, where applicable will also be provided.

Performance Based Logistics (PBL)

14. For certain equipment /platforms, the life cycle support could also be provided through implementation of the Performance Based Logistics (PBL). The requirement of PBL would be specified in the RFP. The PBL is a Supply Chain concept for optimising the availability of spares and services support to meet the pre-determined level of operational availability. The criteria for the PBL supply chain is based on approved Performance Metrics. The OEM or the contracted Vendor would implement the desired Supply Chain Management system for meeting the operational performance level. The vendor shall provide overall logistics support and perform tasks, functions and responsibilities to support the equipment as a PBL package.

15. The PBL package is inter-alia based upon the following aspects:-

- (a) Type and number of Equipment.
- (b) PBL Duration
- (c) Desired Exploitation Rate per equipment per year.
- (d) Desired average and overall equipment availability.
- (e) Maximum acceptable downtime.
- (f) Acceptable MTBF and time for repairs.
- (g) Mode and timelines for replenishment of Spares

16. **Equipment Delivery & Base Opening Plan.** The PBL package would be designed based on the equipment deliveries and the number of bases where equipment will be deployed.

17. **Performance Metrics.** The performance metrics are measurable performance indicators. Bidder/buyer agrees on, what is a successful outcome of the metric and mutually agree on performance of each metric. Both, the level of required outcome and, the related key metric need to be spelt clearly. This is necessary to manage performance and consequent remuneration, which can be an incentive in case of exceedance in performance, and penalty, in case there is short fall in desired outcome.

18. **Vendor Responsibilities.** Division of responsibilities between the vendor and buyer, for various activities under PBL would be clearly defined as per a Vendor Responsibility Matrix. The nature of such responsibilities would differ on case to case basis, but an indicative list of vendor responsibilities is as follows:-

- (a) Supply Chain Management up to the Buyer's central Warehouse.
- (b) Repair and Overhaul of all components/LRUs of the equipment delivered during the PBL period.
- (c) Repair/replacement of spare parts.

- (d) Replenishment of all expendables to support the periodic maintenance activities of equipment.
- (e) Compliance of modifications, Airworthiness Directives & Mandatory Service Bulletins (MSBs) etc.
- (f) Calibration and maintenance of the GSE, GHE, STE and role equipment.
- (g) Provide an Information Technology (IT) tool for managing information with the Buyer.

Online Inventory Management System (OIMS) (where applicable)

19. To leverage information technology and ensure expeditious order placement as well as timely product support, SHQ may ask the Bidder to provide an Online Inventory Management System (OIMS), as per mutually agreed format, to place Purchase/Repair Orders (as applicable) online. The OIMS shall also provide feature to track the delivery status of the items. Further the OIMS should provide dashboard for intimation on obsolescence and offer of lifetime buy along with provision for user to interact with the OEM for technical assistance etc. The detailed scope and features of OIMS shall be finalised during the negotiations on LCSC. The OIMS may be decided on case to case basis.

Active Technology Obsolescence Management (where applicable)

20. OEM will indicate his methodology to undertake Active Obsolescence Management through life cycle of equipment which would include upgradation of systems/ subsystems/ units on completion of its fair service life. The Bidder/OEM (as applicable) shall also intimate the Buyer on likely technology obsolescence of various sub-assemblies/units/modules of equipment through an Annual Bulletin. In case of impending obsolescence of components, bulletin should specify either alternate item or option for life-time buy as under:-

- (a) The Bidder/OEM (as applicable) will notify the Buyer not less than three years before the closure of its production line about the intention to close production of equipment for provision of purchasing spare parts, before closure of the said production line.
- (b) Three years prior to completion of design/service life of equipment, the Bidder/OEM (as applicable) will submit techno-commercial proposal for upgradation of equipment, wherever applicable, to mitigate technology obsolescence and for ensuring product support for next 15 years.

Annexure I to Appendix K
(Refers to Para 4(a) of Appendix K)

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				Total Cost				Remarks	
							Unit Repair	Field Repair	Intermediate Repair	Base Repair						
Total Cost																

Note:

1. Maintenance spares/stores like lubricants, sealing compound, gases should be given separately giving source of supply.
2. Spares for component repairs should be included under the column of nodal repair & Base Repair as suggested by OEM.
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 indicated.
 - (b) Matching set of components be indicated.
 - (c) Item which can be locally manufactured 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. 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 K** 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 K
(Refers to Para 5 of Appendix K)

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 equipment which are required to be provided by the customer should also be included in the list above.

Annexure III to Appendix K
(Refers to Para 6 of Appendix K)

TECHNICAL LITERATURE

EQUIPMENT: _____

Original Equipment Manufacturer (OEM): _____

<u>Ser No.</u>	<u>Technical Literature</u>	<u>Unit Cost</u>	<u>Scale For 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 K
(Refers to Para 8(a) of Appendix K)

TRAINING AGGREGATES

EQUIPMENT: _____ OEM: _____

<u>Ser. No.</u>	<u>Description of Training Aggregate</u>	<u>Scale for (qty) Eqpt.</u>	<u>Unit Cost</u>	<u>Total cost</u>	<u>Remarks</u>
1.	Complete Equipment				
2.	Sectionised Equipment				
3.	Shop Replaceable Units (SRU)/PCB/Modules/Assemblies as under: (a) (b) (c)				
4.	Computer based training package based on interactive multimedia to include (a) Full graphics, animation, text and sound (b) Symptoms-fault correlation (expert system).				
5.	Training Aids to include (a) Charts (b) Slides (c) Training Brochures (d) Training Work models (e) Blow up diagram (f) Video films				
6.	Cost of training _____ operators and _____ technicians in country of OEM				
7.	Any other				

Total Cost:

Appendix L to Schedule I to Chapter II
(Refers to Para 47 of Schedule I)

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.

Appendix M to Schedule I to Chapter II
(Refers to Para 12 and 60 of Schedule I)

COMMERCIAL CLAUSES

1. Payment Terms

1.1 INCOTERMS for Delivery

1.1.1 The delivery of goods will be based on DDP INCOTERMS-2020 with ultimate consignee as _____.

RFP to clearly indicate whether the material/equipment being procured are exempted from Custom Duty and whether necessary Custom Duty Exemption Certificate (CDEC) will be issued by the Buyer.

In specific cases where delivery of the platform(s) is taken at the country of the Bidder, the alternate INCOTERMS along with suitable justification is to be provided in the SoC while seeking AoN.

1.2. Currency of Payment

1.2.1 Foreign bidders should submit their bids in US Dollars/Euros/Pounds Sterling/ Yen/AUD/SGD. In 'Buy (Global-Manufacture in India)' cases, all payments for the 'Manufactured' portion will be paid to the Bidder in Indian Rupees.

1.2.2 Indian bidders should submit their bids in Indian Rupees.

1.3 Contract Price and Requirement of Bank Guarantees

~~1.3.1~~ **1.3.1 Total Contract Price.** The Total Contract Price will be the final price negotiated by CNC including taxes and duties applicable at the time of signing of Contract.

1.3.2 **Base Contract Price.** The Base Contract Price will be considered as Total Contract Price excluding taxes and duties applicable at the time of signing of Contract and excluding the Total Price of AMC/CMC/PBL/LCSC (if any).

1.3.3 **Bank Guarantee(s).** For the purpose of payment of Advances to the Bidder and submission of various Bank Guarantees by the Bidder i.e Advance Payment Bank Guarantee (APBG) and Additional Bank Guarantee (ABG), as applicable, Base Contract price will be considered. For Performance cum Warranty Bank Guarantee (PWBG), Total Contract Price including taxes and duties is to be considered.

1.3.4 For orders with AMC/CMC/PBL/LCSC, an additional Performance Bank Guarantee (PBG) is to be submitted by the Bidder for which the Total Price of AMC/CMC/PBL/LCSC for contracted duration will be considered.

1.3.5 All Bank Guarantee(s) requirements viz Advance Payment Bank Guarantee (APBG), Performance-cum-Warranty Bank Guarantee (PWBG), Additional Bank

Guarantee (ABG), Performance Bank Guarantee (PBG) etc are to be submitted as per following:-

1.3.5.1 **Foreign Bidder.** Bank guarantee(s) shall be from any Indian Public or Private Scheduled Commercial Bank (as notified by RBI) or First Class banks of international repute whose details have to be furnished in the Commercial bid. In case of International banks, the Buyer reserves the right to consult Parliament Street branch of State Bank of India, New Delhi or any other Public or Private Sector Bank authorised by RBI and as per their recommendations seek confirmation of Bank Guarantee(s) by counter guarantee by an Indian Bank at Bidder's cost.

1.3.5.2 **Indian Bidder.** In case of Indian Bidders, the Bank Guarantee(s) shall be from any Indian Public or Private Scheduled Commercial Bank.

1.4. **Payment to Foreign Bidders.** The schedule for payments will be based on the Buyers requirements, enumerated at succeeding Paragraphs. The summary of delivery schedule, payments to be made and schedule of submission/release of Advance Payment Bank guarantee (s), as applicable, is specified at Annexure VII to Appendix M.

1.4.1 **Advance Payment.** Fifteen (15%) of the Base Contract Price shall be paid within thirty (30) days through Direct Bank Transfer (DBT) upon submission of claim and a Bank Guarantee (BG) for equivalent amount, subject to correction and acceptability of the documents submitted. The prescribed format of the Advance Payment Bank Guarantee (APBG) is placed at **Annexure II to Appendix M**. 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), provided the Seller submits the documents mandated by the DAP 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 45th 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.

1.4.1.1 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 Seller's application for export license to their government or Confirmation from Seller's Government of authorization for Supply 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.

1.4.2 **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 Sector bank (as decided by the Buyer) or Private Sector Bank (if approved by MoF), 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. 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.*)

1.4.2.1 SELLER's commercial invoice in sextuplicate, showing the number of the Contract, quantity and Denomination of the Equipment delivered and the amount.

1.4.2.2 Full set of Originals "Clean on Board" Bills of Lading/Air Way Bill (for payments against dispatch).

1.4.2.3 Packing List (six copies).

1.4.2.4 Certificate of Origin, duly stamped by the SELLER's Chamber of Commerce or self-certified by OEM.

1.4.2.5 Certificate of Conformity and Acceptance Test report (where applicable) 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 (for payments against dispatch).

1.4.2.6 Certificate of current manufacture from OEM.

1.4.2.7 Dangerous Cargo Certificate, where applicable.

1.4.2.8 Phyto-Sanitary/Fumigation Certificate, where applicable.

1.4.2.9 In case of training, a certificate from BUYER's representative that training program has been completed.

1.4.2.10 Export License from the SELLER's Government (if applicable) (a copy of Seller's application for export license to their government/ Confirmation from Seller's Government of authorization for Supply may be provisionally accepted in lieu of export license for release of Advance

Payment with the caveat that the Seller should submit the requisite Export License prior to release of next payment from the BUYER).

1.4.3 In case of failure of the Seller to deliver the deliverables to the Buyer or inordinate delay in the said delivery leading to Termination of the Contract in accordance with Article 22.1 of SCD, the SELLER will be liable to return payments received against dispatch.

1.4.4 **On Delivery.** (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) on completion of JRI post delivery and issue of JRI Certificate/Certified Receipt Voucher (CRV) issued by the Buyer. The payment will be arranged through any Public Sector bank (as decided by the Buyer) or Private Sector Bank (if approved by MoF), to the Bank of the Foreign Seller. Letter of Credit will be opened by the Buyer on receipt and 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.

1.4.5 **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 and necessary documentation required. In such cases, Paras 1.4.2 above will get replaced by Para 1.4.5)

1.4.5.1 The payments will be done in stages as under:-

- First stage- % on completion of _____
- Second stage-- % on completion of _____
- Third stage- % on completion of _____
-

1.4.5.2 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.

1.4.6 **On Final Acceptance and Installation/Commissioning** (where applicable).
(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.

1.4.7 **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 ____ . Transshipment may not be permitted for certain deliverables and/or under certain situations *(to be specified by the Buyer)*

1.4.8 **AMC/CMC/PBL/LCSC 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/CMC/PBL/LCSC clause in RFP. Choice of Quarterly/Half-yearly/Annually may be decided as per merits of the case)

1.4.9 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.

1.5 **Payment to Indian Bidders.** **The schedule for payments will be based on the Buyers requirements, enumerated at succeeding Paragraphs. The summary of delivery schedule, payments to be made and schedule of submission/release of Advance Bank guarantee (s), as applicable, is specified at Annexure VII to Appendix M.**

1.5.1 **Advance Payment.** Fifteen (15) % of the Base Contract Price shall be paid within thirty (30) days of submission of claim and a Bank Guarantee for the equivalent amount, subject to correction and acceptability of the documents submitted. The prescribed format of the Advance Payment Bank Guarantee (APBG) is placed at **Annexure II to Appendix M**. The Advance Payment Bank Guarantee (APBG) 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 date of delivery would be reckoned from the date of release of Advance payment by the Buyer to the Seller (T₀), provided the Seller submits the documents mandated by the DAP 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 45th 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.

1.5.2 On Dispatch. *(Note: The percentages for this stage can be fixed in the RFP on merits of case)* ___% of the contract price of deliverables shall be paid on proof of dispatch of deliverables 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 deliverables 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).*

1.5.2.1 Ink-signed copy of Seller's bill.

1.5.2.2 Ink-signed copy of Commercial invoice.

1.5.2.3 The relevant Transport Receipt.

1.5.2.4 Inspection Acceptance Certificate of Buyer's QA agency demonstrating compliance with the technical specifications of the contract.

1.5.2.5 Packing List.

1.5.2.6 Certificate of Origin.

1.5.2.7 Claim for statutory and other levies to be supported with requisite documents/GST invoice (with QR code, when made applicable)/proof of payment, as applicable.

1.5.2.8 Exemption certificate for taxes/duties, if applicable.

1.5.2.9 Warranty certificate from the SELLER.

1.5.3 In case of failure of the Seller to deliver the deliverables to the Buyer or inordinate delay in the said delivery leading to Termination of the Contract in accordance with Article 22A.1 of SCD, the SELLER will be liable to return payments received against dispatch.

1.5.4 On Delivery. *(Note: The percentages for this stage can be fixed in the RFP on merits of case)* ___% of the contract price of deliverables shall be paid on completion of JRI post delivery and issue of JRI Certificate/Certified Receipt Voucher (CRV) issued by the Buyer.

1.5.5 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 1.5.2 above will get replaced by Para 1.5.5)*

1.5.5.1 The payments will be done in stages as under:--

- First stage- % on completion of _____
- Second stage-- % on completion of _____
- Third stage- % on completion of _____
-

1.5.5.2 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.

1.5.6 **On Final Acceptance and Installation/Commissioning (where applicable)** *(Note: The percentages for this stage can be fixed in the RFP on merits of case)* The remaining ___% of the Contract Price of deliverables shall be paid within thirty (30) days of submission 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.

1.5.7 **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 ____ . Transshipment may not be permitted for certain deliverables and/or under certain situations *(to be specified by the Buyer)*

1.5.8 **AMC/CMC/PBL/LCSC Payments.** Quarterly/Half-yearly/Annually payments will be made by PCDA/CDA on submission of User clearance certificate through issue of cheque/ECS.

(Note: This Para may be included if there is AMC/CMC/PBL/LCSC clause in RFP. Choice of Quarterly/Half-yearly/Annually may be decided as per merits of the case).

1.5.9 **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.

1.5.10 **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~~ 8 to 12 of Chapter I of DAP. 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.**

1.5.11 **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 Bidder opts for payment through Letter of Credit	Where Bidder 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	The Total Contract Price will be as per Para 1.3.	
3	<p>The total contract price referred to in Article 1 of the contract shall be paid as follows:-</p> <p>(a) Advance Payment. ____ % of total value of goods supplied being ₹-----shall be paid to the Bidder, through Bank Transfer, within 30 days of the receipt of the following documents:</p> <p>(b) Advanced Bank Guarantee as per Article 3B of the Contract.</p> <p>(c) Performance cum Warranty Bond as per Article 4 B of the Contract.</p> <p>(d) Any other specific document (like proforma invoice) if required.</p> <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 Bidder 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 Bidder 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 Bidder 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 Public Sector bank or Private Sector Bank (if approved by MoF) for _____% of the Contract value with the Bidder's Bank, i.e. _____ & Seller's Account No. _____. It will be valid for a period of _____ days/months from the date of opening.</p> <p><i>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/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</i></p>	<p>Where the Bidder opts for payment through Bank Transfer payment shall be made as per following conditions:-</p> <p>(a) The Bidder 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 Bidder opts for payment through Bank Transfer, no changes in mode of payment would be permitted.</p>

Clause	Where Bidder opts for payment through Letter of Credit	Where Bidder opts for payment through Bank transfer
	<p><i>opened.</i></p> <p>(d) The payment against LC shall be made to the Bidder 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>(f) All expenses connected with establishment of the Letter of Credit in India will be borne by the Bidder.</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 Bidder 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 Bidder 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>	

Clause	Where Bidder opts for payment through Letter of Credit	Where Bidder opts for payment through Bank transfer
	<p>(f) Warranty certificate from the supplier. (g) Certificate of current manufacture from OEM. (h) In case delivery INCOTERMS is CIP in special cases, Insurance documents for 110% of the cost of consignment, except where the supply is Ex-Works.(j) Proof of Duty/Tax paid/reimbursable like deposition receipt/challan etc.</p> <p><i>Note:</i></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 Bidder's Commercial Invoices, proof of dispatch, packing list and the specifications will be sent by courier and fax by the Bidder 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. Bidders may ensure submission of same with details of contractual obligations completed and payments received. This clause shall form part of LC.</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. Documents in proof of rates claimed shall need to be annexed.</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. Bidders 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:- (a) Copies of invoices (three copies). (b) Copy of JRI and acceptance certificate issued by the BUYER. (c) Contractor's bill (d) Extended bank guarantee wherever required</p>	
10	<p>SELLER's bankers address and account number: - Bank Name: Branch Name: Account No.: Sort Code: SWIFT Code: IFSC Code RTGS No</p>	<p>SELLER's bankers address and account number:- Bank name: Branch name: Bank account No.: IFSC Code MICR Code</p>
11	<p>Where admissible, tax deduction at source will be done by the Bank releasing payment against LC.</p>	<p>Where admissible, tax deduction at source will be done by PCDA.</p>

Clause	Where Bidder opts for payment through Letter of Credit	Where Bidder opts for payment through Bank transfer
12	Payment/recovery in terms of the Contract will be made by the Bank releasing payment against LC . 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 by PCDA .

2. **Performance-cum-Warranty Bank Guarantee Clause.** A Performance-cum-Warranty Bank Guarantee (PWBG) of 5 % of value of the Total Contract Price including taxes and duties would be furnished by the Bidder in the form of a Bank Guarantee to sequentially act as Performance Bank guarantee till the delivery and as Warranty Bank Guarantee on delivery. The PWBG shall be submitted by the Bidder 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. If at any stage, the Performance Guarantee is invoked by the Buyer either in full or in part, the Bidder shall make good the shortfall in PWBG within 30 days by an additional Bank Guarantee for equivalent amount. In the event of failure to submit the required Bank Guarantee against invoked Performance Guarantee, equivalent amount will be withheld from the next stage payment till the shortfall in the Bank Guarantee is made good by the Bidder. The prescribed format of the Performance-cum-Warranty Bank Guarantee is placed at **Annexure III to Appendix M**.

3. **Additional Bank Guarantee in Cases Where Essential Parameters -B are Incorporated.** An Additional Bank Guarantee of ____ % of Base Contract Price of the equipment required with Essential Parameters B would be furnished by the L1 vendor in the form of a Bank Guarantee. The prescribed format of the ~~Performance-cum-Warranty Bank Guarantee~~ **Additional Bank Guarantee** is placed at **Annexure V to Appendix M**. 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 Bidder emerging L1 has already been trial evaluated for Essential Parameters B and found compliant to same, the Bidder will not furnish an Additional Bank Guarantee for Essential Parameters B.

4. **Performance Bank Guarantee for AMC/CMC/PBL (where applicable).** The Bidder will be required to furnish a Performance Guarantee by the way of a Bank Guarantee of a sum equal to 5% of the Total Price of AMC/CMC/PBL for contracted duration prior to expiry/return of the PWBG of the Main Contract. Performance Bank Guarantee should be valid for 03 months beyond the period of the AMC/CMC. The format of the Performance Bank Guarantee is to be as per Annexure III to Appendix M.

5. **Indemnity Bond.** *(Note - This para is to be included only in the Single Vendor cases with Defence PSUs/ JVs with DPSUs or PSUs or Government Entities being issued RFP as a Nominated Production Agency or on an ab-initio single vendor basis. In competitive bidding cases, all participating entities will furnish all Bank Guarantees, as applicable).* DPSUs/JV with DPSUs/PSUs/Government Entity may furnish Indemnity Bonds instead of Bank Guarantees towards Advance Payment Bank Guarantee and Performance-cum-Warranty Bank Guarantee as given in **Annexure IV to Appendix M**.

6. **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 Bidder

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. All the expenses towards PDI will be borne by the Bidder except transportation and accommodation of Buyer's PDI team, which will be deputed at Buyer's expense. In case of rejection of Goods during PDI, re-PDI will be undertaken at Bidder's premises at Buyer's sole discretion. All expenses including transportation and accommodation of Buyer's PDI team will be borne by the Bidder. Towards this, the expenses towards transportation and accommodation of Buyer's PDI team will be initially done by the Buyer and subsequently reimbursed by the Bidder either by remittance or by recovery from the Balance Payment/PWBG. In the event of a failed PDI, the Bidder shall consult the Buyer for rescheduling re-PDI. 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.

7. **Liquidated Damages (LD).** In the event of the Bidder's failure to submit the 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 cost of the specific lot/batch or 1% of the Project cost, whichever is higher, 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 Base 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).

8. **Payment Deductions and Damages for Shortfalls in AMC/CMC/PBL/LCSC Services (where applicable).**

The clause for payment deductions and damages for shortfall in AMC/CMC/PBL/LCSC services is to be formulated on case to case basis. A sample formulation is given below.

In case the cumulative downtime exceeds ____ (working days) in the ____ (Quarter/Half-year/Year), payment will be deducted. The total downtime will be calculated at the end of the ____ (Quarter/Half-year/Year) and payments will be deducted. The total payments to be deducted will be calculated as follows:-

(a) *Payments would be deducted on pro-rate basis for the duration, by which cumulative downtime exceeds ____ (working days), as follows:-*

(i) *Per year AMC/CMC/PBL/LCSC = 'X₁'*

(ii) *Period by which cumulative downtime exceeds the specified cumulative downtime, in days = 'Y₁'*

(iii) *Payment Deduction = 'Z₁',
Where Z₁ = [(X₁/ Number of days in the year) * Y₁]*

(b) *In addition, damages would be deducted to the sum of 0.1% of the per annum AMC/CMC/PBL/LCSC cost per day, for the duration, by which cumulative downtime*

exceeds the maximum permissible cumulative downtime per quarter/half-year/year, subject to the maximum value of this damages not being higher than 5% of the annual AMC/CMC/PBL/LCSC cost.

9. **Denial Clause.** 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 Seller 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 VI to Appendix M.**

10. **Price Variation Clause** (applicable only for cases with delivery period more than 36 months). Price variation will be applicable to Indian Rupee component of the Contract on the cost of basic equipment indicated at Sl () of Price Bid Format at Appendix N. L1 determination will be based on overall quoted prices as indicated in the Price Bid Format. The PVC will be applicable 18 months after the last date of bid submission till the date of bid opening and thereafter from the Effective date of Contract. The PVC will be applied during payments as per Payment Schedule at Annexure VII to Appendix M. The indices for calculation of the price variation along with weightages are enumerated below. The variations are calculated by using the indices published by Government or Chambers of Commerce periodically. The guidelines for calculation of Price Variation are specified at **Annexure VIII to this Appendix.**

Applicable Indices

Assigned Weightages

- (a)
- (b)

Note: For AMC/CMC/LCSC/PBL, as applicable, PVC is to be formulated and indicated at Annexure VIII to Appendix M.

Annexure I to Appendix M
(Refers to Para 1.5.10 of Appendix M)

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/Services 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/ SERVICES (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.

(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.

Annexure II to Appendix M
(Refers to Para 1.4.1 and 1.5.1 of
Appendix M)

BANK GUARANTEE FORMAT FOR ADVANCE

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/ US \$/Euro/PS £/Yen/AUD/SGD _____ being _____ payment of _____ % of the total value of Rs/ US \$/Euro/PS £/Yen/AUD/SGD _____ 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/ US \$/Euro/PS £/Yen/AUD/SGD _____.

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, 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 Rs/ US \$/Euro/PS £/Yen/AUD/SGD _____ (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 III to Appendix M
(Refers to Para 2 of Appendix M)

BANK GUARANTEE FORMAT FOR PERFORMANCE-CUM-WARRANTY

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/ US \$/Euro/PS £/Yen/AUD/SGD _____ which is 5% of the Total Contract Price (including taxes and duties) to cover 5% of Total Contract Price (including taxes and duties) each for Performance and Warranty in sequence, 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 Price (including taxes and duties)} _____ Rupees/ US \$/Euro/PS £/Yen/AUD/SGD only at any instance 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. up to _____.

7. Subject to the terms of this Bank Guarantee, the issuing bank hereby irrevocably authorizes the beneficiary to draw the amount of up to Rs/ US \$/Euro/PS £/Yen/AUD/SGD _____ {5% of Total Contract Price (including taxes and duties)} for breach/failure to perform by the SELLER of any of the terms and conditions of the Contract related to performance and warranty clause. 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 Price (including taxes and duties) (Rs/ US \$/Euro/PS £/Yen/AUD/SGD _____ 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/ US \$/Euro/PS £/Yen/AUD/SGD _____ (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 up to _____ (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)

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 _____ 5% of the Total Contract Price (including taxes and duties) 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 _____ 5% of the Total Contract Price (including taxes and duties). 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.

Annexure V to Appendix M
(Refers to Para 3 of Appendix M)

FORMAT FOR ADDITIONAL BANK GUARANTEE FOR
ESSENTIAL PARAMETER-B CASES

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 Base Contract Price amounting to Rs/ US \$/Euro/PS £/Yen/AUD/SGD _____ 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/ US \$/Euro/PS £/Yen/AUD/SGD _____ 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 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/ US \$/Euro/PS £/Yen/AUD/SGD _____ (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 VI to Appendix M
(Refers to Para 9 of Appendix M)

FORMAT FOR EXTENSION OF DELIVERY PERIOD/PERFORMANCE NOTICE

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 DAP 2020) shall be admissible on such of the said Stores as are delivered after the said date.

(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.

Annexure VII to Appendix M

(Refers to Para 10 and 38(b) of Schedule I and Para 1.4 and 1.5 of App M)

DELIVERY SCHEDULE AND STAGES OF PAYMENT

1. The terms of payment may vary between each project depending upon a variety of factors such as complexity of equipment/system, requirement of validation trials for establishing 'proof of concept', delivery period, integration requirements etc. However, some broad guidelines for payments terms are appended in subsequent Paras.

2. **For Delivery in a Single Lot**

Sl	Activity	Delivery Timelines (T ₀ + Wks)	Scheme for Payment	Scheme for submission and Return of Advance Payment Bank Guarantees	Remarks
(a)	Signing of contract		10% of the total contract price base contract price	APBG of equivalent amount to be submitted	
(b)	On submission of Project report (PR) and Project PERT Chart.		5% of the total contract price base contract price	APBG of equivalent amount to be submitted	In case this stage is not required, 15% of total contract price base contract price can be made on signing of contract.
(c)	On Dispatch of all equipment/ system (and associated spares if applicable)		40 to 60% of the cost of the deliverables		Percentage of payment for delivery of equipment/ system shall be decided on the complexity/ scope of installation, STW and commissioning.
(d)	On Delivery of all equipment/ system (and associated spares if applicable)		Approx 15% to 20% of the cost of the deliverables	APBG is to be returned on completion of delivery of all equipment/ system (and associated spares if applicable). In case delivery of documentation and/or training can be completed only on commissioning of the equipment and cost of documentation/training is substantial (5%-8%, as specified), then	In case Installation/ STW/ Commissioning is not required, the complete payments are to be done on completion of deliveries and APBG(s) are to be returned.
(e)	On delivery of documentation & Training		55 to 75% of the cost of documentation and training		See Amplifying Instructions at Note below.

				APBG is to be returned on pro-rata basis as per completion of delivery of equipment, documentation and training.	
(f)	On Installation/ STW/ Commissioning and Final Acceptance and completion of delivery of documentation and training.		10 to 30% of the cost of deliverables		

3. For Delivery in Lots/ Batches

Sl	Activity	Delivery Timelines (T ₀ + Wks)	Scheme for Payment	Scheme for submission and Return of Advance Payment Bank Guarantees	Remarks
(a)	Signing of contract		10% of the total contract price base contract price	APBG of equivalent amount to be submitted	
(b)	On submission of Project report (PR) and Project PERT Chart.		5% of the total contract price base contract price	APBG of equivalent amount to be submitted	In case this stage is not required, 15% of total contract price base contract price can be made on signing of contract.
(c)	On Dispatch of all equipment/system				
(i)	1 st Lot/ Batch		40 to 60% of the cost of Equipment / System of the Lot		
(ii)	2 nd Lot/ Batch		40 to 60% of the cost of Equipment / System of the Lot		
(d)	On Delivery of all equipment/ system				
(i)	1 st Lot/ Batch		Approx 15% of the	APBG is to be returned on pro-rata basis on	Percentage of payment for delivery of

Sl	Activity	Delivery Timelines (T ₀ + Wks)	Scheme for Payment	Scheme for submission and Return of Advance Payment Bank Guarantees	Remarks
			cost of Equipment / System of the Lot	delivery of each lot/batch. APBG pertaining to documentation and training can be returned on delivery of a particular lot/batch (to be specified).	equipment/ system shall be decided on the complexity/ scope of installation, STW and commissioning. <i>See Amplifying Instructions at Note below.</i>
(ii)	2 nd Lot/ Batch		Approx 15% of the cost of Equipment / System of the Lot	In case delivery of documentation and/or training can be completed only on commissioning of the equipment and cost of documentation/training is substantial (5%-8%, as specified), then APBG is to be returned on pro-rata basis as per completion of delivery of equipment, documentation and training.	
(e)	Delivery of Documentation		85% of the cost of Documentation		
(f)	Completion of Training		85% of the cost of Training		
(g)	On Installation/ STW/ Commissioning and Final Acceptance				
(i)	1 st Lot/ Batch		10 to 30% of the cost of Equipment / System of the Lot		
(ii)	2 nd Lot/ Batch		10 to 30% of the cost of Equipment / System of the Lot		

Notes:

1. **Indicative Payment Terms for Projects with Installation and Commissioning.** If installation, Integration, STW, Commissioning and Acceptance trials of delivered goods does not involve establishing fructification of a new concept/Development project/validating a proof of concept/IDDM concept, about 10 to 15% of total value of the goods is to be retained for installation, integration, STW, Commissioning and Acceptance.

2. **Indicative Payment Terms for Projects with Installation and Commissioning Involving Validation of Design/ Proof of Concept.** *If installation, Integration, STW, Commissioning and Acceptance trials of delivered goods involves establishing fructification of a new concept/Development project/validating a proof of concept/IDDM concept, about 25 to 30% of total value of the goods is to be retained for installation, integration, STW, Commissioning and Acceptance.*

3. **Deliveries in Lots/Batches – Definition of Lot/Batch.** *In case delivery is in lots/batches and payment is being made as per the lots/batches, completion of common deliverables like documentation and Training can be linked to completion of a particular Lot/Batches required, to be indicated by linking with relevant sl. of the lot/batch. If such linking of deliverables is not indicated in the above table, each delivery, including documentation and training shall be deemed as independent deliverable.*

4. **Recommended Methodology for Payment in Case of delayed Commissioning.** *If in spite of all efforts to logically evolve the delivery schedule, the goods are ready for delivery and corresponding infrastructure/associated system/platform is not available for installation and integration in a reasonable time, the supplier cannot be denied payment for work accomplished in conformity with the contract schedule. If the next stage of work cannot be executed by the supplier due to delay on the part of the buyer in providing requisite infra/associated system/platform for STW, commissioning and Acceptance trials in as reasonable time, the payment terms should cater for making 60-70% of the associated stage payment (even before accomplishing requisite work) against submission of a bank guarantee for equivalent amount and firm undertaking from the supplier that they will fulfil all the obligations immediately on availability of requisite infra/associated system/platform.*

(If provisions as per Sl 4 above are envisaged, the same shall be included in the RFP as 'Special Conditions of the RFP')

Annexure VIII to Appendix M
(Refers to Para 10 of Appendix M)

GUIDELINES FOR PRICE VARIATION CLAUSE

1. In cases where only Indian Vendors participate, Price Variation Clause (PVC) will be applicable for cases with delivery period more than 36 months.

2. PVC will apply only to the Indian Rupee component of the cost of basic equipment at SI (A) of Price Bid Format at Appendix N. L1 determination will be based on overall quoted prices as indicated in the Price Bid Format.

3. Maximum PVC applicable will be up to ___% of Price Variation (could be percentage per annum or an overall ceiling or both) and will not be applicable if the variation is within the band of +/- 2.5%.

4. As Capital Acquisition generally has long gestation period with considerable time period between last date of bid submission and signing of contract, PVC will be applicable under following two categories:-

(a) **Pre-Contract Price Variation.** It will be applicable on the Indian Rupee component of the quoted price of L1 Bidder. Price arrived post application of PVC will be used for negotiations during CNC. The PVC will be applicable 18 months after the last date of bid submission to the date of Bid opening. For calculation of PVC applicable for Pre- Contract PVC period, the base level (PVC reckoning date) will be the month and year 18 months after the last date of bid submission.

(b) **Post-Contract Price Variation.** It will be applicable on the Indian Rupee component of the Base Contract Price specified in the Contract. For calculation of PVC during post contract period, the base level (PVC reckoning date) will be the month and year of Effective date of Contract.

5. Applicability of PVC is illustrated in the following figure:-

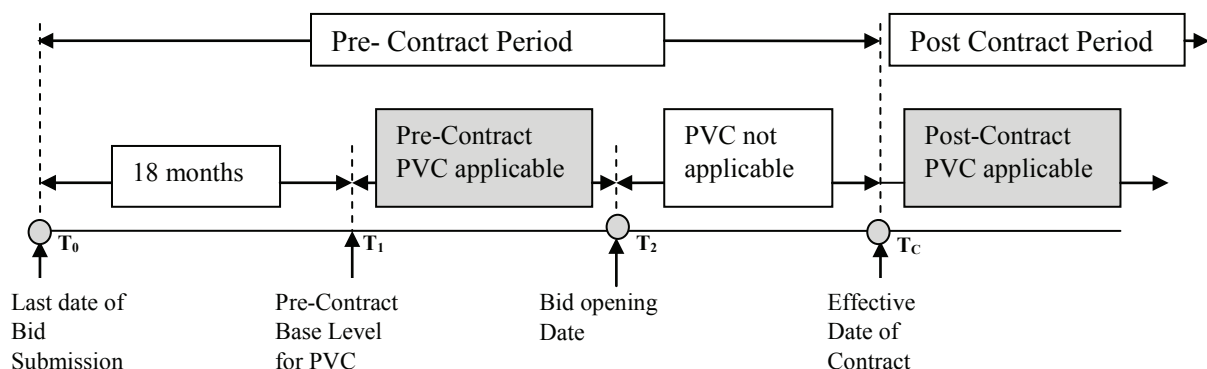


Fig: Application of PVC

Summary:

- PVC applicable during Pre- Contract phase 18 months after the last date of bid submission (T_1) to bid opening date (T_2)
- PVC applicable in post Contract phase after Effective date of Contract (T_C)

Illustrative Example

- If the bids are opened within 18 months from last date of bid submission
 - No Pre- Contract PVC applicable
 - Post Contract PVC applicable from T_C onwards.
 - Base level for Post Contract PVC will be month and year of T_C .
- If the bids are opened 24 months after last date of bid submission
 - Pre- Contract PVC applicable for period between T_1 and T_2 .
 - Base level for Pre-Contract PVC will be month and year of T_1 .
 - Post Contract PVC applicable from T_C onwards.
 - Base level for Post Contract PVC will be month and year of T_C .

6. **PVC Formula** (As at Rule 225(viii)(b) of GFR 2017). The formula for Price Variation should ordinarily include a fixed element, a material element and a labour element of the Indian Rupee component of the quoted price and Contract Price respectively for calculating pre-contract and post-contract PVC. The figures representing the material element and the labour element should reflect the corresponding proportion of input costs, while a fixed element may range from 10 to 25%. The portion of the price represented by the fixed element will not be subject to any variation. The portions of the price represented by the material element and labour element alone will attract Price Variation. The formula for Price Variation will thus be:-

$$P_1 = P_0 \left(F + a \left[\frac{M_1}{M_0} \right] + b \left[\frac{L_1}{L_0} \right] \right)$$

Where, P_1 is the amount adjusted after applying PVC

Note:For Pre-Contract Phase

- P_0 - Quoted price.
- P_1 – Price adjusted after applying Pre-Contract PVC (negotiations will be undertaken on this price)

For Post Contract Phase

- P_0 – Base Contract Price (price negotiated with L1 vendor)
- P_1 – Price payable after applying Post Contract PVC.

F is the fixed element not subject to Price Variation.

‘a’ is the assigned percentage to the material element in the Negotiated/Base Contract Price, as applicable.

‘b’ is the assigned percentage to the labour element in the Negotiated/Base Contract Price, as applicable.

L0 and L1 are the wage indices at the base month and year and at the month and year of calculation respectively. M0 and M1 are the material indices at the base month and year and at the month and year of calculation respectively.

If more than one major item or material is involved, the material element can be broken into two or three components such as M_x , M_y and M_z .

7. **For AMC/CMC/LCSC/PBL (to be amended as applicable).** For services with insignificant inputs of materials), the Price Variation formula should have only two elements viz. a high fixed element and a labour element.

8. **Option Clause Contract.** Price Variation Clause, FERV etc, if applicable and included in the original Contract, will also be applicable for Option Clause Contract. For arriving at prices payable, the Price Variation will be applied on the Base Contract price of the original Contract with the month and year of Effective date of Contract (T_C) as Base Level Indices.

Appendix N to Schedule I to Chapter II
(Refers to Para 60 and 70 of Schedule I)

EVALUATION CRITERIA AND PRICE BID FORMAT

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. **In Buy 'Global' Cases.** While carrying out evaluation of bids to determine L1 (including where DCF Technique is applicable), the following criteria would be followed:-

1.2.1 If Custom Duty Exemption is Not Applicable for the Major Deliverables

1.2.1.1 **In Case of Foreign Bidders.** All costs, taxes (including GST) and duties quoted by foreign bidders at Serials A to M of Para 2 below [including the basic cost on DDP basis and the 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 M), i.e., the last date of submission of commercial bids as per RFP.**

1.2.1.2 **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 of Para 2 below would be considered for purpose of comparison of various bids.

1.2.2 If Custom Duty Exemption is Applicable for the Major Deliverables

1.2.2.1 **In Case of Foreign Bidders.** All costs of the Deliverables excluding taxes and duties (GST/IGST/BCD, as relevant) quoted by foreign bidders at Serials A to M of Para 2 below 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 M), i.e., the last date of submission of commercial bids as per RFP.**

1.2.2.2 **In Case of Indian Bidders including Defence PSUs/OEs.** All costs of the Deliverables excluding all taxes and duties quoted by the Bidder at Serials A to M 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 (taxes and duties payable to Central/State/Local Governments to be included/excluded as per Para 1.2.1 and 1.2.2 above, as applicable) but with exclusion of BNE items sourced from common single source in accordance with Para ~~109~~ 107 of Chapter II of DAP-20. The scope of BNE cost shall include the basic cost of the Main Equipment and OEM Training, Training Aggregates, Documentation, SMT/STE, Freight and OBS as applicable/as indicated in the RFP, which are exclusively sourced from the nominated vendor (OEM). No other cost including the cost of items sourced directly from third parties and the cost of activities jointly undertaken by the Bidder/Bidder's sub vendor and the nominated vendor (OEM) or any third parties are to be included in the BNE cost. BNE rate would also be separately negotiated. However, payment will be made after adding the actual cost of BNE, at the time of purchase from OFB/DPSU/Private vendor, to the L1 cost determined as mentioned above.

The cost of equipment supplied by OFB/DPSU/Private vendor will be considered minus GST and other taxes and duties. 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.

1.2.4 **Where DCF Technique as Given in Para 4 is Applicable.** DCF technique will be applied on quoted cost of all items (taxes and duties payable to Central/State/Local Governments to be included/excluded as per Para 1.2.1 and 1.2.2 above, as applicable) to ascertain the NPV which would be used for determining L1 bidder, but with exclusion of BNE items sourced from common single source in accordance with Para ~~109~~ 107 of Chapter II of DAP-20. The scope of BNE cost shall include the basic cost of the Main Equipment and OEM Training, Training Aggregates, Documentation, SMT/STE, Freight and OBS as applicable/as indicated in the RFP, which are exclusively sourced from the nominated vendor (OEM). No other cost including the cost of items sourced directly from third parties and the cost of activities jointly undertaken by the Bidder/Bidder's sub vendor and the nominated vendor (OEM) or any third parties are to be included in the BNE cost. BNE rate would also be separately negotiated. However, payment will be made after adding the actual cost of BNE, at the time of purchase from OFB/DPSU/Private vendor, to the L1 cost determined as mentioned above.

The cost of equipment supplied by OFB/DPSU/Private vendor will be considered minus GST and other taxes and duties. 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.

1.3 **In ‘Buy (Indian-IDDMM)’, ‘Buy (Indian)’ and ‘Buy& Make Indian’ Cases’.**

1.3.1 **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 taxes and duties payable to Central/State/Local Governments but with exclusion of BNE items sourced from common single source in accordance with Para ~~109~~ 107 of Chapter II of DAP-20. The scope of BNE cost shall include the basic cost of the Main Equipment and OEM Training, Training Aggregates, Documentation, SMT/STE, Freight and OBS as applicable/as indicated in the RFP, which are exclusively sourced from the nominated vendor (OEM). No other cost including the cost of items sourced directly from third parties and the cost of activities jointly undertaken by the Bidder/Bidder’s sub vendor and the nominated vendor (OEM) or any third parties are to be included in the BNE cost. BNE rate would also be separately negotiated. However, payment will be made after adding the actual cost of BNE, at the time of purchase from OFB/DPSU/Private vendor, to the L1 cost determined as mentioned above.

The cost of equipment supplied by OFB/DPSU/Private vendor will be considered minus GST and other taxes and duties. 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.

1.3.2 **Where DCF Technique as Given in Para 4 is Applicable.** DCF technique will be applied on quoted cost of all items including taxes and duties payable to Central/State/Local Governments to ascertain the NPV which would be used for determining L1 bidder, but with exclusion of BNE items sourced from common single source in accordance with Para ~~109~~ 107 of Chapter II of DAP-20. The scope of BNE cost shall include the basic cost of the Main Equipment and OEM Training, Training Aggregates, Documentation, SMT/STE, Freight and OBS as applicable/as indicated in the RFP, which are exclusively sourced from the nominated vendor (OEM). No other cost including the cost of items sourced directly from third parties and the cost of activities jointly undertaken by the Bidder/Bidder’s sub vendor and the nominated vendor (OEM) or any third parties are to be included in the BNE cost. BNE rate would also be separately negotiated. However, payment will be made after adding the actual cost of BNE, at the time of purchase from OFB/DPSU/Private vendor, to the L1 cost determined as mentioned above.

The cost of equipment supplied by OFB/DPSU/Private vendor will be considered minus GST and other taxes and duties. 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.

1.4 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.

1.5 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 '0', 'positive numerical values' or 'Not Applicable' 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.

Ser	Items	Qty	Unit Cost	Total Cost (iii) x (iv)	Indicative Rate of Taxes & Duties used to arrive at Total Cost (as applicable)		Total Cost (including all taxes & duties) (v) + (vi) + (vii)	Remarks
					GST/IGST (%)	Custom Duty (%)		
(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)	(ix)
A.	Cost of Basic Equipment . Full break-up details may be given.							
B.	Cost of Installation / Commissioning/ Integration (where applicable)							
B1	Cost of Buyer Nominated Equipment (if applicable)							
C	Cost of Transfer of Technology (where applicable).							
D.	Cost of Manufacturer's Recommended List of Spares as per the format given at Annexure I to Appendix K. In case equipment is already in usage, the spare parts requirement must be specific rather than being based on MRLS.							
E.	Cost of Special Maintenance Tools and Special Test Equipment as per format given at Annexure II to Appendix K.							
F.	Cost of Operator's Manual and Technical Literature (in English Language) including Illustrated Spare Parts List as per Annexure III to Appendix K.							
G.	Cost of Training Aids such as simulators, cut out models, films, charts etc as							

Ser	Items	Qty	Unit Cost	Total Cost (iii) x (iv)	Indicative Rate of Taxes & Duties used to arrive at Total Cost (as applicable)		Total Cost (including all taxes & duties) (v) + (vi) + (vii)	Remarks
					GST/IGST (%)	Custom Duty (%)		
(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)	(ix)
	recommended by the supplier as per Annexure IV to Appendix K.							
H.	Cost of recommended period of Training excluding the cost of travel and boarding and lodging. This should be given under the following two heads as per Annexure IV to Appendix K. (a) In India. (b) Abroad.							
J.	Cost of Preservation/Depreservation (if applicable)							To be paid as in the contract, if utilised
K.	Any other cost (to be specified).							
L.	Freight and Transit Insurance Cost (where applicable).							
M.	AMC/CMC/PBL Cost giving year-wise break-up (where applicable).							
N.	Total Cost (Total of Serial A to M)						#	# This will be used in determining L1 vendor (duly applying provisions of Para 1 above).
O.	Foreign Exchange component of the proposal. (for Indian Vendors only)							This will be with reference to Para 1.2.2 of Appendix M.
P.	CDEC (if applicable) , its authority and amount for which required.							

Note: Taxes and Duties. All Indirect Taxes and Duties will be paid at actuals or as indicated in the Commercial bid by the Bidder, whichever is lower. In case of any change in the tax structure/rates by BUYER's Government, only incremental/decremented change will be paid.

3. **Evaluation of L1 in case of EPP.** If the equipment supplied by a Bidder does not have the EPP, then the total cost of Row N 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 N 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/CMC/PBL/LCSC 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 -

$$NPV_n = \sum_{t=1}^n \frac{A_t}{(1+r)^t}$$

Where,

NPV = Net Present Value

A_t = 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 Annexure I to Appendix M), 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 the firm 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.

Year	Dollars	Euros	Pound Sterling	Rupees	Total Cash-flow

Appendix O to Schedule I to Chapter II
(Refers to Para 24 and 65 of Schedule I)

STANDARD CONDITIONS OF RFP

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 shall be nominated by the two arbitrators 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) 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) and the award of such Arbitration Tribunal shall be enforceable in Indian Courts only.

2.7 The decision of the majority of the arbitrator(s) in the tribunal shall be final and binding on the parties to this contract.

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.

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) 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.

3.6 The Arbitration Proceedings shall be conducted in India under the Indian Arbitration and Conciliation Act, 1996 (as amended from time to time) 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.

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) 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.

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 offence 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, the concerned DPSU shall 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 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 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.

Annexure I to Appendix O
(Refers to Para 8.1 (j) of Appendix O)

PRE-CONTRACT INTEGRITY PACT

General

1. Whereas the PRESIDENT OF INDIA, represented by Joint Secretary & Acquisition Manager (Army/Air Force/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) in favour of the Buyer in Indian Rupees only.

(i) Guarantee will be from Indian Public or Private Scheduled Commercial Bank (as notified by RBI), 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 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

Estimated Cost of Procurement Scheme (₹Crore)		IPBG Amount (₹)
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 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 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 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 to check for changes to these details):-

(Names & addresses of Independent Monitors holding office on date of issue of RFP

to be included)

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)

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.

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

MINISTRY OF DEFENCE,
GOVERNMENT OF INDIA

BIDDER

CHIEF EXECUTIVE OFFICER

Witness

1. _____
2. _____

Witness

1. _____
2. _____

**Refers to Para 8.1 of
Pre-Contract Integrity Pact**

FORMAT OF INTEGRITY PACT BANK GUARANTEE (IPBG)

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 (Army/Air Force/Maritime & Systems) / 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 submission i.e. _____ (Submission 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)

Appendix P to Schedule I to Chapter II
(Refers to Para 66 of Schedule I)

OPTION CLAUSE
(No blanks to be left)

1. **In case of Indian Bidders.** 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. Price Variation Clause, FERV etc, if applicable and included in the original Contract, will also be applicable for Option Clause Contract. For arriving at prices payable, the Price Variation will be applied on the Base Contract price of the original Contract with the month and year of Effective date of Contract as Base Level Indices.

2. **In case of Foreign Bidders.** 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.

Appendix Q

(Refers to Para 5 of
Schedule I)

NON DISCLOSURE AGREEMENT

This Non Disclosure Agreement is entered into by and between SHQ/MoD (Disclosing Party) and _____ located at _____ (Receiving Party) for the purpose of preventing the unauthorized disclosure of confidential information as defined below. The parties agree to enter into a confidential relationship with respect to the disclosure of the RFP for procurement of _____ (name of the Project).

1. For purpose of this Agreement, “Confidential Information” shall include all information or material in which Disclosing party is engaged. If confidential information is in written form, the Disclosing party shall label or stamp the materials with the word “Confidential” or some similar warning. If confidential information is transmitted orally, the Disclosing Party shall promptly provide a written communication indicating that such oral communication constituted confidential information.

2. Receiving party shall hold and maintain the confidential information in strictest confidence for the sole and exclusive benefit of the Disclosing party. Receiving party shall carefully restrict exercise to confidential information to employees, contractors and third parties as is reasonably required and shall require those persons to sign Non-Disclosure restriction atleast as protective as those in this Agreement. Receiving party shall not, without prior written approval of Disclosing party, use, publish, copy, or otherwise disclose to others, or permit the use by others or to the detriment of Disclosing party, any confidential information. Receiving party shall return to the Disclosing party any and all record, notes and other written, printed or tangible materials in its possession pertaining to confidential information immediately if Disclosing party requests it in writing.

3. Nothing contained in this Agreement shall be deemed to constitute either party a partner, joint venture or employee of the other party for any purpose.

4. If any provision of this Agreement is held to be invalid or unenforceable by court of law, the remainder of this Agreement shall be interpreted so as best to effect the intent of the parties.

5. This agreement expresses the complete understating of the parties with respect to the subject matter and supersedes all prior proposals, agreements, representations and understandings. This Agreement shall not be amended except with the written consent of both the parties.

6. That in case of violation of any clause of this Agreement, the Disclosing party is at liberty to terminate the services of Receiving party without assigning any reason and shall also be liable to proceeded against in a Court of Law.

7. This Agreement and each party’s obligations shall be binding on the representatives, assigns and successors of such parties. Each party has signed this Agreement through its authorised representatives.

Disclosing Party

_____ (Signature)

_____ (Typed or Printed name)

Date _____

Receiving Party

_____ (Signature)

_____ (Typed or Printed name)

Date _____

Appendix R
(Refers to Para 7 of Schedule I)

CRITERIA FOR VENDOR SELECTION / PRE-QUALIFICATION
FOR - RFP ISSUE / INCLUSION IN RFP REQUIREMENTS
(Only For Multi Vendor Cases. Not applicable to DPSUs/PSUs.)

1. The following parameters may be used, as a guideline for the Collegiate to adopt, for inclusion in the RFP.

<u>Sl No</u>	<u>Parameter</u>	<u>For all Cases except Shipbuilding (Ch XII), Make (Ch III & IV) and Strategic Partnerships (Ch VII)</u>
1	Financial	
a	Credit Rating	Long term credit rating of CCR-BBB or better and SME-04 or better for SMEs as on 31 st March of the previous financial year Not applicable for cases below Rs 150 Crs.
b	Average Annual Turn Over	Min Avg Annual Turnover for last 03 financial years, ending 31 st March of the previous financial year, should not be less than 30% of estimated annual outflow of project cost of the Buy (Indian-IDDm) and Buy (Indian) project and for Buy & Make (Indian) should not be less than 30% of estimated annual outflow of the project cost of the make portion. Not applicable for cases below Rs 150 Crs.
c	Net Worth	Net worth of entities, ending 31 st march of the previous financial year, should not be less than 5% of the estimated cost of the Buy (Indian-IDDm) and Buy (Indian) project and for Buy & Make (Indian) should not be less than 5% of estimated cost of the Make portion. For orders above Rs 5000 Cr, the Networth of group companies can be considered on production of suitable documentary assurance. Not applicable for cases below Rs 150 Crs. But Net worth should be Positive.
d	Insolvency	The entity should not be under insolvency resolution as per IBC at any stage of procurement process from the issuing of RFP to the signing of contract.
2	Technical	
a	Nature of Business	Manufacturing entity or System Integrator of defence equipment and not a trading company, except in cases where OEM participates only through its authorised Vendors.
b	Experience in related field	Min 02 Yrs. experience in broad areas like manufacturing/ engineering/ electronics/ explosives etc. as applicable in the instant case. If not, then cumulative experience of at least 03 years in above areas, resulting in gaining of competence for manufacturing the proposed product. (In case SHQ feels that for particular equipment a lesser experience could be accepted, then the same should be specifically approved by the RFP approving authority before including the same in the RFP).
c	(i) Integration	(i) Cases involving Integration – Where product involves integration, previous experience of not less than one

	Experience (ii) Turnkey Projects Experience	year/ one project in integration of systems/ equipment shall be required. (ii) Turnkey Projects – Experience of successful completion of one Turnkey project of similar nature within last 05 Years with value of at least 20% of AoN cost or currently executing a contract of similar nature with value of at least 30% of the AoN cost. In case of no experience in turnkey projects the vendor for main component of the turnkey project may be selected if it has experience as per Srl 2(b) above and experience of installation or integration of similar equipment/ system or system of systems.
d	Quality control	For ICT Cases – (i) Certification to be included if linked to scope of work – Gartner Quadrant/ ISO9001/ CMMi3 or more (specifying development/ service/ acquisition models) / ISO 27001. For Information Security and large value projects preferably CMMi5 may be specified. (ii) Compliance with IEEE/ ITU standards depending upon nature/type of project or solution required.
3	Others	
a	Industrial License	Posses or be in the process of acquiring a license, if the product under project requires license as per DIPP licensing policy.
b	Registration	Registered for Min 02 Years, 01 years for MSMEs. Min no of years not applicable for JVs constituted specifically for a project.

Appendix S

(Refers to Para 67 of Schedule I)

DOCUMENTS TO BE SUBMITTED BY THE BIDDER ALONG WITH THEIR TECHNO-COMMERCIAL PROPOSALS

The list of documents which needs to be mandatorily submitted by the Bidders as part of Technical Proposal are placed below. Non-submission of the documents may result in disqualification of the Bidder from the bidding process.

Ser No.	Reference	Document Description
1.	Para 6 of RFP	Declaration by Bidder : Debarment of vendors
2.	Para 20 of RFP	Declaration by Bidder: Government Regulation
3.	Para 21 of RFP	Declaration by Bidder: Obligations Relevant to Transfer of Conventional Arms
4.	Para 23 of RFP	Declaration by Bidder : Patent Rights
5.	Para 27 of RFP	Declaration by Bidder : Fall Clause
6.	Para 34 of RFP	Technical document covering performance parameters.
7.	Annexure I to Appendix A	Undertaking to Comply with Essential Parameters-B
8.	Appendix B	Compliance Table
9.	Appendix C	Warranty Clause
10.	Annexure I to Appendix D	Undertaking to Comply with Offset Obligations (if applicable)
11.	Annexure II to Appendix D	Format for Submitting Technical Offset Offer (if applicable)
12.	Annexure III to Appendix D	Format for Submitting Commercial Offset Offer
13.	Appendix E	Information Pro-forma, Engagement of Agent by Foreign Bidder
14.	Appendix J	CERTIFICATE: Malicious Code
15.	Annexure I to Appendix K	Manufacturer's Recommended List of Spares (MRLS)
16.	Annexure II to Appendix K	List of SMT/STEs, Jigs, Fixture and Infrastructure
17.	Annexure III to Appendix K	Technical Literature
18.	Annexure IV to Appendix K	Training Aggregates
19.	Appendix N	Price Bid

Ser No.	Reference	Document Description
20.	Annexure I to Appendix O	Pre-Contract Integrity Pact
21.	Annexure I to Appendix O	IPBG

GLOSSARY

AMC	Annual Maintenance Contract
AoN	Acceptance of Necessity
ATP	Acceptance Test Procedure
CAMC	Comprehensive Annual Maintenance Contract
CKD	Completely Knocked Down
CNC	Contract Negotiation Committee
DAC	Defence Acquisition Council
DGAQA	Director General of Aeronautical Quality Assurance
DGNAI	Director General Naval Armament Inspectorate
DGQA	Director General of Quality Assurance
DPB	Defence Procurement Board
DAP	Defence Acquisition Procedure
DRDO	Defence Research and Development Organisation
EMC	Electro Magnetic Compatibility
EMI	Electro Magnetic Interference
EPP	Enhanced Performance Parameters
ESP	Engineering Support Package
FET	Field Evaluation Trials
GoI	Government of India
IC	Indigenous Content
ICG	Indian Coast Guard
IDDM	Indigenously Designed & Developed Manufactured
IM	Indigenously Manufactured
IP	Integrity Pact
IPBG	Integrity Pact Bank Guarantee
LRU	Line Replaceable Unit
MET	Maintainability Evaluation Trial

MoD	Ministry of Defence
MRLS	Manufacturer Recommended List of Spares
M-ToT	Maintenance Transfer of Technology
NCNC	No Cost No Commitment
OEM	Original Equipment Manufacturer
OTE	Open Tender Enquiry
PA	Production Agency
PCIP	Pre Contract Integrity Pact
QA	Quality Assurance
RFP	Request for Proposal
SPB	Services Procurement Board.
SHQ	Service Headquarters
SKD	Semi Knocked Down
SRU	Shop Replaceable Unit
TEC	Technical Evaluation Committee
ToT	Transfer of Technology

CHAPTER III

PROCEDURE FOR PROCUREMENT **UNDER 'MAKE' AND 'INNOVATION'** **CATEGORIES**

CHAPTER III

PROCEDURE FOR PROCUREMENT UNDER ‘MAKE’ AND ‘INNOVATION’ CATEGORIES

Background

1. Self- reliance in defence manufacturing continues to be an important pillar of India’s strategic autonomy. In line with the Government’s ‘Make in India’ programme, several initiatives have been taken in the recent years to build a robust defence industrial ecosystem capable of meeting existing and future requirements of the Armed Forces. The emerging dynamism of the Indian industry needs to be gainfully utilised to build domestic capabilities for designing, developing and manufacturing state of the art defence equipment.
2. R&D and innovation remain important cornerstones of India’s defence production strategy. With the launch of ‘Start-Up India’ programme, India has become the hotspot of start-up activity in the world, having the third-largest start-up ecosystem globally. These strengths need to be leveraged to catapult India to next level of frontier defence technologies, both for domestic use as also to foster exports.
3. The indigenous ‘Make’, and ‘Innovation’ Categories outlined in this Chapter attempt to further build on these initiatives and provide a focussed, structured and significant thrust to development of defence design and production capabilities in the country. Projects under ‘Make’ or ‘Innovation’ category, except ‘Make III’ will essentially pertain to products involving indigenous design, development and manufacturing. To enable Indian industry to leap frog to higher or complex technology, cases where Indian companies either hold the IPR, including where it has been acquired from the foreign companies, or have the ownership of the design of the main system/equipment, will be deemed to be indigenously designed and developed. In such cases, the companies will have to furnish undertaking as detailed at Appendix ‘A’ to Chapter I.
4. The Chapter is divided in two sections; Section I pertains to indigenous ‘Make’ Categories, whereas, Section II refers to categories nurturing indigenous innovation.

SECTION I –‘MAKE’ CATEGORIES

5. The ‘Make’ Categories aim to achieve the objective of self-reliance by involving greater participation of Indian industrial eco-system including private sector through the following procedures:-

- (a) **Make-I (Government Funded)**. Projects involving design and development of equipment, systems, major platforms or upgrades thereof by the industry. For Projects under Make-I sub-category, MoD will provide financial support upto **70%** of prototype development cost or maximum ₹ 250 crores per Development

Agency (DA). Funding would be released in a phased manner based on the progress of the scheme, as per terms agreed between MoD and the DA(s). However, the final percentage or upper limit of financial support to be provided may vary from case to case and would be dependent upon nature of the project and the fund support sought by the selected DAs for development of prototype.

(b) **Projects Under Make II and Make III.** Projects under Make II and Make III would encompass equipment/ system/ platform or their upgrades or their sub-systems/ sub-assembly/ assemblies/ components/ materials/ ammunition/ software, primarily for import substitution.

(i) **Make-II (Industry Funded).** This would include design and development and innovative solutions by Indian vendor, for which no Government funding will be provided. In Make-II, where solutions have been offered even by a single individual or a firm as a Suo-Moto proposal, the cases would be progressed as a Resultant Single Vendor. However, SHQ should seek for multivendor options in such cases, if feasible, before progressing the case as Single Vendor Case.

(ii) **Make-III.** This although would not be designed/developed indigenously, but can be manufactured in India as import substitution for product support of weapon systems/equipment held in the inventory of the Services. Indian firms may manufacture these either in collaboration or with ToT from foreign OEMs. In this category, an Indian vendor can enter into a JV with OEM.

6. **Eligibility & Categorisation.**

(a) **Make-I.**

(i) Eligible for Indian vendor defined at Paragraph 20 including additional conditions at Paragraph 20(a) and Paragraph 20(b) of Chapter I.

(ii) Other technical and financial criteria will be as per Appendix F of Chapter III.

(b) **Make-II.** The eligibility criteria will be as under:-

(i) Eligible for Indian vendor defined at Paragraph 20 including additional conditions at Paragraph 20(a) and Paragraph 20(b) of Chapter I.

(ii) For projects having cost of development phase \leq Rs. 3 Cr and cost of procurement phase \leq Rs. 100 Cr/year based on delivery schedule at the time of seeking AoN, there will be no commercial and financial criteria.

(iii) For all cases having cost of prototype development phase > Rs. 3 Cr and/or procurement cost > Rs. 100 Cr/ year based on delivery schedule at the time of seeking AoN, the entity should have:-

(aa) Average annual turnover of the applicant company for the last three financial years ending 31st March of the previous financial year, should not be less than 5% of the estimated cost of the project. In case of JV, the average annual turnover of the lead partner may be considered.

(ab) Net worth of the entities ending 31st March of the previous financial year should be “Positive”.

(iv) Other Technical criteria will be determined out by concerned SHQ based on the project requirement.

(v) Apart from entities eligible as per Paragraph 6(b) above, OFB & the ‘Start-up’ recognized by Department for Promotion of Industry and Internal Trade (DPIIT) from time to time, shall be eligible to participate under ‘Make-II’ procedure.

(c) **Make III.**

(i) Indian vendor defined at Paragraph 20 excluding sub paragraphs 20 (a) and 20 (b) of Chapter I.

(ii) Other eligibility criteria same as Paragraph 6(b) (ii) to 6(b) (iv) of Make II.

(d) Successful development under Make I and Make II would result in acquisition, from successful Development Agency(ies) (DA/DAs), through the ‘Buy (Indian-IDDM)’ category with indigenous Design & Development and a minimum of **50% IC**. Schemes under Make III will be procured under the Buy ‘Indian’ category with a minimum of **60% IC**.

Innovation & Indigenisation Organisation (IIO).

7. To provide impetus to indigenisation, each SHQ may establish an Innovation & Indigenisation Organisation within existing resources. The mandate of IIO/ SHQ will be as follows:-

(a) Be responsible for spearheading innovation & indigenisation.

(b) Identify projects for Indigenous Design and Development including import substitutions.

(c) Undertake advance planning and consultations with stakeholders.

- (d) Facilitate conduct of Feasibility Study.
- (e) Monitor formulation of Preliminary Services Qualitative Requirements (PSQRs) in consultation with potential DAs.
- (f) Facilitate fielding of SoC for Categorisation and accord of Acceptance of Necessity (AoN).
- (g) Assign responsibilities and hold task owners accountable for delivery.
- (h) Closely monitor and ensure periodic update on all 'Make' projects to AoN according authority by respective Project Facilitation Teams on a half yearly basis.
- (j) Employ project/programme implementation experts, as also latest execution/monitoring techniques and software to ensure timely development and implementation under delegated powers of SHQ through the revenue powers.

8. The acquisition process under the Categories mentioned at Paragraph 5 above would involve the following common procedural activities, elucidated in succeeding paragraphs:-

- (a) Advance Planning and Consultations.
- (b) Feasibility Study.
- (c) Preliminary Services Qualitative Requirements (PSQRs).
- (d) Categorisation and accord of Acceptance of Necessity (AoN).
- (e) Constitution of PFT.

Advance Planning and Consultations

9. **Identification of Projects and Approval-in-Principle**. SHQ, will identify the potential projects to be undertaken under each of the categories listed at Paragraph 5 above in consultation with industry. The list of such projects will be hosted on MoD/SHQ website and also shared with the industry. SHQ will also hold extensive consultations with the stakeholders. Industry can also forward Suo-Moto proposals under Make-II and Make-III. These proposals will be examined by SHQ in a time-bound manner, preferably within eight weeks. Potential projects identified under the 'Make' categories by SHQ, shall be deliberated and 'Approved-in-Principle' by a Collegiate Committee headed by Secretary (DP) with members from SHQ, Acquisition Wing, DDP, DRDO, MoD (Fin) (for non-delegated cases)/ IFA (for delegated cases). Projects once identified and accorded AIP under 'Make' categories shall not be retracted due to technology being developed by DRDO/DPSU/OFB. Proposals rejected by SHQ will be informed to the collegiate committee headed by Secretary DP.

10. **Dissemination and Consultations with Industry.** Once AIP has been accorded, list of potential projects along with project briefs, questionnaire for industry, contact point details shall be uploaded on MoD and SHQ websites to seek Industry participation. SHQ may also provide timely feedback to industry on Suo-Moto proposals, which are either accorded AIP or not accepted for further pursuance. Once AIP has been accorded, a Project Facilitation Team (PFT) will be constituted by SHQ. The detailed modalities of PFT are given in succeeding paragraphs

11. **Annual Acquisition Plan (AAP).** Make projects will be listed at Part C of AAP as given in Paragraph 26 of Chapter I. Additional Proposals under 'Make-II', 'Make-III' and 'Innovation' categories will deem to be automatically included in AAP, after accord of AoN. However, AoN for such cases being processed under delegated powers will be accorded by DPB within the overall financial limits linked to anticipated budget, as prescribed by HQ IDS for AAP. The AAP will be accordingly revised and brought up for approval of the DPB as per next scheduled revision.

12. **Incentives for MSMEs.** Projects under the Make categories, with procurement not exceeding Rs 100 Cr/year based on delivery schedule at the time of seeking AoN will be earmarked for MSMEs. However, if at least two MSMEs do not express interest for a Make programme earmarked for them, 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.

Feasibility Studies.

13. For 'Make' projects, SHQ shall carry out the feasibility study with the involvement of other stakeholders. Rep of FM/ IFA as applicable will be a stakeholder in feasibility study of Make projects. Industry associations including MSME associations would also be consulted. SHQ may engage consultants/experts to assist in preparation of feasibility study report. Funding requirements for such experts shall be borne by SHQ under relevant revenue budget.

14. The Feasibility Study shall look into the following aspects:-

(a) **Make I.**

(i) A preliminary assessment of enabling technologies to realise the requisite equipment/system/platform/components or their upgrades.

(ii) A preliminary assessment of capability of Indian industry to undertake design and development of the requisite equipment/system/platform or their upgrades, and to list out probable vendors.

(iii) A preliminary assessment to ascertain the 'Make' category under which the case shall be processed.

- (iv) Estimated time period for development.
- (v) Estimated cost of prototype development and for subsequent procurement under 'Buy (Indian-IDDMM)' category.
- (vi) In case of Make-I sub-category, feasibility study shall also recommend number of DAs to be selected. (As Make-I entails Government funding for prototype development, feasibility study will generally recommend not more than two DAs, however in case OFB is also participating it will be the third DA without government funding with the approval of DAC)
- (vii) 'Foreclosure' criteria.
- (viii) Any other aspect considered important.

(b) Make II and III.

- (i) **New Proposals Including Suo-Moto Proposals.** Same as Make I as given in Paragraph 14(a)(i) to 14(a)(viii).
- (ii) **Import Substitution.**
 - (aa) A preliminary assessment of capability of Indian industry to undertake design and development of the requisite equipment/ system/ platform or their upgrades, and to list out probable vendors.
 - (ab) Estimated time period for development.
 - (ac) Estimated cost of prototype development and for subsequent procurement under 'Buy (Indian-IDDMM)' and Buy (Indian) category respectively.

15. All stakeholders shall endeavour to complete feasibility study within twelve weeks from date of commencement for Make-II/Make-III Projects, and sixteen weeks for Make-I cases. Studies not completed within the stipulated period are to be brought to the notice of authorities according AIP, with reasons for delay.

Preliminary Services Qualitative Requirements (PSQRs).

16. SHQ in consultation with other stake holders would formulate the PSQRs, specifying essential and desirable parameters.

Categorisation and Accord of AoN.

17. SHQ will prepare SoC and take AoN as per procedure outlined in Chapter II.

18. In case of 'Make-1' category (Govt Funded), if OFB is also participating, it will be the third DA without government funding with the approval of DAC. The estimated cost of prototype phase and the final procurement of developed product would be indicated separately in the SoC. For Make-I category, the AoN will be sought based on the combined estimated cost of prototype phase and the cost of subsequent procurement under 'Buy (Indian-IDDM)' category. While for Make-II and Make-III categories, the AoN will be sought only for the cost of final procurement under 'Buy (Indian-IDDM)' category and Buy(Indian) respectively.

19. The SoC will highlight the following: -

- (a) Recommended level of Indigenous Content (Minimum as prescribed for 'Buy (Indian-IDDM)' category and Buy(Indian)), if applicable.
- (b) The design and development of the system is indigenous (For Make I and II cases only).
- (c) Minimum Order Quantity (MOQ) which can be exclusively committed, keeping in mind the financial viability of the identified project at the production stage, after the successful development of prototype. ⁴In cases of new equipment where scaling has not yet been done or has been exempted, quantity vetting will be done at AoN stage on the basis of MOQ for Make-I and Make-II cases based on justification viz-a-viz requirement by SHQs in the SoC. The SHQs will concurrently initiate a case for scaling. For Make-III cases, where scaling is not exempted, scaling and quantity vetting will be required at AoN stage.
- (d) Envisaged 'Development Timeline' for prototype.
- (e) Estimated development cost of prototype.
- (f) Estimated procurement cost of orders under Buy (Indian-IDDM) and Buy (Indian) category.
- (g) List of likely DAs.
- (h) Tentative time frame of procurement.
- (j) Acceptability of multiple technical solutions and division of ordered quantity among successful DAs, where applicable.

20. **Foreclosure Criteria.** To ensure that development timelines do not inordinately deny the Services of critical capability, the SoC would also include mutually agreed 'Foreclosure Criteria' {provision for Service to seek foreclosure of the project in case the project does not progress in accordance with predicted developmental timelines or if the

⁴ Amendment issued vide Appendix A to MoD ID No 1(8)/D(Acq)/21 dated 11.11.2021.

equipment under development is overtaken by emergence of better technology (ies), etc}. Foreclosure clause would be exercised only with the approval of AoN according authority.

(a) **Make-I.**

(i) In case the project does not proceed according to the predetermined milestones 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' 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 on the recommendation of PFT, through DPrB. Foreclosure criteria will be spelt out in the Project Sanction Order.

(ii) In such cases, the total expenditure made by the DA(s) on the prototype development till foreclosure would be assessed and if excess funds with reference to MoD share 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.

(b) **Make-II and Make III.** Under Make II and Make III, no government funding is envisaged for prototype development but there is an assurance of orders on successful development and trials of the prototype. 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.

21. **Multiple Technological/Source Solutions.** For Make and Innovation Cases involving large quantities, and where multiple technological/source solutions are acceptable, SHQ may seek approval of AoN granting authority for dividing specified quantities (in the appropriate ratio) between two vendors with lowest bids (referred to as L1 & L2), who have successfully developed the prototype/product, on the condition that the second (L2) vendor accepts the price and terms & conditions quoted by the L1 vendor. In case L2 vendor refuses to meet the price or the terms and conditions of L1 vendor, either the L3 vendor could be offered the same option to match L1 price and terms/conditions, or the entire order could be placed on L1 vendor. This provision would need to be included in the SoC seeking AoN, and if approved, in the EoI/RFP, as applicable. In case, Multiple Technological Solutions are not acceptable, the other successful vendor(s) will be issued a certificate by the DDP indicating that the product has been successfully trial evaluated, to facilitate vendors to explore other markets.

22. **Pre-Contract Integrity Pact (PCIP).** For Make and Innovation, Pre-Contract Integrity Pact (PCIP), as per Chapter II of DAP 2020, shall apply mutatis mutandis, to 'Buy (Indian - IDDM)' and Buy(Indian) phase of 'Make' projects. Depending upon the sensitivity/secretcy of the information related to the Project, participating vendors may be

asked to sign a Non-Disclosure Agreement at the time of sharing the QRs/other sensitive information for certain projects as deemed necessary by SHQ.

Validity of AoN.

23. In case of ‘Make-I’ category, the AoN will be valid for one year from the date of accord of AoN, whereas for Make-II/III categories, the AoN will be valid for six months from the date of accord of AoN. In case where Expression of Interest (EoI), as described in succeeding paragraphs, is not issued within the stipulated period, SHQ shall seek revalidation of AoN with due justification. For cases where the original EoI has been issued within the stipulated period 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 Expression of Interest (EoI).

Project Facilitation Team (PFT).

24. SHQ will constitute a PFT under a two-star/one-star officer/ Director level officer. PFT will consist of representatives from SHQ, DDP, DGQA/DGAQA/DGNAI, MoD(Finance)/IFA as required and other experts if considered necessary. PFT is to act as the primary interface between the SHQ and the industry during the design and development stage. PFT may be constituted prior to seeking AoN if necessitated.

25. For Make-I projects which are more complex in nature, SHQ may also engage consultant/ experts from public/private sector if considered necessary. Funding for the same shall be borne by SHQ under revenue budget.

26. The PFT shall be inter-alia responsible for the following functions: -

- (a) Preparation of Project Definition Document (PDD) **(Only for Make-I).**
- (b) Assist SHQ in preparation and issue of EOI including format of DPR.
- (c) Assist SHQ in analysis of EoI responses and evaluation of DPRs (Only for Make –I) and shortlisting of DAs by Secretary DP.
- (d) Facilitate issue of RFP by Acquisition Wing for solicitation of limited commercial offers for prototype phase and commercial offer for procurement phase to shortlisted DAs **(Only for Make-I).**
- (e) Recommend in consultation with Acquisition Wing two/three DAs, as applicable, from the shortlisted panel, based on commercial offers to SHQ/DPrB for selection **(Only for Make-I).**

- (f) Assist in obtaining CFA approval through DDP for **Make I cases**, as per financial powers detailed in Appendix C to this Chapter.
- (g) Assist in preparation of draft Project Sanction Order, obtaining requisite approvals and issue of Project Sanction Order by SHQ.
- (h) Assist/ handhold DAs by 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.
- (j) Assist in finalization of trial methodology.
- (k) Facilitate provisioning of trial range/test facilities/consumables, etc., as mentioned in the EoI.
- (l) Assist in conversion of PSQRs to SQRs, prior to commencement of Field Evaluation Trials.
- (m) Coordinate solicitation of Revised Commercial Offer through Acquisition Wing.
- (n) Coordinate Field Evaluation trials with the SHQ, 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.
- (o) Periodically assess the relevance of the project vis-à-vis contemporary technology, cost and time overruns, or any other relevant factor, and introduce timely correctives, as well as recommend invoking of the 'Foreclosure Clause', to AoN according authority, if considered necessary (**Only for Make-I**).
- (p) Any other responsibilities as may be entrusted by the AoN according authority/DPrB/PSO at SHQ.

27. **Progress Monitoring**. The progress of the 'Make' phase would be monitored by the PFT under overall guidance of respective Innovation & Indigenisation Organisation as defined in EoI responses. SHQ may engage services of independent consultants/experts for assessing the physical and/or financial progress of the Make project. Expenditure for engaging of consultants will be borne by SHQs from their allotted revenue budget. PFT, through respective 'Innovation & Indigenisation Organisation' will also apprise the progress of the project to Acquisition Wing and DPrB every six months through PSO concerned at SHQ, as the case may be.

28. **Certification of IC Content.** Once the PSQRs are frozen, the vendor shall submit the IC certificate as per Annexure II to Appendix B of Chapter I. All projects above ₹ 500 crores will have mandatory audit of IC content.

29. **Deviations.** Any deviation from the prescribed procedure will be put up to DAC through DPrB for approval. Any clarification or difficulty arising during execution shall be referred to Secretary (DP), who would either take a decision or refer the case to the DAC.

Follow-on Procedures.

30. Post accord of AoN, the 'Follow-on' procedures, would vary for each category, and are therefore highlighted separately in succeeding paragraphs.

'MAKE-I' CATEGORY

31. Under 'Make-I' category, post accord of AoN, the development & procurement process would involve the following functions: -

- (a) Constitution of PFT and preparation of Project Definition Document (PDD) by PFT (If not done prior to Accord of AoN).
- (b) Issue of EOI and seeking DPR and other financial and technical information.
- (c) Shortlisting of DAs based on financial gates, technical gates and DPR (Qualification criteria), by Secretary DP.
- (d) Issue of RFP by Acquisition Wing for solicitation of limited commercial offer for prototype development and commercial offer for the procurement phase.
- (e) Selection of DAs based on commercial bids by SHQ/ DPrB. (Weightages recommended to be 30% for Prototype Phase and 70% for Procurement Phase).
- (f) Approval of CFA as per Appendix C for funding arrangements and issue of Project Sanction Order.
- (g) Design and Development of prototype including technical and limited field trials of the prototype (suggested phases/ progression outlined at Appendix 'D').
- (h) Conversion of PSQRs to SQRs by SHQ.
- (j) Solicitation of Revised Commercial Offers by Acquisition Wing.
- (k) Field Evaluation Trials (FET) by SHQ and Staff Evaluation.

(l) Commercial negotiations by Contract Negotiation Committee CNC and Award of contract.

(m) The flow chart for procurement under Make I category is attached as Appendix A.

32. **Preparation of Project Definition Document by PFT.** The PFT will prepare a Project Definition Document (PDD) in consultation with stakeholders as per the sample format given at Appendix E 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.

33. **Expression of Interest (EOI), Detailed Project Report (DPR) and Shortlisting of DAs.** The EOI and format for DPR will be issued together to the DAs by SHQ. The response to the EOI and the DPR will be submitted by all DAs to SHQ. The modalities of EOI, DPR and shortlisting of DAs are given in succeeding paragraphs.

(a) **Issue of EOI and Evaluation.**

(i) PFT will assist SHQ in shortlisting Indian vendors for issue of EoI based on the feasibility study. In addition, SHQ will also host the AIP details on the MoD/SHQ website. Any vendor evincing interest in participating in the said project within a period of four weeks from the date of hosting the proposal, will also be issued with the EoI.

(ii) The EoI shall be approved by the PSO concerned at SHQ and may contain information as per sample format at Appendix F to this Chapter.

(iii) 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.

(iv) SHQ may, if required, engage Standing Consultancy Firms to provide assistance in preparation of EoI, industry outreach programmes and evaluation of EoI etc. Expenditure for engaging of consultants will be borne by SHQs from their allotted revenue budget.

(v) The PFT will assist SHQ in assessment of EoI responses based on approved criteria. Illustrative evaluation criteria are contained in sample format at Annexure I to Appendix F. Where required, PFT/SHQ reps may also visit vendor's premises.

(b) **Detailed Project Report(DPRs).**

(i) The DPRs as per sample format at Appendix G will be submitted to SHQ for their examination. The DPRs will be submitted by all vendors along with the EOI responses.

(ii) 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.

(iii) Submission of DPR as per format will be a Qualification Criteria for opening of commercial bids for selection of DAs.

(iv) For this purpose, PSQRs and relevant extracts from the PDD will be shared by the SHQ, with the short-listed DAs.

(c) **Evaluation of DPRs.**

(i) The PFT/SHQ in consultation with DDP will evaluate the DPR for viability of the project.

(ii) 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.

(d) **Short listing of Development Agency(ies) (DAs) based on EOI Responses.** Post evaluation of EOI responses and DPR, PFT will forward list of shortlisted Indian vendors or consortium who are capable of undertaking design and development of the equipment to Secretary DP for approval.

34. **Issue of Commercial RFP by Acquisition Wing for Solicitation of Limited Commercial Offer for Prototype Costing and Commercial Offer for the Procurement Phase for Selection of DAs.**

(a) A commercial RFP will be issued by Acquisition Wing for solicitation of limited commercial offer for Prototype Costing and solicitation of commercial offer for procurement phase for selection of DAs. The RFP will also highlight the submission of revised commercial offers post finalisation of SQRs.

(b) The quantities in the Buy (Indian-IDDM) phase cannot be reduced from the quantities indicated in AoN. The limited commercial offer for prototype development and commercial offer of the procurement phase will be submitted in separate envelopes.

(c) Shortlisted vendors shall be required to submit their limited commercial offer for development of Prototype(s) and commercial offer of the Procurement Phase based on MOQ as given out in the AoN.

(d) 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.

(e) A weightage of 30% for limited commercial offer bid for prototype development phase and a weightage of 70% for the procurement phase is recommended for selection of L1 bidder. The same will be included in the SoC which is being fielded for AoN.

35. **Selection of Development Agency(ies) (DAs).**

(a) The sealed commercial offers of the shortlisted vendors will be opened by SHQ (delegated cases)/Acquisition Wing (non delegated cases) along with reps of DDP at a predetermined date and time under intimation to vendors, permitting such vendors or their authorised representatives to be present. The final selection of DAs for cases upto ₹ 50 crores will be by SHQ and selection of DAs for cases above ₹ 50 crores will be by DPrB.

(b) The lowest prototype development cost offered in the limited commercial bid by the selected DAs will decide for 70 % of government funding, however not exceeding 250cr/DA. A cost variation of 15% of the lowest bid would be allowed for the other selected DAs. However, in certain cases, if there is a requirement to change the cap of Rs 250cr/ DA, the same may be included in the SoC at the time of seeking AoN.

36. **Approval of Competent Financial Authority (CFA).** For cases being progressed under Make-I sub-category, the financial sanction for project development, taking the relevant prototype development costs into account, would be obtained by the DDP as per delegation of financial powers detailed in Appendix C to this Chapter.

37. **Funding.** Funds for development projects approved under this procedure shall be borne under the Account Head '**Make Procedure-Prototype Development Account**' operated by respective SHQ.

38. **Funding for Projects under Make-I Category.**

(a) The prototype development cost to be borne by the MoD will be **decided based on the final cost-share agreed to** by the selected DA(s) in the Project Sanction Order in accordance with Appendix H.

(b) For all projects where MoD is required to fund part of the prototype development cost, an advance of 20% of the agreed share of the prototype development cost, will be paid against a bank guarantee for the equivalent amount.

(c) Balance payment will be paid on completion of the stipulated stages/milestones. On completion of every stage against the milestones detailed in the DPR, DAs will submit claims for reimbursement to PFT. While submitting reimbursement claims, the Chief Executive Officer/a suitable nominee along with an authorised auditor/licensed Chartered Accountant will certify the incurred expenditure linked to a particular development stage. Based on the recommendations of PFT, 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.

39. SHQ will generally procure the MOQ approved in the AoN, post successful completion of FET. However, in case for reasons beyond control of the SHQ, the project is foreclosed, the DA(s) will be entitled for reimbursement of cost incurred by DAs with reference to MoD share for the prototype development within a period of three months.

40. **Time Overrun.** The approval of extension of timelines for any 'Make-I' project up to 25% of the timelines agreed upon in the approved DPR may be accorded by CISC/ VCOAS/ VCNS/ DCAS/ DG ICG based on the recommendations of Chairman Innovation & Indigenisation Organisation. For extension of time beyond 25%, the matter would be referred to DPrB.

41. **Project Sanction Order.**

(a) SHQ will issue a Project Sanction Order to all selected DAs for development of prototype.

(b) Post development of prototype and trials, the PSQRs will be converted to SQRs.

(c) The quantities in the 'Buy (Indian-IDDM)' phase cannot be reduced from the quantities indicated in AoN.

42. **Revised Commercial Offer.** The Revised Commercial bids on finalised SQRs will be solicited from the DAs prior to FET by Acquisition Wing. Any increase in revised commercial bids from earlier commercial bid will be duly justified by the selected DAs. CNC will also consider the earlier commercial bids submitted at EOI stage while benchmarking.
43. **Field Evaluation Trials(FET) and Staff Evaluation.** FET would be carried out as given in Chapter II. At this stage, no changes should be suggested which require redesigning of the system/sub system or technology upgrade. Such suggestions would be considered and implemented in subsequent phases of development of follow on models if required. The Staff Evaluation will be carried out as given at Chapter II of DAP2020. Once the Staff Evaluation report is accepted and final instalment under prototype phase as per DPR has been released, no more funds would be released from 'Make Procedure- Prototype Development Account'.
44. **Benchmarking by Benchmark Models Committee.** The benchmarking will be carried out as given out in Chapter II. The Benchmark model committee will consider the commercial bid submitted by vendors prior to development of prototype for benchmarking.
45. **Commercial Negotiations by Contract Negotiation Committee (CNC).** As per provisions of Chapter II of DAP2020.
46. **Access to Books of Accounts.** The DAs shall maintain separate books of accounts with an independent bank account, for the project sanctioned under Make-I sub-category of prototype development. MoD or its authorised representative(s) shall have unfettered rights to access these books of account of DAs.
47. Intellectual Property Rights (IPRs) in the 'Make-I' projects undertaken under provisions of this Chapter shall vest as described in Appendix J.
48. **Disposal of Tangible Assets Created in Make-I Projects.**
- (a) 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 DAs at depreciated value as per the extant guidelines of the Government of India.
 - (b) 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 Secretary (DP).
49. **Timelines.** Typical expected timelines for undertaking 'Make-I' Projects are contained in Appendix K. 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.

'MAKE-II' CATEGORY

50. After accord of AoN, the development & procurement process under Make-II sub-category would involve the following functions: -

- (a) Issue of Expression of Interest (EoI).
- (b) Evaluation of EoI responses.
- (c) Award of Project Sanction Order.
- (d) Design and Development of Prototype.
- (e) Conversion of PSQRs into SQRs.
- (f) Solicitation of Commercial Offer.
- (g) Field Evaluation Trials by SHQ.
- (h) Staff Evaluation.
- (j) Commercial negotiations by Contract Negotiation Committee (CNC).
- (k) Award of Contract.
- (l) The Flow Chart for procurement under Make II and Make III is attached as Appendix B.

51. **Issue of EoI.** SHQ duly assisted by PFT shall publish 'EoI' on MoD/DDP Website inviting Company (ies) to participate into the 'Make-II' project. EOI for Make II projects could be on similar lines as EOI of Make I less the DPR, and as decided in the feasibility study or by SHQ. In addition, EoI shall also be issued to all companies which have shown interest to participate in the project during Feasibility Study. However, EoI may highlight the following: -

- (a) PSQRs.
- (b) Scope of the project including number of Prototypes required.
- (c) Time frames and critical activities.

- (d) Milestones.
- (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 available.
- (h) Details of Evaluation Criteria for assessment of EOI.

52. **Evaluation of EoI Responses.** Responses to EoI shall be evaluated by SHQ duly assisted by PFT 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). Also refer Paragraph 6 above of this chapter for indicative criteria for evaluation of EoI for shortlisting of Development Agencies in Make- II and Make III categories. Project shall be progressed ahead even if only one EoI respondent is found meeting the eligibility criteria.

53. **Project Sanction Order.** SHQ will obtain sanction for prototype development with 'Nil' financial implications from CISC/ VCOAS/ VCNS/ DCAS/ DG(ICG) and issue a Project Sanction Order (PSO) to all the DAs. The quantities in the 'Buy (Indian-IDDM)' phase cannot be reduced from the quantities indicated once the PSO has been issued.

54. **Development of Prototype.** After the issuance of PSO, PFT will act as the primary interface between the SHQ and the industry during the design and development stage. After the prototype has been developed, the PFT would carry out User Trial Readiness Review (UTRR) of the prototype before offering it for Field Evaluation. Request for Proposal (RFP) for 'Buy (Indian-IDDM) phase, duly vetted by Acquisition Wing (for non-delegated cases)/concerned SHQ (for delegated cases), will be issued to all vendors who have successfully developed the prototype and participated in the UTRR for submission of their commercial offer prior to commencement of FET.

55. **FET and Staff Evaluation.** FET would be carried out by the SHQ in close consultation with PFT and will be followed up by Staff Evaluation in accordance with Chapter II of DPP. 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 the subsequent/follow-on models, if required. The user may however recommend minor modifications with regard to ease of handling or maintainability.

56. **Commercial Negotiations by Contract Negotiation Committee (CNC).** The benchmark cost will be calculated on the basis of Last Purchase Price (where available) of the imported item being substituted and adjusted for inflation/escalation and other relevant

factors. The CNC will carry out all processes from opening of commercial bids till conclusion of contract.

57. Negotiations in case of multivendor projects having procurement cost less than ₹150 crores 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' and 'Make III' as an import substitute and their prices are known, no benchmarking & no negotiation may be carried out, even in Single Vendor Cases, if the offered price is lower than Import price / Last Purchase Price (LPP) suitably adjusted for inflation/escalation and other relevant factors by 20% or more. However, in such cases, the CNC will satisfy itself that the price of the selected offer is reasonable with respect to the AoN cost and consistent with the quantity required.

58. After the conclusion of negotiations, the procurement procedure would thereafter be same as for 'Buy (Indian- IDDM)' category from the successful DA/DAs, in accordance with Chapter-II of DPP.

Other Aspects of Make II.

59. **Intellectual Property Rights (IPRs).** 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 ask 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.

60. **Time Overrun.** Typical expected timelines for undertaking 'Make-II' Projects are contained in Appendix L. Based on the complexity of the equipment, AoN according authority may approve extended timelines at the time of according AoN". Approval of extension of timelines for any 'Make-II' project may be accorded by CISC/ VCOAS/ VCNS/ DCAS/ DGICG based on the recommendations of PFT. 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 to other vendors and thereafter the case shall be progressed as resultant Single Vendor Case (SVC).

61. **Procedure for Accord of AoN - Low Value 'Make-II' Projects.** 'Low Value Projects' for import substitution under Make-II procedure will follow a different procedure, as elucidated below: -

(a) Proposals meeting the following criteria will be considered as 'Low Value Projects' under Make-II procedure: -

(i) Technical specifications of the equipment/item and Last Purchase price (LPP) are known.

(ii) The estimated cost of procurement does not exceed Rs 100Cr/year based on delivery schedule at the time of seeking AoN.

(b) After accord of AIP, SHQ will prepare detailed Questionnaire within two weeks and upload the same on the MoD website, seeking necessary inputs required for preparing feasibility study report within a period of four weeks. Feasibility report will be completed within two weeks from last date of submission of detailed response to Questionnaire. Feasibility report finalized by Project Facilitation Team (PFT) will be construed as concurrence by all stakeholders. PFT will prepare the SoC based on Feasibility report and field the proposal directly to relevant AoN according authority, without circulating the SoC as otherwise required as per Chapter II of DAP.

62. **Deviations.** Any deviation from the prescribed procedure will be put up to DAC through DPrB for approval.

MAKE-III

63. Projects in this category would encompass equipment/systems/platforms or their upgrades or sub-systems/ sub-assembly/ assemblies/ components/ materials, ammunition, etc, which although not designed/developed indigenously, but are being manufactured in India as import substitution for product support of weapon systems/equipment held in the inventory of the Services.

64. Indian firms may manufacture these either in collaboration or with ToT from foreign OEMs. Schemes under Make III will be procured under the Buy 'Indian' category with a minimum of **60% IC**. The procedure to be followed after accord of AoN, will be akin to Make-II.

SECTION II – INNOVATION

Introduction.

65. MoD has set up Innovations for Defence Excellence (iDEX) initiative under the Defence Innovation Organisation (DIO) and Technology Development fund (TDF) under DRDO to use a multi-pronged approach and reach out/engage a large pool of innovators/technocrats/professionals/academicians including amongst the smaller enterprises, start-ups and MSMES, to foster innovation in a coherent, strategized, and integrated manner. SHQs also undertake Innovations through their internal R & D organisations.

66. Procurement through Innovative solutions could be undertaken under following programmes: -

(a) **Innovations for Defence Excellence (iDEX).** Projects of Start-ups, MSMEs etc. with low capital investments and high innovation would be pursued under the iDEX category.

(b) **Technology Development Fund (TDF) Scheme.** Projects supported through TDF of DRDO for leveraging the domestic capabilities available with Indian Industries especially MSMEs including Start-ups.

(c) **Indigenous Development by Services through Internal Organisations.** These would include projects where prototype development of equipment/system will be processed by the Services through their internal R&D organisations, such as Base workshop/Dockyards/ Base Repair Depots/ Internal Indigenisation Organisations/ Design Agency, etc.

Innovations for Defence Excellence (iDEX).

67. Details of the programme through DISC, SPARK and other such frameworks would be uploaded on the iDEX website **www.iDEX.gov.in** from time to time. The procurement of the final product will be processed under the Buy (Indian-IDDM) category.

68. Like the Make-II category, Innovators/Industry/academia/start-ups can also forward suo-moto proposals for innovation to SHQ/iDEX-DIO. These proposals will be examined by SHQ/iDEX-DIO in a time-bound manner, preferably within two months.

69. **Development of Prototype.** A Project Facilitation Team (PFT) or nodal officer will be nominated by the SHQs for each iDEX case. PFT/Nodal officer will act as the primary interface between the SHQ and the industry during the design and development stage. After the prototype has been developed, the PFT would carry out UTRR of the prototype before offering it for User Trials.

70. Prototypes that have been successfully developed through the iDEX framework will be taken up by the SHQs for grant of AoN after finalisation of SQRs as per procedure outlined in Chapter II of DAP. The SoC will be prepared by the SHQs, with the involvement of important stakeholders such as HQ IDS, DRDO, DDP, Advisor (Cost) and MoD (Fin)/ IFA.

71. **Solicitation of Commercial Offers.** A commercial Request for Proposal (RFP) for 'Buy (Indian-IDDM) phase will be issued to all DAs (iDEX Winners who have successfully developed the prototypes) for submission of their commercial offer prior to commencement of User trials.

72. **FET.** FET will be carried out as per Chapter II of DAP 2020, in coordination with iDEX. Project, where prototype of only a single firm/individual clears the trials, will be progressed as resultant single vendor.

73. **Follow-on Procedures.** Subsequent procedures of Staff Evaluation, CNC and award of Contract will be same as for 'Buy (Indian- IDDM)' category, from the successful DA/DAs, in accordance with Chapter II of DAP.

74. **Developmental Agencies (DA).** All reference to the word DA in context of iDEX may be construed as referring to iDEX winners or iDEX fellows for iDEX cases. IPR provisions will remain same as Make-II category.

Technology Development Fund (TDF) Scheme.

75. Projects pursued under the category of Technology Development Fund (TDF) Scheme of DRDO will be progressed for acquisition under innovation Category. The details of TDF scheme are given out at website <https://tdf.drdo.gov.in>. The procurement will be made under the 'Buy (Indian- IDDM)' Category. A nodal officer from the Services may be nominated by the SHQs for each requirement under TDF Schemes who will be the member of the Project Monitoring and Mentoring Group (PMMG).

76. Once the prototype(s) have been successfully developed through TDF Scheme, the SHQ would finalise the SQRs and prepare the SoC for grant of AoN in consultation with other stakeholders. In case procurement from more than one DA is envisaged, the same may be included in the SoC with justification. The AoN will be sought based on the cost of the final product under 'Buy (Indian- IDDM)' Category.

77. **Solicitation of Commercial Offers.** A commercial Request For Proposal (RFP) for 'Buy (Indian – IDDM) phase, will be issued to all successful DA(s) for submission of their commercial offer prior to commencement of FET. Cases where prototype has been developed by a single DA, would not be treated as Single Vendor Case.

78. **FET.** FET would be carried out by the SHQ in close consultation with PMMG and Directorate of TDF, DRDO as per Chapter II of DAP.

79. **Follow-on Procedures.** Subsequent procedures of Staff Evaluation, CNC and award of Contract will be same as for 'Buy (Indian- IDDM)' category, from the successful DA/DAs, in accordance with Chapter II of DAP.

80. **IPR of TDF Scheme.** Successful development under this scheme would result in the DAs jointly owning the IPR along with DRDO of the technology. Details are given in the Standard Operating Procedures (SOP) promulgated by DRDO for TDF.

Indigenous Development by Services through Internal Organisations.

81. Products developed by Army Base Workshops, Naval Dockyards, Air Force Base Repair Depots and other service organisations 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 SPB. 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.

82. Where the innovation is achieved within the Services, the concerned personnel/organisation may be allowed to file and hold the patent.

Miscellaneous.

83. **AoN.** AoN for Innovation cases will be valid for six months. For cases where RFP is not issued within six months from accord of AON, SHQ shall seek revalidation of the AoN with due justification, as per the prescribed procedure.

84. After successful development of Prototype, no changes should be suggested, which require re-designing of the systems/ sub- systems or technology upgrade. Such suggestions would only be considered and implemented in the subsequent/ follow-on models, if required. The user may however recommend minor modification with regard to ease of handling or maintainability.

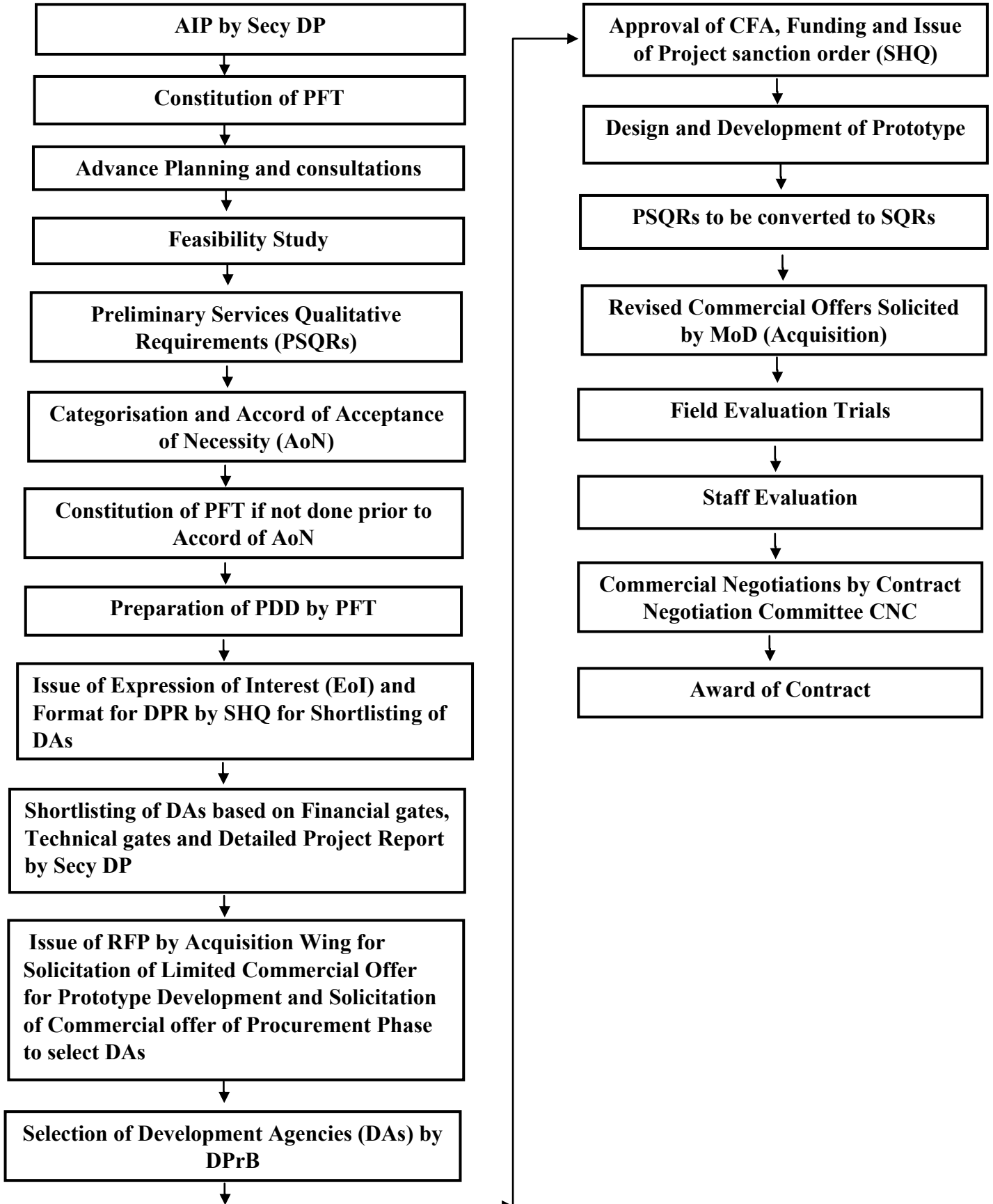
85. In 'Innovation' Categories, even if a single individual or a firm develops the prototype, it will be progressed as Resultant Single Vendor.

86. **Time Overrun.** Approval of extension of timelines for any project under innovation categories may be accorded by CISC/VCOAS/VCNS/DCAS/DG (ICG) based on the recommendations of PFT/nodal agency.

87. **Buyer Nominated Equipment/Buyer Furnished Equipment (BNE/BFE)**. SHQ will have the option to procure or incorporate products that have matured through the aforesaid innovative processes as BNE/BFE in future procurement cases, where applicable. These would not be considered as Single Vendor Cases. However, SHQ should seek for multivendor options in such cases, if feasible, before progressing the case as Single Vendor Case.

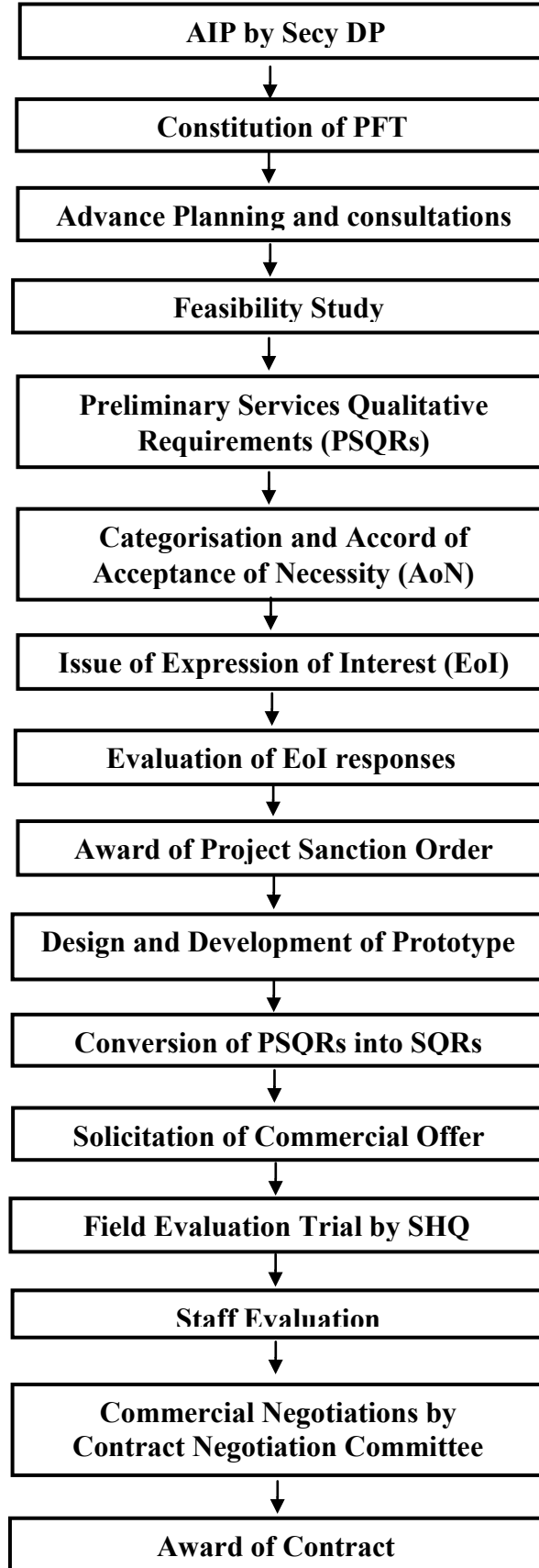
Appendix A to Chapter III
(Refers to Paragraph 31(m) of
Chapter III)

FLOWCHART: MAKE – I



Appx B to Chapter III
(Refers to Paragraph 50(I)
of Chapter III)

FLOWCHART : MAKE – II & III



Appendix C to Chapter III
(Refers to Paragraph 26(f), 31(f)
& 36 of Chapter III)

DELEGATED FINANCIAL POWERS OF CFA FOR 'MAKE I' AND
'INNOVATION' CATEGORIES
(Cumulative Cost of Two Prototypes and based on 70% Government Funding)

Description	CFA	Financial Limit
Project Cost for Prototype Development Phase	CISC/VCOAS/VCNS/ DCAS/DGICG	Upto 50cr
Project Cost for Prototype Development Phase	Secretary (DP)	50-250cr
Project Cost for Prototype Development Phase	RM	250-400cr
Project Cost for Prototype Development Phase	RM & FM	400-500cr
Project Cost for Prototype Development Phase	CCS	Above 500cr

Note: The financial powers are amount required for prototype development for each project inclusive of all DAs

Appendix D to Chapter III
(Refers to Paragraph 31(g) of
Chapter III)

PHASES IN DESIGN AND DEVELOPMENT OF PROTOTYPE
FOR MAKE-I SUB-CATEGORY

The Design and Development stage under Make-I projects is expected to undergo the following phases: -

Phase		Activities	Remarks
(a)	Project Definition	x Mobilisation of initial start-up resources, including development laboratories	x As specified in the DPR
(b)	Preliminary Design	x Establishment of design parameters for configuration, performance in compliance with user requirements	x Tests and studies to be conducted must be specified
(c)	Detailed Design	x Detailed design of systems and sub-systems down to all components x Finalisation of specifications of various equipment, systems, sub-systems x Firming up of engineering design drawings/documents and process plan	x Acceptable variances in parameters may be indicated as % or range. x Several critical design reviews may be needed to fine-tune the designs. x Concerned SHQ/PFT is to provide platform/equipment/interface details as approved at the DPR stage.
(d)	Fabrication/ Development	x Manufacture of sub-assemblies in limited numbers as agreed to in DPR against total numbers required for subsequent stages.	x Fabrication to be based on final specifications arrived at in Phase III (Detailed Design)
(e)	Test and Analysis	x Testing of several components, systems and sub-systems is to be undertaken concurrent with design	x Software is also to be included in tests/analyses x Design testing through simulation can also be undertaken

			<ul style="list-style-type: none"> • Testing may require specialised facilities such as firing ranges for proof firing, etc. Laboratory and other in-house facilities are to be made available to the DA as approved in the DPR. • Existing Government Infrastructure for Trials, Testing and Inspection be made available on Time Sharing or on prescribed charges as defined in the policy on the subject. The procedure may be simplified for ease of business.
(f)	Integration	<ul style="list-style-type: none"> • Integration of systems/sub-systems • Finalisation of interface details and performance and assembly of modules/sub-systems 	<ul style="list-style-type: none"> • System integration testing in accordance with approved test procedures is to be progressed concurrently
(g)	Performance Evaluation	<ul style="list-style-type: none"> • Technical and limited field trials of the prototype • Changes in design may be needed until final proving and meeting of essential SQRs 	<ul style="list-style-type: none"> • DA and PFT are to assess performance against stated SQRs • Subject to time limits approved in DPR.

Appendix E to Chapter III
(Refers to Paragraph 32 of
Chapter III)

PROJECT DEFINITION DOCUMENT (PDD): AN ILLUSTRATIVE FORMAT

The PDD would be prepared by the PFT in consultation with DAs. It could contain the following: -

- (a) Brief description of the project.
- (b) PSQRs.
- (c) System requirements and functionalities.
- (d) Major components of the proposed system.
- (e) Maintenance and operational philosophy.
- (f) Testing.
- (g) Documentation.
- (h) Life cycle management.
- (j) Feasibility study details.
- (k) Milestones.
- (l) Phases of implementation.
- (m) Technology demonstrators, if any.
- (n) BFE required for development/Testing.
- (o) Foreclosure Criteria/Risk management.
- (p) Safety and security aspects.
- (q) Phase wise induction schedule.
- (r) Time frames for execution of the project.

Appendix F to Chapter III
(Refers to Paragraph 33(a)(ii) of
Chapter III)

EXPRESSION OF INTEREST (EoI): AN ILLUSTRATIVE FORMAT
FOR MAKE I PROJECTS

1. General information about the product/equipment/system, number of systems required (for the prototype development phase and Buy (Indian-IDD) phase), Life span, estimated financial aspects, performance/capabilities sought, security features, IPR aspects, payment aspects with linkage to milestones, grounds on which EoI respondent can be disqualified, grounds for blacklisting by any Indian government agency (of domestic/foreign technology partner), 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. Guidelines in vogue for formation of Association of Persons (AoP) i.e. consortium.
4. **Financial Eligibility Criteria(Suggested).**
 - (a) The entity needs to be registered for minimum five years; three years in the case of MSMEs.
 - (b) The entity shall have long-term issuer credit rating equivalent to Credit Rating Information Services of India Limited (CRISIL) or ICRA Limited “**BBB**” **accorded** by Reserve Bank of India (RBI) / Securities Exchange Board of India (SEBI) approved agencies. In case of MSMEs, the minimum rating should be ‘SME-4’. Rating report should not be older than 12 (twelve) months and be the latest available rating.
 - (c) 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 (Profit after tax (PAT)) for at least one out of the last three years.
 - (d) **Net Worth.** Net worth of entities, ending 31st March of the previous financial year, should **not be less than 5% of the estimated cost of the project.** Capital Acquisition cases where estimated cost is ₹ 150 Crores and below, Net worth of entities should not be **negative.**

5. In case the Net Worth criteria, and/or credit rating is considered high or low for the purposes of adequate EoI responses and or due to prevailing economic environment, the Feasibility Study/SHQ will work out specific financial gates for consideration of the AoN according authority at the time of seeking AoN. Specific notes for planning are as under: -

(a) *In case of wholly owned subsidiary/subsidiary of a company, the strengths of its holding company may be taken into account for the criteria referred at **Paragraph 4**, if the holding company provides the 'Holding Company Guarantee' as per the format prescribed at Annexure-III of Appendix F.*

(b) *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.*

6. 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 issue of EOI, except the requirement for profitable financial record as specified under Paragraph 4 (c) above, which needs to show profits in at least three years of the last five years preceding the issue of EOI.

7. **Technical Eligibility Criteria(Suggested).**

(a) **Integration Capability.** For large and complex projects (particularly under Make-I category), only companies with demonstrated technical capability of integration of "System of Systems", which refers to any system with multiple technologies of major systems in aerospace (including aircraft, helicopter, remotely piloted aircraft, spacecraft), ships and crafts, submarine, weapon systems (including command & control systems), etc, may be considered. To establish the same, the company should have:

(i) Successfully commissioned at least one project with a capital expenditure of not less than ₹ 500 Crores (Rupees Five Hundred Crores only) on each such plant/project.

OR

(ii) Successfully signed at least one contract in the product or related domain (eg. Aerospace/ shipbuilding/ armoured fighting vehicles/weapon systems / command & control systems, as the case may be) of value not less than ₹ 300 Crores (Rupees Three Hundred Crores), during the last seven (07) financial years.

(b) **Domain-Specific Criteria.** The minimum acceptable technical criteria in the

product/solution domain are to be decided by SHQ in consultation with DDP. These could include, inter alia, the following:-

(i) Special static facilities necessary for development, fabrication or assembly of the product.

(ii) Design and manufacturing capabilities such as design simulators/software, tempering and machining, specialised welding technology, high-end control systems, etc.

(c) **MSME**. The Technical Gates for MSMEs will be decided on case to case basis by SHQ, contingent upon complexity of the project.

8. **Detailed Project Report (DPR)**. The DPR will be submitted by all vendors in response to EOI along with EOI. Format for submission of DPRs is attached as Appendix G.

9. Illustrative Details to be sought from EoI respondents: -

(a) Outline features of the proposal.

(b) Estimated Capital expenditure.

(c) Roles, responsibilities and expertise details of consortium members, if any.

(d) Role of foreign technology provider, if any.

(e) Recommended stages/phases of development with priorities & time schedules.

(f) Requirement of specialised testing assistance where facilities are available only with government entities, DPSUs and DRDO/DGQA/DGAQA/DGNAI.

(g) Cost-sharing Aspects.

(h) 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.

10. Documents to be submitted by EoI respondents: -

(a) Information Proforma (all partners/collaborators) as per Annexure-I to Appendix-F.

(b) Documents as per Annexure-II to Appendix-F.

(c) Copy of MoUs with consortium partners, if applicable.

Annexure I to Appendix F
(Refers to Paragraph 10(a) of
Appendix F & 33(a)(v) of
Chapter III)

INFORMATION PROFORMA: AN ILLUSTRATIVE LIST OF ELEMENTS

1. **General Information.**

- (a) Name of the Company.
- (b) Address of the Registered Office.
- (c) Category of Industry (Large Scale/Medium Scale/Small Scale).
- (d) Nature of Company (Public Limited/Private Limited).
- (e) CIN
- (f) Shareholding pattern.

2. **Business Information.**

- (a) Type/Description of current products.
- (b) Products already supplied to Services/PSUs/DRDO/OFB/any other defence organisations
- (c) Details of ISO, Quality Assurance and other Certification.

3. **Technical Information.**

- (a) Availability of area for factory (including covered, uncovered and bonded space).
- (b) Details of Developmental Facilities:-
 - (i) Manpower.
 - (ii) Inspection and Quality Control.
 - (iii) Laboratory and Drawing Office Facility.
- (c) Integration capabilities for system-of-systems projects.

(d) Capability criteria specific to the product/solution/technology being offered.
(To be decided by SHQ in consultation with Acquisition Wing).

4. **Financial Information.**

- (a) Revenue and Net Profit during the last three Financial Years.
- (b) Present Net Worth of the Company.
- (c) Credit Ratings from RBI/SEBI approved agencies.

Annexure II to Appendix F
(Refers to Paragraph 10(b) of
Appendix F)

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. Auditor certified data of company for:-
 - (a) Share holding pattern including details of FDI.
 - (b) Net worth.
 - (c) Annual Consolidated Turnover.
4. Credit Rating Certificate.
5. Copy of Association of Persons (AoP) Agreement.
6. Certificate for Technical Eligibility criteria.
7. Any other undertaking/affidavit as required by the MoD.

Note. The company/organisation is to certify the correctness of reply (ies) to this EoI on an undertaking signed by the authorised signatory.

Annexure III to Appendix F
(Refers to paragraph 5(a) of
Appendix F)

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 fulfil 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 fulfil 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:-

For Guarantor	
Attention of	
Mailing Address	
Email Address	
Fax No.	
For Beneficiary	
Attention of	
Mailing Address	
Email Address	
Fax No.	

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 forced 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,

Witness

(Signature) Signature :

Name :

Designation :

Date :

Appendix G to Chapter III
(Refers to Paragraph 33(b)(i) of
Chapter III and Paragraph 8 of
Appendix F)

**DETAILED PROJECT REPORT (DPR): AN ILLUSTRATIVE LIST OF DPR
ELEMENTS**

1. The PFT would order preparation of Detailed Project Report and provide following inputs to the nominated DA(s):-
 - (a) ~~Provisional~~ Preliminary 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 the '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 and compliance for eligibility.
 - (b) Envelope along with weightages for enhancing SQRs.
 - (c) Overview of the project.
 - (d) Scope of the project.
 - (e) Infrastructure requirements.
 - (f) Operational requirements.
 - (g) Integration requirements.
 - (h) Estimated Bill of Material/Phase-Wise Cost Break-up and critical phases susceptible to cost over-runs.

- (j) Technical specifications of equipment to be used for the project.
- (k) Sources of Raw Materials for the project: -
 - (i) Imported/Indigenous.
 - (ii) Brief Description.
 - (iii) Estimated CIF Value.
 - (iv) Percentage FE Content in Final Product.
- (l) Source and quantum of sanctioned, installed and back-up power supply.
- (m) Details of important facilities that will be employed in the project, including but not limited to: -
 - (i) Production (including Heat Treatment, jigs and fixtures).
 - (ii) CAD, CAM, robotics and other advanced technology tools.
 - (iii) Environmental Test Facilities.
 - (iv) Tool Room, Metrology and Test Equipment and Facilities.
 - (v) Types of Instruments, Make and Model, Date of Purchase,
- (n) Indigenisation Criteria.
 - (i) Indigenous design capability.
 - (ii) Indigenous manufacturing capability.
 - (iii) Indigenous content in percentage of total cost.
 - (iv) %age of proprietary items.
 - (v) Components to be manufactured indigenously.
 - (vi) Components designed indigenously but likely to be manufactured abroad.
 - (vii) Components likely to be procured from abroad along with country of origin.

- (viii) Methodology to build up on technologies and experience from current project for new deliverables/upgrades.
- (o) Estimated timelines for various phases of prototype development, total timeframe for implementation of the project and critical phases most susceptible to slippages.
- (p) Critical activities and milestones.
- (q) Estimated expenditure for various phases of prototype development inclusive of all taxes & duties to be incurred by DA, estimated total capital expenditure.
- (r) Detailed risk analysis and risk management plan.
- (s) Funding for development of prototype and carrying out research activities.
- (t) Role of technology provider, if any.
- (u) Upfront disclosure of details of foreign collaboration, if any including major assemblies and sub-assemblies to be defined to include Armament, Power Pack, Transmission System, Sighting system etc. as Priority I and II.
- (v) Requirement and employment plan of proof firing and other specialised testing assistance where facilities are available only with DRDO/DGQA/DGAQA/DGNAI/SHQ.
- (w) Utilisation of existing government infrastructure for leasing, maintenance and manufacture of components, assemblies and sub assemblies.
- (x) Upfront disclosure of details of foreign collaboration, if any.
- (y) Requirement and employment plan of proof firing and other specialised testing assistance where facilities are available only with DRDO/DGQA/DGAQA/DGNAI.
- (z) Evaluation process and acceptance criteria.
- (aa) Sharing of development cost.
- (ab) Premium for insurance cover against collateral/third party damages.
- (ac) Estimates numbers for prototype development and for Mark-I procurement under “Buy (Indian-IDDM)” phase.

- (ad) Requirement of minimum order quantity to be placed on the successful developer.
- (ae) Methodology for life-cycle support, mid-life upgrades or life extensions, if applicable.
- (af) 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.

Appendix H to Chapter III
(Refers to Paragraph 38(a) of
Chapter III)

**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 PFT 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 PFT as part of the EOI. The PFT 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 PFT could consider and recommend a cost variation up to 15% amongst the EOI 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 PFT 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 Paragraph 31(g) and Appendix D to Chapter-III, as finalised in the EOI. The cost to be reimbursed shall be restricted to actual cost.
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 up to 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.

10. **Allocability of the Cost.** 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. If there is any change in the Indian Accounting Standard 7, the changes will be suitably incorporated in the DAP by Acquisition Wing, in consultation with MoD (Fin).

12. The Development Agency shall submit a break-up of cost estimates for each stage outlined at Appendix D to 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.

Appendix J to Chapter III
(Refers to Paragraph 47 of
Chapter III)

INTELLECTUAL PROPERTY RIGHTS OF GOVERNMENT
IN “MAKE”- I PROJECTS

Guiding Principles

1. The Government shall retain only a license in the Intellectual Property¹ 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 PFT or any other expert or body may identify such technology/product. The provisions for IPRs in respect of such technology/product will be separately negotiated in compliance with the laws and regulations on the subject.

3. All technology licensing is divided up between two mutually exclusive categories of deliverables:
 - (a) Technical Data (TD)²; and
 - (b) Computer Software (CS)³. The Government shall also have certain rights to subject inventions and patents generated under the “Make” contract.

4. The EoI shall contain details of:-

¹ The term ‘Intellectual property’ shall refer to all categories of intellectual property as provided in TRIPS Agreement.

²“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.

³(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.

- (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 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 in succeeding paragraphs.
8. For all subject inventions⁴ 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

⁴“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.

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 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

11. 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.

12. 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.

13. 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.

14. The contractor shall also be required to submit periodic reports about commercialization and manufacturing activities undertaken for products embodying the subject invention under “Make” contracts.

15. 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.

16. 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.

17. 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.

Appendix K to Chapter III
(Refers to Paragraph 49 of
Chapter III)

TENTATIVE TIMELINES FOR MAKE – I

Ser No	MAKE Phases	Timeline in Weeks
<u>Phase I</u>		
1.	Approval of proposals as potential Make-I projects by collegiate to be headed by Secy DP & uploading on MoD/DDP website	To
2.	Completion of feasibility study	16
3.	Preparation of PSQRs	4
4.	Categorisation and Accord of AoN	6
5.	Formation of PFT and shortlisting of potential EOI recipients (parallel activities)	4
6.	Issue of EOI	8
7.	EOI response submission including DPR & Pre EOI meeting	16
8.	EOI response evaluation and Shortlisting of Development Agencies (DAs)	8
9.	Issue of RFP for Limited Commercial Offer for Prototype Costing and Commercial Offer for Procurement Phase	8
10.	Receipt of Commercial Offers	10
11.	Evaluation of Commercial offer and Selection of DAs	8
12.	CFA Approval	6
13.	Project Sanction Order	4
14.	Total Timeline for Phase I	98
15	<u>Phase II</u>	
16.	Prototype Development & Evaluation (Refer Appendix D)	As per DPR
17	PSQRs to be converted to SQRs	4
18.	Solicitation of Revised Commercial Offers	4
19.	<u>Phase III</u> – FET till Contract	As per chapter II
	Total	106+ Phase II + Phase III

Appendix L to Chapter III
(Refers to Paragraph 60 of
Chapter III)

TENTATIVE TIME LINES FOR MAKE-II AND MAKE III PROJECTS

Ser. No	Activity	Time in weeks
	Phase I	
1.	Approval of proposals as POTENTIAL 'Make-II' projects by Collegiate to be headed by Secretary (DP) and uploading on MoD/DDP website	To
2.	Completion of Feasibility study	12
3.	Preparation of PSQRs	4
4.	Categorisation and Accord of AoN	6
5.	Formation of PFT and Shortlisting of potential EOI recipients (parallel activities)	4
6.	Issue of Eol	8
7.	Eol Response submission	8
8.	Eol response evaluation	6
9.	Issue of Project Sanction Order	2
10	Total time line for Phase I	50
11	<u>Phase II</u>	
12.	Prototype development and Evaluations	30-48
13.	Conversion of PSQRs to SQRs	4
14	Solicitation of Commercial offer	4
15.	<u>Phase III</u> - FET till Contract	As per chapter II
16	Total	88-106 weeks + Phase III

CHAPTER IV

PROCEDURE FOR ACQUISITION OF **SYSTEMS DESIGNED AND** **DEVELOPED BY DRDO /DPSU /OFB**

CHAPTER IV

PROCEDURE FOR ACQUISITION OF SYSTEMS DESIGNED AND DEVELOPED BY DRDO/DPSU/OFB

Background

1. The aim of this procedure is to enable acquisition and induction of equipment/ system developed by DRDO/DPSU/OFB into the Services. This process will help not only in translating the existing indigenous technological capability into systems, but also in implementing 'Make in India' with indigenous technology through Indian industry. This Chapter describes the procedure for Design and Development of equipment/ systems by DRDO/DPSU/OFB in detail which will lead to subsequent induction. The procedure covers the development of systems from inception till induction by Services and Life Cycle Support, as per flow chart given at Appendix A to this Chapter.

2. While technology levels in Defence Systems in the country have reached global standards in a number of areas, however, in other areas we may need to follow a Spiral Development Model to keep pace with the international standards. Moreover, technology is ever-changing; and to constantly remain at par with global technologies, indigenous technology development must continue, through Spiral Development, if required. Spiral Development Model is proposed to be adopted for indigenous capability building, wherever considered essential and feasible keeping Operational Requirement of Services in mind.

Development and Acquisition Process

3. On the basis of Operational Requirements (ORs)/Integrated Capability Development Plan (ICDP), SHQ shall identify the equipment/platform which could be undertaken for Design and Development (D&D) by DRDO/DPSU/OFB for subsequent induction. All such cases would be categorised as 'Buy (Indian-IDDMM)' for subsequent procurement from the industry partner of DRDO or DPSU/OFB. DRDO would select Development cum Production Partner(s) (DcPP(s)) whereas in case of DPSU/OFB, the entire D&D and subsequent production may be undertaken by themselves. In certain cases, DRDO/DPSU/OFB may also nominate a PA from Indian industry.

4. The acquisition process for the systems Designed and Developed by DRDO/DPSU/OFB would involve the following functions: -

- (a) Initiation of D&D case by SHQ.
- (b) Accord of Acceptance of Necessity (AoN).

- (c) Design and Development.
 - (i) Identification of Development cum Production Partner(s) by DRDO/DPSU/OFB.
 - (ii) Detailed Design Review (DDR) along with SHQ representatives.
 - (iii) Critical Design Review (CDR) by DRDO/DPSU/OFB and SHQ.
 - (iv) Issue of Trial Directive by SHQ.
 - (v) Realisation of prototype.
 - (vi) PSQR Validation Trials, based on Trial Directive, by SHQ nominated Trial Team.
- (d) Staff Evaluation.
- (e) Conversion of PSQRs into SQRs.
- (f) Issue of Commercial Request for Proposal (RFP) to DcPP(s)/ Production Agency(ies) - PA(s) of DRDO/ DPSU/OFB.
- (g) Commercial negotiations by Contract Negotiation Committee (CNC).
- (h) Approval of the Competent Financial Authority (CFA).
- (j) Award of contract/ Supply Order (SO).
- (k) Contract Administration and Post-Contract Management.

Initiation of D&D Case by SHQ

5. The Statement of Case (SoC) would be initiated by the concerned SHQ in consultation with DRDO/DPSU/OFB and circulated to all concerned stakeholders, for comments.

6. The SoC for seeking AoN shall, inter-alia, include the Feasibility Study report, PSQRs, MOQ, and a broad Trial Methodology. The Feasibility Study report will be undertaken by DRDO/DPSU/OFB with requisite inputs of Sponsor SHQ. Feasibility study will jointly define MOQ and recommend the number of DcPP (s).

7. The SoC for seeking AoN will, inter alia, highlight the following: -
- (a) Recommended level of Indigenous Content.
 - (b) Minimum Order Quantity (MOQ) which can be exclusively committed, keeping in mind the financial viability of the identified project at production stage after the successful development of prototype, within the specified development timeline. In case, SHQ have opted for multi-stage PSQRs for Spiral Development, SoC shall separately list out MOQ for each stage. Since, the AoN is being obtained based on MOQ, there would be no requirement of scaling & quantity vetting at AoN stage, but the basis of MOQ will be included in the SoC.
 - (c) If the prototype is not developed within the agreed timeline, SHQ may acquire the weapon/equipment/platform through other procurement categories/procedures with approval of AoN according authority.
 - (d) Envisaged development timelines for prototype.
 - (e) Estimated development cost of project.
 - (f) Estimated production cost of orders for subsequent procurement under Buy (Indian-IDDMM) category.
 - (g) Provision of multiple DcPP(s) and division of ordered quantity among successful DcPP(s), where applicable. In case of multiple DcPP(s), their respective prototypes would be trial evaluated, as applicable.
8. PSQRs will be formulated by SHQ in consultation DRDO/DPSU/OFB specifying essential and desirable parameters. The applicability of Spiral Development would also be considered during the PSQR formulation itself.
- 9 Along with the PSQRs, a trial methodology to quantify and verify each PSQR parameter should be finalized.

Accord of Acceptance of Necessity (AoN)

10. After incorporating the comments on the SoC, as feasible, SHQ shall field the case in SPB/DPB/DAC, as applicable, for accord of AoN.
11. DcPP(s)/ PA (s) identified by DRDO shall not be considered as a Single Vendor Case (SVC). Similarly, if the D&D is by DPSU/OFB without any DcPP, it would not be treated as SVC.

12. Validity of AoN for D&D projects by DRDO/DPSU/OFB will be six months from the date of approval of SQRs by relevant SEPC.

13. **Cases for Ex-post-facto AoN.** For on-going cases, where the development had commenced prior to accord of AoN, ex-post facto approval may be accorded by the DAC.

Design and Development

14. Design and Development would be undertaken as per DRDO/DPSU/OFB procedures. The major activities to be carried out during D&D are described in the following paragraphs.

Development cum Production Partner (s)

15. The feasibility study will recommend the number of DcPP(s) to be selected based on the quantities required, complexities of the technology, risk mitigation, expertise available within the Indian industry etc. DcPP will be selected as per definition of Indian Vendor given at Paragraph 20 including sub Paragraph 20(a) and 20(b) of Chapter I. Efforts should be to have more than one DcPP. If only one DcPP is recommended, DRDO will justify the same to AoN according authority.

16. DRDO shall select DcPP(s) during the initial stages of development as per DRDO procedures. In case during selection through competitive mode results into a single DcPP during the development phase, the same will not be treated as a Single Vendor Case and progressed thereafter. In case of D&D by DPSU/OFB, there may not be any DcPP; however, in case, there is a DcPP, provisions as applicable to DRDO will apply.

17. In certain cases, where the quantities are limited and production by industry is not feasible, production can be undertaken by DRDO/DPSU/OFB with approval of AoN according authority. DRDO will however identify a suitable maintenance agency as per its internal procedures to provide Life Cycle Support for the equipment. In such cases, if the production is undertaken by DRDO, it will be based on Indent/Project Sanction Order and thus the costing will be as per internal procedures of DRDO and budget for limited quantity produced will be as per procedures of Capital Acquisition. However, if the production is being undertaken by DPSU/OFB, costing may be done by a Costing Committee constituted by DDP.

Review and Monitoring

18. The Detailed Design Review (DDR) and Critical Design Review (CDR) would be conducted as per internal procedures of Design Agency jointly with SHQ. Project reviews would also be done as per internal procedure to assess the progress and suggest corrective measures, if any.

19. **Joint Project Monitoring Team(JPMT)**. DRDO/DPSU/OFB will constitute a Joint Project Monitoring Team which will be chaired by a two-star/one-star officer from the concerned SHQ and co-chaired by a Project Director/ Deputy Project Director of the Nodal Lab of DRDO/ GM Level officer in case of DPSU/OFB. JPMT will have representatives from Design Agency i.e. DRDO/DPSU/OFB, MoD(Acquisition), DGQA/DGAQA/DGNAI, representatives from Maintenance Branch, as required and other experts if considered necessary. Domain experts, if considered necessary may also be included. The suggested constitution and role of JPMT is described in Appendix B.

20. **Project Management Team(PMT)**. In addition to JPMT, the SHQ will affiliate a PMT to the project. PMT will be a subset of JPMT. Based on the cost and complexity of the project, a dedicated PMT will be constituted which will be co-located with the project. The PMT will comprise of associated officer representative of User Directorate from SHQ with requisite support staff including a Quality Assurance specialist, if required. The officer representative of PMT would attend all meetings of JPMT. The PMT will function in close coordination with the project team with respect to monitoring, assisting in availability of Service resources in terms of ranges, platforms or earmarking of specific units/sub-units of Services. The PMT will also address day-to-day user requirements and seek directions from SHQ on complex issues. It will give periodic updates to JPMT and SHQ. The role of PMT is described in Appendix B.

21. **Apex Level Review**. The Apex Level Review will be carried out by Apex Board for DRDO and by BRMC for DPSU/OFB, as applicable.

(a) **Apex Board (AB)**. Bi-annual Review and Monitoring of all AoN accorded projects of DRDO will be carried out by the Apex Board including Secretary (DDR&D), concerned Vice Chiefs/CISC, Secretary (Defence Finance), DG(Acquisition), QA representative, besides existing composition as applicable.

(b) **Bi-Annual Review and Monitoring Committee (BRMC)**. Bi-annual Review and Monitoring of all AoN accorded projects of DPSU/OFB will be carried out by BRMC including Secretary (DP), concerned Vice Chiefs/CISC, Secretary (Defence Finance), DG(Acquisition) and QA representative, besides any member that may be included at the discretion of Committee.

(c) JPMTs will render progress report during the AB/BRMC meeting as applicable. The AB/BRMC may recommend 'Way Forward' for issues that crop up during the execution of project or recommend foreclosure, if necessitated. Accordingly, the SHQ may field the case before AoN according authority. A six-monthly update of all such projects would be given by DRDO/DPSU/OFB to DPB. The constitution, terms of reference and frequency of meetings of BRMC/AB are covered at Appendix C.

Issue of Trial Directive

22. Trial Directive will be issued by SHQ in consultation with JPMT and PMT after completion of the Critical Design Review (CDR).

23. The Trial Directive will be formulated by the SHQ in consultation with Design Agency and must specify the fundamental points that need to be addressed for validating the 'Essential' parameters, along with EMI/EMC, Maintenance and Quality requirements. Trial Directive will be issued on the basis of Trial Methodology. Certain members of PMT will be included in the Trial Team constituted by SHQ for conduct of trials. CoC submitted by Design Agency duly recommended by JPMT will be taken into account while formulating the Trial Directive.

Realisation of Prototype

24. Prototype shall be realized by the DcPP(s)/ PA(s) in case of design by DRDO; and by DPSU/OFB in case no DcPP/PA is engaged by them.

25. **Prototype Development Stage.** Design Agency, in close consultation with PMT would initially carry out in-house/ internal testing & evaluation to validate the performance of the sub-systems/ sub-assemblies against the PSQR parameters. During this stage, if some parameters of sub-systems/sub-assemblies are evaluated as per Quality Testing(QT) & Acceptance Testing (AT) or through accredited test labs/physical trials aligned with Trial Directive, SHQ/ DGQA/DGAQA/DGNAI, as applicable, shall accept the Certificate of Conformance (CoC) for such parameters as submitted by the Design Agency.

Trials & Evaluation

26. The multi stage trials of UATT / FET would be integrated into single stage progressive trials in order to ensure timely procurement subject to the DcPP(s) realizing the prototype for PSQR Validation Trials with absorption of technology. In case, where PA is incorporated post development of prototype, then PSQR Validation Trials would be conducted on Design Agency prototypes to freeze PSQRs to SQRs and subsequently SHQ may conduct Field Evaluation Trials on PA produced prototypes, in order to validate only critical parameters of SQRs and absorption of technology.

27. **PSQR Validation Trials.** PSQR Validation Trials shall be conducted by SHQ & Design Agency in consultation with JPMT and PMT to validate the PSQRs and enable their conversion to SQRs. The trials will be conducted as per approved Trial Directive and within specified defined timelines laid down in Trial Directive. SHQ will formulate a SOP for conduct of PSQR Validation Trials and share the same with DRDO.

28. In case the PSQR Validation Trials conducted on the final integrated prototypes produced by the DcPP(s) are successful, no further Field Evaluation Trials are necessary. In

case of prototype not achieving PSQRs fully, SHQ may consider Spiral Development if acceptable and convert achieved PSQRs to SQRs for only a Limited Series Production, to be approved by BRMC/AB and informed to AoN according authority. However, in case prototype does not meet critical parameters as acceptable to SHQ, the JPMT will take necessary decisions for either continuation of further development or recommend foreclosure of the project to BRMC/AB.

29. In this regard, also refer to Paragraphs 65, 66, 68, 69, 74, 75, 76, and 77 of Chapter II of DAP 2020 regarding acceptance of vendor certification, certifications from accredited labs, simulated tests etc which may be especially applied for conditions/parameters not related to primary employment of the equipment.

30. The following documents should be made available to Trial Agencies, at the start of PSQR Validation Trials: -

- (a) Requisite technical documentation.
- (b) Draft maintenance manuals.
- (c) List of components/ parts (for Maintainability Equipment Trials).
- (d) List of Certificates of Conformance (CoC) and certifications from accredited labs, if any.

Staff Evaluation

31. Staff Evaluation report based on PSQR Validation Trials will be accepted at the SHQ by the CISC/VCOAS/VCNS/DCAS/DG ICG.

32. Staff Evaluation may also recommend 'Limited Validation Trials' (LVT)/First Off Production Model (FOPM) trials, if required. Both LVT and FOPM trials shall address only parameters considered essential by SHQ. In cases where DcPP was not involved in the D&D process, Staff Evaluation may recommend Field Evaluation Trials of prototypes to be manufactured by the DRDO nominated Production agencies (PA(s)). The evaluation report will then again be processed for acceptance by the CISC/VCOAS/VCNS/DCAS/DG ICG.

Freezing of PSQRs (Conversion into SQRs)

33. After successful completion of PSQR Validation Trials, PSQRs shall be converted into SQRs and approved by the relevant SEPC within eight to ten weeks of receipt of Trial Report.

Issue of Commercial Request for Proposal (RFP)

34. For better price discovery, commercial RFP would be issued on conversion of PSQRs to SQRs.

35. RFP, besides seeking commercial inputs will also seek costing details for Life Cycle Support. Acceptance Test Procedure (ATP) will be jointly formulated by Design Agency, SHQ, DGQA/DGAQA/DGNAI and DCP/PA concurrently to trials and included in the commercial RFP. Certification of IC content will be submitted by the vendor as per Annexure II to Appendix B of Chapter I of DAP 2020.

Commercial Negotiations

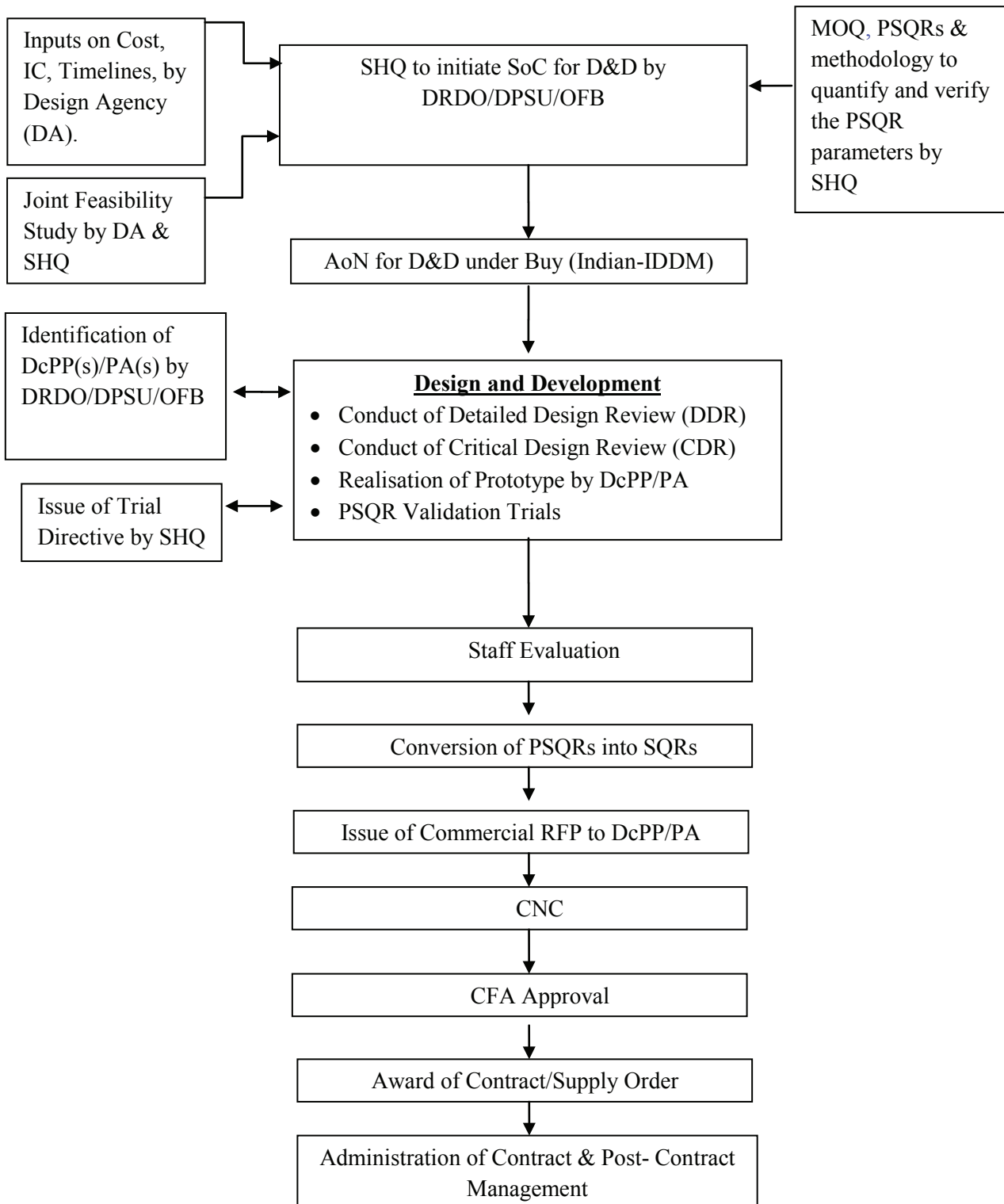
36. Commercial negotiations by Contract Negotiation Committee (CNC) and stages thereafter would be progressed as per provisions of DAP-2020. However, to expedite the acquisition process; all activities including benchmarking less opening of commercial bid may be undertaken post successful completion of trials, prior to acceptance of Staff Evaluation. Representative of DRDO shall be included in the Benchmarking Model Committee.

37. In cases where procurement is undertaken from OFB/DPSU and in Single Vendor Cases, on recommendation of ~~Cost~~ Contract Negotiation Committee, a Costing Committee will be constituted by DDP to carry out pricing of the equipment.

38. Post the approval of the CFA, contract for supply of equipment/platform shall be awarded to DcPP/PA. Post contract management will be as per Chapter XI of DAP 2020.

Appendix A

(Refer to Paragraph 1 of Chapter IV)

FLOWCHART FOR ACQUISITION OF SYSTEMS DESIGNED & DEVELOPED BY DRDO/DPSU/OFB

Appendix B

(Refer to Paragraphs 19
and 20 of Chapter IV)

CONSTITUTION AND ROLE OF JOINT PROJECT MONITORING TEAM (JPMT)
AND PROJECT MONITORING TEAM (PMT)

1. All DRDO/DPSU/OFB projects would be monitored by the JPMT with members as indicated below.

2. The suggested constitution of JPMT is as follows:

- | | | |
|-----|---|--------------------|
| (a) | Two Star/ One Star Rank officer from concerned SHQ - | Chairman |
| (b) | Project Director/ Deputy Project Director Nodal Lab/ -
GM of DPSU/OFB, as applicable | Co-Chair |
| (c) | Reps of participating labs/DPSU/OFB | - Member |
| (d) | Rep of DISB for DRDO cases | - Member |
| (e) | Rep of DP&C of DRDO/DDP | - Member |
| (f) | User Rep | - Member |
| (g) | Rep of CEMILAC, if required | - Member |
| (h) | Rep of QA Agency | - Member |
| (j) | Subject experts from R&D Centers/Academia/
other DRDO labs, if required | - Member |
| (k) | Rep of Maintenance Agency, if required | - Member |
| (l) | Rep of DRDO/DPSU/OFB | - Member Secretary |

Note: Chairman may co-opt/nominate other members as and when necessary.

3. JPMT shall meet quarterly or as on required basis. Chairman JPMT may call for a meeting of the team at a short notice during the critical phase of the project.

4. The role of JPMT is as follows: -
 - (a) Reviewing detailed schematic/product Tree with current status.
 - (b) Reviewing technical progress of project as per original Gantt/PERT chart clearly indicating any change from reference base line prepared and approved at the time of sanction of the project.
 - (c) Discussion on unresolved technical issues and their proposed solutions.
 - (d) Deliberation on key issues including new issues brought up for approval.
 - (e) Recommending enhancement of funds, PDC extension and closure of projects.
 - (f) Preparation of draft Trial Directive (methodology, timelines and platforms).
 - (g) Facilitate conduct of trials with SHQ.

5. **PMT**. PMT would consist of members as decided by SHQ based on the complexity of the project and required domain specialization. SHQ would have the option to augment the PMT for any project related activity with additional members with relevant core competencies. Role of PMT shall, inter alia, include the following: -
 - (a) Participate in all testing and trials along with Design Agency and DcPP and function in close coordination with the project team.
 - (b) Attend all project related meetings and discussions including that of JPMT.
 - (c) Assist in availability of Service resources in terms of ranges, platforms or earmarking of specific units/sub-units of Services and coordinate activities between multiple agencies from the Services.
 - (d) Address day-to-day functional requirements, provide operational inputs and seek directions from SHQ on complex issues.
 - (e) Give periodic updates to JPMT and SHQ.

Appendix C
(Refer to Paragraph 21(c)
of Chapter IV)

**BI-ANNUAL REVIEW & MONITORING COMMITTEE (BRMC) AND
APEX BOARD (AB)**

1. **Constitution BRMC.**

(a) Secretary, DP	-	Chairman
(b) Vice Chief, Respective SHQ / CISC	-	Co-Chair
(c) Secretary, Defence Finance	-	Member
(d) DG (Acquisition), MoD	-	Member
(e) Concerned JS in DDP	-	Member
(f) Director DP&C of DDP	-	Member
(g) CMD, DPSU/ Chairman OFB	-	Member
(h) Chairman, JPMT	-	Member
(j) Project / Programme Director (DPSU/OFB)	-	Member Secretary

Chairman may co-opt / nominate members on requirement basis.

2. **Constitution Apex Board.** As per approved composition. However, concerned Vice Chiefs/CISC, Secretary (Defence Finance), DG(Acquisition) and QA representative will be incorporated for review and monitoring of D&D projects.

3. **Terms of Reference (ToR).**

- (a) To monitor major milestones and to decide on remedial actions in case of slippage of schedule.
- (b) To approve new Work Centers and allocation of tasks based on the recommendations of appropriate Boards.

(c) To approve alternate approaches to meet the schedule / overcome technical challenges.

(d) To approve / ratify changes in system specifications based on the recommendations of appropriate Boards.

(e) To recommend 'Way Forward' for issues that crop up during the execution of project or recommend foreclosure, if necessitated.

3. **Meeting Frequency.** Once in six months.

CHAPTER V

FAST TRACK PROCEDURE (FTP)

CHAPTER V

FAST TRACK PROCEDURE (FTP)

1. The aim of the FTP, outlined in the succeeding paragraphs is to ensure expeditious procurement for urgent operational requirements of the Armed Forces, foreseen as imminent during war as well as peace time and for situations in which crisis emerges without prior warning. FTP may also be applied for cases where timelines of the normal prescribed procedure in procuring of operationally critical equipment is seen to be adversely impacting the capability and operational preparedness of the Armed Forces.

Scope

2. The FTP will cover acquisitions under 'Buy' category or outright purchase. The acquisitions may or may not be part of ICDP/DCAP/AAP. Such acquisitions are applicable for both indigenous sources and ex-import. Procurement proposals in which FET/limited validation trials are envisaged, will not be progressed under the purview of FTP.

3. The acquisition under FTP can be categorised as under: -

- (a) Procurement of equipment already inducted into Service.
- (b) Procurement of new equipment.
- (c) Procurement of weapon systems/platforms, which are/were in service in a foreign country and available for transfer/lease or sale (ex-stock or fresh production).

Acceptance of Necessity (AoN)

4. Adoption of FTP will be approved by DAC based on proposals by respective SHQ with approval of the concerned Service Chiefs. 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. It may also be applied for cases where timelines of the normal prescribed procedure in procuring of operationally critical equipment is seen to be adversely impacting the capability and operational preparedness of the Armed Forces or where undue/unforced delays are adversely impacting the capacity and the preparedness of the Armed Forces. The requirement, as projected, must identify the items required, their numbers as per Quantity Vetting approved, mode of procurement, broad Operational Requirements (ORs)/Services Qualitative Requirements (SQRs) desired/OEM defined specifications which meet the operational needs of the Service concerned and the time-frame within which they need to be inducted.

5. **AoN for Procurement of Technical Intelligence (TECHINT) Equipment/Systems.** Procurement of TECHINT equipment/systems will follow the FTP route. Procurement of

equipment/systems with estimated cost of Single System more than ₹ 15 crores and Multiple Systems more than ₹ 30 crores, will be approved by the Technical Coordination Group at the National Security Council Secretariat, as per guidelines promulgated by the Cabinet Committee on Security dated 13 October 2016, and as amended from time to time. AoN for the same will be granted by AoN according authority as per delegated powers. Procurements below these estimated costs will be accorded AoN by the delegated CFA in consultation with the Integrated Financial Advisor as per Standard Operating Procedure (SOP) promulgated by SHQ.

6. **Splitting Source of Supply.** In cases, where it is decided in advance to have more than one source of supply to facilitate expeditious procurement, specific approval for ratio of splitting the supply between L1, L2 and L3 vendors will be taken in the AoN. Splitting of the supply will only be done provided L2 and L3 vendors are ready to accept the price and terms and conditions quoted by/negotiated with the L1 vendor and the same will be pre disclosed in the RFP.

7. **Statement of Case (SoC).** The format for SoC for processing proposals for FTP cases is given as Appendix A to Chapter V. Consequent to the initiation of the proposal, the DAC would discuss the proposal and accord Acceptance of Necessity to the proposal. Decisions on following aspects will be explicitly approved by the DAC: -

(a) Equipment and the quantities.

(b) **Source of Procurement.**

(i) **Vendor whose Equipment is Already in Service.** 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) or Maintenance or 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 and no waiver will be required. 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. Confirmation should be obtained, by telefax/email, 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'.** In case the quantities required are in excess of the 'Option Clause' of the contract up to a maximum of 100% of the previous contract, the same would need to be approved by

the DAC.

(ac) **Repeat Orders for Previous Contracts.** Quantities could be more than 100% of the original contract.

(ad) Case where the previous supplier is not able to supply the entire quantity of required item, 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.

(iii) Procurement from any foreign country, in-service/previously in-service equipment available for transfer/lease or sale (ex stock or fresh production).

(c) Approval required for witnessing demonstrations of compliance to Service Qualitative Requirement (SQRs) or Operational Requirements (ORs) or OEM defined specifications which meet the operational needs/capacity verification.

(d) Estimated cost of the proposal.

(e) Time schedule for induction to be specified by the DAC.

8. Based on the AoN granted by the DAC, the SHQ would initiate the procurement process and progress as per procedure applicable for the non-delegated/delegated cases.

9. Given the limited time-frame, FTP would be restricted to such equipment as would be available within the specified time-frames and therefore, long lead items such as major weapon systems should be avoided. The items involved should preferably be such, which are already in Service or have been trial evaluated or is in service in foreign defence forces or are available widely in the world/indigenous market for ready procurement, so that the time required for evaluation is minimised. Indian Ambassadors/Defence Attaches(DAs) in their respective country would confirm the information furnished by the vendors regarding the item being 'In Service' in foreign Defence Forces/foreign Law Enforcement Agencies. The TEC would include such information received from Ambassadors/DAs in their technical compliance statement.

Procurement of Equipment Already Inducted into Service

10. 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, MoD (Acquisition)/SHQ will first invite commercial offer from the

vendor and negotiate the price based on the LPP. Thereafter, MoD (Acquisition)/SHQ will invite all vendors (as approved by the DAC), whose equipment 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. 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)/OEM Defined Specifications which Meet Operational Needs.**

For procurement of new equipment, there would be a requirement of formulation of Service Qualitative Requirement (SQRs) or Operational Requirements (ORs) or OEM defined specifications which meet the operational needs, by the concerned Service HQs. While formulating the SQRs/ORs, it would be kept in mind that the required equipment is already in Service or has been trial evaluated or is in service in foreign defence forces or is available widely in the world/indigenous market for ready procurement. Such SQRs/ORs/ OEM defined specifications which meet the operational needs, could be approved by appropriate authority at Service HQs and may be without endorsement by Staff Equipment Policy Committee. The SQRs/ORs/ OEM defined specifications which meet the operational needs would be forwarded along with the proposal after approval of 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 accord of AoN. In order to save time, collegiate vetting of RFP and shortlisting of vendors will be resorted to at MoD/SHQs. RFP will be approved by DG (Acquisition)/CISC/Vice Chiefs/DGICG and issued by ADGs Acquisition Technical. A copy of the RFP may be digitally transmitted to Vendors in order to save on time. In FTP cases based on IGA/Government to Government (G2G) Agreements etc, LoR/Memorandum/LoI will be issued by respective AMs/SHQs as applicable based on delegated powers.

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 SQRs/ORs/OEM defined specifications which meet the operational needs. 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 SQRs/ORs and prepare a compliance statement, short listing the equipment acceptable for procurement. In all FTP cases, approval of the TEC shall be done within the SHQ. However, where any vendor(s) is found non-compliant at the TEC stage in non-delegated cases, approval of DG (Acquisition) will be obtained, through respective ADGs Acquisition Technical, prior to progressing the case

further.

15. **Benchmark Models Committee.** Benchmarking would be carried out within a week of acceptance of TEC Report by DG (Acquisition)/CISC/Vice Chiefs/DGICG, by a Benchmark Models Committee headed by the Advisor (Cost)/Director (Cost) for non-delegated and delegated cases respectively, and representatives of concerned SHQ Directorates. This process will be automatically undertaken once SHQ informs Advisor (Cost)/Director (Cost) about acceptance of the TEC Report. Along with this information, SHQ will also provide Advisor (Cost)/Director (Cost) with details of representatives of SHQ Directorates nominated as members of the concerned Benchmark Models Committee. The recommendations of the Benchmark Models Committee may be accepted as such/deliberated upon by the CNC. Till then, the benchmark models and costing data prepared by the Benchmark Models Committee will be kept in a sealed cover with the Chairman of the CNC as applicable.

16. **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 may be authorised by DAC to negotiate and conclude contracts in the shortest possible time and would have adequate representations from different wings of the MoD/SHQs to ensure that requisite expertise and authority for procurement action is available. The Empowered Committee Report will be accepted by DG(Acquisition)/authorised PSO in the SHQ for the non-delegated/ delegated powers respectively. There will be no GS evaluation in FTP cases. In case the Empowered Committee is not empowered to negotiate and conclude the contract, CNC may be constituted on receipt of the Report of such Empowered Committee.

17. **Contract Negotiation Committee (CNC).** CNC would be conducted as per provisions given out in Chapter II.

18. **Oversight Committee.** For non-delegated power cases, a committee chaired by an Additional Secretary level officer of the Department of Defence (DoD) with members; i.e. one Major General/equivalent officer from Services(other than lead agency), one JS level officer from Department of Military Affairs (DMA)and one representative of MoD (Fin) nominated by Secretary (Defence Finance) /Financial Advisor (Defence Services) will check whether the process of FTP has been followed as per DAP 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 for acceptance, within 10 days of its constitution.

19. **Contract Conclusion.** The contract will be signed after the CFA approval of the case. Provisions with regard to Contract conclusion will be as per provisions given out in Chapter II. In addition, the contract should specify the date by which the vendor would have to submit BGs, as also the date by which MoD would have to open the Letter of Credits. The

Standard Contract Document as in Chapter VI of the DAP would provide the guidelines for acquisitions under FTP. Any deviations to the standard contractual clauses would be accorded by the CFA, based on recommendations of the CNC/Empowered Committee. In FTP cases based on IGA/G2G etc, Contract/LoA will be signed by respective AMs/SHQs as applicable based on delegated powers.

Additional Provisions

20. 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 contract subsequently.

21. In case of procurement from OFB, for an already introduced item, indent would be placed by SHQ after AoN has been accorded.

22. In certain acquisition cases, it may be expedient to procure equipment from foreign countries by sale/transfer/lease/otherwise ex their own stocks. In such cases, G2G Agreements at appropriate level would be established to facilitate the issue of such stores. However, it would be ensured that adequate residual shelf life remains available for the 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.

23. **Inspection.** Considering the urgent nature of requirements and to ensure that items being supplied conform to the technical specifications agreed to in the contract, Pre Dispatch Inspection (PDI) of the stores needs to be carried out by the Buyer's QA agency 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 MoD 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 G2G agreements signed at appropriate level, PDI may not be insisted upon and their Certificate of Quality may be considered for acceptance.

24. **Performance cum Warranty Bank Guarantee (PWBG).** PWBG @ 10% of the Contract Price, from any Indian Public or Private Scheduled Commercial Bank or First Class banks of international repute will be submitted by the vendor(s).

25. **Liquidated Damages (LD).** In case of delay in supplies, the vendor shall be levied LD @ 1.5% per week of delay subject to maximum of 15% of value of delayed stores, calculated on the basis of the Contract Price of delayed stores.

26. **Termination Clause.** The Termination Clause in FTP cases will be applicable in the following cases: -

- (a) The delivery of the equipment is delayed for causes not attributable to Force Majeure for more than six months after the scheduled date of delivery.
- (b) The Seller is declared bankrupt or becomes insolvent.
- (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.

27. 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.

28. 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 B 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.

29. 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, specific approval seeking waiver would be obtained from the Raksha Mantri.

Monitoring

30. The concerned SHQ would monitor the receipt and ensure expeditious induction of stores subsequent to delivery of items. While responsibility for contract administration and management would be that of the SHQ concerned, post-contract monitoring would be conducted by the MoD (Acquisition). The projects would be reviewed by the Acquisition Manager/equivalent Service Officer in the respective SHQ.

Appendix A
(Refers to Paragraph 7 of
Chapter V)

STATEMENT OF CASE FOR PROPOSAL UNDER
FAST TRACK PROCEDURE

1. Brief of the situation necessitating procurement under FTP.
2. Proposal and details of the equipment.
3. Justification to include the following, where applicable: -
 - (a) Operational urgency.
 - (b) Quantities required.
 - (c) **Source of Procurement**. As per Paragraph 7 (b) of Chapter V.
 - (d) Approval required for witnessing demonstrations of compliance to Service Qualitative Requirement (SQRs) or Operational Requirements (ORs) or OEM defined specifications which meet the operational needs/capacity verification will also be stated here.
 - (e) Estimated cost of the proposal.
 - (f) Acceptable time schedule for induction to be clearly stated.

Appendix B

(Refers to Paragraph 28 of Chapter V)

TIME FRAME UNDER FTP

<u>Ser No</u>	<u>Activity</u>	<u>Time Frame</u>
1.	Initiation of Proposal by SHQ	-
2.	Analysis of the Services Requirement and Acceptance of Necessity by the committee chaired by RM	7-14 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 Evaluation*	10 days
6.	On site Evaluations by Empowered Committee*	15-45 days
7.	Approval of Empowered Committee's report	7 days
8.	Commercial Negotiations	15-45 days
9.	Oversight Committee (if applicable)	10 days
10.	Approval of Competent Financial Authority	10-15 days
11.	Contract Signing	8-15 days
Minimum and Maximum Time Period		122 – 216 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.

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. _____

*This template of Standard Contract Document may be suitably modified by the CNC,
where required, based on the RFP and CNC deliberations.*

*For Capital Acquisition cases under FMS /IGA arrangement, the Articles may be suitably
amended.*

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CONTRACT NO.(_____)

DATED (_____)

PREAMBLE

1. This Contract is made on this day, the (date) day of (Month & Year) in New Delhi, between the President of India represented by the ~~Additional Director General Acquisition (Army/ Air Force/ Maritime & Systems)~~ **Joint Secretary & Acquisition Manager (Land System/Air Force/Maritime & Systems)**/Major General & equivalent, Service Headquarters/Coast Guard, Ministry of Defence, Government of India, 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 and Services (hereinafter collectively referred as 'Deliverables') 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 right to have the supplies manufactured in India through a nominated agency and supply it to the BUYER.

2. **Definitions.** The words and expressions beginning with initial Capital letter or are in Capitals and defined in this Contract shall, unless the context otherwise requires, have the meaning ascribed thereto herein, and the words and expressions defined in the Annexures and used therein shall have the meaning ascribed thereto in the Schedules.

- (a) **“Contract”** shall mean this present document reference: Contract No. _____, which inherently includes all Articles and its listed Annexures and Appendices, and any amendments thereto.
- (b) **“Buyer”** and **“Seller”** are as defined at Para 1 above.
- (c) **“Deliverables”** shall mean all the Goods and Services which are to be delivered under this Contract.
- (d) **“Total Contract Price”** shall mean the total final negotiated price of present Contract including all taxes and duties applicable at the time of signing of Contract, of the deliverables to be supplied as specified at Article 1.
- (e) **“Base Contract Price”** shall mean Total Contract Price excluding taxes and duties applicable at the time of signing of Contract of the deliverables and excluding the Total Price of AMC/CMC/PBL/LCSC (if any)
- (f) **“Expiration of Contract”** shall mean fulfillment of all contractual obligations of Buyer and Seller.

(g) “**Patent Defects**” are those defects that can be discovered by a reasonable inspection and ordinary vigilance on the part of the Buyer.

(h) “**Latent defects**” are those defects which could not be discovered by a reasonable inspection prior final acceptance by the Buyer.

(j) “**Spare**s” are component part of the Goods designed for replacement with the same part having been in operation with the purpose to support or to restore the serviceability of the Goods.

(k) “**INCOTERMS**” shall mean the international rules for interpretation of trade terms issued by the International Chamber of Commerce from time to time.

(l) “**Parties**” means the Buyer and the Seller and party shall be construed accordingly.

(m) “**Specifications**” means the description of the deliverables, including any specifications, drawings, samples and/or patterns referred to in the Annexure IIA to this Contract.

(n) “**Transshipment**” means the shipment by offloading of Goods from one location and loading to another (or one country to another) and from one carrier to another by mode of Air, Sea, Road, Rail either of two or of all.

3. **Order of Precedence**. This Contract and documents forming part of or referred to in this Contract are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Contract, the priority of this Contract and other documents and Contracts forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:-

(a) This Contract; and

(b) All other documents forming part hereof or referred to herein

4. Subject to the provisions of the Contract, in case of ambiguities or discrepancies within this Contract, the following shall apply:-

(a) Between 2(two) or more Articles of this Contract, the provisions of a specific Article relevant to the issue under consideration shall prevail over those in other Articles;

(b) Between the Articles of this Contract and the Annexures, the Articles shall prevail and between Annexure and Appendices, the Annexure shall prevail;

(c) Between any 2(two) Annexures, the Annexure relevant to the issue shall prevail;

(d) Between the written description on the Drawing and the Specifications and Standards, the latter shall prevail;

(e) Between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and

(f) Between any value written in numerals and that in words, the latter shall prevail.

5. If either Party becomes aware of any inconsistency, within or between the documents referred to in Article, such Party shall notify the other Party forthwith and the parties will seek to resolve that inconsistency on the basis of order of precedence set out above or as per mutual consultation.

6. The headings used in this Contract are inserted for the convenience of the parties and shall not define, limit, or describe the scope or the intent of the provisions of this Contract.

7. **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 deliverables in accordance with the terms and conditions stipulated in this Contract [for the acquisition of ___(nomenclature of the equipment)] and accompanied accessories according to the Technical Specifications stipulated in **Annexure IIA** to this Contract and the unit prices, quantities and payment stages, as specified in **Annexure I** of this Contract. For AMC/CMC/PBL/LCSC, where applicable, the requirements and scope are as specified at Annexure IIB.

1.2 The Total Contract Price including taxes and duties applicable at the time of signing of Contract of the deliverables to be supplied according to this Contract amounts to Rs/US \$/Euro/PS £/ Yen/AUD/SGD _____ (in words).

1.3 The Base Contract Price i.e. Total Contract Price excluding taxes and duties applicable at the time of signing of Contract of the deliverables and excluding the Total Price of AMC/CMC/PBL/LCSC (if any) to be supplied according to this Contract amounts to Rs/US \$/Euro/PS £/ Yen/AUD/SGD _____ (in words).

1.4 For Advance Payment Bank Guarantee (APBG) and Additional Bank Guarantee (ABG), the Base Contract Price is to be considered as defined at Para 1.3 above. For Performance cum Warranty Bank Guarantee (PWBG), Total Contract Price including taxes and duties is to be considered. In case of orders with AMC/CMC/PBL/LCSC, an additional Performance Bank Guarantee (PBG) is to be submitted for which the Total Price of AMC/CMC/PBL/LCSC for contracted duration is to be considered, which according to this Contract amounts to Rs/US \$/Euro/PS £/ Yen/AUD/SGD _____ (in words). The Bank

Guarantees are to be submitted as per following:-

1.4.1 **Foreign Seller.** Bank guarantee(s) shall be from any Indian Public or Private Scheduled Commercial Bank (as notified by RBI) or First Class banks of international repute whose details have to be furnished in the Commercial bid. In case of International banks, the Buyer reserves the right to consult Parliament Street branch of State Bank of India, New Delhi ~~or any other Public or Private Sector Bank and as per their recommendations seek confirmation of Bank Guarantee(s) by counter guarantee by an Indian Bank at Seller's cost.~~ ⁵ on whether to get the BG of the foreign bank confirmed, and as per their advice, seek confirmation of Bank Guarantee(s) by Counter Guarantee by an Indian Public or Private scheduled commercial bank at seller's cost.

1.4.2 **Indian Seller.** In case of Indian Sellers, the Bank Guarantee(s) shall be from any Indian Public or Private Scheduled Commercial Bank.

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)₀ provided the SELLER submits the documents mandated by the DAP 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 45th 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.

2.2 The BUYER and the SELLER have to fulfil the following obligations:-

- (a) **SELLER.** The SELLER shall furnish the following documents within 45 days of signing of Contract to the BUYER:-
- (i) Advance Payment Bank Guarantee and Invoice.
 - (ii) Performance cum Warranty Bank Guarantee; and
 - (iii) Export License from the SELLER's Government, as applicable (a copy of Seller's application for export license to their government/ Confirmation from Seller's Government of authorization for Supply may be provisionally accepted in lieu of export license for release of Advance Payment with the caveat that the Seller should submit the requisite Export License prior to release of next payment from the BUYER).
 - (iv) Additional Bank Guarantee for Essential Parameter 'B', if applicable
- (b) **BUYER.** The BUYER shall also provide End User's Certificate, if required, to the SELLER within 30 days of signing of the Contract.

⁵ Amendment issued vide Appendix A to MoD ID No 1(8)/D(Acq)/21 dated 11.11.2021.

ARTICLE 3A
ADVANCE PAYMENT BANK GUARANTEE
 (For Foreign Sellers only)

3A.1 An Advance Payment Bank Guarantee will be submitted by the SELLER in the form of a bank guarantee by (SELLER'S BANK.....) in favour of Government of India, Ministry of Defence equal to _____ % of the Base Contract Price i.e. for US \$/Euro/PS £/ Yen/AUD/SGD.....(in _____ words _____ US _____ Dollars/Euro/PS/Yen/AUD/SGD..... only).

3A.2 The prescribed format of the Advance Payment Bank Guarantee is mentioned in **Annexure-IV** to this Contract.

3A.3 The Advance Payment Bank Guarantee shall be considered open upon receipt by the BUYER's bank.

3A.4 Advance Payment Bank Guarantee (APBG) 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 (JRI Certificate or CRV, as the case may be) and invoices of Deliverables supplied/provided.

ARTICLE 3B
ADVANCE PAYMENT BANK GUARANTEE

(For Indian Sellers only, including Defence PSUs/ JVs with DPSUs or PSUs or Government Entities)

3B.1 An Advance Payment Bank Guarantee will be submitted by the SELLER in the form of a bank guarantee, in favour of Government of India, Ministry of Defence, equal to _____ % of the Base Contract Price i.e. for Rs..... (in words Rs..... only).

3B.2 The prescribed format of the Advance Payment Bank Guarantee is mentioned in **Annexure IV** to this Contract.

3B.3 The Advance Payment Bank Guarantee shall be considered open upon receipt by the BUYER's bank.

3B.4 The Advance Payment Bank Guarantee (APBG) 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 (JRI Certificate or CRV, or as the case may be) and invoices of deliverables supplied/provided.

ARTICLE 3C
ADVANCE PAYMENT INDEMNITY BOND

(Applicable for Defence PSUs/ JVs with DPSUs or PSUs or Government Entities being issued RFP as a Nominated Production Agency or on an ab-initio single vendor basis only)

3C.1 An Advance Payment Indemnity Bond will be submitted by the Defence PSUs/JVs with DPSUs/PSUs/Govt Entity in favour of Government of India, Ministry of Defence, equal to ___% of the Base Contract Price i.e. for Rs..... (in words Rs..... only).

3C.2 The Advance Payment 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 (JRI Certificate or CRV, as the case may be) and the invoices of deliverables supplied/provided.

ARTICLE 3D

ADDITIONAL BANK GUARANTEE FOR ESSENTIAL PARAMETER- B CASES

(For Foreign Sellers Only)

3D.1 An Additional Guarantee will be submitted by the SELLER in the form of a bank guarantee by (SELLER's BANK.....) in favour of Government of India, Ministry of Defence, equal to _____% of the Base Contract Price i.e. for US \$/Euro/PS£/Yen/AUD/SGD..... (in words US Dollars/Euro/PS/Yen/AUD/SGDonly). However, in cases where the equipment fielded by the Seller emerging L1 has already been trial evaluated for Essential Parameters - B and found compliant to same, the Seller will not furnish an Additional Bank Guarantee for Essential Parameters – B.

3D.2 The prescribed format of the Additional Bank Guarantee is mentioned in **Annexure-IV (B)** to this Contract.

3D.3 The Additional Bank Guarantee shall be considered open upon receipt by BUYER's bank.

ARTICLE 3E

ADDITIONAL BANK GUARANTEE FOR ESSENTIAL PARAMETER- B CASES

(For Indian Sellers Only, including Defence PSUs/ JVs with DPSUs or PSUs or Government Entities)

3E.1 An Additional Guarantee will be submitted by the SELLER in the form of a bank guarantee, in favour of Government of India, Ministry of Defence, equal to _____% of the Base Contract Price i.e. for Rs..... (in words Rs.....only). However, in cases where the equipment fielded by the Seller emerging L1 has already been trial evaluated for Essential Parameters - B and found compliant to same, the Seller will not furnish an Additional Bank Guarantee for Essential Parameters – B.

3E.2 The prescribed format of the Additional Bank Guarantee is mentioned at **Annexure-IV(B)** to this Contract.

3E.3 The Additional Bank Guarantee shall be considered open upon receipt by the BUYER's bank.

ARTICLE 4A
PERFORMANCE CUM WARRANTY BANK GUARANTEE
 (For Foreign Sellers only)

4A.1 A Performance cum Warranty Bank Guarantee will be submitted by the SELLER in the form of a bank guarantee by (SELLER'S BANK.....), in favour of Government of India, Ministry of Defence, equal to 5 % of the Total Contract Price i.e. for US \$/Euro/PS £/Yen/AUD/SGD (in words US Dollars/Euro/PS/Yen/AUD/SGD only).

4A.2 The prescribed format of the Performance-cum-Warranty Bank Guarantee is mentioned at **Annexure IV (A)** of this Contract. The Performance-cum-Warranty Bank Guarantee shall be considered open upon receipt by the BUYER's bank.

4A.3 The Performance-cum-Warranty Bank Guarantee 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 Bank Guarantee as asked by the BUYER till such time the SELLER settles all claims and completes all Contract obligations.

4A.5 The Performance-cum-Warranty Bank Guarantee will be subject to encashment by the BUYER in case, condition regarding adherence to delivery schedule, warranties, settlement claims and other provisions of the Contract are not fulfilled by the SELLER. If at any stage, the Performance Guarantee is invoked by the Buyer either in full or in part, the Seller shall make good the shortfall in PWBG within 30 days by an additional Bank Guarantee for equivalent amount. In the event of failure to submit the required Bank Guarantee against invoked Performance Guarantee, equivalent amount will be withheld from the next stage payment till the shortfall in the Bank Guarantee is made good by the Seller.

ARTICLE 4B
PERFORMANCE CUM WARRANTY BANK GUARANTEE
 (For Indian Sellers only, including Defence PSUs/ JVs with DPSUs or PSUs or Government Entities)

4B.1 A Performance cum Warranty Bank Guarantee will be submitted by the Seller in the form of a Bank Guarantee, in favour of Government of India, Ministry of Defence, equal to 5% (Five percent) of the Total Contract Price (including taxes and duties) i.e. for Rs _____ (in words Rs _____ only).

4B.2 The prescribed format of the Performance-cum-Warranty Bank Guarantee is mentioned at **Annexure IV(A)** of this Contract. The Performance-cum-Warranty Bank Guarantee shall be considered open upon receipt by the BUYER's bank.

4B.3 The Performance-cum-Warranty Bank Guarantee 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 Bank Guarantee as asked by the BUYER till such time the SELLER settles all claims and completes all Contractual obligations.

4B.5 The Performance-cum-Warranty Bank Guarantee will be subject to encashment by the BUYER in case, condition regarding adherence to delivery schedule, warranties, settlement claims and other provisions of the Contract are not fulfilled by the SELLER. If at any stage, the Performance Guarantee is invoked by the Buyer either in full or in part, the Seller shall make good the shortfall in PWBG within 30 days by an additional Bank Guarantee for equivalent amount. In the event of failure to submit the required Bank Guarantee against invoked Performance Guarantee, equivalent amount will be withheld from the next stage payment till the shortfall in the Bank Guarantee is made good by the Seller.

ARTICLE 4C

PERFORMANCE CUM WARRANTY INDEMNITY BOND

(Applicable for Defence PSUs/ JVs with DPSUs or PSUs or Government Entities 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 will be submitted by the Defence PSUs/JVs with DPSUs/PSUs/Govt Entity in favour of Government of India, Ministry of Defence, equal to 5% (Five percent) of the Total Contract Price (including taxes and duties) i.e. for Rs _____ (in words Rs _____ only).

4C.2 The prescribed format of the Performance-cum-Warranty Indemnity Bond is mentioned at **Annexure IV(C)** of this Contract. 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, settlement claims and other provisions of the Contract are not fulfilled by the SELLER.

ARTICLE 4D

PERFORMANCE BANK GUARANTEE FOR AMC/CMC/PBL/LCSC

(For Foreign Sellers only)

4D.1 A Performance Bank Guarantee, will be submitted by the SELLER in the form of a bank guarantee by (SELLER'S BANK.....), in favour of Government of India, Ministry of Defence, equal to 5 % of the Total Price of AMC/CMC/PBL/LCSC i.e. for US \$/Euro/PS £/Yen/AUD/SGD (in words US Dollars/Euro/PS/Yen/AUD/SGD

..... only) prior to expiry/return of the PWBG of the Main Contract.

4D.2 The prescribed format of the Performance Bank Guarantee is to be as per **Annexure IV (A)** of this Contract. The Performance Bank Guarantee shall be considered open upon receipt by the BUYER's bank.

4D.3 The Performance Bank Guarantee shall remain valid for 03 months beyond the period of AMC/CMC/PBL/LCSC.

4D.4 In case any claim or any other Contractual obligation are outstanding, the SELLER shall extend the Performance Bank Guarantee as asked by the BUYER till such time the SELLER settles all claims and completes all Contract obligations.

4D.5 The Performance Bank Guarantee will be subject to encashment by the BUYER in case, condition regarding adherence to operational availability, permissible downtime and other provisions of the Contract are not fulfilled by the SELLER.

ARTICLE 4E

PERFORMANCE BANK GUARANTEE FOR AMC/CMC/PBL/LCSC

(For Indian Sellers only, including Defence PSUs/ JVs with DPSUs or PSUs or Government Entities)

4E.1 A Performance Bank Guarantee will be submitted by the SELLER in the form of a bank guarantee, in favour of Government of India, Ministry of Defence, equal to 5 % of the Total Price of AMC/CMC/PBL/LCSC i.e. for Rs (in words Rs..... only) prior to expiry/return of the PWBG of the Main Contract.

4E.2 The prescribed format of the Performance Bank Guarantee is to be as per **Annexure IV(A)** of this Contract. The Performance-cum-Warranty Bank Guarantee shall be considered open upon receipt by the BUYER's bank.

4E.3 The Performance Bank Guarantee shall remain valid for 03 months beyond the period of AMC/CMC/PBL/LCSC.

4E.4 In case any claim or any other Contractual obligation are outstanding, the SELLER shall extend the Performance Bank Guarantee as asked by the BUYER till such time the SELLER settles all claims and completes all Contract obligations.

4E.5 The Performance Bank Guarantee will be subject to encashment by the BUYER in case, condition regarding adherence to operational availability, permissible downtime and other provisions of the Contract are not fulfilled by the SELLER.

ARTICLE 4F

PERFORMANCE INDEMNITY BOND FOR AMC/CMC/PBL/LCSC

(Applicable for Defence PSUs/ JVs with DPSUs or PSUs or Government Entities being issued RFP as a Nominated Production Agency or on an ab-initio single vendor basis only)

4F.1 A Performance Indemnity bond will be submitted by the Defence PSUs/JVs with DPSUs/PSUs/Govt Entity, in favour of Government of India, Ministry of Defence, equal to 5% (Five percent) of the Total price of AMC/CMC/PBL/LCSC i.e. for Rs___ (in words Rs_____ Only) prior to expiry/return of the Indemnity Bond of the Main Contract.

4F.2 The Performance Indemnity Bond shall remain valid for 03 months beyond the period of AMC/CMC/PBL/LCSC.

4F.3 In case any claim or any other Contractual obligation are outstanding, the SELLER shall extend the Performance Indemnity bond as asked by the BUYER till such time the SELLER settles all claims and completes all Contract obligations.

4F.4 The Performance Indemnity bond will be invoked by the BUYER in case, condition regarding adherence to operational availability, permissible downtime and other provisions of the Contract are not fulfilled by the SELLER.

ARTICLE 5A
PAYMENT TERMS
(For Foreign Sellers only)

5A.1 The Accounting and Payment currencies shall be US Dollars/Euro/Pound Sterling/Yen/AUD/SGD.

5A.2 The Total Contract Price referred to in Article 1 of the Contract shall be paid in accordance with the payment schedule at Annexure I. In 'Buy (Global-Manufacture in India)' cases, all payments for the 'Manufactured' portion will be paid to the SELLER in Indian Rupees.

5A.3 **Advance Payment.** _____% of Base Contract Price being USD/ Euro/ Pound Sterling/Yen/AUD/SGD, shall be paid to the SELLER within 30 days of the receipt of the documents indicated at Article 2.2(a) through Bank Transfer, subject to correction and acceptability of the documents submitted.

5A.4 **On Dispatch.** ___% of the Total Contract Price (excluding total Price of AMC/CMC/PBL/LCSC, if any) being USD/Euro/Pound Sterling/Yen/AUD/SGD 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 Bank Guarantee for the Full value of the Contract has been received.
- (c) The LC will be opened in any Public Sector bank (as decided by the BUYER) or Private Sector Bank (if approved by MoF).
- (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.

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 5A.4) shall be made against presentation of the following documents, by the SELLER to the **LC issuing 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 (for payments against dispatch).
- (c) Packing List (six copies).
- (d) Certificate of Origin, duly stamped by the SELLER's Chamber of Commerce or self-certified by OEM.
- (e) Certificate of Conformity and Acceptance Test report (where applicable) at the Pre Dispatch 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 (for payments against dispatch).
- (f) Certificate of current manufacture from OEM.
- (g) Dangerous Cargo Certificate, where applicable.
- (h) Phyto-Sanitary/Fumigation Certificate, where applicable.
- (j) In case of training, a certificate from BUYER's representative that training program has been completed.
- (k) Export License from the SELLER's Government (if applicable). (A copy of Seller's application for export license to their government/ Confirmation from Seller's Government of authorization for Supply may be provisionally accepted in lieu of export license for release of Advance Payment with the caveat that the Seller should submit the requisite Export License prior to release of next payment from the BUYER)
- (l) Specimen Signature of the authorised representative of the Seller.

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 Transshipment may not be permitted for certain deliverables and/or under certain situations (*specified by the BUYER in RFP*).

5A.10 Three copies of SELLER's Commercial Invoices, shipping documents and packing list 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 The LC shall be subject to and shall be governed by the **extant** Uniform Customs and Practices for Documentary Credits issued by the International Chamber of Commerce.

5A.12 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.13 All payments will be carried out with reference to the number of this Contract.

5A.14 In case of failure of the SELLER to deliver the deliverables to the Buyer or inordinate delay in the said delivery leading to Termination of the Contract in accordance with Article 22.1, the SELLER undertakes to return the payments received against dispatch.

5A.15 **On Delivery.** ___% of the Contract Price of the Goods shipped shall be paid through Irrevocable Letter of Credit (LC) on completion of JRI post delivery and issue of JRI Certificate/Certified Receipt Voucher (CRV) issued by the Buyer. The payment will be arranged through any Public Sector bank (as decided by the Buyer) or Private Sector Bank (if approved by MoF), to the Bank of the Foreign Seller. Letter of Credit will be opened by the Buyer on receipt and 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.*

5A.16 **On Final Acceptance and Installation/Commissioning [where applicable].** The remaining _____% of the Total Contract Price (excluding total Price of AMC/CMC/PBL/LCSC, if any) 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.

5A.17 SELLER's bankers address and account number: -

Account No.:

Sort code:

SWIFT Code:

5A.18 **AMC/CMC/PBL/LCSC Payments.** (Note: This Para may be included if there is AMC/CMC/PBL/LCSC clause in RFP). Quarterly/Half-yearly/Annually payments will be made by PCDA/CDA on submission of User clearance certificate through DBT.

ARTICLE 5B
PAYMENT TERMS

(For Indian Sellers in cases excluding “Buy Global”)

5B.1 The Total Contract Price referred to in Article 1 of this Contract shall be paid in accordance with the payment schedule at Annexure I.

5B.2 **Advance Payment.** _____% of Base Contract Price being Rs _____ shall be paid to the SELLER within 30 days of the receipt of the documents indicated at 2.2(a), subject to correction and acceptability of the documents submitted.

5B.3 **On Dispatch.** _____% of the Total Contract Price (excluding total Price of AMC/CMC/PBL/LCSC, if any) will be paid on proof of dispatch and inspection note issued by the Inspecting Authority. 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) Ink-signed copy of Commercial Invoices (original copy)
- (b) Ink-signed copy of SELLER 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 SELLER.
- (f) Certificate of Origin.
- (g) Claim for statutory and other levies to be supported with requisite documents/GST invoice (with QR code, when made applicable)/proof of payment, as applicable.
- (h) Exemption certificate for taxes/duties, if applicable.

5B.4 In case of failure of the SELLER to deliver the deliverables to the Buyer or inordinate delay in the said delivery leading to Termination of the Contract in accordance with Article 22.1, the SELLER undertakes to return payments received against dispatch.

5B.5 **On Delivery.** ___% of the contract price of deliverables shall be paid on completion of JRI post delivery and issue of JRI Certificate/Certified Receipt Voucher (CRV) issued by the Buyer.

5B.6 **On Final Acceptance and Installation/Commissioning** *(where applicable)*. The remaining _____% of the Total Contract Price (excluding total Price of AMC/CMC/PBL/LCSC, if any) 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.

5B.7 The paying authority for this Contract is _____.

5B.8 In Shipbuilding contracts where payments through Escrow Account is made **mandatory**, 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.

5B.9 **AMC/CMC/PBL/LCSC Payments.** (Note: This Para may be included if there is AMC/CMC/PBL/LCSC clause in RFP). Quarterly/Half-yearly/Annually payments will be made by PCDA/CDA on submission of User clearance certificate through issue of cheque/ECS.

ARTICLE -5C **PAYMENT TERMS**

[For Indian Sellers under Capital Acquisition, Category “Buy Global”]

5C.1 In all of these cases, Indian Sellers can exercise option to take payment either through LC or Bank Transfer. The Payments Terms would be regulated as given below:-

Clause	Where Seller opts for payment through LC	Where Seller 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 M of Schedule I to Chapter II, where permissible, shall be paid, only in INR.	
2	The components of total Contract price will be as per Article 1.1	
3	<p>The total Contract price referred to in Article 1 of the Contract shall be paid in accordance with the payment schedule at Annexure I.</p> <p>(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:</p> <p>(b) Advance Payment Bank Guarantee as per Article 3B of the Contract.</p> <p>(c) Performance cum Warranty Bank Guarantee as per Article 4B of the Contract.</p> <p>(d) Any other specific document (like proforma invoice) if required.</p>	

	<i>(Note: The second stage advance payment after completion of specific milestone may also be paid through Bank Transfer.)</i>	
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 Advance 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 Bank Guarantee for the Full value of the Contract has been received.</p> <p>(c) The LC will be opened with a Public Sector bank or Private Sector Bank (if approved by MoF) for _____% of the Contract Price with the _____ SELLER's Bank, i.e. _____ & SELLER's Account No. _____. It will be valid for a period of _____ days/months from the date of opening.</p> <p><i>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/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>(e) In the event of delay in opening</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>

	<p>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 SELLER 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 extant 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 Dispatch (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 SELLER.</p> <p>(g) Certificate of current manufacture from OEM.</p> <p>(h) Proof of Duty/Tax paid/reimbursable like deposition receipt/challan etc.</p> <p><u>Note-</u></p> <p><i>The Invoice and Seller'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><i>(ii) 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	<table border="1"> <tr> <td data-bbox="296 875 887 2020"> <p>Payment of other components of Contract-</p> <p>(a) <u>Training</u>. Commercial invoice/Seller'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. Sellers may ensure submission of same with details of Contractual obligations completed and payments received. This clause shall form part of LC.</p> <p>(c) <u>Installation and Commissioning Charges</u>. Commercial invoice/Seller's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative. Documents in proof of rates claimed shall need to be annexed.</p> <p>(d) <u>AMC Charges</u>. Commercial invoice/ Seller's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative.</p> </td> <td data-bbox="887 875 1406 2020"> <p>Payment of other components of Contract-</p> <p>(a) <u>Training</u>. Commercial invoice/Seller'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. Sellers 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/Seller's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative.</p> <p>(d) <u>AMC Charges</u>. Commercial invoice/ Seller's bill, duly accepted by Contract executing authority and Certificate from BUYER's</p> </td> </tr> </table>	<p>Payment of other components of Contract-</p> <p>(a) <u>Training</u>. Commercial invoice/Seller'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. Sellers may ensure submission of same with details of Contractual obligations completed and payments received. This clause shall form part of LC.</p> <p>(c) <u>Installation and Commissioning Charges</u>. Commercial invoice/Seller's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative. Documents in proof of rates claimed shall need to be annexed.</p> <p>(d) <u>AMC Charges</u>. Commercial invoice/ Seller'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/Seller'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. Sellers 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/Seller's bill, duly accepted by Contract executing authority and Certificate from BUYER's representative.</p> <p>(d) <u>AMC Charges</u>. Commercial invoice/ Seller's bill, duly accepted by Contract executing authority and Certificate from BUYER's</p>
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		representative.
9	<u>Balance Payment.</u> The balance payment for ___% shall be paid to the SELLER against presentation of following documents:- (a) Copies of invoices (three copies). (b) Copy of JRI and acceptance certificate issued by the BUYER. (c) Seller's bill (d) Extended Bank Guarantee wherever required	
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: Account No.: Sort Code: SWIFT Code: IFSC Code RTGS No
11	Where admissible, tax deduction at source will be done by the Bank releasing payment against LC.	Where admissible, tax deduction at source will be done by PCDA.
12	Payment/recovery in terms of the Contract will be made by the Bank releasing payment against LC. 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 by PCDA.

ARTICLE 6

MONITORING OF PROJECT BASED ON CONTRACTUAL MILESTONES

6.1 After placement of order, the BUYER reserves the right but not the obligation to monitor the progress of the project based on Contractual milestones to be achieved by the SELLER as specified in the table below:-

Sl	Milestone	Timeline (To+Weeks)	Remarks

(Include the Contractual milestones specified in the RFP or as negotiated with the SELLER during Contract negotiations.)

6.2 The Project Monitoring Meeting is to be organized at _____ months interval. The SELLER shall attend the progress monitoring meetings through their suitably qualified representatives and shall submit progress reports to the BUYER in the format (if any) specified.

6.3 In case the project does not proceed as per the Contractual milestone(s), the BUYER

will have the right to invoke Termination of the Contract.

6.4 **For Shipbuilding Cases.** 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 for achieving the Contractual milestones by the SELLER as specified in table below:-

Sl	Milestone	Timeline (To+Weeks)	Remarks

(Include the Contractual milestones specified in the RFP or as negotiated with the SELLER during Contract negotiations.)

6.5 In case the project does not proceed as per the Contractual milestone(s), the BUYER will have the right to invoke Termination of the Contract.

ARTICLE 7 **SPECIFICATION**

7.1 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 BUYER 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 per the modifications by the SELLER before supply to the BUYER.

(Note: The underlined language should be deleted in cases where it is not applicable, such as when confirmatory trials/MET are conducted prior to Contract award.)

7.2 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 8 **QUALITY**

8.1 The quality of the deliverables (Goods and Services) according to this Contract shall correspond to the technical conditions and standards valid for the deliveries of the same deliverables in SELLER's country or specifications enumerated as per Article 7 and shall also include therein modifications to the deliverables suggested by the BUYER. Such modifications will be mutually agreed to. The SELLER confirms that the deliverables [platforms (including major equipment) if the contract is for a platform or the complete equipment/ systems if the contract is for equipment/system] **contained in Annexure I** should

be of latest manufacture i.e manufactured after the date of Contract with unused components/assemblies/sub-assemblies and other deliverables under the Contract, conforming to the current production standard and should have 100% of the defined life (other than permitted running hours during assembly/acceptance trials) at the time of delivery. The SELLER shall **provide documentation to confirm** interchangeability along with the changed part Nos.

8.2 Quality Assurance Instructions including the ATP is included at _____ Appendix of the contract. ATP will lay down the tests to be carried out during PDI and JRI. It shall be ensured that there are no repetition of QA tests in PDI and JRI. JRI would normally be restricted to quantitative checks only, except where check proof is required to be carried out. QA of equipment will be carried out as per finalised QA plan in the contract. For technical trials by QA agencies, the Seller will arrange for requisite test facilities at OEM premises/accredited laboratories for establishing conformance. The Seller would also be required to provide those test facilities at OEM premises/accredited laboratories for quality assurance, which are not available with QA agencies.

ARTICLE 9

PRE DESPATCH INSPECTION (PDI)

(To be included, if specified in the Acceptance Test Procedure)

9.1 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-VI** (The format given is not sacrosanct and may be altered as per requirement of the equipment.)

9.2 The SELLER shall intimate the BUYER and Buyer nominated QA Agency about the date of PDI along with detailed day wise schedule 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.

9.3 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.

9.4 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.

9.5 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.

9.6 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.

9.7 In case of rejection of Goods during PDI, re-PDI will be undertaken at Seller's premises at Buyer's sole discretion. All expenses including transportation and accommodation of Buyer's PDI team will be borne by the Seller. Towards this, the expenses towards transportation and accommodation of Buyer's PDI team will be initially done by the Buyer and subsequently reimbursed by the Seller either by remittance or by recovery from the Balance Payment/PWBG. In the event of a failed PDI, the Seller shall consult the Buyer for rescheduling re-PDI.

ARTICLE 10 **PRESERVATION, PACKING AND MARKING**

10.1 The SELLER shall provide packing and preservation of the equipment and spares/goods Contracted as per _____ (standards as defined in RFP or International best practices/ relevant JSGs/DEFSTAN/STANAG) 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 of sufficiently strong material. 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.

10.2 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.

10.3 Each type of Spare, SMT, STE and accessories 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:

10.4 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.

10.5 The SELLER shall mark each package with indelible paint in English language as follows:-

EXPORT

Contract No. -----

Consignee -----

Importer _____

Port/airport of destination -----

Ultimate consignee -----

SELLER -----

Package No. a/b -----

Gross/net weight: kg -----

Overall dimensions/volume: cm/cu m -----

Any statutory hazard markings and any handling markings including the mass of any package

The Packaging Label (military J, N or P, special H, commercial A etc) (specify reference to DEFSTAN 81-041 (Part 1)/STANAG-4280 or equivalent Military Standard.)

The SELLER's marking,

Where: a-Serial No. of package;

b-Total number of packages in this consignment.

10.6. If necessary, each package shall be marked with warning inscriptions:

<Top>, "Do Not Turn Over", category of cargo etc.

10.7. 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 11 **DELIVERY**

11.1. The delivery of the Deliverables shall be completed in accordance with the schedule laid down in Annexure III. The importer of all the deliverables to India under this Contract

shall be the MoD, GoI (*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 T ₀
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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.

11.2. Port Consignee. (Concerned Embarkation HQ)

- | | |
|----------------|-----------------|
| (a) Equipment. | (b) Ammunition. |
|----------------|-----------------|

11.3. Ultimate Consignee.

- | | |
|-----------------|-----------------------------|
| (a) Equipment. | Commandant (Name of Depot). |
| (b) Ammunition. | Commandant (Name of Depot). |

11.4 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 deliverables 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.

11.5 Invoices and other dispatch documents shall be prepared in favour _____ (Fill details while Contract finalisation).

11.6 Two copies each of dispatch documents as listed in LC documents shall be forwarded 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.

11.7 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 12
TITLE AND RISK OF LOSS

[For Turnkey cases, where milestone payments are involved, inclusion of clause Article 12.5 maybe considered as necessary]

[For Shipbuilding cases, this article is not applicable]

12.1 **Title.** The title of the equipment shall transfer to the BUYER as per delivery schedule in accordance with Article 11 and as per transportation INCOTERMS in accordance with Article 13 through acceptance of documents of title on completion of JRI/User Acceptance/Delivery to the Ultimate consignee, as the case may be (as specified in the RFP), in accordance with an indicative list of documents provided below (to be finalised during CNC as per relevance):-

- (a) Bill of lading;
- (b) Dock warrant;
- (c) Warehouse keeper's certificate;
- (d) Wharfingers' certificate;
- (e) Railway receipt;
- (f) Multimodal transport document;
- (g) Warrant or order for the delivery of goods; or
- (h) Any other document used in the ordinary course of business and as determined by the BUYER as proof of the title to the goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of such documents with the title to the goods thereby represented.

The Parties shall accordingly execute such documents as may be necessary for effecting the transfer of title in favour of BUYER, in a manner indicated in this clause, upon date of acceptance or date of installation or date of commissioning [as applicable on a case to case basis]

12.2 It is clarified that notwithstanding such transfer of title to the BUYER, the SELLER agrees that any loss or damage incurred by BUYER due to any defect in title, quality and performance of the equipment, shall be to the account of the SELLER subject to and in accordance with the provisions of this Contract.

12.3 Notwithstanding the passing of title to the BUYER as mentioned herein, such passing of title shall not in any way absolve, diminish, or dilute the responsibilities and obligations of the SELLER towards meeting all the Contractual obligations and the SELLER shall continue to be responsible for the risk of loss or damage, in accordance with Clause 12.4 for the following:

- (a) For delivery of completed units, up to the date of acceptance; and

(b) In cases of turnkey Contracts including repair facilities involving civil works, for stage-wise construction and commissioning at BUYER's premises, up to the date of installation/ commissioning of the completed stores/works, on final acceptance by the BUYER.

12.4 **Loss:** Seller would be liable if any loss or damage occurs to the equipment (or any part thereof), other than custodial loss/damage during physical custody in the Buyer's premises attributable to the Buyer, on landing of deliverables at Buyer's premises but prior to the date of acceptance **or** date of installation **or** date of commissioning (as applicable on a case to case basis). This would include Seller's handling of the equipment or working within or outside the Buyer's premises, including commissioning and trials. The SELLER shall rectify all such loss or damage to the equipment at their own cost in a manner that the equipment complies with requirements of this Contract.

12.5 In case of termination, for reasons specified in Clause 22.1, read with Clause 22.2 to ~~22.5~~ 22.6 of this Contract (which are applicable for Turnkey Projects where milestone payments are involved), the title of the partially built Goods shall be transferred to the BUYER in accordance with the procedure laid out at Clause 22.2 to ~~22.5~~ 22.6, if the BUYER exercises discretion to take over partially built Goods as per Clause 22.2.

ARTICLE 13 **TRANSPORTATION**

13.1 The stores shall be delivered as DDP..... (as per INCOTERMS 2020 or latest version or as specified in RFP) at _____with ultimate consignee as _____.

13.2 The date of issue of JRI Certificate or the Certified Receipt Voucher (CRV) shall be considered as the date of delivery.

~~13.4~~ 13.3 Part shipment of goods is permitted.

ARTICLE 14 **AIRLIFT**

14.1 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 15 **LIQUIDATED DAMAGES**

15.1 In the event of the SELLER's failure to submit the 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 cost of the specific lot/batch or 1% of the Project cost, whichever is higher, 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 Base 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 Base 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).

15.2 In case the delay in delivery is attributable to the Buyer, the delivery period shall be extended accordingly without imposition of Liquidated Damages.

ARTICLE 15A
PAYMENT DEDUCTIONS AND DAMAGES FOR SHORTFALL IN
AMC/CMC/PBL/LCSC SERVICES

15A.1 **Payment Deductions and Damages for Shortfall in AMC/CMC/PBL/LCSC** *(where applicable, to be as specified in the RFP)*.

ARTICLE 16
DENIAL CLAUSE

16.1 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 17
JOINT RECEIPT INSPECTION (JRI) IN INDIA

17.1 The Parties agree that the Joint Receipt Inspection (JRI) of delivered goods shall be undertaken on arrival in India at location to be nominated by BUYER. JRI shall be completed within 120 ____ days (for armament/ammunition)/ 30 ____ days (for other than armament/ammunition lots) of arrival of goods at Port Consignee. JRI would normally be restricted to quantitative checks only, except where check proof is required to be carried out

17.2 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 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 dispatch of goods to the BUYER for obtaining the necessary security clearance in accordance with the rules applicable in the BUYER's country.

17.3 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 dispatched 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.

17.4 If the BUYER does not perform the JRI as per procedures mentioned above for reasons exclusively attributable to him, then the JRI in India shall be deemed performed and the equipment fully accepted.

17.5 In case, JRI necessitates unpacking to the extent that the preserved life of the goods is affected, SELLER is to undertake re-packing to restore the preserved life to the specified period at his own cost.

ARTICLE 18 **WARRANTY CLAUSE**

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

18.1. 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.

18.2. 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 should be free from all types of defects/failures (including latent and patent defects).

18.3 If within the period of warranty, the goods/stores 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.

18.4 SELLER hereby warrants that necessary service and repair back up during the warranty period, including routine maintenance beyond Unit Level (delete if CAMC/AMC is not part of the Contract), 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.

18.5 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.

18.6 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.

18.7 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.

18.8 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 19 **INDIGENOUS CONTENT (IC)**

19.1 The SELLER commits to ensure:-

Minimum _____% Indigenous Content (IC) on cost basis of the Base Contract Price in case of Buy (Indian-IDDM), Buy (Indian) cases, Buy (Global-Manufacture in India), Buy (Global) (for Indian Sellers)

OR

Minimum _____ % of IC on cost basis of the Make portion (less taxes and duties on the Make portion) in Buy & Make (Indian) (as applicable).

19.2 For IC purpose, following elements of manufacturing/production/assembly, would be excluded:-

(a) Direct costs (including Custom Duties, 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.

19.3 SELLER to adhere to the indigenisation plan as appended to this Contract **and specified in the Project Report (where applicable)**. The SELLER also commits to comply with all provisions of **Appendix*** __ to this Contract document, in this regard.

(*Appendix B to Chapter I of DAP 20)

ARTICLE 20 **CLAIMS**

20.1 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,

(b) **On Quality of the stores.** In case it does not correspond to the quality mentioned in this Contract.

20.2 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 this Contract.

20.3 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 at the earliest but not later than 45 days after expiry of the warranty period. The quality claims shall be submitted to SELLER in the form at **Annexure-VIII** to this Contract.

20.4 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.

20.5 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.

20.6 Claims may also be settled by deduction of cost of deliverables under claim from Bank Guarantees submitted by the SELLER or payment of claim amount by SELLER through demand draft drawn on an Indian Bank, in favour of PCDA HQ, New Delhi, payable at New Delhi.

20.7 The quality claims will be solely raised by the BUYER and without any certification/countersigning by SELLER's representative stationed in India.

ARTICLE 21 **TAXES AND DUTIES**

21.1 All taxes, duties, levies and charges which are to be paid for the deliverables, including advance samples, shall be paid by the parties under the present Contract in their respective countries. All Indirect Taxes and Duties paid by the Seller on behalf of the Buyer in India will be reimbursed at actuals or as quoted by the SELLER, whichever is lower, based on production of documentary proof of payment. In case of any change in the tax structure/rates by BUYER's Government after Contract is signed, incremental/decremented change will be either paid or deducted by the Buyer as the case may be. The same will not require any Contract amendment.

ARTICLE 22 **TERMINATION**

[Clause 22.1 and 22.7 are applicable for all cases. For Turn-key cases where milestone payments are involved, inclusion of Clauses 22.2 to 22.5 22.6 may be considered as necessary]

22.1 **Termination for Default in Delivery or Meeting Milestones by the SELLER:** The BUYER shall have the right to terminate this Contract in part or in full in any of the following cases, by giving a Termination Notice to the Seller any time after the default, but prior to the intended termination date:-

- (a) The delivery of the complete Goods/services is delayed for causes not attributable to Force Majeure for more than _____ (weeks/months) as related to the delivery period/ date of the relevant Lot/ Batch as per Contract* or for a period greater than 50% of the scheduled delivery period for the overall Contract, whichever is earlier. In such case, the payment against dispatch has to be returned by the Seller for the undelivered goods, if any.
- (b) The achievement of a Contractual milestone, as specified at Article 6 of the Contract is delayed for causes not attributable to Force Majeure for more than _____ (weeks/months), related to the relevant period for scheduled completion of the milestone as per Contract or scheduled completion of the subsequent milestone, whichever is later**.
- (c) The SELLER is declared bankrupt or becomes insolvent.
- (d) The delivery of Goods/services is delayed due to causes for Force Majeure by more than ([•] months).

(e) 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.

(f) As per decision of Arbitration Tribunal (Article 24).

{Notes:

*The batch/lot may be designated by the BUYER and period may be worked out by BUYER and set out in the Contract as the period of delay which would cause the amount of Liquidated Damages to reach the maximum as specified in Article 15 (Liquidated Damages), multiplied by a factor of **1.5 to 2**.

** The duration in weeks/months as a percentage, limited to 100 percent of the milestone duration, may be worked out by BUYER and set out in the Contract for certain designated milestones/non-deliverables. }

22.2 In case of termination of the Contract due to reasons furnished at sub-clause 22.1 (a) to (e) above, the BUYER at their sole discretion shall be entitled to take over the partially built Goods along with all the design, construction drawings, documents and all other material and equipment procured for the purpose of the project, by paying fair and reasonable price of the Goods/ equipment as determined in accordance with Clause 22.3.

22.3 The fair and reasonable price of the Goods is to be arrived at based on the value of the Goods/ Equipment taking into consideration the conditions at Clause 22.4, as assessed by licensed valuers/surveyors, appointed by the BUYER from authorised firms or body corporate. If the SELLER has reason to believe that the licensed valuers/surveyors are not discharging their duties and not functioning in a fair, efficient and diligent manner, it may make a written representation to the BUYER and seek remedies. The Buyer on examination of the Seller's submissions and on being satisfied on the Seller's concerns, shall provide suitable remedy. If any difference or disagreement between the BUYER and the SELLER remains unresolved, the dispute shall be settled as per the dispute resolution procedure. The SELLER shall be liable to provide the abovementioned, without any conditions, within a period of [•] days, unless otherwise agreed between the Parties.

22.4 The Goods procured by the SELLER for the project needs to be maintained/ preserved/ protected in accordance with the guidelines of the OEM or good industry practice (*as the case maybe*) for the respective Goods or as per general engineering practices so as to preclude premature degradation in material state and/ or depreciation of value till the date of handing over to the BUYER or his representatives.

22.5 If the SELLER fails to hand over the above Goods and information as per good industry practice, in accordance with Clause 22.4 above, the BUYER or their representative shall have the right to subject the SELLER to debarment and / or action as per Applicable Law, at their discretion.

22.6 **Risk Purchase.** Notwithstanding anything contrary contained in Article 22.2 and 22.5 above, the BUYER reserves the right to procure requisite Goods from alternative sources at the SELLER's risk, responsibility and cost. The SELLER agrees that all costs

incurred by the BUYER in the procurement of the Goods from alternative source for fulfilment of the SELLER's obligations under the Contract shall be recovered from the SELLER.

22.7 Termination For Convenience.

(a) The BUYER shall have the right to Terminate the Contract in whole or in part at any time by giving the SELLER a written notice, [•] days prior to such Termination. Upon expiry of the notice period, the Contract or relevant part thereof, shall be terminated without prejudice to the rights of the Parties. Where only part of the Contract is being terminated, the Parties shall have no further obligations in respect thereof unless expressly provided in the Contract, but shall continue to fulfil their respective obligations on all other parts of the Contract not being Terminated.

(b) In such cases, the BUYER at their sole discretion may choose to take over from the SELLER, at a fair and reasonable price, all unused and undamaged Goods in the course of manufacture that are in the possession of the SELLER or supplied to the SELLER, at the date of termination; or compensate the SELLER by the equal amount duly adjusted by the recoverable value of the Goods as applicable.

(c) The fair and reasonable price of the Goods is to be arrived at based on the value of the Goods/ Equipment taking into consideration the conditions at Clause 22.4, as assessed by licensed valuers/surveyors, appointed by the BUYER from authorised firms or body corporate. If the SELLER has reason to believe that the licensed valuers/surveyors are not discharging their duties and not functioning in a fair, efficient and diligent manner, it may make a written representation to the BUYER and seek remedies. If any difference or disagreement between the BUYER and the SELLER remains unresolved, the dispute shall be settled as per the dispute resolution procedure. The SELLER shall be liable to provide the abovementioned, without any conditions, within a period of [•] days, unless otherwise agreed between the Parties.

(d) The BUYER's total liability under the provisions of this Contract shall be limited to the subsequent stage payment due for the equipment payable under the Contract (or relevant part), including any sums due or becoming due to the SELLER at the date of Termination.

ARTICLE 23

LAW

23.1 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 24A

ARBITRATION

(For Foreign Sellers)

24A.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.

24A.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.

24A.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.

24A.4 The third arbitrator shall be nominated by the two arbitrators 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) 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) 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.

24A.5 The Arbitration Tribunal shall have its seat in New Delhi or such other place in India as may be decided by the arbitrator.

24A.6 The Arbitration Proceedings shall be conducted in India under the Indian Arbitration and Conciliation Act, 1996 (as amended from time to time)¹⁸ and the award of such Arbitration Tribunal shall be enforceable in Indian Courts only.

24A.7 The decision of the majority of the arbitrator(s) in the tribunal shall be final and binding on the parties to this Contract.

24A.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.

24A.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.

24A.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.

24A.11 If the place of the third arbitrator falls vacant, his substitute shall be nominated according to the provisions herein above stipulated.

24A.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 24B
ARBITRATION
(For Indian Private Sellers)

24B.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.

24B.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.

24B.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.

24B.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) 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.

24B.5 The Arbitration Tribunal shall have its seat in New Delhi or such other place in India as may be decided by the arbitrator.

24B.6 The Arbitration Proceedings shall be conducted in India under the Indian Arbitration and Conciliation Act, 1996 (as amended from time to time) and the award of such Arbitration Tribunal shall be enforceable in Indian Courts only.

24B.7 The decision of the majority of the arbitrators shall be final and binding on the parties to this Contract.

24B.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.

24B.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.

24B.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.

24B.11 If the place of the third arbitrator falls vacant, his substitute shall be nominated according to the provisions herein above stipulated.

24B.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 24C

ARBITRATION

(For Central & State PSEs)

24C.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) 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 24D

ARBITRATION

(For Defence PSUs)

24D.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 25
PENALTY FOR USE OF UNDUE INFLUENCE

25.1 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 offence 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.

25.2 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 26
AGENTS

26.1 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 27 **FORCE MAJEURE**

27.1 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 to the other party.

27.2 Force Majeure shall mean fire, flood, 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.

27.3 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.

27.4 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 28 **NON DISCLOSURE OF CONTRACT DOCUMENTS**

28.1 Except with the written consent of the BUYER/SELLER, other party shall not disclose the Contract or any provision, specification, plan, design, pattern, or information with proprietary markings thereof to any third party, unless required by either Government of the Parties or by the SELLER's Suppliers solely for the purpose of performing the obligations under the Contract.

ARTICLE 29 **NOTICES**

29.1 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, E-Mail, Registered Post, Speed Post or registered pre paid airmail, addressed to the last known address of the party to whom it is sent.

ARTICLE 30
TRANSFER AND SUB-LETTING

30.1 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. The SELLER may utilise its wholly owned subsidiary in India to provide product support related to the contract, however, it shall not relieve the SELLER of any obligation, duty or liability attributable to the Seller under the present Contract.

ARTICLE 31
PATENTS AND OTHER INDUSTRIAL PROPERTY RIGHTS

31.1 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.

31.2 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 have the sole responsibility to defend/settle such claim(s).** 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 31A
BUYER'S RIGHT TO OPTIMISATION OF LIFE CYCLE SUPPORT AND SYSTEM ENHANCEMENTS

(This clause is not applicable for funded Contracts for the design and development either directly or through DRDO or for the relevant part if design and development of any part of the Contract deliverables is funded)

31A.1 **SELLER's IPRs**. BUYER acknowledges the Intellectual Property Rights of the SELLER associated with the Articles being supplied against this Contract and understands that the price being paid as per provisions of the contract is to remunerate the SELLER for the supply of the Articles and associated IPR component, for owning the Article and exploiting it without any limitation through its life cycle and beyond. The BUYER takes note that the SELLER is entitled to receive any further remuneration only if the SELLER's services towards its maintenance/ upkeep/ upgrade etc, over and above those under the Contract, are utilised by the BUYER and the SELLER acknowledges the same.

31A.2 **BUYER's Right.** The SELLER acknowledges that the BUYER shall be free to explore other global sources and design & manufacturing ecosystem prevailing in India, to optimise the life cycle costs and improve the performance of the platform/ equipment/ system being provisioned under this contract. Towards this end, the BUYER reserves the right to, subject to the provisions of this Condition, to undertake any or combination of the following:-

(a) Replace Equipment/ Systems/ Weapons/ Sensors/ assemblies at a later date with suitable substitutes, either procured from other global sources and/ or indigenous sources or have them exclusively and independently developed without infringing the SELLER's/ Third Party's IPRs and interface with the Articles. Towards this, the BUYER may resort to any of the following to enable seamless interface/ integration of the replaced system:-

(i) By providing interface/ fitment details as physically drawn from the Articles with other parties without sharing the SELLERs documents with any third party.

(ii) By indicating the requirement of modularity in design and/ or requirement of interface protocols conforming to a required standard in the original Contract.

(iii) By seeking SELLER's assistance for interfacing by paying a mutually agreeable and reasonable price for the sought services. To assess the reasonability of the price, the price being sought by the SELLER may be compared with the price known to be charged by the SELLER and/ or other contractors of equal standing for similar work. Any effort by the SELLER to seek exploitative pricing for such services may be treated as unfair and monopolistic business practices and the BUYER may seek suitable remedy as deemed appropriate including legal remedy under Competition Act of India 2002.

(iv) If replacement as at Para 31A.2(a) above requires any validation/ certification by the SELLER being the OEM, the SELLER may provide the same against payment of a fair and reasonable price as mutually agreed between the parties. The BUYER may expect such service as a matter of goodwill from the SELLER and expects that such service will not be denied unless for reasons of technical infeasibility. In any case, denial of such service from the SELLER or by own's choice, the BUYER is entitled to make alternative arrangements for such validation/ certification at own risk.

(b) Encourage the SELLER/ Third Parties and the Indian industries to collaborate and manufacture such items under license either by mutual arrangement between them or through Inter Governmental Agreement, as applicable.

(c) To design, develop and produce general purpose trainers, simulators and associated equipment ~~with respect to Articles for own use~~ with respect to Articles for own use.

(d) To carryout modifications to suit the BUYERs specific requirements and improvements sought from time to time. In addition to the above, the SELLER hereby agrees to provide to the BUYER, the right to undertake improvements and upgrades

in relation to the Article or any parts thereof, for no additional fee. The SELLER agrees that the BUYER, upon undertaking such improvements and upgrades will become and shall continue to remain the owner of such improved and upgraded Article and the Seller has no claim or right or any IPRs generated in respect of such improvements and upgrades.

(e) To pursue such actions including the above and also to manufacture requisite spares by ab-initio design or reengineering for safe and unrestricted use of Articles (including platform/ equipment/ systems), if the SELLER and/ or third parties fail to support the Articles or part thereof in a reasonable timeframe and at a reasonable price owing to dynamics of obsolescence/ insolvency/ winding up operations/ suspension of production line/ corporate acquisitions etc and other reasons solely attributable to them.

31A.3 **Seller's Right.** The Seller is entitled for the following if the rights set out at Para 31A.2 of this clause is exercised by the BUYER (including its constituent departments):-

(a) The SELLER may deny the warranty on the Articles or part thereof if the above right is exercised during the warranty.

(b) If the BUYER exercises any of the above options on an Article under maintenance by the SELLER, the SELLER shall have the right to exclude their maintenance liability on that part of the Article or cover it under mutual agreement.

31A.4 Notwithstanding the rights stated at Para 31A.3 above:-

(a) The SELLER's assurance on the designed life of the Articles shall continue to cover the part unaffected by such modifications/ improvements/ upgrades. The SELLER shall continue to provide the product updates/ bulletins as applicable. Such updates/ bulletins need not take into consideration the modifications/improvements/upgrades carried out by the BUYER unless the work on interfacing/ validating/ certification is assigned to the SELLER by the BUYER or his representatives/ agents in sub-clause 31A.2 (a) (iii) and (iv) and if such items are manufactured under licence by the SELLER under sub-clause 31A.2 (b).

(b) The right shall not dilute the SELLER's liability for providing product life support for the period laid down at Clause [.]

<i>Note: Add the Clause number for Product life Support.</i>
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ARTICLE 32 **AMENDMENTS**

32.1 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 33
PRODUCT SUPPORT

33.1 The SELLER agrees to provide Product Support for the stores, assemblies/subassemblies, fitment items and consumables, SMTs/STEs sub contracted 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 SELLER 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 **PRODUCT SUPPORT CONTRACT (AMC/CMC/PBL/LCSC, as applicable)** 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 SELLER and the **BUYER**. This, however, shall not restrict the BUYER from directly sourcing sub-equipment/sub-assembly and spares from their respective OEMs/sub-vendors on completion of warranty. In case the sub-equipment/sub-assembly/parts require tuning/calibration/integration by the SELLER prior to replacement, the same is to be undertaken by the SELLER at reasonable cost, as mutually agreed between Buyer and Seller.

33.2 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.

33.3 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.

33.4 The SELLER agrees to provide an Engineering Support Package as specified in Article 37 as modified after confirmatory MET at no extra cost. 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 as **product support Contract** specified at para 33.1 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.

(Note: The underlined language should be deleted in cases where it is not applicable.)

33.5 **Codification**. The SELLER undertakes to provide existing NATO Stock Numbers (NSNs) of OEM for each item supplied under the contract as per part list (including MRLS). In case, the NSNs are not available, the SELLER agrees to codify using basic technical characteristics as required for codification in consultation with MoD/Directorate of Standardisation. In case of IPR issues, codification will be undertaken as Type IV codification (where only the manufacturer details and part number are to be provided).

ARTICLE 34
TRAINING

34.1 The SELLER shall provide the following training to the personnel of the BUYER:-

(a) **Operator Training.**

(i) () working days) at SELLER's premises, to a maximum of () personnel in () groups of () each.

(ii) () working 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 SELLER's premises for (composition of the team to be specified).

(ii) Base Repair/Maint. (weeks) at SELLER, premises for (composition of the team to be specified).

(c) Training for QA personnel as per scope mentioned in Para __ of RFP for ____ personnel in __ batches are to be undertaken in Bidder/Buyer premises. Bidder to provide the duration (working days) for training as per defined scope, in the Technical Bid.

(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 Defence Forces as covered under Article 37.

34.2 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 35A
OPTION CLAUSE FOR INDIAN VENDORS

35A.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. Price Variation Clause, FERV etc, if applicable and included in the original Contract, will also be applicable for Option Clause Contract. For arriving at prices payable, the Price Variation will be applied on the Base Contract price of the original Contract with the month and year of Effective date of Contract as Base Level Indices.

ARTICLE 35B
OPTION CLAUSE FOR FOREIGN VENDORS

35B.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 36
BUYER FURNISHED EQUIPMENT (BFE)

36.1 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 37
ENGINEERING SUPPORT PACKAGE

37.1 **Repair Philosophy.** The Engineering Support Philosophy shall conform to repair philosophy as follows:-

- (a) **'O' Level.** Includes Unit and Field Repairs (1st & 2nd Level).
- (b) **'I' Level.** Includes 3rd level Intermediate Repairs by Corps Zone workshop/Dockyard/Base Repair Depot or other similar service organisation.
- (c) **'D' Level.** Includes 4th level extensive Base overhauls, Depot level Repairs which are either routine and planned or necessitated due to major repairs/renewal requirements.

37.2 **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 Enclosure to **Annexure IX** duly incorporating Adequacy Clause (Article 37.6 below refers).

37.3 **Spares.** Spares for carrying out maintenance and repair up to component level will be provided by the SELLER as per the list finalised by the Buyer in the MET, **at no extra cost** and within the amount specified at Ser No ____ of Annexure I. The list of spares required to be

supplied will be taken from Enclosure to **Annexure IX** duly incorporating Adequacy Clause. The spares are required to be categorized in four categories as follows: -

- (a) Manufactured by Seller as OEM and can be sourced as per Part No.
- (b) Bought out items and customized by the OEM for the specific purpose and such customization would require OEM intervention.
- (c) Bought out from other OEMs/Third Party as specialised items and used without any customization. Such items can be sourced by quoting their Part No./Identification No. as given by OEM/Third Party and directly utilised.
- (d) General Engineering items/COTs which can be sourced by stating the relevant standards and item description.

(Note. The OEM Part No. /Identification No. of items in addition to Seller assigned part number are also required to be specified)

37.4 Special Maintenance Tools, Special Test Equipments and Test Jigs (SMTs/STEs/Test Jigs). SMTs/STEs/Test Jigs for carrying out maintenance and repair up to () level of repair will be provided by the SELLER as per the list finalised by the BUYER in the MET, at no extra cost and within the amount specified at Ser No____ of Annexure-I. The list of equipment required to be supplied will be taken from Enclosure to **Annexure IX** duly incorporating Adequacy Clause.

37.5. Technical Literature. The SELLER shall provide __ sets of Technical Literature. (Specify format to the SELLER 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.

37.6 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 33 (PRODUCT SUPPORT). 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 have 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. The BUYER would have the option to amend the MRLS proposed by the SELLER within____years of the expiry of the warranty period. 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. The 'Buy Back' clause would not be applicable for additional spares included by the BUYER in MRLS during FET and SE stage,

as brought out in the RFP.

37.7 A malicious code certificate as given in Appendix J (Chapter II respectively) to the RFP is attached herewith.

37.8 **AMC/CMC/PBL/LCSC (where applicable, to be included and clauses 37.1 To 37.4 be modified accordingly).** The Repair and Maintenance of ____ will be catered through AMC/CMC/PBL/LCSC, for __ (in words) years post completion of warranty. The AMC/CMC/PBL/LCSC would include requisite periodic maintenance, defect rectification, calibration and certification, if any, including spares, tools, consumables, technical expertise and manpower, as applicable. Details of the same are elaborated at Annexure IIB (to be as elaborated at Appendix K to the RFP). During the period of Warranty, the SELLER would undertake all preventive and corrective maintenance as required for CAMC (this clause is to be included in cases where no maintenance training is envisaged).

ARTICLE 38 **ACCESS TO BOOK OF ACCOUNTS**

38.1 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 SELLERS and Agents engaged by him.

38.2 **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.

ARTICLE 39 **SURVIVAL AFTER TERMINATION OR EXPIRATION**

39.1. The following Articles shall survive the Termination or expiration of this Contract (Articles to be added as appropriate):-

- (a) Non-Disclosure of Contract Documents
- (b) Title and Risk of Loss
- (c) Warranty
- (d) Law
- (e) Penalty for Use of Undue Influence
- (f) Patents and Other Industrial Property Rights

- (g) Buyer's Right to Optimisation of Life Cycle Support and System Enhancements
- (h) Product Support

LEGAL ADDRESSES OF THE CONTRACTING PARTIES

1. Legal 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, 5A, 5B, 5C, 8 and 37 of Standard Contract Document)

STATEMENT OF PRICES AND QUANTITIES AND PAYMENT STAGES**1. Statement of Prices and Quantities**

Ser	Items	Qty	Unit Cost	Total Cost	Total Cost (including all taxes & duties)	Indicative Rate of Taxes & Duties used to arrive at Total Cost (as applicable)		Remarks
						GST/IGST (%)	Custom Duty (%)	
(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)	(ix)
A.	Cost of Basic Equipment . Full break-up details may be given.							
B.	Cost of Installation / Commissioning/ Integration (where applicable)							
B1	Cost of Buyer Nominated Equipment (if applicable)							
C	Cost of Transfer of Technology (where applicable).							
D.	Cost of Manufacturer's Recommended List of Spares as per the format given at Annexure I to Appendix K to RFP. In case equipment is already in usage, the spare parts requirement must be specific rather than being based on MRLS.							
E.	Cost of Special Maintenance Tools and Special Test Equipment as per format given at Annexure II to Appendix K to RFP.							
F.	Cost of Operator's Manual and Technical Literature (in English Language) including Illustrated Spare Parts List as per Annexure III to Appendix K to RFP.							
G.	Cost of Training Aids such as simulators, cut out models, films, charts etc as recommended by the supplier as per Annexure IV to Appendix K to RFP.							
H.	Cost of recommended period of Training excluding the cost of travel and boarding and lodging. This should be given under the following two heads as per Annexure IV to Appendix K to RFP. (a) In India. (b) Abroad.							

Ser	Items	Qty	Unit Cost	Total Cost	Total Cost (including all taxes & duties)	Indicative Rate of Taxes & Duties used to arrive at Total Cost (as applicable)		Remarks
						GST/IGST (%)	Custom Duty (%)	
(i)	(ii)	(iii)	(iv)	(v)	(vi)	(vii)	(viii)	(ix)
J.	Cost of Preservation/De-preservation (if applicable)							To be paid as in the contract, if utilised
K.	Any other cost (to be specified).							
L.	Freight and Transit Insurance Cost (where applicable).							
M.	AMC/CMC/PBL Cost giving year-wise break-up (where applicable).							
N.	Total Cost (Total of Serial A to L)				#			# This will be used in determining L1 vendor (duly applying provisions of Para 1 above).
O.	Foreign Exchange component of the proposal. (for Indian Sellers only)							This will be with reference to Para 1.2.2 of Appendix M to RFP.
P.	CDEC (if applicable), its authority and amount for which required.							

Total (in words)_____

2. **Stages of Payment**

2.1 **For cases other than Shipbuilding**

(Note : The Payment and delivery schedule is to be incorporated as specified in the RFP and as ratified during CNC)

2.1.1. **For Delivery in a Single Lot**

Sl	Activity	Delivery Timelines (T ₀ + Wks)	Scheme for Payment	Scheme for submission and Return of Advance Payment Bank Guarantees	Remarks
(a)	Signing of contract		10% of the total contract price base contract	APBG of equivalent amount to be submitted	

			price		
(b)	On submission of Project report (PR) and Project PERT Chart.		5% of the total contract price base contract price	APBG of equivalent amount to be submitted	<p>In case this stage is not required, 15% of total contract price can be made on signing of contract.</p> <p>Percentage of payment for delivery of equipment/ system shall be decided on the complexity/ scope of installation, STW and commissioning.</p> <p>In case Installation/ STW/ Commissioning is not required, the complete payments are to be done on completion of deliveries and APBG(s) are to be returned.</p>
(c)	On Dispatch of all equipment/ system (and associated spares if applicable)		40 to 60% of the cost of the deliverables		
(d)	On Delivery of all equipment/ system (and associated spares if applicable)		Approx 15% of the cost of the deliverables	APBG is to be returned on completion of delivery of all equipment/ system (and associated spares if applicable).	
(e)	On delivery of documentation & Training		55 to 75% of the cost of documentation and training	In case delivery of documentation and/or training can be completed only on commissioning of the equipment and cost of documentation/training is substantial (5%-8%, as specified), then APBG is to be returned on pro-rata basis as per completion of delivery of equipment, documentation and training.	
(f)	On Installation/ STW/ Commissioning and Final Acceptance and completion of delivery of documentation and training.		10 to 30% of the cost of deliverables		

2.1.2. For Delivery in Lots/ Batches

SI	Activity	Delivery Timelines (T ₀ + Wks)	Scheme for Payment	Scheme for submission and Return of Advance Payment Bank Guarantees	Remarks
(a)	Signing of contract		10% of the total contract price base contract price	APBG of equivalent amount to be submitted	
(b)	On submission of Project report (PR) and Project PERT Chart.		5% of the total contract price base contract price	APBG of equivalent amount to be submitted	In case this stage is not required, 15% of total contract price can be made on signing of contract.
(c)	On Dispatch of all equipment/system				
(i)	1 st Lot/ Batch		40 to 60% of the cost of Equipment/ System of the Lot		
(ii)	2 nd Lot/ Batch		40 to 60% of		

SI	Activity	Delivery Timelines (T ₀ + Wks)	Scheme for Payment	Scheme for submission and Return of Advance Payment Bank Guarantees	Remarks
			the cost of Equipment/ System of the Lot		
(d)	On Delivery of all equipment/ system				
(i)	1 st Lot/ Batch		Approx 15% of the cost of Equipment/ System of the Lot	APBG is to be returned on pro-rata basis on delivery of each lot/batch. APBG pertaining to documentation and training can be returned on delivery of a particular lot/batch (to be specified). In case delivery of documentation and/or training can be completed only on commissioning of the equipment and cost of documentation/training is substantial (5%-8%, as specified), then APBG is to be returned on pro-rata basis as per completion of delivery of equipment, documentation and training.	Percentage of payment for delivery of equipment/ system shall be decided on the complexity/ scope of installation, STW and commissioning.
(ii)	2 nd Lot/ Batch		Approx 15% of the cost of Equipment/ System of the Lot		
(e)	Delivery of Documentation		85% of the cost of Documentati on		
(f)	Completion of Training		85% of the cost of Training		
(g)	On Installation/ STW/ Commissioning and Final Acceptance				
(i)	1 st Lot/ Batch		10 to 30% of the cost of Equipment/ System of the Lot		
(ii)	2 nd Lot/ Batch		10 to 30% of the cost of Equipment/ System of the Lot		

2.2 For Shipbuilding Cases. The Vessel Cost (as defined in RFP, 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 ToT, if applicable, will be specified separately):-

2.2.1 **For Commissioned Ships.** 15 stages payment with pre-requisites as elaborated below:-

Stage	% of Vessel's Fixed Cost	Activity	Schedule to be finalized during CNC
I	10%	With signing of contract (10% of Contract Cost)	
II	10%	(a) Proof of ordering steel/ Hull Construction (b) Submission Cardinal date programme /Production PERT	
III	5%	(a) Submission of Drawing Schedule (b) Submission of detailed network of activities including Work	

Stage	% of Vessel's Fixed Cost	Activity	Schedule to be finalized during CNC
		Breakdown up to launching a Vessel (c) Submission of main hull structural drawing (d) Order for all major pre-launch items finalized and placed	
IV	5%	(a) Completion of 10% physical progress of construction and submission of weight analysis for first ship of 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 series only (b) Completion of main engines, gear boxes, girders & Seatings /m/c seating 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 series only (b) All access holes to be cut and preparation of main seating in m/c compartment (c) Placement of order for majority 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 along with resource allocation	
VIII	10%	(a) Completion of machinery, equipment & fittings with 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 Documents, 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%	On completion of 'shipyard guarantee liabilities' and GRDD	

2.2.2 For Submarines. 15 stages payment with pre-requisites as elaborated below:-

Stage	% of Vessel's Fixed Cost	Activity	Schedule to be finalized during CNC
I	10%	With signing of contract (10% of Contract Cost)	
II	10%	(a) Proof of ordering steel/ Hull Construction (b) Submission Cardinal date programme /Production PERT	
III	15%	(a) Submission of Drawing Schedule (b) Submission of detailed network of activities including Work Breakdown up to launching a Vessel (c) Submission of main hull structural drawing	

Stage	% of Vessel's Fixed Cost	Activity	Schedule to be finalized during CNC
		(d) Order for all major pre-launch items finalized and placed	
IV	5%	(a) Completion of 10% physical progress of construction and submission of weight analysis for first ship of 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 series only (b) Completion of main engines, gear boxes, girders & Seatings/m/c seating as applicable to erecting of 60% hull	
VI	15 %	(a) Completion of 25% physical progress of construction and submission of weight analysis for first ship series only (b) All access holes to be cut and preparation of main seating in m/c compartment (c) Placement of order for majority 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 along with resource allocation	
VIII	15%	(a) Completion of machinery , equipment & fittings with 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	2.5%	Completion of 40% physical progress of construction and submission of weight analysis for first ship of the series only	
X	2.5 %	Completion of 60% physical progress of construction and submission of weight analysis for first ship of the series only	
XI	2.5%	Completion of 85% physical progress of construction and submission of weight analysis for first ship of the series only	
XII	2.5%	Completion of Basin Trials	
XIII	2.5%	(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	2.5%	(a) Successful completion of FMT (b) Stowage of all onboard spares (c) All Documents, 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	5 %	On completion of all 'shipyard guarantee liabilities and GRDD'	

2.2.3 **For Yard Craft, Auxiliaries**. 07 stages payment with pre-requisites as elaborated below:-

Stage	% of Vessel cost	Activity	Pre-Requisites
I	10%	On signing of the Contract (10% of Base Contract Price)	On submission of Advance 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	To be certified by owner's

Stage	% of Vessel cost	Activity	Pre-Requisites
		Material (b) Submission of cardinal date (c) Submission of main hull structural drawings. (d) Order for all major pre-launch items finalized and placed (e) Order for all major pre-launch items finalized and placed. (f) Erection of equipment schedule. (g) Submission of equipment of equipment schedule. (h) Completion of main engines, Gear box girders & seatings / machinery seatings as applicable to erection of 40% hull.	representative/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 compartment. (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 representative /Overseer.
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 representative /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 vessels or equivalent stage of construction reached. Note. 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	To be certified by Owner's representative /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 representative /Overseer.
VII	5%	All defects, deficiencies and contractor's liabilities including guarantee repairs & dry docking to be completed.	To be certified by Owner's representative /Overseer.

Annexure II A
(Refers to Article 1 and 7 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 IIB
(Refers to Article 1 and 37.8
of Standard Contract Document)

REQUIREMENTS AND SCOPE OF AMC/CMC/PBL/LCSC

(To be specified as elaborated at Appendix K to the RFP)

Annexure III
(Refers to Article 11 and 36 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 and Definition of composition of Lots/Batches:

3.1.1 **To be as specified at Annexure I of the Contract**

3.1.2 Delivery Schedule.

Ser No	Equipment/Service	Quantity	Month (from effective date)	Place of Delivery

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
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BUYER Furnished Test Equipment

No	Description	Qty	Month (ARO)	Remarks
----	-------------	-----	-------------	---------

Annexure IV
(Refers to Articles 3A and 3B of
Standard Contract Document)

ADVANCE PAYMENT BANK GUARANTEE

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./ US \$/Euro/PS £/Yen/AUD/SGD _____ being _____ payment of _____% of the total value of Rs./ US \$/Euro/PS £/Yen/AUD/SGD _____ 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./ US \$/Euro/PS £/Yen/AUD/SGD _____.

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, 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/US \$/Euro/PS £/Yen/AUD/SGD _____ (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 , 4B, 4D
 and 4E of Standard Contract
 Document)

PERFORMANCE-CUM-WARRANTY BANK GUARANTEE

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/ US \$/Euro/PS £/Yen/AUD/SGD _____ which is ~~5% of the Base Contract Price to cover~~ 5% of Total Contract Price (including taxes and duties) each for Performance and Warranty in sequence, 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 Price (including taxes and duties)} _____ Rupees/US \$/Euro/PS £/Yen/AUD/SGD only at any instance 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 _____.

7. Subject to the terms of this Bank Guarantee, the issuing bank hereby irrevocably authorizes the beneficiary to draw the amount of upto Rs./ US \$/Euro/PS £/Yen/AUD/SGD _____ {5% of Total Contract Price (including taxes and duties)} for breach/failure to perform by the SELLER of any of the terms and conditions of the Contract related to performance and warranty clause. 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 Price (including taxes and duties) (Rs./ US \$/Euro/PS £/Yen/AUD/SGD _____ 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./ US \$/Euro/PS £/Yen/AUD/SGD _____ (Rupees/US \$/Euro/PS £/Yen/AUD/SGD _____ 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)

ADDITIONAL BANK GUARANTEE FOR
ESSENTIAL PARAMETER-B CASES

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/ US \$/Euro/PS £/Yen/AUD/SGD _____ 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/US \$/Euro/PS £/Yen/AUD/SGD _____ 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 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/ US \$/Euro/PS £/Yen/AUD/SGD _____ (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 IV(C)
(Refers to Articles 4C and 4F of
Standard Contract Document)

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 _____ 5 % of the Total Contract Price (including taxes and duties) 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 _____ 5% of Total Contract Price (including taxes and duties). 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.

Annexure V
(Refers to Article 7 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 SELLER or
modifications required for suiting the BUYER's requirements)

Annexure VI

(Refers to Article 9 and 17 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 20.2 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 20.3 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 11 and 37 of
Standard Contract Document)

PRICE BREAKDOWN OF SUPPLIES AND SERVICES

Sl. No	Item	Quantity	Ready for Shipment	Unit Price	Total Price Rs./US\$/ /Euro/PS £/ Yen/AUD/ SGD
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 37.2	As per Note 2(d) below		
3.	Spares and SMT/STE/TJ (As per Appendix A)	As per Article 37.3 and 37.4	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 37.6	As per Note 2(d) below		
TOTAL					

Notes:

1. **Description of Equipment.** Equipment ____ System and the following accessories:

	Part No.	Item	Quantity
(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.

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 Rs./US\$/Euro/PS £/ Yen/AU D/SGD	Total cost in Rs./US\$/Euro/P S £/ Yen/A UD/SGD	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 Rs./US\$/Euro/P S £/ Yen/AU D/SGD	Total cost in Rs./US\$/Euro/P S £/ Yen/AU D/SGD	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 Rs./US\$/Euro/P S £/ Yen/AU D/SGD	Total cost in Rs./US\$/Euro/P S £/ Yen/AU D/SGD	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 Rs./US\$/Euro/PS £/ Yen/AUD/SGD	Total cost in Rs./US\$/Euro/PS £/ Yen/AUD/SGD	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.

.....

Annexure X
(Refers to Articles 5A and 5C of
Standard Contract Document)

LETTER OF CREDIT

Form of Doc Credit	(40A) :	Irrevocable/revolving/confirming.
Doc Credit Number	(20) :	
Expiry	(31D) :	Date : This date should match the Period of Performance of the Contract.
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. Transshipment (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.

+ One Full set of original clean on board bills of lading/ Airway Bill.

+ Packing list in six copies.

+ Certificate of origin issued by a chamber of commerce or self-certified by OEM.

+ Specimen Signatures of the SELLER's and the BUYER's Quality Assurance

Representative

+ Lot acceptance certificate signed by the SELLER's and the BUYER's quality assurance representatives or alternatively the SELLER's quality assurance representative.

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. [Note: Applicable only if LC is revolving].

Stage	Amount

+ Maximum utilisation under the credit will be
[Note: Applicable only if LC is revolving].

+ Confirmation charges for the LC are for the beneficiaries account. [Note : Applicable only when confirming LC is chosen]

+ UCP Article 32 does not apply. [Note: This pertains to sequential stage payments. Mention of non-applicability of this provision will provide flexibility to BUYER during execution without requirement of amendment to LC in case of change in sequence of stage payments]

+Late Shipment is acceptable with applicability of LD.

Details of Charges

	(71B)	:	All charges outside India are for beneficiary account.
Presentation Period	(48)	:	Within 21 days from the date of shipment
Confirmation	(49)	:	Confirm/ without
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**

CHAPTER VII

REVITALISING DEFENCE INDUSTRIAL ECOSYSTEM THROUGH STRATEGIC PARTNERSHIPS

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 self-sufficiency 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.
 - (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/OFBs/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 to this Chapter.

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 Paragraphs 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. The procurement process for cases under the SP Model is given at Appendix C to this Chapter and the terms of reference for Empowered Project Committee are given at Appendix D to this Chapter.

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 to this Chapter**.

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 Paragraph 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 one 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) **Indigenous 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 Indian defence sector is developed, including for spares and capacities for repair and maintenance of the platform. SP will submit an action plan to MoD in this regard, 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 DAP. 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 incentivise 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 DAP.

48. The above factors may also be given adequate weightage in deciding upon Indian partners for enhancing the production capacities/establishing work-share 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 ecosystem of defence related industries in the country so that defence manufacturing emerges as a key driver in India's economic growth and development.

Appendix A

(Refers to Paragraph 12 of Chapter VII)

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.
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. 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 Paragraphs 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.

Appendix B

(Refers to Paragraph 24 of Chapter VII)

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, as specified in the EoI/RFP: -
 - (a) Consolidated Turnover.
 - (b) Net worth.
 - (c) Rating.
3. **Other Conditions.** Promoters and directors of Applicant and Segment Group Company should not be willful defaulters to banking system as on date of this application.

Segment Specific Criteria4. **Submarines.**

<u>Ser</u>	<u>Attributes</u>	<u>Yes/No</u>
(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.**

<u>Ser</u>	<u>Attributes</u>	<u>Yes/No</u>
(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).**

<u>Ser</u>	<u>Criteria</u>	<u>Yes/No</u>
(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.	

**PROCUREMENT PROCESS FOR CASES UNDER
STRATEGIC PARTNERSHIP (SP) MODEL**

Acquisition Process

1. The acquisition process for the procurement under the Strategic Partnership (SP) Model will involve the following processes: -

- (a) Issue of Request for Information (RFI) to foreign OEMs.
- (b) Finalisation of SQRs (PSRs for submarines).
- (c) Acceptance of Necessity (AoN).
- (d) Expression of Interest (EoI) to Indian Industry and foreign OEMs.
- (e) Shortlisting of potential SPs and foreign OEMs, with DAC approval.
- (f) Solicitation of offers.
- (g) Evaluation of Technical offers by Technical Evaluation Committee (TEC).
- (h) Field Evaluation.
- (j) Staff Evaluation.
- (k) Commercial negotiations by Contract Negotiation Committee (CNC).
- (l) Approval of the Competent Financial Authority (CFA).
- (m) Award of Contract.
- (n) Contract administration and Post Contract Management.

Request for Information (RFI)

2. The RFI will be sent to potential foreign OEMs 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 (PSRs for submarines); this exercise may involve rational combination of different product specifications and shall result in a practical and achievable product requirement.
 - (b) To generate input for structuring the EoI and the RFP.
 - (c) To determine the indicative budgetary and cost implications.
4. The RFI shall clearly indicate the following: -
 - (a) Capabilities sought in the equipment/ system/ platform {draft ORs (OSRs for submarines), as applicable}.
 - (b) Tentative quantity required and anticipated delivery timeframes.
 - (c) Tentative time schedule for the acquisition processes (issue of EoI).
5. The RFI shall seek the following inputs from the OEMs: -
 - (a) Details for generating/ refining/ rationalizing the SQRs (PSRs for submarines), as applicable.
 - (b) Details that go into determining the cost of the scheme, including factors such as Maintenance philosophy, Annual Maintenance Contract (AMC), Performance Based Logistics, training etc.
 - (c) Scope, depth and range of ToT and key technologies sought.
 - (d) Applicable key technologies and materials required for manufacturing of the equipment/ system/ platform and the extent of their accessibility in case they are not available in India.
 - (e) Information related to indigenisation roadmap, setting-up eco-system of Indian Tier I/ II/ III vendors, creation of R&D capabilities and skilling provisions etc.
 - (f) Willingness to support SP in establishing system for integration of platforms, Indigenisation efforts, ToT implementation and Life Cycle support/ Performance Based Logistics/ maintenance aspects.
 - (g) Approximate cost estimate.

6. RFI is also advance intimation for the OEM to obtain requisite government clearances. At least three months shall be given to OEMs after issuing the RFI, for a structured response and interaction.

7. RFI shall be formulated by SHQ, in consultation with DRDO, DDP and HQ IDS to ensure that comprehensive response is generated from OEMs to facilitate addressing all aspects of operational requirements. A copy of the RFI will be shared with DRDO, DDP and HQ IDS, for their comments, which shall be provided within four weeks, post which it will be considered as 'nil-comments'. The comments obtained may be duly incorporated, wherever applicable. RFI shall also ask for details about the OEMs as per Annexure II of Appendix A to Chapter II.

8. Suitable interactions with the OEMs will be planned by the SHQ. After interaction, OEMs may be given adequate time to respond to the RFI.

Formulation of SQRs (SRs for Submarines)

9. Based on the Operational Requirements (ORs)/OSRs for submarines and the RFI response the SHQs will formulate Staff Qualitative Requirements (SQRs)/ Preliminary Staff Requirements (PSRs) in consultation with all stakeholders, as per procedure enumerated in succeeding paragraphs. For the segments of fighter aircraft, helicopters and armoured fighting vehicles the SQRs shall be appended to the SoC, while seeking AoN. In case of submarines, Preliminary Staff Requirements (PSRs) will be attached to the SoC.

Services Qualitative Requirements (SQRs) {Preliminary Staff Requirements (PSRs) for Submarines}

10. **Characteristics of Services Qualitative Requirements (SQRs)**. Capital acquisitions for Fighter Aircraft, Helicopters and Armoured Fighting Vehicle (AFV) segments 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 shall specify the requirements of military grade, ruggedised and Commercially Off the Shelf (COTS) items. It may not be viable for all SPs 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, are classified as under: -

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

(b) **Essential Parameters-B**. Though not available, originally in the equipment fielded for the FET, these parameters can be developed and achieved by

the SPs in conjunction with OEMs, 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 shall also validate that there is no adverse effect on any of the Essential Parameters- A. However, SPs shall be able to substantiate and need to provide an undertaking, at stage of responding to RFP that they will develop and meet the Essential Parameters-B in partnership with the OEM, within their existing capabilities.

(Note: 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 issued to prospective Indian SPs. 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 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 (Indian SP). Essential Parameters-B will not be evaluated at the FET stage, even if any equipment, as claimed by the OEM(s), can meet them. Essential Parameters- A and Essential Parameters-B (if applicable) are non-negotiable requirements to be met by the SP and the OEM, 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 OEM claim to possess the same at the RFI stage. Essential Parameters-B will not be included where only single OEM is shortlisted. Essential Parameters-B may also be incorporated in the SoC, for provision of partial quantities of the items being procured, to meet different/ higher specification for specific operational requirements).

(c) **Enhanced Performance Parameters (EPP).** EPP are those parameters that enhance the capability of the equipment vis a-vis the essential parameters; a SQR may not contain EPP in all cases. Inability to meet the EPP does not preclude SPs from being eligible for the bidding/ bid evaluation. However, if a SP 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: -

(i) In case procurement involves EPP, then the EPP and their credit scores need to be explicitly detailed in the RFP (issued to Indian SP). In such cases,

if the equipment supplied by an SP does not have the EPP, then the commercial quote of the SP, for the purpose of L1 determination, remains as it is.

(ii) In cases where an SP'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 SP 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 SP 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 purpose other than L1 determination, the value of the commercial quote will be considered as ₹ 10 Crores only.

11. **Characteristics of Staff Requirement (SRs) for Submarines**. In case of submarines, capital acquisitions will be based on Staff Requirements (SRs), which need to lay down the fundamental user requirements in a comprehensive manner. The SRs need to be detailed, realistic, achievable and verifiable and must avoid ambiguity of any type. The parameters of SRs are classified as under:-

(a) **Outline Staff Requirements (OSRs)**. SHQ is to prepare the Outline Staff Requirements (OSRs), which are to include the role of the submarine, dimensions of its hull, limiting dimensions if any, capability of major machinery, weapons, sensors and details of accommodation, manpower, endurance, etc. The OSRs will form the basis on which the feasibility studies and concept design of the submarine, identification of OEMs/Vendors for specific weapons, sensors, machinery and equipment are to be carried out.

(b) **Preliminary Staff Requirements (PSRs)**. OSRs are to be refined based on the RFI and thereafter converted into PSRs.

(c) **Staff Requirements (SRs)**. EoI process will seek final validation of the PSRs. After deliberations with OEMs for feasibility of incorporating all requirements of PSRs into the design of the Project, SRs are to be finalised.

12. **Preparation**.

(a) The SQRs (SRs for submarines) will be drafted by the user directorate at SHQ. In order to make broad based SQRs (PSRs for submarines), information obtained through the issue of RFI is to be considered. The inputs so obtained shall result in the form of a compliance table of SQRs (PSRs for submarines), vis-a-vis technical parameters of equipment available in world market, in as much detail as possible. For submarines, PSRs will be converted into SRs based on EoI response/discussions in accordance with Paragraph 11 (c) above.

(b) Draft SQRs (SRs for submarines) will be circulated by SHQ to all stake holders concerned including other possible user directorates, maintenance directorate, HQ IDS, DRDO, DDP, Director General of Quality Assurance (DGQA)/Director General of Aeronautical Quality Assurance (DQAQA)/Director General Naval Armament Inspectorate (DGNAI) (as applicable), Directorate of Standardisation, Technical Managers and any other necessary department for obtaining their views/comments. The agencies will also be represented on the Staff Equipment Policy Committee (SEPC) for approving the SQRs (SRs for submarines). 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 Requirements (JSQR), if an ab-initio single OEM/SP situation is likely, then the case will progress as per provisions of Paragraph 31 of Chapter II.

13. The resources of SEPC may be augmented by professional technical experts who have extensive knowledge/experience on the equipment/systems under consideration. Their services shall be utilized for review, rationalization and finalization of the SQRs/SRs, prior to accord of approval. SHQ/HQ IDS may maintain a list of such experts drawn from academia and /or experts from industry, as required.

14. **Approval.** SQRs (SRs for submarines) must be cleared by SEPC and approved by the competent authorities at the respective SHQs.

Acceptance of Necessity (AoN)

15. In order to seek AoN, the SHQ will prepare a SoC as per format at Appendix B to Chapter II. The SoC will be signed, with date, by the Head of the respective User, Plans Directorate/equipment of the Services. Seven copies of the SoC will be prepared, justifying the procurement proposal. One copy each will be forwarded to HQ IDS, DDP, DRDO, MoD (Finance), JS & AM, ADG Acquisition Technical and FM. HQ IDS will examine aspects of interoperability and commonality of equipment of the three Services. All stakeholders will forward their comments to SHQ within four weeks, who will then compile all the comments and give their final views. The SoC will thereafter be forwarded to HQ IDS for fielding in the SPB.

16. After evaluating the recommendations of the stake holders, the SPB will examine the case, and if found in order, refer it to DAC for accord of AoN.

17. In order to ensure that AoN according process is completed in a time bound manner, each case will be processed by DRDO/DDP/MoD/MoD (Finance) within four weeks of receipt, so that the proposal is considered by the AoN according authority within a four to six weeks cycle.

18. At the time of accord of AoN, DAC shall consider the participation of DPSUs/PSUs in the specific proposal, keeping in view the order book position, capacity and price competitiveness. In case of Submarine segment, DPSU are also required to have previous experience in construction of submarines.

Empowered Project Committee (EPC)

19. For smooth and efficient implementation of Strategic Partnership Model, DG (Acquisition) is to constitute Empowered Project Committees (EPC) under a three star officer from the SHQ/(lead Service for Joint cases) for each of the SP cases, and with JS level members drawn from MoD (Acquisition), DDP, MoD (Finance), DRDO, Advisor (Cost), and DGQA, as applicable. The Empowered Project Committee may co-opt additional subject matter experts with adequate domain expertise in relevant fields like procurement, contract law and ToT arrangements, on as required basis.

20. The Committee shall be guided by Chapter VII of DAP 2020, on Revitalising Defence Industrial Ecosystem through Strategic Partnerships' and the Guidelines as enumerated in this document. The board terms of reference for the Empowered Project committee are placed at Appendix D to Chapter VII.

Transaction Advisors

21. To enable smooth and effective implementation of the Strategic Partnership (SP) Model a Transaction Advisor (TA) may be hired for undertaking the "Advisory Service" by providing assistance (including legal) to MoD/EPC during selection of Strategic Partners (SPs) and Foreign OEMs. The TA will inter-alia be responsible for assisting the EPC in formulation and evaluation of EoI and RFP, as well as formulation of Contract documents. The TA will also ensure legal vetting of EoI and RFP prior issue as well as vetting of the responses, besides legal vetting of Contract documents.

Expression of Interest (EoI)

22. After accord of AoN by DAC, the Empowered Project Committees (EPC) will issue separate EoI to Indian Industry/ DPSU (wherever applicable) and foreign OEM(s) with an aim to shortlist potential SPs and OEM(s) respectively, as per procedures enunciated in subsequent paragraphs.

EoI for Shortlisting of SP

23. EPC shall issue an EoI to seek applications from Indian Private Industry/ DPSUs (as applicable) for selection for 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 hosted on the MoD website and given due publicity. Potential SPs shall provide response to the EoI within two to four months

depending upon the assessment of EPC. Any extension sought beyond stipulated time period and upto a period of eight weeks shall be approved by the Chairman of EPC, based on the merits of the case. The extension so accorded shall be equally applicable to all stakeholders. Request for any further extension shall be sought from DG (Acquisition).

EoI for Shortlisting of Foreign OEM

24. The process of shortlisting foreign OEMs will be done simultaneously with the process of identifying potential SPs. Based on SQRs (PSRs for submarines) an EoI will be issued to potential OEMs shortlisted at the RFI stage. Subsequent to the accord of AoN, additional vendors who did not respond to the RFI, can also express interest for receipt of EoI, within four weeks from the date of publication of details on the MoD and SHQ websites. EoI shall inter-alia define the following: -

- (a) Technologies to be acquired 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. The ToT requirements shall be identified in consultation with DRDO and other stakeholders.
- (b) Progressive indigenisation desired both in respect of main platform as also spares/ maintenance.
- (c) Willingness to support SP in establishing system for integration of platforms, implementation of ToT and life cycle support/ Performance Based Logistics/ MToT/ maintenance aspects.

25. EoI may also seek details that go into determining the cost of the scheme, including factors such as maintenance philosophy, Annual Maintenance Contract (AMC), Performance Base Logistics, R&D roadmap, training etc, to assist in arriving at effective benchmarking subsequently.

26. EPC shall ensure that the potential foreign vendors are Original Equipment Manufactures (OEMs) for Export Agencies authorized/ sponsored by foreign Governments (applicable in the case of countries where domestic laws do not permit direct export by OEMs). While short-listing the OEMs, EPC shall take into account their ability to transfer requisite technology for indigenous production.

27. In this context, OEMs will need to indicate whether they have consulted their government(s), and 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, OEMs will be required to provide a letter of assurance from their respective government, 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, either once the L1 has been determined or at the stage of award of contract.

28. OEMs shall provide response to the EoI within two to four months depending upon the assessment of EPC. Any extension sought by the foreign OEM beyond stipulated time period and upto a period of eight weeks shall be approved by the Chairman of EPC in accordance with provision of Paragraph 60 below, based on the merits of the case. The extension so accorded shall be equally applicable to all stakeholders. Request for any further extension shall be sought from DG (Acquisition).

29. Based on the responses, EPC shall hold consultations with the potential OEMs. These consultations will inter-alia relate to SQRs (PSRs for submarines), technology transfer aspects, delivery timelines, and indigenisation roadmap proposed.

30. The final shortlisting of OEMs shall inter-alia into consideration the following factors: -

- (a) Range, depth and scope of technology transfer offered in indentified areas.
- (b) Extent of indigenous content proposed.
- (c) Extent of eco-system of Indian vendors/ manufactures proposed.
- (d) Measures to support SP in establishing system for integration of platforms indigenisation efforts, ToT implementation and life cycle support or Performance Based Logistics/ MToT/ maintenance aspects.
- (e) Plans to train skilled manpower.
- (f) Extent of future R&D planned in India.

31. **Transfer of Technology (ToT).**

(a) The primary objective of SP Model is to progressively build indigenous capabilities in the private sector to design, develop and manufacture platforms/ complex weapon systems for *the future needs* of the Armed Forces. To achieve this, ToT needs to be optimized to effectively infuse desired critical technologies into the industrial eco-system to enable self-sufficiency for Next-Gen indigenous defence systems.

(b) **ToT for Submarines.** In case of submarines, the aim of ToT will also be to fill in the gaps in the design expertise at SHQ/ Shipyard, besides leveraging current project to obtain critical technologies to achieve self-reliance in submarine design and construction in the long term.

(c) **Scope, Range and Depth of ToT.** During discussions with foreign OEMs at the EoI stage, EPC will explore feasibility of maximising ToT. Based on the

deliberations during the EoI stage, EPC will finalise the scope, range and depth of the ToT. The board terms of reference for ToT can be as follow: -

- (i) Identify Transfer of Technology (ToT) modules required for extant/ future platforms. 'Segment-specific technologies may also be included for ToT, as applicable.
- (ii) Identify the depth, range and scope of technology required for each module.
- (iii) Identify maintenance technologies required for life-cycle support of the platforms, as well as associated technologies that are envisaged per the proposed maintenance philosophy.
- (d) As ToT, comes at a considerable price, it needs to be incentivised.

32. **Indigenous Content (IC)**. India has developed a vibrant industrial ecosystem, which is engaged in design and manufacture of cutting-edge components. In line with the 'Make in India' initiative of Government of India, the EPC, needs to make all efforts to maximised IC in the project. Similar to ToT, the IC also needs to be incentivised.

33. **EoI-Areas for Incentivisation**. In order to realise full potential of the SP Model, it is essential to provide rational and transparent incentives to OEMs offering ToT and IC over and above the Minimum Qualifying Threshold. Towards this, EPC in consultation with Transaction Advisers is to draw out a transparent mechanism, as follows: -

- (a) **ToT**. Set Minimum Qualifying Threshold with respect to number of technology modules required to be transferred. Additionally, accord suitable weightage for these technology modules to duly compensate for their cost.
- (b) **IC**. Accord suitable weightages for additional IC, especially in respect of hardware (equipment and platform), that is excluding the services, work force and infrastructure costs. Indigenous Content will be calculated only for the 'Make' component of the Contract. Additionally, BNE/ BFE, as well as Tax and levies will not be considered towards IC calculation.
- (c) **Exclusive Global Hub**. Similar consideration/ weightage is to be accorded to OEMs, who offer to setup *exclusive* global manufacturing line or exclusive hub for MRO/ spares in India.
- (d) **Building Indigenous Eco-System**. Lay down minimum cut off percentage (by value) for Tier I/II/III/IV OEM suppliers to progressively manufacture their equipment/parts/spares in India. SPs, which ensure higher percentage of indigenisation, over and above the cut-off limit, will be incentivised.

34. **EoI Approval.** EoI prepared by the EPC with above provisions would be examined and approved by DG (Acquisition) on file, prior to issue.

35. Given the diversity and complexity for the four segments under the SP Model; that is, Helicopters, Fighter Aircraft, Submarines and Armoured Fighting Vehicle, the ToT requirements as also Indigenous Content for each of the platform would vary, and accordingly specific details to be included in the EoI for each of the four segments will be issued separately.

36. On receipt of EoI response, the EPC will nominate a team under SHQ to undertake technical evaluation, to examine the extent of variations/differences in the characteristics of the equipment being offered by various OEMs, as also other provisions. The technical evaluation will be submitted to EPC for seeking further clarifications/technical discussions with the OEMs.

37. **Cost Estimate.** During the EoI process, approximate cost estimation received as per RFI response may be further refined to assist subsequently in benchmarking during CNC.

38. **Finalisation of SRs for Submarines.** Based on the EoI deliberations, the PSRs for submarines are to be converted into SRs as per procedure enumerated at Paragraphs 10 to 14 above, prior to presenting the case to DAC for 2nd Stage approval.

Second Stage DAC Approval

39. Once the potential SPs and foreign OEMs have been shortlisted the EPC shall seek DAC approval. The SoC is to be accompanied with draft RFP, and is to also list out proposed 'Incentivisation Model' (giving out the areas being incentivised along with the Incentivisation procedure). The SoC is to also include broad trial methodology including cases where trials are not visualized or trials need to be conducted abroad in OEM/vendor premises in accordance with Paragraph 34 of Chapter VII of DAP 2020, or where evaluation is planned through computer simulation.

Buyer Furnished Equipment (BFE) and Buyer Nominated Equipment (BNE)

40. BNE/BFE will be clearly defined in the RFP. EPC is to formulate the lists of BFE and BNE and undertake consultations with OEM and SP on integration issues during the EoI stage. Both the SP and the OEM(s) of the BNE/BFE will be responsible for seamless integration of their equipment, while ensuring the performance parameters of the platform. Inclusion of BNE in projects under SP Model is to be in accordance with MoD ID No 1(13)/D(Acquisition)/16 dated 30 Jun 17 (as amended from time to time).

41. **Procurement of Submarine Borne Equipment.** The procurement of submarine borne equipment will be undertaken by the shipyard in accordance with the shipyards internal policy, as is being followed for construction of naval ships.

42. **BNE being Procured from OFB.** In cases involving Buyer Nominated Equipment being procured from OFB, the commercial bid will clearly indicate the cost of BNE as quoted by OFB, with documentary proof. L1 in such cases will be determined after deducting the cost of the OFB supplied BNE, from the total cost quoted by the SP. However, payment will be made after adding the actual cost of BNE at the time of purchase from OFB by the SP, to the L1 cost determined as mentioned above; the cost of equipment supplied by OFB will be considered including GST. This provision is applicable only in cases where the BNE has to be procured from OFB. Inclusion of BNE in projects under SP Model is to be in accordance with MoD ID No 1/(13)/D(Acquisition)/16 dated 30 Jun 17 (as amended from time to time).

43. **Weapons and Sensors.**

(a) In case of some platforms, not all the potential collaborators (OEMs) may be able to provide the complete range of weapons/sensors required from the platform. Further, due to geo-strategic conditions, the governments of collaborators may not be willing to offer weapons/sensors to OEMs of certain other countries. EPC is therefore to arrive at a Weapon/Sensor Matrix indicating the likely source of weapons/sensors for the shortlisted platforms catering for the geo-strategic sensitivities of various OEMs. The Weapon/Sensor Matrix is to include the options of importing foreign weapon systems / sensors already inducted and / or on offer, both proven and under development.

(b) Such procurements of weapons/sensors will be undertaken post selection of the SP and foreign OEM (collaborator for the main platform), and will not be considered as Single Vendor procurement. Such a commitment, may, if required, be supported by Inter-Governmental agreements to be signed between India and the country(ies) concerned, at the stage of award of contract.

(c) Contract with SP is to include the likely weapons/sensors and their OEMs that have been shortlisted for the selected platform as per the Weapon /Sensor Matrix. It is to further define the clear division of responsibility between SP and weapons/sensors OEM with regard to integration, testing and proving of these weapons/sensors.

Solicitation of Offers

44. Once the DAC approval has been obtained for shortlisted potential SPs and OEM(s), RFPs shall be issued to the short-listed Indian companies.

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

46. **RFP: Vetting and Issue.** The procedure for RFP vetting and issue will be as follows: -

(a) SHQ will prepare draft RFP in consultation with all agencies concerned such as procurement and maintenance directorates at SHQ, Quality Assurance agencies, DRDO, etc.

(b) After the draft RFP has been circulated and necessary changes incorporated, where applicable, it is to be submitted to EPC.

(c) EPC is to finalise the RFP, after single-stage vetting and forwarded it to DG (Acquisition) for approval. SHQs shall however ensure that all issues/observations raised by the stakeholders are taken into consideration and resolved as applicable, prior forwarding the draft RFP to EPC.

(d) Once approved, the RFP will be issued by the TMs on behalf of the EPC.

Request for Proposal (RFP)

47. The RFP will be a self-contained document that will enable SPs to make their offer after consideration of full requirements of the acquisition. The RFP document will be finalized base on the EoI evaluation/deliberations. Wherever required, Transaction Advisers may be consulted. This will be applicable for all acquisitions under the SP Model. Besides the name of shortlisted OEMs, the RFP will generally consist of five 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)/Performance Based Logistics (PBL), 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 (SRs for submarines) 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. Compliance of offers will 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 Service 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) SP. Submission of incomplete details in the format enclosed, along with commercial offer, will render the offer liable for rejection.

(e) RFP will also include the approved 'Incentivisation Model'.

48. In addition, the RFP shall also seek following requirements (as determined during EoI process); -

(a) ToT (scope, range and depth).

(b) ToT for maintenance infrastructure.

(c) Mandatory requirements related to indigenisation roadmap, creation of R&D capabilities and skilling provisions etc.

(d) Maintenance philosophy, such as performance Based Logistics, Annual Maintenance Contract (AMC), other maintenance arrangements, etc.

Maintenance Philosophy

49. Given the importance of the weapon platforms/systems being acquired under the SP Model, there is a need to formulate a suitable maintenance philosophy in consultation with OEMs Besides Level 1 to Level 2 maintenance with Services, due cognizance is to be given to Performance-Based Logistics (PBL) to optimize systems readiness and meet performance goals for a system/platform through long term support arrangements with clear lines of responsibility. SHQ may choose any one or a combination of the various options listed in succeeding paragraphs.

50. **Performance-Based Logistics (PBL)**. PBL is the purchase of support as an integrated, affordable, performance package designed to optimize system readiness and meet performance goals for a system/platform through long-term support arrangements with clear lines of authority and responsibility. Simply put, performance-based strategies buy outcomes,

not products or service. The SP will continue to remain the single point of contract for obsolescence management, availability of maintenance eco-system and supply chain thereby ensuring the defined availability of the platforms in accordance with the original specifications for the duration of Platform Life. The scope and estimated costs of PBL may be obtained during EoI stage and finalised prior issue of RFP.

51. **Spares.** The Services will stock all the Level 1 to Level 2 maintenance/breakdown spares, as well as B&D and war reserve spares. Additionally, the RFP shall also seek cost of the manufacturer's Recommended List of Spares (MRLS), Itemised Spares Parts Price List, optional equipment and the likely consumption rate of the spares based on the exploitation pattern of the equipment, as applicable. The RFP shall also seek roadmap for indigenous production of spares, besides mentioning that the SP/OEM shall finalise the terms for lifetime product support.

52. The provision of ToT to SP for providing maintenance infrastructure will be applicable for SP Model cases. The foreign OEM will have to transfer technology for maintenance to SP, which will be responsible for providing base repairs (third line), and the requisite spares for the entire life cycle of the equipment the RFP will spell out the specific requirements of ToT for maintenance infrastructure that could cover the production of certain spares, establishment of base repair facilities including internationally accredited test facilities and the provision of spares for the entire life cycle of the equipment. The SP will be responsible for providing maintenance facilities and support of the equipment, through its life cycle.

53. Adequate training of personnel for undertaking 'O' Level and 'I' Level maintenance without the involvement of SP may also be factored.

54. SP will also be considered for undertaking depot level servicing, refits, as also mid-life upgrade of the platforms, as and when due.

Modifications for Submarines

55. Due to long gestation period, the construction of submarines may require to accommodate unforeseen changes necessitated due to minor operational requirements of the user etc. 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 submarine, when ready has the latest state of art capabilities at the time of induction into service. Further, due to operational reasons, adaption of developmental systems, shortfalls observed during installation/trials of equipment/ systems etc, may require modifications in design. Since it is not feasible to forecast these, a provision needs to be made for the same while obtaining CCS/CFA approval. In this context, the DAC will examine the extent of modification cost recommended by the SHQ during the accord of AoN. Based upon the DAC decision, a percentage of the project cost will be included in the CFA approval on 'Not Exceeding Basis' for modifications. Towards this, the detailed procedure and cost

methodology for modifications will be incorporated in the segment specific guidelines issued for the submarines. EPC is to also incorporate the same in the RFP as well as the Contract.

SP Interaction with OEM

56. The list short-listed OEMs along with extracts of EoI, as necessary, 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.

57. **Pre-bid Meeting.** Consequent to the issue of RFP, a number of queries relating to the RFP may be raised by the potential SPs. It shall be ensured that all the queries are answered in an acceptable time frame so that the potential SPs are able to submit their techno-commercial offers by the due date. If necessary, a pre-bid meeting of all the potential SPs may be invited by the SHQ under the aegis of EPC. The clarifications shall be processed by the SHQ and be given in writing to all the shortlisted SPs by the Member-Secretary EPC preferable within three weeks of the pre-bid meeting. However, it needs to be ensured that the SQRs (SRs for submarines) shall not be changed/ amended at this stage.

Evaluation of Response to RFP

58. The offers received shall be opened on the notified date and time, by the members of a committee nominated by EPC and chaired by the TMs, 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 the Technical Evaluation Committee (TEC) and the sealed envelope containing the commercial bid will be sent to the concerned AM in the EPC, unopened. Offers which do not conform to the prescribed procedure for submission of offers, or which are received after the scheduled time for submission of offers and unsolicited offers, will not be accepted.

59. In case a single bid is received at the bid submission stage, the Technical Evaluation Committee nominated by SHQ will proceed with the process and complete the Technical Evaluation without retracting the RFP. Within four 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 SP-OEM base, then the case may be progressed with the approval of DAC, provided the SP agrees to hold the original commercial bid till completion of the procurement process. In such single vendor situation, efforts shall be made to complete the acquisition process before expiry of original validity of commercial bid.

60. **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 the SP is seeking an extension, the request with justification must be received by the member- secretary of the concerned EPC at least two weeks prior to bid submission date, failing which such requests may not be entertained. Upto a period of eight weeks from the original date of submission of offers, the extension can be granted by the Chairman EPC. For any further extension, approval is to be sought from the DG (Acquisition).

Technical Evaluation Committee (TEC)

61. A TEC will be constituted by the Service Headquarters under intimation to Chairman EPC for evaluation of the technical bids received in response to RFPs. It will include representative of the user service, maintenance agency, DRDO and representatives of QA, as deemed necessary. The TEC will examine the extent of variations/differences, if any, in the characteristics of the equipment offered by various OEMs with reference to the QRs and prepared a "Compliance Statement" short listing the equipment for trials/induction into service, as applicable. TEC will also examine compliance of SPs to other provisions of RFP. Non-compliance of SP to any of the required provisions will lead to rejection of the bid at this stage. The TEC may invite the SPs (along with OEMs, if required) for technical presentation/clarifications on technical issues.

62. A technical offer, once submitted, shall 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 shall be accorded to all SPs in equal measure.
- (b) No dilution of SQRs (SRs for submarines) is carried out.
- (c) No extra time is given to any SP to upgrade their product to make it SQR compliant, except in case of Essential Parameters-B.
- (d) The original commercial quote submitted earlier must remain firm and fixed.

63. The Chairman EPC will formally accept the report of the TEC, after due examination by the EPC in cases where all SPs are compliant. In cases where one or more SP(s) are non-compliant, the TEC report is to be referred to DG (Acquisition) for approval. Issues, if any, raised by the EPC members on the TEC Report shall be addressed in a collegiate manner with SHQ. In case technical evaluation by TEC leads to a single vendor situation, the procurement process will continue as planned without retracting the RFP for this reason. EPC will however examine reasons for single vendor situation, record the same in their report and

submit the report to the DAC. In case it is concluded that there is no scope for change in SQRs (SRs for Submarines) and other conditions of the RFP; and that retraction and reissue of RFP is not likely to increase the SP/OEM base, then the case may be progressed further with the approval of the DAC, provided the SP agrees to hold the original commercial bid till completion of the procurement process. In such single vendor situation, efforts shall be made to complete the acquisition process before expiry of original validity of commercial bid.

Field Evaluation Trials (FET)

64. After completion of the TEC, all shortlisted SPs will be asked to provide the desired number of units of the equipment/ weapon system for trials in India, except when trials are to be conducted at OEM/vendor premises to expedite FET in accordance with Paragraph 34 of Chapter VII of DAP 2020.

65. FET will be conducted by the User Service based on trial methodology given in the RFP. The trial methodology shall be comprehensive and un-ambiguous in its scope. Methodology for evaluation of each parameter shall also be clearly detailed in the RFP, so that the SPs/ OEMs 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 shall be optimized 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.

66. 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, scope thereof, as stipulated in SQRs. The SQRs of the equipment will be a part of the trial directive. Parameters not mentioned in the RFP shall not be considered for FET. The validation of the support system and maintainability trials, integral to and complementing the trial programme of the weapon system shall be held simultaneously, wherever feasible. Representative of DRDO, QA agency may also be part of FET, based on requirement. A representative of the EPC/Acquisition Wing may also participate in the FET as an observer. Compliance or otherwise, vis-à-vis the RFP parameters, will be specifically communicated to all the SPs/OEMs at the trial location itself. It will also be ensured that all verbal communication with the SPs/OEMs 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.

67. 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 testing shall be carried out only in cases in which such testing is absolutely

essential. All the requirements for FET must be stated in the trial methodology included as part of the RFP.

68. **Trials for Submarines.**

(a) The requirement of Field Evaluation Trials, as per Chapter II of DAP 2020, will not be applicable for procurement cases in respect of acquisition / construction of Submarines, where there is no prototype available for conduct of NCNC Trials. However, Technical Evaluation and Delivery Acceptance Trials for these will be carried out.

(b) Further, Simulated Signature Studies of complete platforms in respect of stealth characteristics, magnetic signature, EMI/EMC, Noise analysis, etc, may be included. The requirement of trials in the case of specialized new induction equipment/sensors being bought through the shipyard route shall be detailed in the RFP.

(c) **Liquidated Damages (LD) for Performance Penalties.** Since there will be no FET for submarines and the performance parameters of the platform will only be evaluated during the Acceptance Trials, there may be a need to impose performance-based penalties, through reduction in vessel cost on the lines of relevant provisions in the Chapter XII, in respect of multiple user defined parameters. The EPC may decide the list of Performance Parameters for acceptance of submarines, failure of which will attract 'outright rejection' and 'imposition of LD'. For reference, EPC may consult previous Submarines contracts of the GoI to arrive at suitable clauses. Inputs from the SHQ based on experience gained over a period of time on construction / acquisition / operation of submarines may also be factored in formulating the LD clauses, as required.

69. The trial team, for equipment being procured for more than one Service will have representative 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.

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

71. FET will be conducted on NCNC basis. There may be cases where trials are not visualised or trials need to be conducted abroad in OEM/ vendor premises. Where held evaluation is not feasible, there may be possibility of conducting evaluation through computer simulation. In such cases, the broad scope of the trials shall be included in the SoC while seeking DAC approval for shortlisted SPs and OEMs.

72. 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 OEM/ 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 will have to be sought from the DG (Acquisition).

73. In certain cases, particularly in those involving integration of systems or sensitive equipment the EPC can depute a multi-disciplinary Technical Delegation abroad for evaluation. The Technical Delegation shall have representatives, on need basis, from the user service, DRDO, Maintenance agency, QA agency and the TMs. Such committee will be constituted after due approval of the Defence Secretary on file.

74. Any SP failing to produce equipment for trials by due date will 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 obtained by SHQs from EPC, keeping in view the practical time period necessary for trials. Equal opportunity will be provided to all SPs while granting such grace period. SPs, who fail to provide their equipment even after providing 45 days grace period, will be asked to explain the reasons for the delay in producing equipment for trials. If the reasons for delay furnished by the SP is found satisfactory by SHQ, case for granting grace period beyond 45 days will be processed by SHQ through EPC, for approval of DG (Acquisition) Additional, grace period could be accorded law MoD ID No. 3(26) D(Acq)/16 dated 03 Apr 18. However, if the equipment is not fielded at the start of trials, then the SP/vendor/equipment will not be considered at a later point of time.

Staff Evaluation

75. 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 forwarded by the SHQs to the EPC. Issues, if any, raised by the EPC on the Staff Evaluation Report, shall be addressed in a collegiate manner with the SHQ. After due examination, the EPC will forward the Report to the DG (Acquisition) for acceptance.

76. In case no SP meets the SQRs in the field evaluations, then the case will be foreclosed after informing the DAC. A fresh RFP will be issued after reformulating the SQRs. The ADGs Acquisition Technical, on behalf of EPC will inform the appropriate SPs about result of trials and evaluation, along with reasons for disqualification. Such communication will be done after acceptance of TEC/Staff Evaluation (Whichever is applicable).

77. 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, will not be considered as a single vendor situation, as the techno-commercial offers would have been received before trials and the commercial bids would be competitive in nature. In other terms, bidders would have submitted their offers in an open competition without being aware that only a single bidder would get approved after the trials.

Contract Negotiation Committee (CNC)

78. **CNC Composition.** The CNC will be constituted by the DG (Acquisition) simultaneously with conduct of FET. The standard composition of the CNC shall be as follows: -

- (a) EPC Chairman - Chairman.
- (b) Acquisition Manager.
- (c) Technical Manager.
- (d) Finance Manager.
- (e) Advisor (Cost).
- (f) DGQA/DGAQ/DQAN Representative, as applicable.
- (g) Procurement Agency Representative.
- (h) User Representative.
- (j) Representative of Contract Management Branch at SHQ.
- (k) Repair Agency Representative.
- (l) Director/Jt Director from User Directorate – Member Secretary.

Notes:

- (i) Chairman CNC may co-opt additional advisors/Subject Matter Experts as associates with approval of DG (Acquisition), on as required basis.
- (ii) The organizations /agencies concerned shall ensure that their representatives in the CNC have adequate background and authority to take a decision without any need to refer back to their organization / agency.
- (iii) In the absence of the designated member, the authorized representative would be deemed to be suitably empowered to take decisions.

79. CNC shall establish a benchmark and reasonableness of price, as a preliminary activity in an internal meeting. Cases in which contracts have earlier been signed and benchmark prices are available, the CNC will arrive at the reasonable price, taking into

consideration the escalation/foreign exchange variation factor. Wherever necessary, services of experts or information from institutional sources may be utilized by the CNC for preparing benchmark price for a given scheme. The benchmarking shall be completed after FET, but prior to acceptance of Staff Evaluation. The commercial bids however shall be opened only after successful acceptance of Staff - Evaluation Report.

80. The sealed commercial offers of the technically accepted SPs shall be opened by the CNC at a predetermined date and time under intimation to SPs, permitting such SPs or their authorized representatives to be present, wherever applicable. The bids of the competing firms shall be read out to all members present and signed by all members of CNC. CNC will carry out all processes after opening of commercial bids, till the finalisation of CNC Report.

81. The contract negotiation process will start with preparation of a 'Compliance Statement' incorporating the commercial terms offered in the RFP and that sought by the SP(s), analysis of the discordance and the impact of the same. A similar statement will 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 will form the basis for subsequent decisions.

82. The CNC will prepare a Comparative Statement of Tenders (CST) with a view of evaluating the technically acceptable offers and determine the lowest acceptable offer (L1 SP). The methodology detailed in **Paragraph 31 to 33 above**, will be used wherever weightage for ToT, IC, global hub and indigenous eco-system are applicable.

83. Once the L1 SP is identified in multi-vendor cases, the contract shall be concluded with the SP and normally there will be no need for any further price negotiations. However, It is important that reasonability of prices being accepted for award of contract is established.

84. Once the commercial offers are opened and the price of the SP is found to be within the benchmark fixed in the internal meeting, there shall be no need to carry out any further price negotiations. The RFP in multi-vendor cases shall clearly lay down that no negotiations will be carried out with the L1 SP once the reasonability of the price quoted by the SP is established. Aspects of advance and stage payments (where applicable) shall also be given upfront in the RFP so that it facilitates selections of L1 SP.

85. The endeavour shall be to conclude the CNC early so that the operational/urgent requirement of the indenting Service is met in a time-bound manner.

86. To ensure product support during the assured life cycle of the product, the CNC will also finalise the following with the L1 SP:-

- (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.

87. Vetting of the draft contract will be progressed concurrent with CNC process in accordance with DAP 2020.

Other Procurement Processes/Steps

88. Other aspects relevant to procurement such as Inter Government Agreement, Approval of Competent Financial Authority (CFA), Award of Contract, Contract Administration and Post-Contract Management and subsequent procurement of already contracted equipment (Repeat Order), etc, shall be processed as per extant procedures listed at Chapter II of DAP 2020, to the extent applicable. Once the SP having the lowest bid has been shortlisted, no additional DAC approval will be required for commencement of contractual negotiations, or for approval of the Competent Financial Authority (CFA).

89. The Pre-Contract Integrity Pact (PCIP), listed as detailed in Paragraph 119 Chapter II of DAP 2020, shall apply mutatis mutandis.

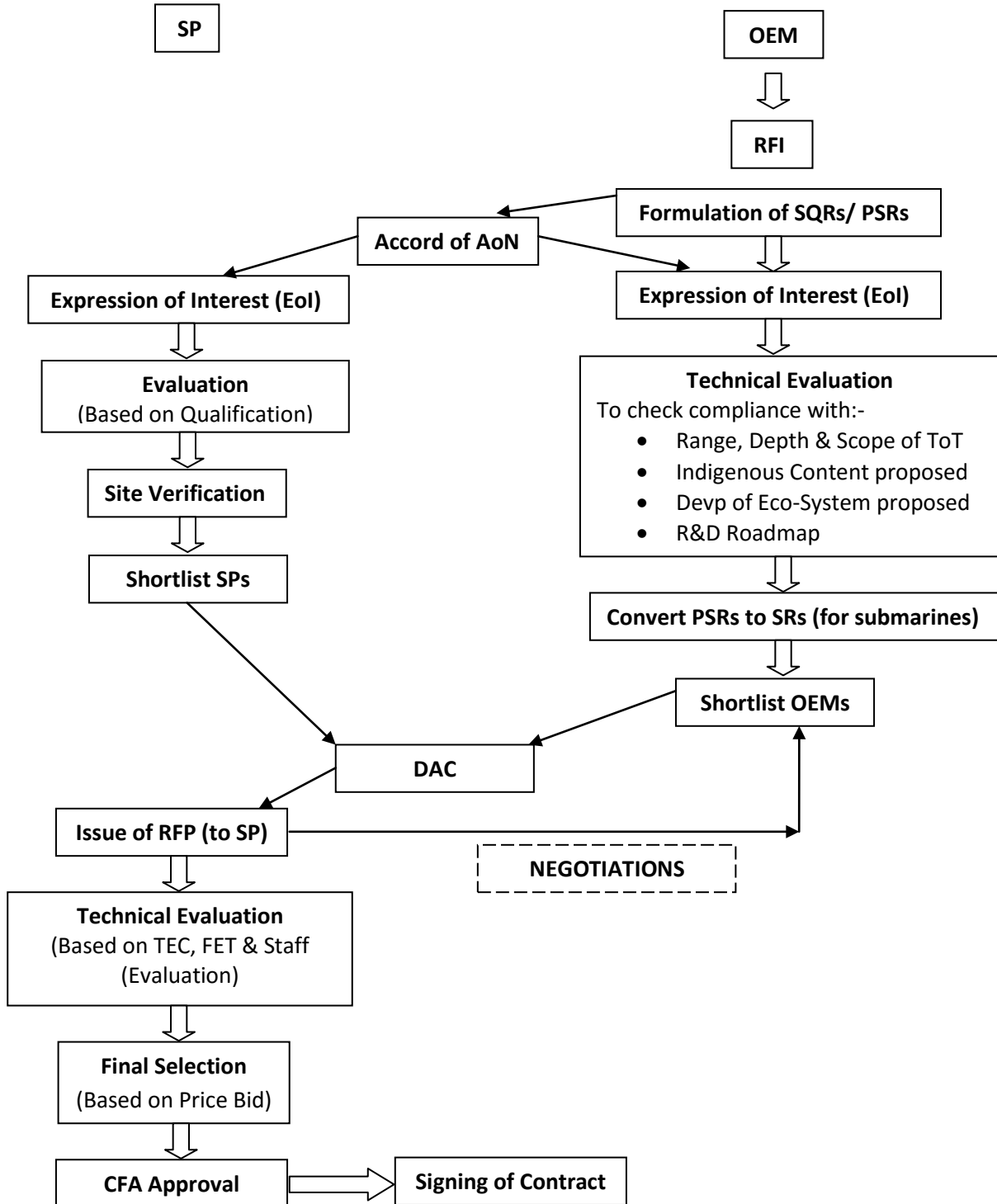
90. **Periodic Monitoring**. Given the importance of cases being pursued under the SP Model, DG (Acquisition) will review all cases on quarterly basis.

91. **Process Flow Chart**. The Process Flow Chart for cases being progressed under SP Model is placed as Annexure.

92. **Conformity with DAP**. In following the above procedure for progressing cases under SP Model, any deviation, discrepancy or issues unresolved between the stakeholders are to be referred to the DG (Acquisition) for clarification and decision. Further any changes in DAP and/or policy letters on common processes will apply to the above procedures mutatis mutandis.

Annexure to Appendix C
 (Refers to Paragraph 91 of
 Chapter VII)

FLOW CHART OF ACTIVITIES - SP MODEL



Appendix D

(Refers to Paragraph 20 of Chapter VII)

**TERMS OF REFERENCE FOR
EMPOWERED PROJECT COMMITTEES (EPC)**

1. For smooth and efficient implementation of Strategic Partnership Model, MoD is to constitute an Empowered Project Committee (EPC) under a three-star officer from the lead SHQ for each of the SP cases. The board terms of reference for composition and responsibilities of EPC are enumerated in the succeeding paragraphs.

Composition of EPC

2. The EPC is to broadly constitute JS level members from the following wings of the Govt of India:-

- (a) Three Star officer from lead SHQ – Chairman.
- (b) Acquisition Wing (each from Acquisition and Technical Sections).
- (c) DDP.
- (d) MoD (Fin).
- (e) DRDO.
- (f) Advisor (Cost).
- (g) DGQA, DGAQA, DQAN (as applicable).
- (h) APSO of the Steering Directorate.
- (j) Principal Director of the Steering Directorate.
- (k) Directorate/ Jt Director from Steering Directorate - Member Secretary.
- (l) Directorate/ Jt Director from Maintenance Directorate (to address maintenance issues).

Note. The Empowered Project Committee may also co-opt additional Subject Matter Experts as associates with adequate domain expertise in relevant fields like procurement, contract law and ToT arrangements, on as required basis.

3. The Committee shall be guided by Chapter VII of DAP 2020, on ‘Revitalising Defence Industrial Ecosystem through Strategic Partnerships’ including Appendix C to Chapter VII of DAP 2020 and the Guidelines as enumerated in this document. The EPC shall steer the case from the formulation of the Expression of Interest (EoI) to conclusion of the Contract, as mentioned in the succeeding paragraphs. However, finalization and approval of SQRs (SRs or submarines) will remain the responsibility of the SHQs.

Expression of Interest (EoI)

4. **Shortlisting of Strategic Partner (SP).** The committee is to undertake the following with respect to shortlisting of SP:-

- (a) Formulation of EoI including defining Minimum Qualifying Criteria for the Technical & Finance Gates and Segment Specific criterion.
- (b) Issuance of EoI to Indian Private Industry/ DPSUs (as applicable) for selection of Strategic Partners. Keeping the security and other relevant aspects in view, appropriate publicity may be given to the proposed procurement with a view to generated maximum competition.
- (c) Evaluation of EoI responses by applicant companies based on minimum qualification Criteria comprising financial, technical and segment-specific parameters Verification of the qualified applicant companies for applicable segment to be carried out as per Appendix B to Chapter VII of DAP 2020.
- (d) Shortlisting of qualified SPs for the concerned Segment.

5. **Shortlisting of Foreign OEM.** The process of shortlisting of OEMs will be done simultaneously with the process of identifying potential SPs. Based on SQRs (PSRs for submarines) an EoI will be issued to potential OEMs shortlisted at the RFI stage. Subsequent to the accord of AoN, additional vendors who did not respond to the RFI, can also express interest for receipt of EoI, within four weeks from the date of publication of details on the MoD and SHQ websites. EoI shall inter-alia define the following:-

- (a) Technologies to be acquired 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. The ToT requirements shall be identified in consultation with DRDO and other stakeholders.
- (b) Progressive indigenisation desired both in respect of main platform as also spares/maintenance.

(c) Willingness to support SP in establishing system for integration of platforms, indigenisation efforts, ToT implementation and life cycle support/ performance Based Logistics/maintenance aspects.

(d) Approximate cost estimation to assist in subsequent benchmarking.

6. EPC shall ensure that the potential foreign vendors are Original Equipment manufactures (OEMs) or Export Agencies authorised/ sponsored by foreign Governments (applicable in the case of countries where domestic laws do not permit direct export by OEMs). While short-listing the OEMs, EPC shall take into account their ability to transfer requisite technology for indigenous production.

7. **Transfer of Technology (ToT)**. ToT being one of the primary objectives of procurement under the SP Model, EPC is to explore feasibility of maximising ToT, especially for critical technologies, as enumerated at Paragraph 31 of Appendix C to Chapter VII.

8. **Indigenous Content (IC)**. India has developed a vibrant industrial ecosystem, which is engaged in design and manufacture of cutting edge components. In line with the 'Make in India' initiative of the Government of India, the EPC, needs to make all efforts to maximise IC in the project. Similar to ToT, the IC also needs to be incentivised.

9. **Areas for Incentivisation**. To provide impetus to indigenisation, EPC is to incentivise ToT and IC. OEMs, who offer to setup **exclusive** global manufacturing line or exclusive hub for MRO/ spares in India, shall also be incentivised.

10. **Building Indigenous Eco-system**. To develop indigenous defence eco-system, Tier I/II/III/IV OEM suppliers need to be encouraged to either set up indigenous manufacturing or enter into a joint venture with Indian Companies to progressively manufacture their equipment/parts/spares in India. Towards this, EPC, based on EoI response is to lay down minimum cut off percentage (by value) for Tier I/II/III/IV OEM suppliers to progressively manufacture their equipment/parts/spares in India. SPs, which ensure higher percentage of indigenisation, over and above the cut-off limit, need to be incentivised. To create favourable environment for OEM suppliers to shift manufacturing to India, EPC may also explore other measures such as concessionary provisions for exports, customs, taxes, etc.

11. For incentivisation, the EPC in consultation with Transaction Advisers will need to draw out appropriate 'Incentivisation Models' which accord suitable weightages for the factors highlighted above. The 'Incentivisation Models' will be vetted by MoD (Fin) and DG (Acquisition); and be presented to DAC for second stage approval. The EPC is to be guided by Paragraph 31 to 33 of Appendix C to Chapter VII of DAP 2020.

12. **Weapons and Sensors**. All the potential collaborators may not be able to provide the complete range of weapons required for the platform. Further, due to geo-strategic conditions, the governments of collaborators may not be willing to offer weapon/sensor

systems to OEMs of certain other countries. EPC is to arrive at a Weapon/sensor Matrix indicating the likely source of weapons/sensors for the shortlisted platforms catering for the geo-strategic sensitivities of various OEMs in accordance with Paragraph 43 of Appendix C to Chapter VII of DAP 2020.

13. **Maintenance Philosophy.** Given the importance of the weapon platforms/systems being acquired under the SP Model, EPC, post discussions with foreign OEMs is to formulate a suitable maintenance philosophy in consultation with SHQs and incorporate the same in the RFP document. Besides Level 1 to Level 2 maintenance with Services, due cognisance is to be given to Performance-Based Logistics (PBL) to optimise system readiness and meet performance goals for a system/platform through long-term support arrangements with clear lines of responsibility. Wherever applicable, MToT shall be made a mandatory pre-requisite, and the EoI and RFP shall include the need for MToT and setting up of internationally accredited testing and certification facilities in India in greater detail.

14. EPC in consultation with SHQ, may recommend any one or a combination of the various options listed at Paragraph 50 to 54 of Appendix C to Chapter VII of DAP 2020.

Second Stage DAC Approval.

15. Post shortlisting of potential SPs (Indian industry / DPSU approved by DAC) and foreign OEMs, EPC is to seek DAC approval. The SoC for DAC approval is to be accompanied by draft RFP, and is to also list out proposed 'Incentivisation Model' (giving out the areas being incentivised along with the Incentivisation procedure) RFP will also include broad trial methodology; including cases where trials are not visualised or trials need to be conducted abroad in OEM/vendor premises in accordance with Paragraph 34 of Chapter VII of DAP 2020; or where evaluation is planned through computer simulation.

16. **Request for Proposal (RFP).** Post approval of DAC for shortlisted SPs and foreign OEMs and finalisation of SQRs (SRs for submarines) by SHQ, RFP shall be issued to the short-listed SPs. The RFP will be a self contained document that will enable SPs to make their offer after consideration of full requirements of the acquisition. The RFP document will be finalised in consultation with Transaction Advisers based on the EoI evaluation.

17. The EPC shall inter-alia be responsible for the following processes:-

- (a) Incorporation of ToT, IC and PBL as defined above in RFP document.
- (b) Evolving methodology for Incentivisation in consultation with TA, in areas as laid down in EoI Guidelines.
- (c) Vetting of draft RFP including Incentivisation Model in consultation with JS & AM/ADG Acquisition Technical/FM, for the applicable Segment as prepared by SHQ.

- (d) Issuance of RFP by concerned ADG Acquisition Technical after approval by DG (Acquisition).
- (e) Conduct of pre-bid meetings.
- (f) Vetting of TEC report in a collegiate manner with SHQ allowed by acceptance of TEC report by Chairman EPC, in cases where all SPs/OEMs are compliant; or by DG (Acquisition) in cases where one or more SPs/OEMs are non-compliant.
- (g) Nomination of observer rep from EPC for FET, if required (Not applicable for submarine segment).
- (h) Vetting of Staff Evaluation, Prior acceptance by DG (Acquisition).
- (j) Conduct of CNC.
- (k) Determination of L1.
- (l) Forwarding of case for CFA approval through Acquisition Wing.

18. **Field Trials for Submarines.** The requirement of Field Evaluation Trials, as per Chapter II of DAP 2020, will not be applicable for procurement cases in respect of acquisition/construction of Submarines. However, 'Simulated Signature' studies of complete platforms in respect of stealth characteristics, magnetic signature, EMI/EMC, Noise analysis, etc may be included. The requirement of trials in the case of specialized new induction equipment/sensors being brought through the shipyard route shall be detailed in the RFP. The EPC is to decide the list of Performance Parameters for acceptance of submarines, failures of which will attract 'outright rejection' and 'imposition of LD'. For reference, EPC may consult previous Submarines contracts of the GoI to arrive at suitable clauses. Inputs from the SHQ based on experience gained over a period of time on construction/acquisition/operation of submarines may also be factored in formulating the LD clauses.

Contract Negotiation Committee (CNC)

19. **CNC Composition.** The CNC will be constituted by the DG (Acquisition) simultaneously with conduct of FET. The standard composition of the CNC will be as per Paragraph 78 of Appendix C of Chapter VII of DAP 2020. Any change in the composition of the CNC may be effected with approval of DG (Acquisition) or CFAs.

20. CNC shall establish a benchmark and reasonableness of price, as a preliminary activity, in an internal meeting. The benchmarking shall however be opened only after successful acceptance of Staff Evaluation Report.

21. The CNC will prepare a Comparative Statement of Tenders (CST) with a view of evaluating the technically acceptable offers and determine the lowest acceptable offer (L1 Vendor). Once the L1 vendor is identified further price negotiations are to be undertaken in accordance with extant procedures. The endeavour shall be to conclude the CNC early so that the operational/urgent requirement for the indenting service is met in a time bound manner.

Other Procurement Processes / Steps

22. For subsequent procurement processes including, but not limited to staff Evaluation, Contract Negotiation Committee (CNC), Inter Government Agreement, Approval of Competent Financial Authority (CFA), Award of contract, etc, Acquisition Wing shall remain the nodal body for processing the case, as per Procurement Procedure for SP Model Appendix C to Chapter VII and Chapter II of DAP 2020, to the extent applicable.

23. For Contract Administration and Post-Contract Management, SHQ will nominate a sub-committee with suitable members who will be the single point contract for the selected SP/OEM and will be inter-alia responsible for initial handholding, periodic monitoring and technical oversight of SP. The sub committee may co-opt appropriate domain experts, on as required basis.

Additional Provisions

24. The Chairman of the EPC is empowered to co-opt or hire additional advisors from SHQ/MoD/DRDO/DPSUs/external experts with adequate domain expertise in relevant fields like procurement, contract law and ToT arrangements on as required basis for various phases of the tender process.

25. Any extension sought by the SP(s) or foreign OEM(s) shall be approved by the Chairman of EPC based on the merits of the case. The extension so accorded shall be equally applicable to all stakeholders. Request for extension of eight weeks will be approved by Chairman, EPC and approval for any further extension has to be sought from DG (Acquisition).

26. Any issues beyond the scope of the EPC may be referred to DG (Acquisition) on file for decision.

27. In order to process the case expeditiously, absence of members from deliberations and meetings may be permitted with the approval of the Chairman, EPC. However, it is to be ensured that all members or their duly authorised representatives sign the minutes of Meeting, within three working days of any meeting. The Chairman, EPC at his discretion may form subcommittee(s) from amongst members / co-opted advisers to expedite the process. Report of the subcommittee is to be considered and accepted by the EPC.

28. **Conformity with DAP.** In following the above procedure for progressing cases under SP Model, any deviation, discrepancy or issues unresolved between the stakeholders are to be referred to the DG (Acquisition) for clarification and decision. Further, any changes in DAP and/or policy letters on common processes will apply to the above procedures *mutatis mutandis*.

CHAPTER-VIII

ACQUISITION OF SYSTEMS PRODUCTS AND ICT SYSTEMS

CHAPTER-VIII**ACQUISITION OF SYSTEMS PRODUCTS AND ICT SYSTEMS**

1. **Preamble.** Acquisition of Systems and Information & Communication Technology (ICT) products is in a few aspects different from the regular acquisition projects. The software and hardware elements of these projects usually require periodic up-gradations and intense obsolescence management to maintain tactical dominance in C4I², EW and Cyber domain. To provide an efficient and agile acquisition mechanism for acquisition and up-gradation of such products, certain provisions are incorporated in this Chapter, to be read in conjunction with relevant provisions of Chapter-II of Defence Acquisition Procedure. While the majority of the aspects of this chapter are relevant for Systems as well as ICT projects, a few are relevant only for ICT projects as mentioned in the succeeding paragraphs.

2. **Applicability.** This section is primarily applicable for acquisition of the following:-

(a) Electronic Warfare Equipment, Satellite based Communication Systems, Command, Control & Communication Intelligence Network systems, Intelligence gathering equipment, Satellite Imaging and Mapping Systems and surveillance systems for MI and SI and all the three services. Such products are usually termed as 'Systems' products. The EW specific hardware intensive products like CMDS, Podedded Jammers, RWRs etc may be procured under the provision of Chapter- II of Defence Acquisition Procedure.

(b) Software intensive ICT programmes including Artificial Intelligence solutions running on commercial hardware and/ or modified commercial hardware and/ or military grade hardware and netware as required, with significant collective software content amounting to more than 50% by estimated value. In addition, the software shall be the major development outcome of the project. Justification to this effect for consideration as ICT project shall be included in the SoC for consideration by AoN according authority. The ICT programmes can be any of the following types:-

(i) Development of standalone bespoke software.

(ii) Independent ICT systems involving development of software, testing and deployment of the software on the hardware environment either separately provisioned by the buyer or already existing with the buyer or provisioned by the bidder as part of the contract along with the software.

(iii) Turnkey projects involving development of software, provisioning of hardware and other associated infrastructure and commissioning the system as a standalone system or integration with other systems as a system of systems.

(iv) Cyber systems including auditing systems and services.

(v) Artificial intelligence projects that has AI output as the main deliverable.

(c) Long-term maintenance of the above programmes through AMC/ ATS/ CAMC etc, if taken up along with the respective acquisition projects.

(d) In addition to the above, enhancements to Systems and ICT products in use by way of upgrade and/ or augmentation of features/ capabilities and/ or development of a next version of the application software that cannot be taken up through OCCP under Chapter X may also be progressed under this Chapter.

3. **Activities for Acquisition of ICT & Systems Products.** A flowchart depicting the broad activities involved in the acquisition of ICT and System products is placed at **Appendix ‘A’**. Relevant applicable provisions of Chapter-II and this chapter are listed below. Where the references of both the chapters are provided, the provisions of Chapter-II as well as this chapter are to be read in conjunction with each other. Aspects not covered under this chapter will be governed by relevant paras of Chapter-I, II and VI :-

Ser No	Activities	Relevant Para(s) in	
		Ch - II	Ch -VIII
(a)	Preliminary planning and engagement of consultants for establishing the feasibility/ pre-project study/ concept design	-	4-7
(b)	Request for Information (RFI) for Systems & ICT Projects	2-13	8
(c)	Services Qualitative Requirements (SQRs)	15-20	-
(d)	SoC and Acceptance of Necessity (AoN)	21-31	10
(e)	Turn-key Projects	32	11
(f)	Solicitation of offers/ RFP - Information Security - Life Cycle Support & Maintenance - Evaluation Criteria	41	15 15(a) 16 18
(g)	Evaluation of Technical offers by Technical Evaluation Committee (TEC)	59-64	-
(h)	Indigenous Content	23	19
(j)	Intellectual Property Rights	-	20
(k)	Field Evaluation for Systems projects	66-81	22
	NCNC/ Proof of Concept for ICT projects	-	23
(l)	Change Management	-	25
(m)	Upgradation	-	26
(n)	Staff Evaluation	88-89	-
(p)	Acceptance of Staff Evaluation	88-89	-
(q)	Oversight by Technical Oversight Committee (TOC), if required	90-91	-

(r)	Evaluation of Commercial Bids	70(b) of Sch-I of Ch-II	-
(s)	Commercial negotiations by Contract Negotiation Committee (CNC)	105-110	-
(t)	Approval of the Competent Financial Authority (CFA)	117	-
(u)	Award of Contract	118-122	-

4. **Preliminary Planning.** Preliminary planning involves engagement of executing/ procurement Directorate with the users to understand their concept of operations, functional requirements, environment, external systems and legacy systems with which the required capability needs to interface, interoperability requirements, threats, existing capabilities and other specific needs to explore various possible solutions so as to arrive at the most optimal system architecture and software design. The chosen software development methodology and architecture needs to include the following features:-

- (a) Functional requirements/ Specifications.
- (b) Identification of software/ system vulnerabilities and mitigation measures to ensure security.
- (c) The Software Architecture shall align, support and reflect the continuous evaluation and enhancement of capability and adoption of new technologies over the software lifecycle.
- (d) Interoperability and interfaces with legacy systems.
- (e) Compliance of the architecture with good design principles including but not limited to modular open systems architecture and supports frequent iterative capability releases.

5. **Defining Minimum Viable Product (MVP) and Minimum Viable Capability Release (MVCR).** MVP is an early version of the software that has just enough working features to meet basic minimum functional capabilities. The goal of an MVP is to quickly deliver basic capabilities into user's hands for evaluation, feedback and improvements. The MVP will be derived from Functional requirements/ User Requirement Specifications (URS) created at Project Preliminary Planning stage. The MVCR is a set of features suitable to be delivered to an operational environment that provides value and capability to the end user on a reduced delivery timeline. The goal of the MVCR is to deliver software products that meet the initial set of user needs and initial capabilities that can be fielded to enhance a few mission outcome(s). The system design of ICT projects shall bring out and define MVP and MVCR and the product roadmap shall bring out the plan for delivery of remaining capabilities at periodic intervals. In the case of Systems projects, MVP and MVCR are not applicable.

6. **Building in Upgradability.** The System & ICT hardware may have modular and layered architecture to enable retention of the Core hardware and upgrading the hardware at the outer layers. Similarly, the software shall be modular to the extent feasible for subsequent up-gradation as required, to keep the system effective and ahead of the technology scale and

adversary counter measures. Proprietary and customised portion of Commercial software used in or meant to interoperate with the software being developed should have documented open interfaces to allow for technology insertion and to support the use of modular open system approaches.

7. **Preliminary Project Report (PPR).** Depending on the size and complexity of the project, a multi- disciplinary team may be set up by the SHQ with the representatives of the user branch/ Directorate and the executing Directorate to prepare a PPR. The PPR may have traceability to the Functional requirements/ URS, MVP and MVPR. The Team may comprise of internal reps of the Services, external consultants who may be engaged for this purpose from various Institutions/ Industry segments/ Academia etc and/ or reps of DRDO. If the system is being developed by DRDO, the member from DRDO shall not be from the developing laboratory. The draft PPR (**without any sensitive information**) may be shared with the industry during EoI/ RFI and the PPR be finalised considering the vendor feedback. Apart from the preliminary project plan, technical specifications/ User Requirement Specifications (URS), implementation roadmap etc, the PPR will also clearly bring out the aspects brought out at Para 4 and stage/ phase wise implementation plan along with timelines and clear responsibility of each stakeholder at each stage along with approximate overall cost and its breakdown.

8. **Request for Information (RFI).** While the typical Systems projects may follow RFI process i.a.w. with Para 2-13 of Chapter-II of DAP-2020, RFI shall aim at ascertaining the available technological choices and project approach, vendor base and vendor capabilities based on financial capacity, technical expertise and past experience in delivering similar projects. Participation in RFI by vendors is not a prerequisite for issuing the RFP.

9. **Engagement of Consultants.** For complex and turnkey Systems and ICT projects, where in-house expertise for conceiving the project, its implementation and methodology for development is not adequate, external experts, institutions/ consultancy firms/ academicians (from premier academic institutions) having required specialized knowledge/ capability may be engaged as consultants to provide assistance in exploration of possible solutions and formulation of optimal software design and system architecture, establishing the feasibility of leveraging existing in-house network resources, selection of appropriate technology, converting the functional requirements into the desired technical specifications/ URS, preparation of Preliminary Project Report (PPR) etc and expenditure for engaging external experts shall be borne from Revenue budget. Each Service Directorate may create a list of external experts, institutions, consultancy firms/ academicians (from premier academic institutions). This list may be made available on the SHQ website. A procedure may be created for new inclusion from time to time in this list. A Memorandum of Understanding/ NDA agreement may be signed with external experts, institutions/ consultancy firms/ academicians by clearly defining the accountability and responsibility of both parties, after following the due process of selection.

10. **SoC and AoN.** The SoC is to be prepared in accordance with Para 21 of Chapter-II and processed for AoN i.a.w. Para 21 to Para 31 of Chapter-II. In addition, SoC of all ICT and Systems projects shall furnish the following details as applicable:-

- (a) Outline programme of the project that is consistent with the user's requirements so as to demonstrate the MVP/ MVCR within 12-18 months of the contract effective date.
- (b) The acquisition strategy along with the plan for supporting the software through its life cycle and clearly defined test and evaluation requirements.
- (c) Utilisation of existing hardware, networks and infrastructure to the extent feasible and the details of requirement of creation of unique facilities.
- (d) Details of utilisation of iterative and incremental software development methodologies (such as Agile or Lean) and use of modern technologies to achieve automated testing, continuous integration and continuous delivery of user capabilities, frequent user feedback/ engagement at each iteration as possible.
- (e) Details of security and authorisation process and use of continuous runtime monitoring of operational software.
- (f) Given the importance of the modular architecture for ease of upgradation, modularity in the architecture and open systems approach to support future capabilities and upgradation is to be highlighted in the SoC.
- (g) Intellectual property strategy.
- (h) Requirement of automated testing and Testing and acceptance procedure.

11. **Turnkey Projects.** The Complex and Systems Projects involving supply of hardware, creation of infrastructure and network, installation and commissioning involving ICT system developers and system integrators may be assigned to software developers and/ or system integrators i.a.w. the procedure laid down at Para 32 of Chapter-II by clearly bringing out the details of the project in the Detailed Project Report (DPR). In addition to further details on various aspects brought out in the PPR, the DPR shall clearly bring out the scope of various deliverables, division of responsibility between stakeholders and the approximate overall cost and the estimates for each of the packages. If the preparation of a Detailed Project Report requires hiring of consultants for whom the expenditure is to be incurred from the Capital budget, a case is to be taken up with AoN according authority for AoN, duly justifying the requirement in the SoC. If the DPR is already prepared in-house or through consultants as at Para 9, AoN for turn-key projects may be processed directly in one stage.

12. **AoN for Post-AoN Activities.** Specific AoN for hiring consultants for post-AoN activities like project monitoring, security auditing, testing etc is to be sought while seeking AoN for the project and the expenditure be booked from the project expenditure.

13. **Hiring of Consultants.** Consultants for preparation of DPR as at Para 11 above and post AoN activities as at Para 12 above may be engaged through a contract with suitable firms or a Memorandum of Understanding with a DPSU/ Central or state Government Agency/ Department / Institution by clearly defining the accountability and responsibility of both parties. To ensure continuity in expert oversight by the consultants and for proper linkage of the DPR with the execution, the same consultants may be engaged for DPR and Post AoN activities.

14. **Short listing of Vendors.** Consequent to AoN, the short listing of vendors for issue of RFP will be as per MoD guidelines issued vide MoD ID No. 4276/ D (Acq) /01 dated 01 June 2011. The RFP shall indicate Criteria for Vendor selection/ pre-qualification i.a.w. **Appendix 'R' to Schedule-I to Chapter-II.** In addition, following additional requirements of certifications may be included as required:-

(a) The requirement of quality certification may be included only if it is inherently linked to the scope of work, e.g., Gartner Quadrant/ ISO 9001/ CMMi3/ AS 9100 or more (specifying development service/ acquisition models)/ ISO 27001. For Information Security and large value software intensive projects, preferably CMMi5 may be specified.

(b) Requirement of compliance with international standards like IEEE (Institute of Electricals and Electronics Engineers standards association), ITU (International Telecommunication Union) etc may be included depending upon the nature/ type of project or solution required.

(c) Where applicable, Evaluation Assurance Level (EAL 1 to EAL 7) of Common Criteria security evaluation Apr 2017 may be defined with a minimum 1 up to EAL5 for ICT projects.

15. **Request for Proposal (RFP).** The bids shall be solicited i.a.w. with Para 41 of Chapter-II and the RFP format at Schedule-I to Chapter-II and various provisions at Para 52 are to be suitably modified for including various features listed at Para 4 and 10 above in the RFP. Other aspects to be furnished in the RFP are as follows:-

(a) **Information Security.** In order to ensure mitigation of cyber/ information security threats in Systems and ICT procurement, selection of vendors with compliance to standards in information and cyber security is essential. Based on project specific requirement, the procurement process may focus on selection of trusted firms having established and proven credentials/ track record. Information Security Guidelines for procurement of ICT components in the projects is provided in **Appendix 'B'** to aid suitable incorporation in the RFP.

(b) **Security Audit.** Security is of paramount importance and needs to be specifically included from the very conception of the project. The security checks need to be incorporated from the beginning to the end and additional cost be suitably catered. Bidder must commit to provide all support required to address any security concerns and share their source code developed for the concerned program (Source code means computer programming code in human readable form that is not suitable for machine execution without the intervening steps of interpretation or compilation), software and the equipment design details to the user or its designated agency for sanitization, verification and audit to confirm that their equipment and software is free from any malware, trapdoors or other facilities that may lead to security breaches. In cases where the source code is not a deliverable then the Bidder shall extend their available facilities for audit of the source code by the designated team of the customer. Bidder must also

commit to security audit of developed systems by CERT-IN empanelled agencies. Inherent capability of DRDO may be utilised by seeking their assistance in the security audit as required.

(c) **Spyware/ Malware and National Security.** The TEC constituted i.a.w. Para 59 of Chapter II may also include reps from DRDO, as required. If the system is being developed by DRDO, the member from DRDO shall not be from the developing laboratory. Spyware and Malware, if preloaded with electronic components and embedded systems presents extreme threat to Systems/ ICT systems and pose grave threat to national security. The scope for such vulnerabilities is to be examined and suitable pre-emptive measures and restrictions on sourcing of certain hardware items, if any, are to be incorporated in the RFP to enable the Technical Evaluation Committee to scrutinise the same during TEC process. All hardware platform where the critical portions of the software are executed (for e.g. encryption engine, networking stack etc) may be identified at DPR stage. Vendors/ OEMs may be required to share the PCB designs (schematics, gerber, datasheets etc) for security audit of these platforms. The tools and mechanisms to carry out the security audit of these platforms may be mentioned in for identification of these platforms and creating methodology for carrying out the security audit. In case, a need is felt to carryout Security Audit of other Systems and Sub Systems connected to the new System being procured, the same may also be included as part of Project requirement.

(d) Selling customized solutions exclusively developed under the contract to some other country (replication) shall not be allowed due to security reasons. Any such sharing requires prior approval of the Buyer.

(e) The details of all the active and high active components in the equipment being supplied along with their origin (i.e. OEM and country/place of manufacture) shall be provided as per **Annexure-I to Appendix 'B'**.

(f) Provisions for a joint working space to be setup and adequately staffed by the Bidder at a suitable place for ease of access and facilitating synergy of operations for furtherance of a project. Buyer/ Seller, as mutually agreed, shall be responsible for providing the necessary civil infrastructure and logistics for such work space. The specifics of the same shall be included in the RFP.

(g) **Entrance Task Verification and Exit (ETVX).** RFPs must layout Entrance, Task, Verification and Exit criteria clearly to benchmark the success of the project at each stage.

16. **Life Cycle Support and Maintenance**

(a) Seller should provide Maintenance Support for all Systems/ ICT projects/ products (system hardware/ software & other components/ equipment) for its entire life-cycle including warranty, maintenance, spares and technical support.

(b) To cater for life cycle support during implementation/ use of bespoke/ customized software projects, scope of maintenance support should include resolution of bugs, incorporation of user feedback and associated changes/ additional features/ refinements required for better exploitation of the software.

(c) **Warranty. Updates and Patches** to the supplied software components, if any, should be provided at no additional cost by the developer to the user during the warranty period and if required during the lifetime of the Software.

Update means a modification, correction or addition to the software or documentation, including updates and enhancement for Current Products that the Vendor generally make available to its customers as a part of support and maintenance under a vendor support and maintenance agreement without additional charge. The definition of “Update” excludes Upgrades.

Patch(es) means additional programming code to be integrated with the Software to correct an error or alleviate its effects. It is a free set of changes to a computer program or its supporting data designed to update, fix or improve it. This includes fixing security vulnerabilities and other bugs, with such patches usually being called bug-fixes and improving the functionality, usability or performance.

(d) Any additional user defined upgrades may be clearly specified in the Supply Order and the cost implications to be factored in the initial cost of the project.

Upgrade means an enhancement or addition to the Software other than an Update which the vendor does not make generally available to its customers as a part of support and maintenance under a vendor software support and maintenance agreement, but rather is only made commercially available for Current Products subject to payment of a separate incremental license fee, upgrade charge or as part of a subscription license fee.

(e) **Annual Maintenance Contract (AMC) & Annual Technical Support (ATS)**

(i) The project proposal shall have mandatory clause for minimum 05 years of dedicated AMC/ ATS by the seller/ service provider. The decision for entering into AMC/ ATS will be at the discretion of the buyer.

(ii) AMC/ ATS may be contracted as a separate paid service between the buyer and the seller. AMC/ ATS may be integral part of the main contract.

(iii) The period and the cost of ATS contract will cater for all upgrades/ updates/ integration of new technology into the existing/ original solution provided by the seller.

(iv) Software updates, bug-fixes are provided by the developer at no additional cost during the lifetime of the software. ATS clause in the RFP may clearly distinguish and indicate upgrades and software maintenance aspects that developer must address during the period of ATS. For ATS calculation, scope for the maintenance of the software parts must be defined.

17. **Trials, ATP and Deliverables.** The scope of trials, ATP and the details of all the deliverables are to be clearly brought out in the RFP.

(a) **Trials.** It may be seen that the Systems/ ICT modules are functioning well in isolation but compiling them into a final product may be challenging over a period of time. There would be a requirement to test and establish a Test Bed test if required and evaluate them deliberately which may require additional trial period and expertise for final migration. These have to be adequately mentioned in RFP. The detailed Trial Methodology to be worked out in detail by the Buyer and spelt clearly in RFP.

(b) **Acceptance Test Procedure (ATP).** There may be a requirement for a detailed ATP wherein some third party tools may be required in some cases. Also, some specialist manpower and equipment may be required to be hired for trials and needs to be spelt out appropriately.

18. **Evaluation Criteria.** Based on the nature and complexity of project and scope of work envisaged, one of the following evaluation criteria may be used:-

(a) **Cost Based Selection (CBS) Method.** Cost Based evaluation criteria may be used **to ascertain the lowest bidder** where the requirement is basic or of highly standardized nature. Evaluation will be based on the cost of the complete asset or cost of service.

(b) **Quality and Cost Based Selection (OCBS) Method.** Method of evaluation may be adopted for complex/ high value projects by assigning suitable weightage to technical specifications/ superiority of solutions suggested, provided the weights to be assigned to technical features/ business criteria etc are objective and stated upfront in the RFP. The Technical and Financial proposals will be given the weightage in the ratio 60:40 with the weightage to Technical criteria not more than 60% depending upon scope of work/ complexity of project. The assessment of the technical capabilities of the bidders will be done by TEC with the Empowered Committee for Change Control (ECCC) as an independent committee and bids will be evaluated as follows:-

(i) The technical proposal will be evaluated first and points will be allotted to each of the bidders. The minimum Technical Score (ST) to be obtained for considering financial proposal will be specified in RFP. Detailed and objective technical evaluation criteria out of a total score of 100, will be specified in RFP. A few technical criteria are indicated below:-

- (aa) Firm's experience in past similar ICT related projects.
 - (ab) Domain expertise and project management consultancy.
 - (ac) To what extent the performance, capacity or functionality features, technology, Training methodology etc meet or exceed the levels specified in the performance/ functional SQRs.
 - (ad) Experience and profile of team members in integrating multiple systems, setting up data centre and handling/ managing and monitoring projects implementation, software development etc.
 - (ae) Quality of Technical Proposal in terms of key personnel, access to key equipment, site organization, safety, quality assurance, Implementation Schedule and any other activities as specified in technical parameter.
 - (af) Assessment and procurement of hardware infrastructure, setting up data centre, cloud hosting etc.
 - (ag) Experience of working in multiple systems integration, designing and implementation of 'Internet of Things (IoT)' etc.
 - (ah) Each technical feature may include sub criteria if required and the same needs to be specified. Deployment and logical information flow diagrams may be added to explain the use case scenario of all technical features.
 - (aj) During the evaluation process, the evaluation committee may assign each desirable/preferred feature a whole number score as specified earlier.
- (ii) The financial evaluation will be done for only those proposals which obtain the minimum technical score. The Financial Scores (SF) of all proposals will be calculated as:-

$$SF = 100 \times FP \text{ min} / FP, \text{ where}$$

SF= Financial score of proposal under consideration

FP min = Price of lowest financial proposal

FP = Price of proposal under consideration

- (iii) Proposals will be ranked according to their combined technical and financial scores as per following formula (for a 60:40 ratio):-

$$S = ST \times 0.6 + SF \times 0.4, \text{ where}$$

S= Final Combined Score
 ST=Technical Score
 SF= Financial Score

(iv) The bidder achieving the highest combined Technical and Financial score(s) would be considered for the award of the contract.

(v) The technical fields, details and specifications over which the bidder will be evaluated for calculating the Technical Score of the proposal. Such technical fields, details and specifications will be deliberated by the Collegiate during RFP vetting and approved by RFP Approving authorities. In such projects a due diligence may be done on the critical parameters of the project covering System Functionality, Technology, Specific implementation experience, Training methodology, performance in Proof of Concept (in case PoC is planned), Certifications, Past experience of the vendor in executing similar assignments, size of those assignments, profile of team members and Project Methodology. The Technical Evaluation Committee in this case may have expertise or may have access to expertise to objectively evaluate and compare the various solutions components proposed by the bidders.

(vi) QCBS details and the technical criteria for evaluation and example are included at **Appendix ‘C’**.

(vii) The case may arise when the total score (Technical + Financial) of two bidders is same and the individual “Technical” and “Financial” scores are different. In such cases, the bidder with higher “Technical” score may be declared as L1.

19. **Indigenous Content (IC)**. The products that have security implications are best procured through domestic developers. The IC requirement for ICT projects shall be at least 10% more than those specified at Para 9, 10, 11, 12, 13 and 14 of Chapter-I. However the higher IC content need not be applicable for System projects. Notwithstanding the minimum IC mandated as above, the main deliverable software of ICT and Systems projects like embedded software, system control solutions/ Algorithm’s, Front-end applications etc shall invariably be developed indigenously as brought out at Para 13 of Chapter-II of DAP. In case it is not feasible to indigenously develop these software, the same shall be brought out in the SoC and specific approval shall be obtained. The indigenisation content shall be certified i.a.w. Para 23 of Chapter-I. In the case of software, the self certification by the Bidder and certification by the statutory auditor of the Bidder shall certify that the software has been developed within India. If an Indian Bidder acquires the sole ownership of a proprietary software by way of acquisition/ one-time buy-out or any similar means and becomes the sole owner of Intellectual Property Rights (IPRs), such software can be considered as indigenous to the extent of the value of its utilization in the current contract, provided an undertaking is given that the Seller shall maintain the ownership of the software throughout the contract period.

20. **Intellectual Property Rights (IPRs).** The terms of IPR should lay down the general terms for the assignment of property rights through patents, copyrights and trademarks. Usually, expenditure for the development of foreground software is borne by the Buyer and IPRs of the foreground software and any other software or application developed as part of the project for delivery against the contract being paid by the Buyer would belong to the Buyer. Buyer may include suitable IPR clause so as to retain the complete ownership of such software solution/ end product (Bespoke/ Customized) developed under the project. In cases where the Software is not a deliverable and user is provided a license and charged accordingly, then the IP resides with the Seller/ Technology Developer. Guidelines for incorporating IPR provisions during Systems/ ICT procurement are at **Appendix 'D'**.

21. **Inter-services Collaboration/ Sharing of IPRs.** IPRs retained with any of the three services (Army, Navy, Air force, ICG and MoD) will be deemed to be in joint ownership amongst all the three services without any need for formal permission of sharing the IPR.

22. **Field Evaluation Trials (FET).** For Systems projects and certain part of Hardware to be supplied with ICT projects where FET is necessary and FET will be carried out on 'No cost-No commitment' (NCNC) basis as per Para 66-71 of Chapter-II. However, the software products ICT and certain elements of software of Systems projects that cannot be evaluated during FET, 'Proof of Concept' is to be demonstrated on 'No cost-No commitment' (NCNC) basis.

23. **Proof of Concept (PoC).** The need to include provision for 'Proof of Concept (PoC)' in the evaluation process for the software projects should be considered carefully on case-to-case basis, and if decided upon, it should be undertaken in 2-3 clearly defined scenarios followed by structured evaluation of failure/ success. The evaluation process for demonstrating the PoC should be furnished in the RFP. Wherever required, PoC may be done along with TEC, as a concurrent activity to save on time.

24. **Empowered Committee for Change Control (ECCC).** To examine, evaluate and review the changes in service during project execution phase, deviation in deliverables/ outputs as mid course corrections, accommodating minor variations in SQRs and need for upgradation of the project during its life cycle, after the finalisation of the contract. SHQs will constitute an Empowered Committee for Change Control (ECCC) headed by an officer of the rank of Lieutenant General or equivalent for projects value of more than Rs.1000 Cr and officer of the rank of Major General or equivalent for projects of value less than Rs.1000 Cr. The members of the ECCC will be officer's one rank/ grade below the rank of presiding officer from the user, line/ specialists and planning/ WE directorates and the financial advisor or his representative.

25. **Change Management.** The service requirements set out in the Contract should take into account the SHQs long term (and not just the current) requirements, anticipating any changes in service that can reasonably be foreseen. Accordingly, all foreseeable requirements and anticipated changes are to be incorporated in the RFP. If necessary, in addition to seeking inputs from the prospective Bidders during RFI stage, the draft RFP may be shared with the shortlisted vendors as at Para 14 above and a pre-RFP discussion may be held with the vendors to seek their inputs. Any change in the scope of hardware and software

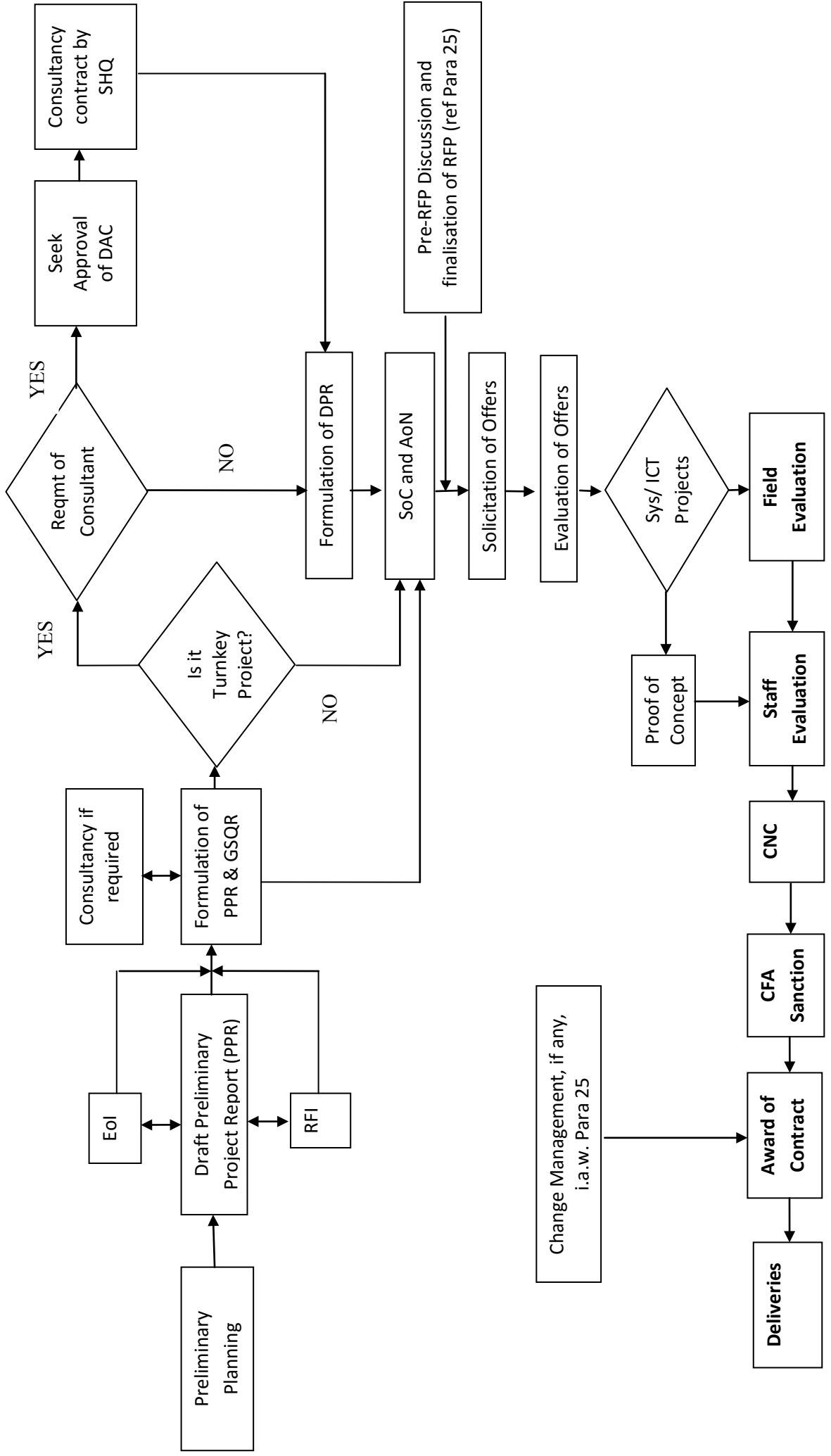
(without change in SQRs and AoN cost) arising as a result of pre-RFP discussion with the prospective Bidders are to be incorporated in the RFP. In addition a well developed change mechanism is to be incorporated in the contract to manage the residual unanticipated changes during the contract period. Thus, while ICT Application Enhancements (like software functionality enhancements etc) that are not conceived during the design stages, but are essential for successful utilisation of the application and those necessitated by change of policies of the Government/ Service Headquarters/ legislations and/ or due to change in the deployed techniques/ tactics by the adversaries may be progressed under Change in Service as under:-

(a) **Deviations in Outputs/ Deliverables.** There may be cases when during the project process, the deliverables of the project needs to be enhanced due to certain strategic requirements posed by the dynamic nature of the environment. The RFP may include clauses and clearly lay down procedure to handle such deviations in deliverables during the execution phase. This would provide flexibility to cater for technology change, upgrades, additional integration and provision for any deviations in deliverables which are out of the initial scope of work, to be paid as Paid Change Requests to the Bidder as part of the main contract. The ECCC after assessing and evaluating the requirements of Change will recommend each case for approval. The proposals for each Change in software/ hardware or cumulative value amounting up to plus or minus 15% of the basic value of software/hardware for ICT projects and 10% of the basic value of System projects shall be approved under delegated power of SHQ. Change proposals for each change value beyond the delegated power or cumulative value beyond plus or minus 15% (10% for Systems projects) of the basic value of software/hardware respectively shall be submitted for CFA approval.

(b) **Accommodating Minor Variations.** Supply of higher specification products due to non availability of same specifications as ordered may be accepted, provided the seller submits a certificate from the OEM that the ordered specifications of the product have been upgraded and there is no addition/ reduction in price.

26. **Upgradation.** As majority of the Systems and ICT projects would require upgradation during their life cycle, upgradation through OEM/ original developer/ System Integrator who was the main Supplier is inevitable. The requirement of upgradation of software and hardware (where required) is to be periodically evaluated by SHQ and if considered necessary, the scope of upgradation is to be finalised. Based on the financial implications and preferred route (either under OCPP under Chapter X or provisions of this Chapter), a case for AoN for upgradation through the OEM/ original developer/ System Integrator who was the main Supplier (on STE basis) under the financial powers of SHQ/ MoD as relevant, shall be taken up with respective AoN granting authority.

FLOW CHART FOR ACQUISITION OF SYSTEMS & ICT PROJECTS



**INFORMATION SECURITY GUIDELINES FOR PROCUREMENT OF
ICT GOODS AND SERVICES**

1. ICT projects are complex systems integration projects which have hardware, system software (Operating systems/hypervisor/virtualization layer etc) and application software (both off-the-shelf and custom developed in various programming languages). The various guidelines issued from Ministry of Electronics & Information Technology (MeitY) and other relevant Government agencies may be referred.

2. “Malicious code or Malware” is defined as a computer program attached to or a section of code and hidden within the software that performs a function unauthorized by the OEM’s published documentation and is intended to damage/conduct detrimental activity. Malware is generally in the form of Trojans, viruses, worms, root kits, spyware, code scripts, active content etc. It is also known as “computer contaminant” in legal parlance. Malicious code could be introduced into information and communication systems, to be exploited by external or internal agents to do one or more of the following:-

- (a) Disrupt the functioning of the system at a critical juncture.
- (b) Provide a backdoor entry for leakage of information from the system.

3. Hence, from a cyber threat perspective, it is important that clear guidelines are laid down on the cyber/ information security threat mitigation approach which should address the risks and also be implementable and verifiable.

4. The approach followed by leading IT manufacturing companies against cyber threats is to control the firmware installed in the IT components which is the “intelligence” in the hardware that is targeted by malicious code. The sub-systems like controller cards and hard disks get shipped with the OEM’s approved firmware or microcode version while configuring the system before delivery or installation. These firmware and microcode are common for all the countries across the world and the files are usually available on OEM’s website.

5. In addition, it is also important to track the malicious code in systems during the project lifecycle as follows:-

- (a) OEMs of the hardware can certify that their products do not have malicious code embedded in them when the products are dispatched from their premises. However, it is possible that malicious code could be introduced into the hardware and software systems after they have been dispatched from the OEM premises or even later on during the operational phase, through unauthorized patches/ upgrades.
- (b) The Bidder will therefore be responsible to MoD during installation, warranty and support period, to mitigate the risks due to malicious code and security vulnerabilities

in all the products supplied by them. Bidders in turn, should have the required agreements with the OEMs.

(c) The supplier will take an undertaking from OEM stating that the OEM has not kept any back-door or a kill switch in the firmware intentionally or unintentionally. The supplier will take the responsibility of ensuring that any such back-door or kill switch is not present in the firmware of the ICT equipment being supplied.

6. Following features should be included in the RFP for all the ICT and Systems related projects. In case of High Risk projects, additional information on the origin of the equipment/ sub system/ components as necessary Bidder to mitigate malware risks, may be sought as required.

(a) A certificate should be obtained by the Buyer from the Seller stating that all known security issues and malware have been addressed in the products including hardware/ firmware at the time of supplying the hardware/ software products. The Seller is also required to include similar contractual clauses in their contract with their sub-vendors and submit the Certificates while offering the equipment for acceptance inspection.

(b) If active components are not to be sourced from a specific OEM(s)/ source(s) that are opined to be not trustworthy, or if the components are to be sourced only from a few reliable OEM(s)/ source(s) (in which case at least 3 to 4 such sources are to be indicated), such details are to be clearly stated in the RFP. Further, details of all the active components in the equipment being supplied along with their origin (i.e., OEM and country/ place of manufacture) are to be provided by the Bidder as per **Annexure-I to Appendix 'B'**. The same is to be verified during the Acceptance.

(c) Various measures adopted/ instituted by Bidder for Information security and Subversion attacks/ Spyware/ Malware and to ensure that the equipment being supplied would be free of malicious code as confirmed in the Malicious Code Certificate to be specified in detail as per **Annexure-II to Appendix 'B'**. The same to be verified by the TEC.

(d) The Bidder is to provide documents indicating the patch level update of the system.

(e) If any security issue(s) are not addressed in the hardware/ firmware/ software at the time of supply and are exposed after their supply during the operational phases, the Seller should provide an undertaking that such exposed issues shall be immediately addressed by exercising the work-around before solutions/ patches for the same are available. Once the solutions/ patches are available for the same, those should be applied at priority to the supplied hardware/ firmware/ software. In such a case, the Buyer may exercise the discretion to accept such a product provided such security issues do not interfere with the functionality/ integrity of the system.

(f) The seller should also undertake to provide security patches and updates to address subsequent vulnerabilities during the installation, warranty and support period of the equipment provided OEM has not declared end of support for the same.

(g) Based on the criticality of the projects, Bidders may be asked to provide on-site testing of firmware by OEM using methods like Diverse Double-Compiling (DDC) etc for ensuring integrity of the firmware.

7. In addition to the above, it would be desirable that the supply chain for sourcing of imported active components is suitably camouflaged/ secured to ensure that the component suppliers are unable to determine the ultimate utilization/ destination of the components supplied by them. Measures for this should include buying from multiple vendors, not issuing any custom duty certificate, end user certificate etc. Further an undertaking may be obtained from primary vendor that the end user will not be disclosed to the sub vendor. (This provision would reduce the risk to the targeted malware insertion. However, this may be of limited utility against general malware that a few companies may routinely insert in all the active components manufactured. Further, it may result in increased monetary cost. This approach may not be feasible in case of certain niche technology products, which may mandatorily require 'end-use' certificates for getting export permission from their country of origin).

8. Notwithstanding, the provisions specified elsewhere in the Security Guidelines, the Bidder will be overall responsible for all cyber/ information security related aspects pertaining to the Systems Projects & ICT goods and services and will be the single point of contact for addressing all Cyber/ information security related issues for the goods and services supplied by him as part of the contract. It will be the responsibility of the Bidder to enter into such agreements/ contracts with the OEMs as may be necessary to ensure that all cyber/ information security aspects are addressed holistically and comprehensively. The Bidder will provide list of tests conducted by OEM or an accredited certification agency along with list of such test reports for the Systems Projects & ICT goods and services provided as part of contract. The Malicious Code Certificate as per **Annexure-III to Appendix 'B'** is to be provided by the OEMs and Bidder/ Seller.

Information Security Aspects Related to Systems and ICT Hardware

9. From a cyber-security threat perspective, Systems and ICT hardware can be broadly categorized as follows:-

(a) **Inert Components.** Which have no electronic circuitry like power & other cables, connectors, racks, chassis hardware etc.

(b) **Passive Components.** Sub-systems/ PCBs which have electronic circuitry, but no intelligence in terms of software/ firmware/ microcode like backplanes, keyboard, mouse, monitor, normal printer etc.

(c) **Active Components.** Sub systems/ PCBs which have device-specific intelligence that is built into firmware/ microcode like controller cards, hard disk drives,

intelligent printers with smart features and memory, motherboards server management modules etc.

(d) **High Active Components.** Appliances with a high level of intelligence built into firmware/ microcode, embedded OS & software.

10. Following may be considered to mitigate information Security Risks in Systems and ICT hardware:-

(a) Bidder's mitigation plan to ensure no malicious first party code in the product and adequate provisions/ steps incorporated in the design and architecture to mitigate the effects.

(b) Identify critical projects and procurements, which are vital to the organization and whose disruption can cause catastrophic failure. This step is basically to keep the scope of validation to a manageable level.

(c) Shortlist the trusted OEMs, who have clear and verifiable processes in managing their suppliers and supply chains, both from quality and cyber security threat perspectives.

(d) At the RFP stage, specifically mention the components/ categories out of those mentioned at Para 8 above, which will be tested by the customer for cyber threats, which may be done in the OEM's or an accredited lab premises.

(e) Obtain malicious code certificate from OEM and Bidder as specified in **Annexure-III to Appendix 'B'**.

(f) At the time of delivery, the OEM will provide details of the firmware/ microcode installed in each of the components specified in Para 8 above. If required, Buyer may ask for the firmware/ microcode to be reloaded in the OEM's service centers.

(g) Step(s) as above be carried out every time the component is replaced or upgraded.

Information Security Aspects Related to Software Projects

11. In case of software projects including bespoke software development, the following information should be supplied by the Seller:-

(a) List of changes being made to Operating System due to software installation.

(b) List of dependencies including software components and its DLL files.

(c) List of processes including 'child processes' and service/ daemon being created in the Operating System.

- (d) Network Protocols and Ports being used by the product. In the event of custom protocols, complete description of the protocols is to be given.
- (e) Cryptographic Hash values of the files being provided.
- (f) A certificate stating "No known security issues, Malware, Trojans exist in the software components being provided".
- (g) A code Audit Certificate providing details regarding known exploit techniques (e.g. like buffer/ heap overflow), bugs, backdoors, list of components that could not be audited and Third party DLLs used.
- (h) Any other aspect related to information/ cyber security.

12. For Management Information Systems, bespoke/ customized software and Enterprise wide solutions, Vulnerability Assessment will be undertaken by a CERT-IN empanelled vendor or Info Security agencies/ ~~dept~~ [directorates](#) of the respective Services and the same will be included in the RFP.

Annexure-I to Appendix 'B'
**(Refers to Para 15(e) of Chapter VIII &
 Para 6 (b) of Appendix 'B')**

DETAILS OF HIGH ACTIVE COMPONENTS

Ser No	Components	Qty	Country of Origin	Proposed Manufacturer(s)	Remarks

DETAILS OF ACTIVE COMPONENTS

Ser No	Components	Qty	Country of Origin	Proposed Manufacturer(s)	Remarks

Annexure-II to Appendix 'B'
(Refers to Para 6(c) of Appendix 'B')

MEASURES TO BE ADOPTED BY BIDDERS FOR INFORMATION SECURITY

1. **Information Security.** The Bidders to list down all the measures taken by him to ensure that :-
 - (a) No hostile actors insert a targeted subversion attack into the equipment.
 - (b) The residual threats based on subversion of single components or subsystems, which may lead to shut down or partial loss of functionality, or to a series of privilege escalations leading to full-fledged control of the equipment.
 - (c) Likely points of insertion of roots of trust and their effect on risk mitigation using well established security principles of containment, transaction control and confinement. Hence, insertion of roots of trusts into the equipment by the trusted system integrator may be employed to block the later type of attack and escalation.
 - (d) Ensuring safety of the information assets from leakage and possible corruption or falsification.
 - (e) Any other aspect to ensure Information Security.

2. **Subversion Attacks/ Spyware/ Malware.** The Bidders to list down all the steps taken and obtain certificate where required to ensure NO Subversion attack/ Spyware/ Malware in the project.
 - (a) Measures instituted by the Bidders to ensure that the equipment being supplied to the MoD/ GoI would be free of malicious code as confirmed by the Bidder in Malicious Code.
 - (b) List of all active components in the equipment being supplied along with their origin (i.e. OEM and country/ place of manufacture).
 - (c) Measures taken to mitigate malware risks.

Annexure-III to Appendix 'B'
(Refers to Para 8 & 10(e) of
Appendix 'B')

CERTIFICATE TO BE OBTAINED FROM OEM/BIDDER FOR PROCUREMENT OF
ICT GOODS AND SERVICES
(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.
3. The firm will provide the following malicious code certificates from Bidders and OEMs as given below. Amendments/ additions/ deletions may be made to the formats given below to meet the project specific requirements and these may form part of the RFP and contract agreement.

(Signed)
 Designation/ Name/ Address of firm

Date:

MALICIOUS CODE CERTIFICATE FROM HARDWARE OEM

1. It is certified that the firmware/ microcode installed in the hardware products listed below, which is proposed to be delivered by our Business Partner M/s _____, is approved by the OEM. The products have been thoroughly tested and found to be working as per the OEM's specifications at the time of delivery and no malicious code has been found in these products. Patch level update of the system is enclosed.
2. The latest security patches as available at the time of supply, have been updated in the firmware. We undertake to provide solutions to address all security issues during the installation, warranty and support period of the equipment, provided end of support for the same has not been declared for the equipment by the OEM(s).

(Signed)
 Designation/ Name/ Address of firm

Date:

MALICIOUS CODE CERTIFICATE FROM SOFTWARE OEM

1. It is certified that the firm has taken all steps to ensure that the software products listed below, which is proposed to be licensed by _____ is found to be working as per the OEM's specifications at the time of delivery and no malicious software computer program/ code hidden within the software that performs a function unauthorized by the OEM's published documentation has been introduced in these products. Patch level update of the software is enclosed.

2. The latest security patches as available at the time of supply, have been updated in the software. We undertake to provide solutions to address all security issues during the installation, warranty and support period of the software, provided end of support for the same has not been declared for the equipment by the OEM's.

Date: _____ (Signed)
 _____ Designation/ Name/ Address of firm

MALICIOUS CODE CERTIFICATE FROM BIDDER

1. This is to warrant that the hardware and software being offered, as part of the Contract does not contain embedded malicious code at the time of installation and commissioning. Patch level update of the hardware/ software is enclosed.

2. The firm will be considered to be in breach of the contract, in case any physical damage or any compromise in information and cyber security or infringement related to copyright and Intellectual property Right (IPRs) is caused due to activation of any malicious code embedded in the hardware/ software.

3. The latest security patches as available at the time of installation and commissioning, have been updated in the hardware/ software. We undertake to provide solutions to address all security issues during the warranty and support period of the hardware/software, provided end of support for the same has not been declared for the equipment by the OEM's and to address all exposed security issues by exercising immediate Work-around until the OEM has made the respective solutions available.

Date: _____ (Signed)
 _____ Designation/ Name/ Address of firm

Appendix 'C'
(Refers to Para 18(b) (vi))

QUALITY AND COST BASED SELECTION (QCBS) METHOD

1. **Selection of Service Providers.** The selection of service provider/ contractor will be done as per any of the following methods as considered appropriate with the approval of CFA as per delegation of financial powers in vogue.

(a) **Cost Based Selection (CBS) Method.** Under normal circumstances, this method of evaluation shall be used for services which are of generic and recurring nature for which standard operating procedures have been prescribed along with minimum qualifying criteria. The service provider will be selected on CBS/ L1 basis only.

(b) **Quality and Cost Based Selection (OCBS) Method.** This method of selection shall be used for highly technical projects/ services/ assignments which have high impact and hence it is essential to engage highly skilled agency which offers their professional services. Output of such services is highly dependent on the expertise of the service provider. For such services, weightage needs to be given to higher technical standards, while finalizing the prices. The service provider will be selected on L1-T1 basis.

2. **Demand Initiation & Approval Under CBS.** Demand will be initiated and approved as per the provisions. CFA will be determined as per the delegation of financial powers in vogue for selection of service provider.

3. **Demand Initiation & Approval Under OCBS.** Selection of service provider under QCBS implies that the evaluation of bids will be done on the basis of both "Non-price Attributes" and "Price Attributes". The Non-price attributes comprises of parameters related to technical competency/ managerial ability such as availability of qualified personnel and support staff experience of key personnel or availability of in-house QA practices etc. The Price attribute is related to the price quoted by the bidders. The demand approval process in such cases would inter-alia require compliance of following:-

(a) RFP will be prepared and issued with concurrence of finance. Standard format of RFP would be appropriately modified to incorporate following:-

(i) Details of work or service to be performed by the contractor.

(ii) The facilities and the inputs that would be provided to the contractor by the SHQ.

(iii) Eligibility and qualification criteria to be met by the contractor for performing the required work or service.

(iv) The statutory and contractual obligations to be complied with by the contractor.

(v) Suitable evaluation criteria wherein weightage of “Non-price Attributes” and “Price Attributes” to be mentioned upfront.

(vi) In case of outsourcing consultancy services, Terms of Reference (TOR) following will be included in the RFP:-

(aa) Purpose/ objective of the assignment.

(ab) Detailed scope of work.

(ac) Expected input of key professionals (number of experts, kind of expertise required).

(ad) Proposed schedule for completing the assignment.

(ae) Reports/ deliverables required from the service provider.

(af) Background material, previous records etc available and to be provided to the service provider.

(ag) Procedure for review of the work of service provider after award of contract.

(vii) Standard formats for technical proposal.

(b) **Pre-bid Meeting.** A pre-bid meeting will invariably be prescribed in the RFP for selection of service provider under QCBS. The date and time for such a meeting may normally be after 15 to 30 days of issue of RFP and should be specified in the RFP itself. During this meeting, the scope of assignment, responsibilities of either parties or other details may be clearly explained to the prospective bidders so that there is no ambiguity later on at the time of submission of technical/ financial bids. Where some significant changes are made in the terms/ scope of RFP as a result of pre bid meeting or otherwise considered necessary by the Buyer, a formal Corrigendum to RFP may be issued. In such cases, it should be ensured that after issue of Corrigendum, reasonable time is available to the bidders to prepare/ submit their bid. If required, the time for preparation and submission of bids may be extended, suitably.

(c) Two bid system will be followed for all cases irrespective of the cost. CNC will be conducted for all cases under QCBS.

(d) CFA will be determined as per the delegation of financial powers in vogue for selection of service provider.

4. **Evaluation under Quality and Cost Based Selection (QCBS) Method.** The weightage should be decided by the Collegiate prior to issue of the RFP and should be maintained in sealed cover thereafter till opening of bids and L1-T1 decision matrix preparation.

(a) Under QCBS, the proposals will be allotted technical and financial weightage depending upon the nature of assignment.

(b) Proposal with the lowest cost, evaluated as per the provision of this Manual, may be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their evaluated cost.

(c) The total score, both technical and financial, shall be obtained by weighing the quality and cost scores and adding them up. The proposed weightage for technical and financial parameters for each project mentioned in Para 2 of this chapter shall be specified in the RFP. A few technical criteria are indicated below:-

(i) Firm's experience in past similar ICT related projects.

(ii) Domain expertise and project management consultancy.

(iii) To what extent the performance, capacity, or functionality features, technology, Training methodology etc meet or exceed the levels specified in the performance/ functional SQRs.

(iv) Experience and profile of team members in integrating multiple systems, setting up data centre and handling/ managing and monitoring projects implementation, software development etc.

(v) Quality of Technical Proposal in terms of key personnel, access to key equipment, site organization, safety, quality assurance, Implementation Schedule and any other activities as specified in technical parameter.

(vi) Assessment and procurement of hardware infrastructure, setting up data centre, cloud hosting etc.

(vii) Experience of working in multiple systems integration, designing and implementation of 'Internet of Things (IoT)' etc.

(viii) Each technical feature may include sub criteria if required and the same needs to be specified.

(ix) During the evaluation process, the evaluation committee may assign each desirable/ preferred feature a whole number score as specified earlier.

(d) **Highest Points Basis.** On the basis of the combined weighted score for technical and financial, the service provider shall be ranked in terms of the total score obtained. The proposal obtaining the highest total combined score in evaluation of quality and cost will be ranked as H-1 followed by the proposals securing lesser marks as H-2, H-3 etc. The proposal securing the highest combined marks and ranked H-1 will be invited for negotiations, if required and shall be recommended for award of contract. As an example, the following procedure can be followed. In a particular case of selection of service provider, it was decided to have minimum qualifying marks for technical qualifications as 75 and the weightage of the technical bids and financial bids was kept as 60:40. In response to the RFP, 3 proposals, A, B & C were received. The TEC awarded 75, 80 and 90 marks respectively. The minimum qualifying marks were 75. All the 3 proposals were, therefore, found technically suitable and their financial proposals were opened after notifying the date and time of bid opening to the successful participants. The CNC examined the financial proposals and evaluated the quoted prices as under:-

Proposal	Evaluated Cost
A	Rs 120
B	Rs 100
C	Rs 110

(e) Using the formula LEC/EC , where LEC stands for lowest evaluated cost and EC stands for evaluated cost, the committee gave them the following points for financial proposals:-

Proposal	Evaluated Cost	Cost Marks
A	Rs. 120	$(100/120) \times 100 = 83$ points
B	Rs. 100	$(100/100) \times 100 = 100$ points
C	Rs. 110	$(100/110) \times 100 = 91$ points

(f) In the QCBS evaluation, thereafter, the evaluation committee calculated the combined technical and financial score as under:-

Proposal	Evaluated Cost	Cost Marks	Combined Marks
A	Rs. 120	83 points	$(75 \times 0.60) + (83 \times 0.40) = 78.2$ pts
B	Rs. 100	100 points	$(80 \times 0.60) + (100 \times 0.40) = 88$ pts
C	Rs. 110	91 points	$(90 \times 0.60) + (91 \times 0.40) = 90.4$ pts

(g) The three proposals in the combined technical and financial evaluation were ranked as under:

Proposal	Evaluated Cost	Cost Marks	Combined Marks	Rank
A	Rs. 120	83 points	$(75 \times 0.60) + (83 \times 0.40) = 78.2$ pts	H3
B	Rs. 100	100 points	$(80 \times 0.60) + (100 \times 0.40) = 88$ pts	H2
C	Rs. 110	91 points	$(90 \times 0.60) + (91 \times 0.40) = 90.4$ pts	H1

(h) Proposal C at the evaluated cost of Rs. 110 was, therefore, declared as winner and recommended for negotiations/approval, to the competent authority.

Appendix 'D'
(Refers to Para 20)

SOFTWARE ARTEFACTS AND ASSOCIATED IPR

<u>Ser No</u>	<u>Artefact</u>	<u>Associated IPR</u>	<u>Remarks</u>
1.	System Design	System Patent	System in entirety
2.	Functional features	Methods Patent	No & listing of functions performed by software
3.	External appearance	Registration of design	GUI menus
4.	Input domain	Registration of design, Patent	Data type, format, source
5.	Processing Algorithm	Method Patent	Algorithms
6.	Compilation script	Copyright	Code specific to OS and compiler
7.	Source Code	Copyright	Code in a programming language
8.	Libraries/ DLLs / Executables	Copyright	The artefact sharing for re-use
9.	Logos/ Images/ Audio files	Copyright	All audio files, images developed for buyer

CHAPTER IX

LEASING

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1. **Definition of a Lease.** A lease is a contract outlining the terms under which one party agrees to rent Goods owned by another party. It guarantees the **lessee**, use of an asset and guarantees the **lessor**, regular payments for a specified period in exchange. Both the lessee and the lessor face consequences if they fail to uphold the terms of the contract. Lease is a legal and binding contract, set forth in the form of an agreement.

2. Leasing is introduced as another category for acquisition in addition to the existing 'Buy' and 'Make' acquisition categories as it provides for an innovative technique for financing of equipment. Leasing provides means to possess and operate the asset without owning the asset and is useful to substitute huge initial capital outlays with periodical rental payments.

3. Leasing would be permitted in two sub categories i.e. Lease (Indian), where Lessor is an Indian entity and is the owner of the asset, and Lease (Global) which refers to lease of equipment from foreign or Indian Lessors. Lease (Indian) would be the preferred category.

4. **Cases for Lease.** Cases where lease of equipment may be preferred are:-
 - (a) Where procurement is not feasible due to time constraint.
 - (b) Where the asset/capability is needed for a specific time or would be under utilised if procured.
 - (c) Where smaller numbers of assets are needed and administrative /maintenance infrastructure expenditure would be high.
 - (d) When lease rentals are a better option compared to a one-time acquisition cost.
 - (e) To gain experience for operational exploitation of equipment.
 - (f) Due to operational necessity.

5. New unused equipment, as well as previously used equipment could be procured under lease.

6. **Advantage of Lease Model.** For the MoD, the lease enables use of equipment without making a large initial Capital outlay, mitigate effect of equipment obsolescence, faster acquisition of capability, and reduced administrative costs. For the *Lessor*, a lease instrument provides a way to offset benefits of equipment depreciation for better returns on capital, against assured returns from a Govt contract.

7. **Types of Leases.** SHQ, while examining the cases, may examine the applicability of appropriate lease type, from the following types, with due justification:-

(a) **Operating Lease.** An arrangement where Lessee (MoD) uses the asset for a specific period and makes rental payments for the use of the asset, but does not gain ownership rights over the asset. At the conclusion of the arrangement, or at predetermined times during the terms of the lease, the asset may be acquired by the MoD (the Lessee) for an agreed-to price set at the beginning of the lease (*the residual value*). Alternatively, the asset/equipment can be returned to the lessor at the end of the lease term, meeting certain return conditions, which are similarly negotiated at the onset of the lease.

(i) An operating lease could be Dry/Wet or Damp lease. While in a Dry lease only an asset is leased, in a Wet lease arrangement a lessor provides the asset, crew, maintenance and insurance to the Lessee.

(b) **Finance Lease.** Operates similar to a loan, as Lessee (MoD) pays for the entire value of the asset over the term of the lease. At the conclusion of the arrangement, the MoD (the Lessee) can take ownership of the asset for nominal predetermined consideration or return it to the Lessor.

8. **Examination of Lease vs Acquisition.** A lease involving military assets allows MoD to enter into a long-term commitment to pay for use of military assets over time and/or potentially acquire these assets at the end of the lease period. It is important that specific goals/objectives for acquiring assets on lease are clearly laid out, examined and understood in detail. This is necessary to finalise technical requirements, financial requirements as well as the desired duration of the lease. Where possible these goals/objectives should be shared with the industry in RFI, LOR and RFP stages. A cost benefit analysis is required to be undertaken and included in the Statement of Case for all cases.

9. Traditional acquisition process involves dealing directly with Original Equipment Manufacturers (OEMs), which provide the underlying capability to meet the SHQ requirements. However, lease arrangements may also include additional stakeholders, such as Government of the OEM and third-party financiers, who provide access to cost effective financing to the Lessor.

(a) In commercial leasing industry, it is common for Lessors to be an independent third party that has partnered with OEMs/Suppliers.

(b) A final lease contract may require coordination between a Leasing firm, its financiers, OEM and/or Government of the OEM.

10. Generally, a longer-term lease may provide best value for money, compared to a short(er) term lease.

11. **Maintenance Philosophy.** In certain lease arrangements (for example in Dry lease for aircraft, or a Finance lease), the lessee (i.e. MoD) may require to undertake maintenance of the equipment under lease. In such cases, the Maintenance Philosophy to be adopted for the lease case must also be examined at RFI/formulation of LOR stage. If sought from the Lessor, maintenance may be subject of a separate agreement from the main lease agreement.

12. **Additional Considerations for Lease Cases.**

(a) **Applicable to Lease (Global) Cases only.** A lease of military product involves several nuances unique to the domain, including financing, licensing/approvals by the Government of the OEM domicile, care/custody & control over assets, return conditions, return of assets to an entity approved by a Government of the OEM domicile, etc. The parties also need to consider respective accounting rules, applicable operating regulations and their application to the parties.

(b) Insurance and liability are important safeguards/components of a lease contract. These aspects need to be carefully considered, amongst options to self-insure, or procure commercial insurance, and their applicability to lease payments.

(c) These unique complexities require proactive and constant communication between the various parties and stakeholders, given the complex subject matter and large number of stakeholders, discussions with the OEM community should be started as early as possible in order to allow for timely delivery of the assets.

(d) Lease agreements have to specify conditions of re-delivery/return of the asset to the Lessor. Such conditions typically specify physical condition of asset at the time of return, asset maintenance records, special checks – if any.

13. **Equipment Modification/Refit/Upgrade to Available Equipment.** There may be cases, where equipment directly available for lease, may need modifications (or a refit or an upgrade) for use by the Services. At the end of lease period, before re-delivery of the equipment to the Lessor, such modifications would need to be reversed. Due to this, need for modifications, if any, must be carefully examined in a lease case. Payments for such modifications / de-modifications must be included in the contract.

Note: Modifications/upgrade of leased equipment, after commencement of lease will be outside the scope of this paragraph. Lease terms in such conditions will be negotiated separately.

Special Terms in Relation to Lease

14. **Conditions Precedent (CP).**

(a) The Conditions Precedent (CP) to delivery under any lease agreement are those pre-conditions, whether factual, documentary or otherwise, which must be satisfied before the relevant party is obliged to proceed with delivery and acceptance, and the lease term commences. In most leases, it is necessary for both parties to satisfy certain conditions precedent. In the event of failure of one party to satisfy any of the conditions precedent, the non-defaulting party is entitled not to proceed with delivery or acceptance of the equipment, or alternatively may agree to proceed on the basis of the waiver or deferral of the relevant CP.

(b) Some examples of CP are:-

(i) Payments (security deposits, commitment fee, first rent, etc.).

(ii) Provision/creation of letters of guarantee, credit or other credit enhancement instruments in place.

(iii) Receipt of the insurance certificate and letter of undertaking.

(iv) Receipt of certain key documents (e.g. deregistration, Power of Attorney, proof of legal capacity to enter into the lease with supporting legal opinion, board approval resolutions).

(v) No total loss of equipment.

(vi) Lessee satisfactory inspection of equipment/aircraft and documentation within agreed timeframe.

(vii) Equipment being in agreed delivery condition.

15. **Insurance.** Due to peculiar nature of a lease contract, insurance of the asset is important parameter. From the perspective of a *Lessor*, assumption of risk associated with operation and use of equipment during the lease period and the consequent liability is a factor for consideration in a lease contract. There are two aspects to insurance that need consideration.

(a) **Hull Insurance (Main Equipment Insurance).** Hull insurance provides coverage for the value of the *Lessor's* asset in the event of physical damage to, or loss, of the equipment or aircraft (including records and removed parts/engine).

(b) **Liability Insurance.** Liability insurance provides coverage for general legal liability, including Third Party. This also includes loss, damage, injury and death to Third Party and its property.

16. **Non-Insurable Assets and Lessor Indemnity.** Not all the equipment for use by the military may be insured by the insurance companies. In such cases, the Hull Insurance and Liability will be covered under existing provisions for operation of military equipment as per following guidelines:-

(a) All equipment taken on lease will be '*Brought on Charge*' by the SHQ, **before first use**. Any loss or damage to the equipment during use will be written off as per existing procedure (with reference to Rules 33 to 38 of GFRs 2017, as amended and as per DFPDS, as amended). The cost of write off, will be reimbursed to the Lessor as per conditions of lease contract.

(b) After the leased equipment is taken on charge, any liability arising out of its use will be that of the Lessee. Third party claims related to injury or death, direct or indirect loss of assets, will be paid by the Lessee as per existing rules on such claims including ex-gratia payments.

17. **Insurance and Liability in Military Contracts.** Responsibility to insure a leased asset is that of the Lessee. Accordingly, MoD (Acquisition Wing)/SHQ may coordinate lease insurance terms and conditions with insurance companies. Where it is feasible for the Lessor to obtain the insurance, such an option may be exercised.

18. **Commitment Fee.** The Commitment Fee is paid by the *Lessee* as a consideration for the *Lessor* to take the equipment/aircraft off the market, for subsequently providing them to the *Lessee* as a part of lease agreement. It can be paid through:-

(a) An advance payment (up to 15% as per provisions of DAP 2020), and/or.

(b) Increased rate of initial payments.

(c) As per payment schedule agreed during CNC.

19. **Payment Terms.**

(a) The payment periodicity may be quarterly, six-monthly or annual payments. A different payment periodicity could also be agreed depending on the case.

(b) The payments for equipment being leased will normally be after the lease period. To illustrate, *for quarterly payment terms, the 1st quarterly payment will be made in the 4th month, after the equipment has been used for the first three months.*

Different payment terms, such as payments made in advance of the lease period could also be agreed depending on the case.

20. **Brought on Charge.** For accounting purposes, the leased equipment will be '*Brought on Charge*' by the SHQ before being put to first use. In case of damage to the equipment, the cost will be written off as per existing procedure. The write off cost will be reimbursed to the Lessor as per the terms of Lease Contract.

21. **Graded Penalties.** For proper performance of the lease, the lease agreement may have graded penalties linked to performance metrics for partial/full default on lease agreement. Various payment options could be used, such as advance percentage, stage payment, payments at the end of agreed periodicity, after the asset has been utilised as per agreed performance metrics. Same need to be defined in the SoC for seeking AoN.

Lease Acquisition Process

22. An outline of the lease acquisition processes is as follows. These processes will be as per acquisition procedure at Chapter II. Specifics, as applicable to lease are discussed in the following paragraphs heads below:-

- (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.
- (e) Solicitation of offers.
- (f) TEC.
- (g) CNC.
- (h) Approval by CFA.
- (j) Signing of Lease agreement.
- (k) Post lease management.

23. **Request for Information (RFI).**

- (a) **Dissemination of RFI.** The RFI would be published on the MoD website for

seeking relevant information on specific procurement schemes. Copies of the RFI would also be forwarded to industry representative bodies (CII, ASSOCHAM, FICCI and SIDM) for dissemination. Copies of RFI may also be shared with firms in database of MoD/SHQ. In classified cases, distribution of the RFI may be restricted, with prior approval of the PSO at SHQ.

(b) **Objective of RFI.**

- (i) To identify potential lessors.
- (ii) To formulate Lease Operational Requirements (LOR).
- (iii) To generate inputs for the RFP.
- (iv) To determine the indicative budgetary and cost implications.
- (v) To determine any Conditions Precedent.

(c) The RFI should indicate the following (delete those not applicable):-

- (i) Type of equipment/system/platform and the capabilities sought.
- (ii) Quantities required.
- (iii) Scheduled delivery date and lease term including early termination or extension options.
- (iv) Delivery/redelivery location.
- (v) Delivery conditions (including minimum life requirements, airworthiness compliance – where applicable, delivery inspection procedures).
- (vi) Insurance requirements (including hull agreed values and liability limits).
- (vii) Rent, deposit/commitment fee, and other payments.
- (viii) Maintenance compensation mechanism (monthly reserves, end of lease adjustment, full life, etc).
- (ix) Maintenance, operations and records.
- (x) Airworthiness compliance standards, including any AD (Airworthiness Directives) cost sharing (where applicable).

- (xi) Pre/Post-delivery modification (and cost sharing).
 - (xii) Conditions Precedent (CP) to effectiveness of the RFP/Contract.
 - (xiii) Definition of any key terms that will apply in the lease, including eligible maintenance events for maintenance reserves reimbursement.
 - (xiv) Regulatory/registration regime.
 - (xv) Governing law.
 - (xvi) Confidentiality.
 - (xvii) Tentative time schedule of the leasing process.
- (d) The RFI should seek the following inputs:-
- (i) Details regarding equipment capabilities.
 - (ii) Type of lease (Refer Paragraph 7 above).
 - (iii) Details required for determining the cost of lease.
 - (iv) Scope, depth and range of lease.
 - (v) Any Conditions Precedent.
 - (vi) Any special conditions of lease.
 - (vii) References of applicable statutory law, rule, regulations, including national/federal guidelines, as applicable to the asset and conditions of lease.
- (e) Adequate time should be given to the vendors, for a structured response to the RFI and for interaction.
- (f) The RFI should also ask details about the vendors as per Appendix A to Chapter II of DAP 2020.
- (g) After uploading/sharing of RFI with potential respondents, interactions may be planned by the Empowered Committee. After due interactions, vendors may be given sufficient time to respond to the RFI.

24. **Letter of Intent.** In certain cases, SHQ may identify equipment during multinational interactions/exercises with friendly militaries. Use of equipment may also have

emerged during inter-governmental interactions with friendly countries. In such cases, instead of an RFI, the MoD will issue a 'Letter of Intent (LoI)', broadly encompassing the requirements above.

25. **Identification of Equipment and Operational Demonstration.** Due to considerations placed at paragraphs 9 to 24 above, extensive interactions may be required with all the vendors/stake holders. Based on responses to the RFI, and vendor interactions, the SHQ will identify suitable equipment for lease, as well as finalise a list of potential *Lessor's*. Same will be approved at the level of PSO at SHQ. Operational demonstration may be carried out in the following cases:-

- (a) In cases, where operational performance of the equipment is known, or such equipment is already in use by the SHQ and lease is being considered for additional quantities, or where such an equipment was used in the past, requirement of an Operational Demonstration can be dispensed with.
- (b) Where the performance and utility of the equipment has been observed during an exercise with a friendly foreign force, or during a bilateral/multilateral event, requirement of an Op Demo may be dispensed with.
- (c) In cases where equipment performance has not been checked before, SHQ may seek Op Demo of the equipment by the *Lessor*, as a part of the RFI process.

26. **Lease Operational Requirements (LOR).** The LOR defines the operational capability sought and any special conditions of lease. The LOR must lay down user requirements in a comprehensive and unambiguous manner. LOR of classified nature will be shared after a Non-Disclosure Agreement (NDA). The LOR will be ratified by the SEPC.

Note: *While determining the LORs, the SEPC will be guided by user requirement and capability of equipment available for lease. In this sense, the LORs cannot be futuristic in nature and will be governed by capability available for lease.*

27. **Acceptance of Necessity (AoN).** In order to seek AoN, a SoC would be prepared as per suggestive format placed as Appendix A to this chapter. A cost benefit analysis is required to be undertaken and included in the SoC for all cases. The LOR and draft RFP will be attached along with the SoC. AoN will be sought based on the total value of the lease rental cost (including insurance costs, if any) over the period of lease. AoN for lease cases upto ₹ 500 Cr would be accorded by the DPB (after being recommended by the SPB) and cases above ₹ 500 Cr by the DAC (after being recommended by the DPB). The SoC will be processed as per provisions of Chapter II of DAP 2020. Validity of the AoN will be as per the DAP 2020. 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 seek fresh AoN with due justification for not issue of RFP. For cases where the RFP is 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 remains unchanged, and 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 be six months from the date of issue of Minutes of Meeting of the AoN according authority. Subsequent to the accord of AoN, the broad details of the projects/procurement would be hosted on the MoD and SHQ websites within one week of issue of minutes keeping security aspects in mind. 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.

28. Lease cases being progressed with DPSUs or under Inter Governmental Agreements will not be treated as Single Vendor Cases.

29. **Format of a Lease Contract.** An indicative format of a Lease Agreement is placed as Appendix B to this Chapter. The format is not exhaustive, and may be amended on case to case basis.

30. **Provisions Common with DAP 2020.** The provisions of DAP 2020 will apply to the following aspects:-

- (a) Solicitation of Commercial Offer and RFP (vetting and issue).
- (b) TEC.
- (c) Unsolicited Bids.
- (d) Change of name of vendor.
- (e) Benchmarking.
- (f) CNC.
- (g) Fall Clause.
- (h) Return of Commercial Offers.
- (j) Authority for retraction of RFP.
- (k) Approval of CFA.
- (l) Standard Contract Document – with suitable amendments to include/delete provisions specific/not applicable to a lease. Formulation for a number of clauses will vary on case to case basis. An indicative format is placed as Appendix B to this Chapter. The format is not exhaustive, and may be amended on case to case to basis.

- (m) Integrity Pact.
- (n) Post contract monitoring.
- (o) LD.
- (p) Amendment to lease agreement.
- (q) Inter Government Agreement(s).

31. **Processing of Lease Cases.** To ensure that lease process is completed in a timely manner, completion of various stages will be monitored in a time bound manner as follows:-

	Stages of Process	Review by	
		Delegated Powers	Non Delegated Powers
(a)	Delay in identification of equipment/Op Demo after receipt of RFI response by more than 24 weeks	PSO	DG (Acq)
(b)	Delay in formulation of LORs by more than 24 weeks, after identification of equipment/Op Demo	PSO	DG (Acq)
(c)	Delay in formulation of LORs by more than 52 weeks, after identification of equipment/Op Demo	DPB	DAC
(d)	Delay in fielding of case for AoN more than 24 weeks after approval of LORs	PSO	DG (Acq)
(e)	Delay in fielding of case for AoN more than 52 weeks after approval of LORs	DPB	DAC
(f)	Delay of approval of CFA beyond eight weeks after submission of CNC report	PSO	DG (Acq)

Appendix A to Chapter IX
(Refers to Para 27 of Chapter IX)

STATEMENT OF CASE TO BE CONSIDERED BY
THE DAC FOR ACCORD OF AON FOR A LEASE

Name of Proposal	-
Service	-
Reference No allocated	(to be entered by the Secretariat)
(a) SHQ	-
(b) DAC	-

Brief of Proposal

1. **Introduction.** Provide a brief of the case.
2. **Proposal.** State the mission needs that need to be fulfilled. Bring out, what is the capability deficiency that needs to be rectified, and alternatives that have been examined. Examine benefits of lease option vis-à-vis other options including option to buy.
3. **Details of Equipment Proposed.**
 - (a) List the details of type and quantity of equipment proposed to be acquired through lease.
 - (i) Provide details of how quantity required has been worked out?
 - (ii) Indicate if the equipment sought is new unused, or previously used equipment.
 - (iii) In case of phased induction of equipment, provide details for each phase.
 - (b) Period for which lease is considered.
 - (c) **Maintenance Aspects.** In case of a Dry lease or a Conveyance Lease, provide plan for how engineering/maintenance support is catered for the period of lease.
 - (d) **Details of LOR.** Attach copy of Lease Operational Requirements (LOR).

(e) **Op Demo.** In case operational demonstration of the equipment has been completed, provide summary of the trials.

(f) **Manpower.** What is the effect of induction of equipment on manpower requirements?

(g) **Single Vendor Clearance.** In case of a Single Vendor, provide details of the vendor and justification for the single vendor option.

Note: Lease cases with DPSUs, or under Inter Governmental Agreements are not to be considered as Single Vendor cases.

(h) **Option Clause.** In case, option clause needs to be included, due justification for the same to be provided.

4. **Financial Aspects.** To include cost of proposal (including all taxes and duties) and recurring expenditure, if any. The basis of cost estimation and the base year for which the cost is indicated. The SoC should also examine, if the option clause will be economically viable. Recommendation on method for determination of L-1 vendor, where applicable, should also be made.

5. **Annual Acquisition Plan/ Budgetary Provisions.**

(a) Whether the proposal is included in the AAP (include AAP serial number).

(b) Availability of necessary budgetary provisions. The provisions need to be confirmed for the period of lease in the current five-year plan period.

6. **Comments of HQ IDS.** To comment on issues related to commonality and interoperability.

7. **Comments of DDP.** To comment on indigenous capability to manufacture and supply, product support, time frame and approximate costs and the resources available to the industry. Also comment, if such capability does not exist indigenously.

8. **Comments of Acquisition Wing.**

9. **Comments of MoD (Finance).**

10. **Final Comments of SHQ.** Final comments to be based on inputs of HQ IDS, DDP, Acquisition Wing and MoD (Finance).

11. **Draft RFP.** Draft RFP should accompany the SoC for accord of AoN.

12. **Details of Approvals Sought.**

- (a) AoN.
- (b) Quantity to be leased.
- (c) Period of lease.
- (d) Type of lease.
- (e) Estimated cost (including taxes and duties).
- (f) LOR.
- (g) Option Clause.
- (h) Maintenance/AMC – if applicable.
- (j) Any other aspect that requires a specific approval.

xxx
(Signature)
(Secy Empowered Committee)

Details to be Mentioned by the DAC Secretariat

13. Decision of DAC and reference number allotted.

Appendix B to Chapter IX
(Refers to Para 29 of Chapter IX)

SAMPLE LEASE CONTRACT

Explanatory Note

Lease of military assets involves several nuances unique to the domain. Type/nature of military equipment, coordination with multiple stakeholders including leasing firms, its financiers, OEMs, Govt of OEMs, insurers and others. Unique complexities of military leasing require constant and proactive coordination and communication between all the stakeholders, which can help design a leasing solution that is optimized for the particular goals and objective of the MoD. Accordingly, this annexure is meant to provide only as guidance to the Empowered Committee for a sample lease contract. The Empowered Committee should exercise flexibility to enter into a deal that provides the most optimal solution for all parties and addresses the specific goals and objectives of the MoD/SHQ.

Index of Articles

Preamble	
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Article 2	Effective Date & Period of Contract
Article 3	Advance Payment Bank Guarantee
Article 4	Performance cum Warranty Bond
Article 5	Conditions Precedent
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Article 12	Denial Clause
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Article 21	Non-disclosure of Contract Documents
Article 22	Notices
Article 23	Transfers & Sub-letting
Article 24	Patents & other Industrial Property Rights
Article 25	Amendments
Article 26	Training
Article 27	Option Clause
Article 28	Buyer Furnished Equipment

Note: Where ever, the content of the article is annotated as '*same as the SCD*', substitute the following terms: -

1. For *SELLER*, read as *Lessor*.
2. For *BUYER*, read as *Lessee*.
3. For *to sell*, read as *to lease*.

4. The Sample Lease Contract is drafted with *an Aircraft* as a sample article of lease. Substitute ‘*Aircraft*’ with the actual article under lease and incorporate resultant changes, as necessary.

Preamble

(Same as the SCD, with the following change)

(Substitute paragraph 1 of SCD with the following paragraph)

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 & Acquisition Manager (Land/Air/Maritime Systems)/Major General & equivalent, Service Headquarters/Coast Guard, Ministry of Defence, Government of India, hereinafter referred to as the **LESSEE** (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 "**LESSOR**" on the other part. WHEREAS, The **LESSEE** agrees to accept the lease and the **LESSOR** agrees to provide on lease the Goods and Services (hereinafter collectively referred as “Deliverables”) described in Annexure-I of this Contract and in accordance with the terms and conditions of this CONTRACT AND WHEREAS the **LESSOR is the rightful owner of the deliverables as more specifically described in Annexure – I.**

Article 1

Scope of Agreement

(Same as the SCD, with the following change)

1.1 The **LESSOR** undertakes to provide on lease to the **LESSEE** and the **LESSEE** undertakes to take on lease and pay for all deliverables in accordance with the terms and conditions stipulated in this Contract [for the lease of ___(nomenclature of the equipment)] and accompanied accessories and the quantities, unit prices and total value, and their operating/usage/maintenance conditions are as specified in **Annexure I** of this Contract.

1.2 The term of this lease shall commence on the Effective Date of Contract and shall continue for a period of (*period in months or years*) there from except as may be terminated in accordance with this Contract.

1.2 The Total Contract Price including taxes and duties applicable at the time of signing of Contract of the deliverables to be supplied according to this Contract amounts to ₹/USD/Euro/Pound Sterling.....

Article 2

Effective Date & Period of Contract

(Same as the SCD, with following changes)

Amended Article 2.1 is as follows

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 for a period of (type the period, in months or years here) till (type end date here). 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 Lessee to the Lessor (T₀), provided the Lessor submits the documents mandated by the **DAP 2020** for release of advance by the Lessee within 45 days of signing of Contract. In the event of the Lessor not submitting the said documents within 45 days of signing of Contract, the period between the 45th 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.

Sub Para 2.2 (a) (iv) related to ABG for Essential Parameters B, is not applicable.

Article 3

Advance Payment Bank Guarantee (ABG)

(Same as the SCD, with following explanatory notes)

Note – 1: The advance payment in normal acquisition contracts is replaced with ‘Commitment Fee’ for a Lease Contract. The APBG is a guarantee for such a fee.

3A.4 The Advance Payment Bank Guarantee (APBG) shall be for a period exceeding the period for delivery of leased equipment by three months. Advance payment guarantees will typically not be applicable for a Finance lease.

Article 4

Performance cum Warranty Bond

(Same as SCD)

Article 5

Conditions Precedent (CP)

(Amend as applicable to the respective case. CPs will be different on case to case basis)

Sample CP are:-

5.1. **Lessor Conditions Precedent.** The obligation of Lessor to lease the (equipment) in accordance with this contract is conditional upon the fulfilment of the following conditions, or waiver of any of the same by the Lessor, on or before the first day of the Lease period: -

5.1.1 Receipt by the Lessor of a certificate evidencing the insurance required to be maintained by the Lessee under this contract.

5.1.2 Receipt by the Lessor of a copy of Lessee's Operator Certificate (or such a document) and any other licence or approval required from the Lessee's regulatory or other authority or other Govt entity to enable the lessee to perform its obligations under this contract, and

5.1.3 Receipt by the Lessor of the Security Deposit in full.

5.1.4 Other conditions as may be applicable depending on the specifics of the lease agreement.

5.2 **Lessee Conditions Precedent.** The obligation of the Lessee to lease the (equipment) from the Lessor shall be conditional upon the fulfilment of the following conditions, or waiver of any of the same by the Lessee, on or before the first day of the Lease period:-

5.2.1 Receipt by the Lessee of a certificate evidencing the insurance required to be maintained by the Lessor under this agreement, and

5.2.2 Receipt by the Lessee of a copy of Lessor's operator certificate and any other licence or approval required from the regulatory or other authority or other government entity to enable Lessor to perform its obligations under this agreement.

5.2.3 Other conditions as may be applicable depending on the specifics of the lease agreement.

Article 6 Insurance

Note: Please refer to Chapter IX for details. This article is to be included, if the Lessee has obtained or will obtain insurance for the Lease. If the insurance and liability for loss/damage will be borne as per existing regulations, chose appropriate clauses from the draft clauses below.

6.1. During the period of Contract, Lessee shall cause to be provided and maintained in full force and effect, at Lessee's sole cost and expense, a policy or policies of insurance providing the coverage described in this Article covering all operations of the asset ('**Insurance Policies**').

6.1.1. Asset liability insurance covering all operations of the asset, which coverage shall:

6.1.1.1. Include a territory provision sufficient to cover all operations permitted by this Contract, with limits of not less than (include amount of insurance in words and numbers) per occurrence on a combined single limit basis, covering claims for death, bodily injury and property damage,

6.1.1.2. List Lessor and Lessee as named insureds and list as additional named insureds each of Lessee's and Lessor's affiliates and their respective directors, officers, managers, employees and agents (as applicable).

6.1.1.3. Be endorsed so that it is primary and non-contributing to any other insurance that is available to any of the insureds.

6.1.2. All-risk physical damage and hull war and allied perils insurance ("Hull Coverage") on the asset for the agreed value of (include amount of insurance in words and numbers) ("Casualty Value"). Such Hull Coverage shall name Lessor and Lessee as loss payees as their interests shall appear, shall specify any deductibles applicable to each and every loss.

6.2. The Insurance Policies maintained under this Agreement shall:

6.2.1. Be placed with insurance companies that

6.2.1.1. Are qualified to do business in the India,

6.2.1.2. Will submit to the jurisdiction of any competent state or central court in India with regard to any dispute arising out of the policy of insurance or concerning the parties herein;

6.2.1.3. Will respond to any claim or judgment against Lessee and Lessor in any competent court; and

6.2.1.4. Are reasonably satisfactory to both Lessor and Lessee.

6.2.2. Provide for not less than thirty (30) days (no less than ten (10) days in the case of any non-payment of premium and such lesser period as is standard in the industry for war risk insurance) advance written notice to be received by each of the insured parties prior to any adverse material change, deletion or cancellation in the Insurance Policies, any of the coverages thereunder, or any required policy provisions set forth in this Article that reduces coverage available; provided, however, that war risk and allied perils policy coverages may provide for not less than seven (7) days or such lesser period prior written notice as shall be customary in the aviation insurance industry for prior written notice of cancellation.

6.2.3. The Insurance Policies shall contain an endorsement providing that coverages under such Insurance Policies shall not be voided by any act or negligence of any person, including another insured under the policies; provided that there is neither consent nor actual knowledge by the insured party that such action would void coverage under the policy and shall include a waiver of subrogation in favour of

Lessee and its officers, directors, managers, employees and agents. All Insurance Policies shall provide for a severability of interest/cross liability endorsement, so as to ensure that the insurance shall operate in all respects as if a separate policy has been issued covering each party insured, although underwriters' overall limit of liability will not increase.

6.3. Promptly following the execution of this Contract and annually thereafter, Lessee shall provide Lessor with certificates of insurance and endorsements evidencing the effectiveness (and renewal, as applicable) of such Insurance Policies in compliance with the insurance requirements specified in this Article.

Alternate Formulation

(If no insurance is obtained by the Lessee)

6A.1 In case of loss or damage to the asset (details as per list at Annexure) is caused due to any reason, the depreciated cost of the same (as per details at list Annexure) will be reimbursed by the Lessee to the Lessor.

**Article 7
Liability**

Note: This article is to be included, if the Lessee has obtained or will obtain insurance for the Lease. If the insurance and liability for loss/damage will be borne as per existing regulations, chose appropriate clauses from the draft clauses below. Amend standard liability clause as negotiated.

7.1. **Limitations of Liability.** LESSOR UNDERSTANDS AND AGREES THAT THE INSURANCE POLICIES ARE LESSOR'S SOLE REMEDY AGAINST LESSEE FOR ANY AND ALL LOSS OR DAMAGE TO THE AIRCRAFT AND/OR INJURY OR DEATH OF ANY PASSENGER AND/OR FOR ANY AND ALL CLAIMS, DAMAGES, LOSSES, EXPENSES AND LIABILITIES INCLUDING, BUT NOT LIMITED TO, DIRECT OR INDIRECT LOSS OR DAMAGE TO THE AIRCRAFT, DIMINUTION IN VALUE OF THE AIRCRAFT, LOSS OF INCOME, REVENUES, PROFITS OR BUSINESS OPPORTUNITIES OR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT OR IN ANY WAY CONNECTED WITH THE AIRCRAFT UNDER THIS AGREEMENT, WHETHER ON THE GROUND OR IN THE AIR, AND THE OTHER TRANSACTIONS CONTEMPLATED HEREBY, UNLESS SUCH CLAIMS, DAMAGES, LOSSES, EXPENSES OR LIABILITIES ARE SOLELY THE RESULT OF LESSEE'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OR LESSOR'S FAILURE TO MAINTAIN THE INSURANCE POLICIES REQUIRED HEREUNDER. Lessor understands that Lessee and each of the other insureds have no liability for any event or occurrence not covered by the foregoing insurance, unless such event or occurrence is solely the result of the gross negligence or wilful misconduct of Lessee or one of the other insureds or Lessor's failure to maintain the insurance policies required

hereunder. Lessor hereby waives any claim for damage, loss or expense arising out of the operation, use or maintenance of the Aircraft or of other services relating to the Aircraft hereunder and the covenants not to assert any claim against Lessee or its affiliates or their respective officers, directors, managers, employees and agents in respect thereof, unless such claim for damage, loss or expense is attributable to Lessee's gross negligence or wilful misconduct. Lessee shall not be limited in the manners set forth in this Article for any damages, losses or expenses arising from Lessor's failure to maintain the insurance required herein. This Article shall survive any termination of this Contract.

Alternate Formulation

(If no insurance is obtained by the Lessee)

7A.1 Lessor understands and agrees that:-

7A.1.1 Any claims against loss or damage to the asset will be reimbursed by the Lessee as per depreciated values placed at Annexure.

7A.1.2 Any and all THIRD-PARTY claims, damages, losses, expenses and liabilities including, but not limited to, direct or indirect loss or damage in any way connected with the equipment under this agreement, whether on ground or in the air, will be processed by the Lessee as per existing rules.

7A.2 Lessor hereby waives any claim for damage, loss or expense arising out of the operation, use or maintenance of the asset or of other services relating to the asset hereunder and the covenants not to assert any claim against Lessee or its affiliates or their respective officers, directors, managers, employees and agents in respect thereof, unless such claim for damage, loss or expense is attributable to Lessee's gross negligence or wilful misconduct. Lessee shall not be limited in the manners set forth in this Article for any damages, losses or expenses arising from Lessor's failure to maintain the insurance required herein. This Article shall survive any termination of this Contract.

**Article 8
Payment Terms**

(As negotiated during CNC)
(Include as an Annexure)

**Article 9
Delivery & Re-Delivery**

(Sample conditions for an aircraft are as follows. To be suitably amended on case to case basis).

9.1. **Delivery : Condition of Equipment**

9.1.1. Lessor shall deliver the asset to the Lessee as per this Article on a (*date/or delivery schedule/period as per Annexure I*) (“**Delivery Date**”)

9.1.2. Lessor shall deliver the asset to the Lessee on the Delivery Date in the following condition: -

9.1.2.1. Current on and in compliance with manufacturers recommended inspection and maintenance program, with all calendar and hourly inspections (as applicable) that must be completed on or before the Delivery Date completed without deferment or extension.

9.1.2.2. Operational and in an airworthy condition (if applicable, eg, for an aircraft) with a current and valid Standard Airworthiness Certificate and registered on the FAA Civil Aircraft Registry (amend as appropriate).

9.1.2.3. With all systems functioning normally in accordance with manufacturer’s specifications and in compliance with all applicable certification documents (as applicable) (for eg in case Airworthiness Directives and manufacturer mandatory service bulletins in case of an aircraft) with compliance dates on or prior to the Delivery Date;

9.1.2.4. All asset logbooks (or equivalent documents, as applicable) shall be legible, complete, continuous in the English language and shall comply in all respects with applicable regulations.

9.1.3. Upon delivery of the asset in accordance with the terms of this Agreement, Lessee will execute and deliver the Delivery and Acceptance Certificate in a mutually agreed format (Place the format as an annexure as applicable).

9.2. **Port Consignee.** (*Include if applicable*)

SI No	Equipment	Concerned Embarkation HQ / Place/ Address
(a)		
(b)		
(c)		

9.3. **Ultimate Consignee.** (*Include if applicable*)

SI No	Equipment	Name of Depot/ Place/Address
(a)		
(b)		

(c)		
-----	--	--

9.4. *(Include if applicable)* The Lessor shall intimate to the Lessee by letter or fax, six weeks in advance, the anticipated date of delivery of each consignment. The information shall consist of quantities of the deliverables 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 (Specify the branch/address).
- (b) GoI, MoD, South Block, New Delhi (Provide address).
- (c) Commandant COD ultimate consignee depot.
- (d) Commandant Port Consignee.
- (e) DGQA/DGAQA/DGNAI – if applicable.

9.5. Invoices and other despatch documents shall be prepared in favour of _____ (fill in the details, as applicable).

9.6. Two copies each of the despatch documents as listed in LC documents shall be forwarded to the following address within 72 hours after the goods have been despatched or earlier, if possible:-

- (a) Port consignee.
- (b) Service HQ (Branch/address).
- (c) Ultimate consignee.

9.7. The Lessor will also forward a copy of the Air way bill and commercial invoice by fax on the day of despatch to _____ (branch/address may be specified).

Re-Delivery (If Required)

9.8. Upon termination of this Contract by expiration of the period or otherwise, Lessee shall deliver to Lessor (or its designated representative) custody and possession of the asset and all documentation (provide list as annexure, as applicable) at (*place, location, address*) or such other mutually agreed location as may be specified by Lessor (“**Re-delivery**”).

9.9. *(Amend as applicable)* Upon Redelivery, the asset shall be in the following condition unless waived by Lessor:

9.9.1. Current on and in compliance with manufacturer's recommended inspection and maintenance program, with all calendar and hourly inspections that must be completed on or before the Redelivery date completed;

9.9.2. Operational and in a serviceable condition with a current and valid maintenance (or other) documentation;

9.9.3. With all systems functioning normally in accordance with manufacturer's specifications and in compliance with all applicable Directives, and applicable manufacturer mandatory service bulletins with compliance dates on or prior to the Redelivery date;

9.9.4. Lessee shall have paid Lessor all amounts due for hours operated by Lessee during the Contract, and Lessee shall have provided to Lessor all documentation required under the applicable programs with respect to such use;

9.9.5 Lessee should pay any deficiency charges in event any of the components that do not meet agreed condition at redelivery. Rates related to such deficiencies should be agreed to and documented in the lease.

9.9.6. All logbooks shall be legible, complete, continuous in the English language and shall comply in all respects with applicable regulations; and

9.9.7. Clear of all Liens to the extent created by or through Lessor.

9.10. Upon return of the asset in accordance with the terms of this Contract, Lessor will execute and deliver to Lessee the Redelivery Certificate as per (provide reference of the format). In event of delay in redelivery, lessee would be required to arrange for secured storage and required maintenance of the aircraft at the Lessee cost until redelivery occurs.

9.11. Notwithstanding anything in the Agreement to the contrary, in the event Lessor shall have failed to pay its portion of the Maintenance cost as required under this Contract, Lessee shall have no liability for the failure of the asset to meet the condition required herein to the extent that such failure relates to the Maintenance for which Lessor was financially responsible.

9.12 Other conditions as may be agreed on a case to case basis.

Article 10

Title and Risk of Loss

10.1. In addition to Articles 12.1 till 12.5 of the SCD, following additional articles apply.

10.2. **Title – No Liens/Quiet Use.**

10.2.1. Title to the asset shall remain vested in Lessor during the period of Contract and the asset shall be registered in the name of Lessor (as applicable). Lessee shall have no right, title or interest in or to the asset except as expressly provided herein and shall take no action or fail to take any action reasonably requested by Lessor that would impair the continued registration of the asset in the name of Lessor.

10.2.2. Lessee shall ensure that no liens or encumbrances of any nature or description whatever (“**Liens**”) are created or placed against the asset, (including the engines, parts and components and all associated rights and the related international interests).

10.2.3 As long as Lessee pays Rent and other amounts payable hereunder and performs and complies with all of the other terms and conditions hereof, neither Lessor nor any person acting through or on behalf of Lessor or in its stead, nor any person with rights granted by Lessor will interfere with the peaceful and quiet use and enjoyment of the asset by Lessee, which use and enjoyment shall be without hindrance.

10.3. **Risk of Loss or Damage.**

10.3.1. Subject to provisions of Article 7 (Liability), Lessee shall bear the risk of loss, damage or destruction of the asset from the time of delivery until the asset is returned to Lessor pursuant to this Contract. Lessee shall provide written notice to Lessor of any material damage concurrently with its report of same to the applicable governmental authority, and if no such report is required, such written report shall be delivered to Lessor within thirty (30) calendar days of the occurrence of such damage.

10.3.2. Except as hereafter provided, in the event of damage to the asset during the period of Contract which is not an “Event of Loss”, Lessee will, subject to Article 7 and prior written approval from Lessor, repair or cause to be repaired, any such damage at its expense, and the insurance proceeds shall be paid to the repair facility or to reimburse Lessee (to the extent Lessee paid such expenses) upon submission of an invoice issued by the repair facility.

10.3.3. Upon the occurrence of an “Event of Loss” of the asset, Lessor shall be entitled to the proceeds of the Hull Coverage. Upon receipt of the full Casualty Value by Lessor, this Contract shall terminate as set forth in this Contract. Lessor shall have no obligation to replace the asset with any other asset and Lessee shall have no obligation to make future payments of Rent to Lessor hereunder.

10.3.4. An “**Event of Loss**” with respect to the asset shall mean any of the following events with respect to such property

10.3.4.1. Loss of the asset due to destruction, damage beyond repair or rendition of such property permanently unfit for normal use;

10.3.4.2. Any damage to such property which results in an insurance settlement with respect to such property on the basis of a total loss or constructive total loss; or

10.3.4.3. The condemnation, confiscation or seizure of, or requisition of title to or use of, such property by the act of any government (foreign or domestic) or of any state or local authority or any instrumentality or agency of the foregoing for a period in excess of sixty (60) consecutive days (“**Requisition of Use**”). The date of such Event of Loss shall be the date on which the sixty (60) consecutive day period ends in the case of Requisition of Use, the date of such destruction or damage or the date on which the Aircraft is declared a constructive total loss. An Event of Loss with respect to any engine or APU shall not, without loss of the airframe, be deemed an Event of Loss with respect to the Aircraft.

Article 11	Liquidated Damages	<i>As per the format of the SCD, but will be drafted on case to case basis. For lease cases, the LD clause of DAP 2020 may be applicable only for the period till the delivery of the equipment. Thereafter, for a deficiency on the part of the lessor regarding his obligations of servicing/maintenance etc, which leads to the eqpt lying unused/idle, then specific LD/penalty clauses to be incorporated, which could also include non-payment of lease rentals for such period. This would not be applicable, if lessee (MoD) is responsible for maintenance/service.</i>
Article 12	Denial Clause	<i>As per the SCD.</i>
Article 13	Claims	<i>As per the format of the SCD, but will be drafted on case to case basis.</i>
Article 14	Taxes & Duties	<i>As per the format of the SCD, but will be drafted on case to case basis.</i>

Article 15 **Termination**

15.1. The Contract may be terminated.

15.1.1. Immediately upon the mutual consent of all parties;

15.1.2. By the non-breaching party if an Event of Default has occurred and the breaching party has not cured within the applicable cure period (if any) provided for in this Contract;

15.1.3. Automatically upon receipt by Lessor of the Casualty Value following an Event of Loss; or

15.1.4. Either party following a determination by a mutually agreeable authorized service facility that the asset is damaged to the extent that it is improbable that it can be made operative within sixty (60) days. All amounts payable by one party to another in the event of a termination of this Contract prior to the expiration of the Term shall be paid to the other party within thirty (30) days of the date of termination, and this obligation shall survive the termination of this Contract.

Events of Default

15.2. **Events of Default.** The term “**Event of Default**” means:

15.2.1. Non-payment by a party of any Rent and/or any other amount due pursuant to this Contract within thirty (30) days after receipt of notice from the other party or failure to pay any or all of the same on the due date;

15.2.2. Failure to maintain, use, or operate the asset in compliance with Applicable Law;

15.2.3. Failure to comply with all of the insurance coverages required under this Contract;

15.2.4. Failure to return the asset to Lessor on the date and in the manner required by this Agreement;

15.2.5. Bankruptcy, insolvency, receivership or similar proceeding by or against Lessee or Lessor or any of its properties or business;

15.2.6. Breach by a party of any other covenant, condition or agreement under this Contract that continues for thirty (30) days after written notice by the non-defaulting party to the defaulting party (but such notice and cure period will not be required if Lessee operates the asset when the insurance required hereunder is not in full force and effect or if such breach cannot be cured by practical means within such notice period).

Article 16	Law	:	As per the SCD
Article 17	Arbitration	:	As per the SCD
Article 18	Penalty for use of undue influence	:	As per the SCD
Article 19	Agents	:	As per the SCD
Article 20	Force Majeure	:	As per the SCD
Article 21	Non-disclosure of Contract Documents:		As per the SCD
Article 22	Notices	:	As per the SCD
Article 23	Transfers & Sub-letting	:	As per the SCD
Article 24	Patents & other Industrial Property Rights:		As per the SCD
Article 25	Amendments	:	As per the SCD
Article 26	Training	:	As per the SCD
Article 27	Option Clause	:	As per the SCD
Article 28	Buyer Furnished Equipment	:	As per the SCD

Annexure I
(Refers to Article 1 of the
Sample Lease Document)

1. **Statement of Quantities, Duration of Lease and Cost of Lease.**
(Sample data filled in)

Ser No	Item	Qty	Period of Cost	Cost per Period	Taxes/Duties	Remarks
-1-	-2-	-3-	-4-	-5-	-6-	-7-
I. <u>Recurring Payments</u>						
A.	Cost of Basic Equipment (List all basic equipment)					
	(i) Challenger 400 ac	3	Hourly	USD 4,000	18%	To be paid monthly
	(ii) Special Tractor	1	Monthly	USD 250	12%	To be paid qtly
	(iii) Additional cost for usage beyond the maximum period contracted in the Lease (on per hour, per day, per week, per month, per quarter, or per year basis)		Hourly	USD 4,500	18%	To be paid monthly
	(iv)					
B.	Any other Cost					
	(i)					
II. <u>Non-Recurring Payments</u>						
C.	Cost of commissioning/ installation (If applicable)	--	One Time	MUSD 1.2	8%	One-time payment, after completion of installation
	(i)					
	(ii)					
D.	Cost of fitment of Buyer Furnished Equipment (BFE) (If applicable)	!!	One time	MUSD 1.8	8%	One-time payment, after completion of fitment
E.	Cost of removal of BFE	!!	One time	MUSD	8%	One-time payment,

Ser No	Item	Qty	Period of Cost	Cost per Period	Taxes/Duties	Remarks
-1-	-2-	-3-	-4-	-5-	-6-	-7-
	(At the end of lease period) (If applicable)			1.6		on completion of removal
F.	Cost of Spares (to be included only if not included in A(i) above)					Include details as a separate Annexure
G.	Cost of Special Maintenance Tools and Special Test Equipment (If applicable)					
H.	Cost of Manuals, Technical Literature and Documentation (If applicable)					
I.	Cost of recommended period of training (If applicable)					Include details as an annexure
J.	Cost of delivery/ transportation (If applicable)					
K.	Cost of Re-delivery					This is the cost that Lessee has to pay (for de-modifications or conversion) at the time of handing over the equipment back to Lessor at the end of the lease
L.	Any other costs					Details to be specified. Attach separate annexure if required
M.	Total Cost					All one-time costs to be added up. All period costs to be extrapolated for the total period of Lease. Total cost will be used for determination of L1

Ser No	Item	Qty	Period of Cost	Cost per Period	Taxes/Duties	Remarks
-1-	-2-	-3-	-4-	-5-	-6-	-7-
						vendor
N.	Foreign Exchange Components (For Indian vendors only)					
O.	CDEC (if applicable), its authority and amount for which required					

2. **Usage Limits.** The formulation of this para will depend on case to case basis. Based on RFI response, include minimum/maximum usage limits of the equipment to be leased. For e.g. 150 flight hours per aircraft per annum, or 2,000 operating hours per equipment per year, or six hours every night, or 150 km every month.

3. **Performance Metrics.** List the performance metrics that will be used to measure satisfactory performance of the leased equipment. For e.g. system availability (serviceability percentage, platform availability, system uptime (hours per), utilisation rate (hours per)

4. **Stages of Payment.** Same as per **para 2.1 of the SCD**. After delivery of equipment, there will be lease rental payments as per the payment periodic agreed in the contract (Monthly, Quarterly, Six-monthly or annual payments – linked to usage/custody of equipment).

5. **Operations.**

5.1. During the period of contract, Lessee shall be solely and exclusively responsible for the use, operation and control of the asset and Lessee shall use and operate the asset in a careful manner and in conformity with the (include applicable law, rules or regulations affecting operation of the equipment), and in accordance with the asset operating manual.

5.2. Lessee shall not fly, operate, use or locate the asset in, to or over any such country or area (temporarily or otherwise) (i) which is excluded from the required insurance coverages, or would otherwise cause Lessee to be in breach of the insurance requirements or other provisions of this Agreement; or (ii) in which there are recognized or threatened hostilities.

5.3. All operations of the asset during the Term shall be under Lessee's operational control and Lessee shall be solely responsible for its possession and use; and (ii) Lessee shall not sell, transfer, assign, encumber, sublet or part with possession of the

asset or any of its rights under the Contract except for the performance of maintenance on the asset, or unless the parties otherwise agree in writing.

5.4. Lessee shall bear all costs of operating the asset, except the cost of certain Maintenance which shall be shared by the parties in accordance with this Contract (*provide reference to the applicable clause*). (*Amend the clause, if the operating costs will be borne by the Lessor*).

5.5. Lessee shall not permit any liens to be placed on the asset, other than those liens (i) in favour of or created by or through Lessor or Lessor's lender, if any; or (ii) Permitted Liens (*provide reference to the article on Permitted Liens*).

6. **Maintenance.** (*Amend as per conditions of the Lease, as applicable to the equipment*).

6.1. Lessee shall, during the period of contract, at its own cost and expense, maintain, inspect, service, repair, overhaul and test or cause the asset to be maintained, inspected, serviced, repaired, overhauled and tested so as to keep the Aircraft in good operating condition as delivered to Lessee on the Delivery Date, ordinary wear and tear excepted, and in compliance with all Applicable Law, and the manufacturer's recommended inspection and maintenance program ("**Maintenance**"). For the avoidance of doubt, the Maintenance costs and expenses to be borne by Lessee shall include, but not be limited to, the cost of all parts and consumables used in the maintenance process that are not covered under or specifically addressed in (*provide reference to the article under which such exemptions are listed*)

6.2. Lessee shall perform or cause to be performed all Maintenance by persons and agencies which are duly approved. Lessee shall ensure that the Maintenance is conducted in a manner that does not modify or impair any existing warranties or service maintenance plans and agreements covering the asset or any part thereof. All logbooks, records and documents (including any computerized maintenance records) pertaining to the asset and its engines and their maintenance during the period of contract shall be maintained in English and in accordance with the applicable regulations, and returned to Lessor upon termination of this contract with all entries duly completed and properly signed off.

6.3. Lessee shall pay to Lessor the rate specified in the payment terms as and when due under such agreements and provide such information and documentation required there under. Lessor shall timely remit such payments. Upon execution of this Contract, Lessor shall provide to Lessee complete and current copies of any maintenance agreements with respective OEMs/repair agencies and shall provide to Lessee any and all amendments, extensions, notices or other documentation relating to such programs. Lessor shall not reduce the coverage under such programs without the prior written consent of Lessee.

6.4. Lessee shall be entitled during the period of Contract to acquire and install at its own cost and expense, any additional accessories, devices or equipment as it desires (the “**Additions**”) but only so long as such Additions (i) are approved in writing by Lessor; (ii) are ancillary to the asset; (iii) are not required to render the asset complete for its intended use by Lessee; (iv) will not impair the originally intended function or use of the asset or diminish the value of the same; and (v) can be readily removed without causing material damage to the asset.

6.5. Unless otherwise agreed to in advance by the parties, Lessor shall bear the full cost of any discretionary asset upgrades, capital improvements or major refurbishment made during the period of Contract. In the event the Lease is terminated by either party for any reason prior to the expiration of the period of Contract, Lessor shall refund to Lessee the amount paid by Lessee for upgrades, improvements and refurbishment of the asset paid for by Lessee under this Article on a pro-rated basis based on the actual number of calendar days remaining in the Contract from and after the effective date of termination.

CHAPTER X

OTHER CAPITAL PROCUREMENT PROCEDURE (OCPP)

CHAPTER X

OTHER CAPITAL PROCUREMENT PROCEDURE (OCPP)

Background

1. Acquisition of new capital assets for the Services is to be undertaken as per the procedure defined in the preceding Chapters. Apart from such capital assets, there are other items of capital nature that enhance the utility of existing assets. Expenditure on such items is also treated as Capital expenditure, which is based on Rule 84 of General Financial Rules (GFR) 2017 which defines capital expenditure as ‘Significant expenditure incurred with the object of acquiring tangible assets of a permanent nature (for use in the organization and not for sale in the ordinary course of business) or enhancing the utility of existing assets’. In the context of defence procurements, such items of capital nature that enhance the utility of existing assets include overhauls, major refits and upgrades of existing platforms/equipment. Such items will be covered in the procedure prescribed in this Chapter.

Scope

2. Items such as overhauls, refits, upgrades and replacement of items of Capital nature etc. which enhance the utility of existing assets, in terms of the definition laid down in GFRs 2017, will henceforth be procured under the procedure laid out in the succeeding paras of this Chapter. This Procedure will be referred to as ‘Other Capital Procurement Procedure’ (OCPP). The procurement under this chapter will be as per list of items (as amended from time to time), which will be drawn up by HQ IDS and respective SHQs and promulgated by DG (Acquisition) in consultation with MoD (Finance).

3. Thus, OCPP will be applicable only to procurements involving expenditure on overhaul, refits, upgrades and replacement of items of Capital nature while expenditure on items of routine maintenance, repair etc., will be incurred under Revenue Budget following the DPM. It will be ensured that items covered under this Chapter will not be taken up for procurement under procedure defined in other Chapters of DAP.

Parameters for Procurements under OCPP

4. **Repeat Procurements.** Wherever feasible, for repeat procurements, quantities should be projected on the basis of consumption pattern based on data for the maximum period available.

5. **CFA**. CFA for OCPP cases will be as per Capital Acquisition process. However, in view of the peculiarity of procurement under this Chapter and the number of items required to be procured frequently, certain delegation of powers have been undertaken for ease of processing and timely procurement. These are as under:-

- (a) **Upto ₹ 100 Crores**. GOC-in-C, FOC-in-C, AOC-in-C at Command HQ and Regional Commanders, ICG.
- (b) **Upto ₹ 200 Crores**. DCOAS(CD & S)/ MGS, COM, AOM, DCIDS and ADG ICG.
- (c) **Upto ₹ 300 Crores**. VCOAS, VCNS, DCAS, CISC and DG ICG.
- (d) **Above ₹ 300 Crores**. As per delegation of powers defined in Chapter II of DAP 2020.

Procurement under OCPP

6. **List of Items to be Procured Through OCPP**. The list of items to be procured through the provisions of OCPP will be promulgated by DG (Acquisition) in consultation with MoD (Finance) separately, based on the proposal submitted by HQ IDS and respective SHQs.

7. **Procedure for Working Out Requirement of Items Under OCPP**. Based on the list of items promulgated at Paragraph 6 above, each SHQ will draw up specific list of items to be procured along with quantities and estimated cost based on the requirement. Requirement of items of repetitive nature may be aggregated drawing requirements over a longer period, say five years. These lists along with quantities, prepared and finalised by each SHQ, will be moved on file through MoD (Finance) to MoD (Acquisition) separately. The quantities included will have inherent 25% flexibility in numbers or cost to cater for unforeseen circumstances by each SHQ, but within the overall financial limits linked to the allotted budget for AAP by HQ IDS in consultation with MoD (Finance). These lists will not form part of AAP, but the amount earmarked/ quoted for procurement under OCPP will be reflected in Part D of AAP.

8. **RFI & SQRs Formulation**. Since the scope, cost implications, SQRs and vendor base for OCPP cases would already be known to the SHQs, the RFI process and the process for SQR formulation may not be applicable to the proposals under OCPP. However, the same may be carried out at the discretion of SHQ.

9. **AoN.** After the scheduled plan of such proposals/schemes is approved, individual cases will be processed by the SHQs for grant of AoN (inclusive of 25% flexibility). The AoN According Authority will be the CFA as defined in Para 5 above ⁶for the cases valued upto ₹ 500 Cr and RM for cases beyond ₹ 500 Cr. All proposals for grant of AoN will be processed and submitted by SHQs on file for approval of the AoN according authority (i.e., CFA). These cases will not be processed through SPB/ DPB /DAC. Non-delegated power cases will be processed through MoD, Acquisition Wing in consultation with MoD (Finance), while delegated power cases will be processed by SHQs in consultation with PIFA/IFA of CFA. Quantity vetting where applicable would be carried out by Additional FAs or PIFA/IFA of CFA as the case may be, as per SOP promulgated by MoD (Finance) based on scaling orders.

10. **Validity of AoN.** The validity of AoN will be one year from the date of approval by the AoN according authority.

11. **Procurement cum Negotiation Committee (PNC)/ Contract Negotiation Committee (CNC).**

(a) **Delegated Power Cases.** All activities after accord of AoN till conclusion of contract will be undertaken by the Procurement cum Negotiation Committee, as defined in DPM, and amended from time to time. PNC will be as per DPM at SHQ level.

(b) **Non Delegated Power Cases.** Cases above ₹ 300 Crores would be processed as per existing procedure of DAP 2020 post grant of AoN on file. However, under OCPP, Additional Financial Advisor, MoD (Finance) will be member instead of FM.

12. **Request for Proposal (RFP).** RFP for each case will be issued by SHQ/ADG Acquisition Technical for delegated cases and non delegated cases respectively within the validity of AoN as per the format in DPM suitably modified to be aligned with OCPP.

13. **Technical Evaluation.** Technical Evaluation will be carried out as per the provisions of DPM to check technical compliance. No FET and Staff Evaluation will be undertaken. Technical compliance requirements will be defined in the RFP.

14. **CFA Approval and Signing of Contract.** CFA (as defined in Para 5 above) approval will be obtained prior to signing of contract.

15. **Standard Contract Document (SCD).** The Standard Contract Document indicating the general conditions of contract will be aligned with DPM format suitably modified.

⁶ Amendment issued vide Appendix A to MoD ID No 1(8)/D(Acq)/21 dated 11.11.2021.

16. **Timelines for Procurement.** In order to ensure that requirements of SHQ are met expeditiously, the timelines for OCPP procurements will be as per guidelines laid down in DPM.

17. **Flowchart.** A flowchart indicating the procedure under OCPP is attached at Appendix.

Monitoring Mechanism

18. Regular feedback/update of all schemes will be conducted at SHQ level and a quarterly report will be furnished by the respective SHQ on the progress of procurements to MoD (Acquisition).

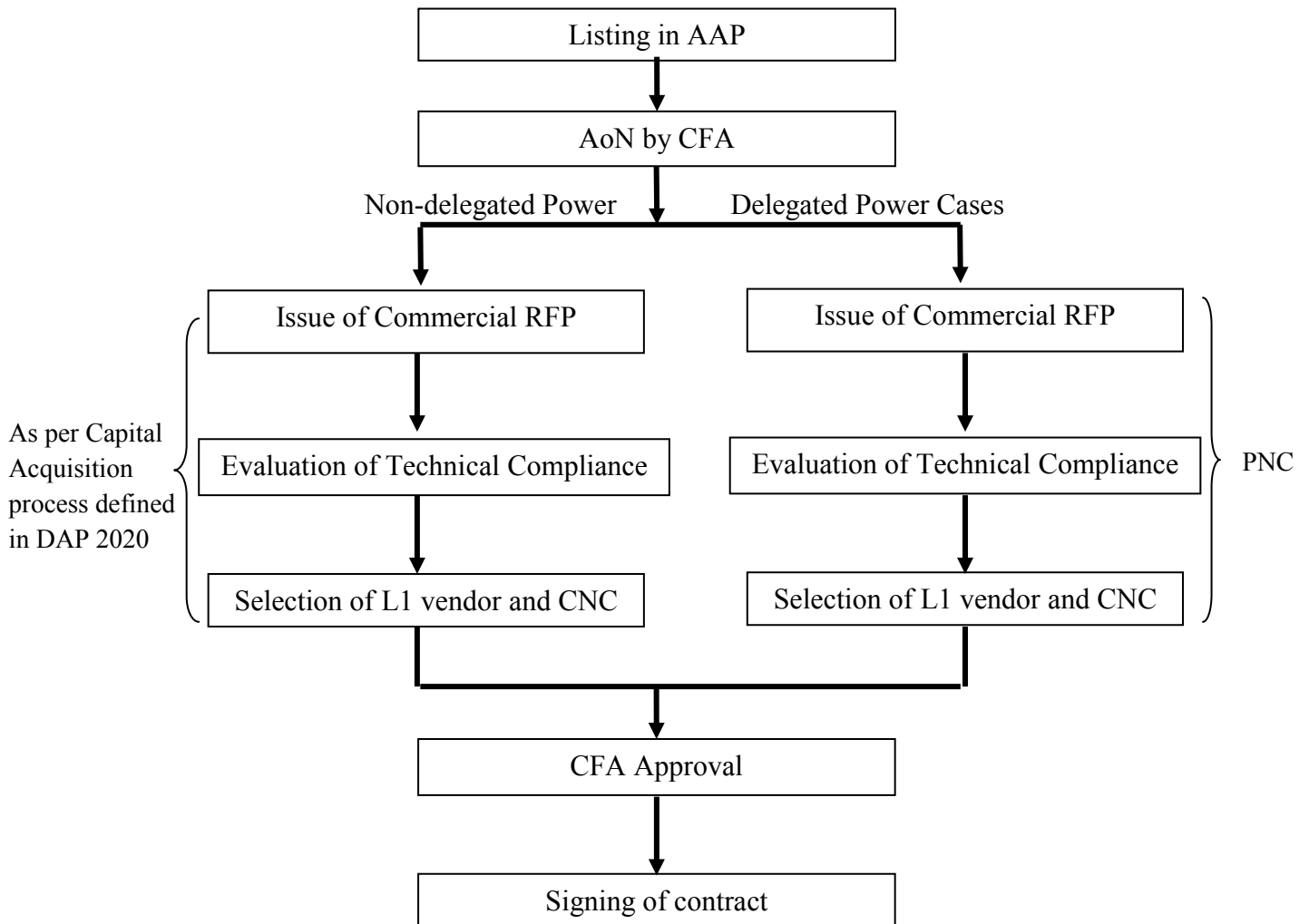
19. Any aspect of procurement not specifically covered under this Chapter will be governed by the relevant provisions of other Chapters.

20. **Applicability.** All ongoing cases where RFP has already been issued will continue to be progressed as per existing procedure. All other cases will migrate to the OCPP scheme. In cases where RFP has been retracted, those cases will be processed under new provisions.

Appendix

(Refers to Paragraph 17 of Chapter X)

OTHER CAPITAL PROCUREMENT PROCEDURE (OCP) : FLOWCHART



CHAPTER XI

POST CONTRACT MANAGEMENT **(PCM)**

CHAPTER XI
POST CONTRACT MANAGEMENT(PCM)

Introduction

1. A Contract is a legal document; therefore, it needs to be ensured that both parties strictly abide by the terms and conditions of the contract. Post contract, management is a very important activity and ensures compliance with the terms and conditions of contract, managing contractual amendments, quality assurance, timely payment and deliveries and resolving claims and disputes. In cases of Letter of Offer and Acceptance (LOA) with the US Government and other IGA are also to be treated at par with Contracts for the purpose of execution of Contracts.

2. The responsibility for contract administration (preparation and distribution of contract document as per terms of RFP) and management (ensuring timely payments and deliveries, management of guarantees, quality assurance, extensions and contract amendments, Contract closure/termination, arbitration and any other issue) would be that of the SHQ concerned. Post-contract monitoring, however, would be done by MoD (Acquisition) and SHQ will submit a quarterly report to DG(Acquisition) of cases with contract management issues.

First Off Production Model (FoPM)

3. Capital procurement cases involving validation at First Off Production Model (FoPM) would be as per RFP/Contract. Post successful FoPM validation by the Buyer, accord of BPC would be given for production and deliveries. The timeline for FoPM will be as per the RFP/Contract. Delay in FoPM validation may be permitted upto a maximum of 25% of the total period after due approval of VCOAS/VCNS/DCAS/CISC/DGICG and maximum upto 50% with approval of DG(Acquisition). However, for the delay in FoPM, if vendor is found responsible, the duration of delay for accord of BPC post FoPM would be deducted from the time schedule of first lot of deliveries as per the contract.

Inspection –Pre Dispatch Inspection (PDI)/ Joint Receipt Inspection (JRI)

4. The Acceptance Test Procedure (ATP) is finalised in the contract and would be executed accordingly. The cost of PDI and JRI will be borne by the seller and buyer as per contractual provisions respectively. In case the buyer is not satisfied with the quality during PDI, the same would be repeated at the cost of seller.

5. The composition of the PDI committee for equipment procured from abroad is specified in the contract, the approval of the names to be accorded by the VCOAS/VCNS/VCAS/DCAS/CISC/DGICG and further processed to MoD for obtaining GSL. For PDI the Seller should inform the Buyer at least 45 days in advance prior to the Inspection day or as per schedule as agreed to. For PDI in India, the Seller should inform the Buyer concerned and QA agency at least two weeks prior to the Inspection day or as per schedule as agreed to. In case the PDI team is not able to reach as per schedule as agreed to, revised schedule may be coordinated

within the same framework as of original PDI. In cases where the buyer is unable to attend, payment will be released on the PDI being carried out by the Seller in his premises and submitting the documents to the buyer. If the delay by seller in intimation leads to delay in delivery, appropriate LD will be imposed. In case delay is attributable to the buyer which may lead to delay in delivery, PDI certificate be accepted from the seller and essential tests be done at JRI, if required. The seller will also provide the inspector all the necessary facilities including appliances, tools, material and labour at no extra cost, to carry out the specified inspection. When independent tests and analysis, in addition to those made by the inspector on the seller's or sub-seller's premises, are considered necessary as per contract, the seller shall provide testing at Seller's expense and deliver, free of charge, at such place as the Buyer may direct, such materials as he may require for tests or analysis. The PDI team/agency will update the Contract Executing Officer at regular intervals regarding the progress of PDI of equipment/ESP and vetting of technical literature. Vetting of technical literature by the QA/ nominated agency will be completed within four weeks of submission by the vendor so that the vendor can submit the same within the timelines as stipulated in the Contract. Any delay in PDI, including vetting of technical literature, will be immediately intimated to the Contract Executing Officer.

6. It shall be ensured that aspects inspected during PDI are not re-inspected during JRI. Unless necessitated, discrepancy or defects found during JRI shall be reported to the seller as per timelines in Contract. The seller on receiving intimation shall rectify the same within period specified in contract. In case the supplied item fails during JRI due to any reason, it will be the responsibility of the seller to replace the same within the delivery period at his cost and expense.

7. Buyer can order re-JRI if the consignment received are not as per specification in quality. The Re-JRI will be at the cost of seller.

8. **Packaging and Dispatch.** The stores are required to be packaged as per terms and conditions of the contract. In case the stores are not packed as specified in the contract then PWBG should be retained till it is certified by QA agency that deviation has not resulted in any adverse effect of consignment.

Change of Name of Vendor

9. Whenever a change in vendor name occurs during any stage of procurement process whether Pre-contract or Post-contract due to any reason, relevant guidelines/procedure as given at Appendix K to Chapter II, are to be followed.

10. The approval for name change shall be communicated to the Vendor within three months of submission of complete documentation by vendor.

11. If the firm is involved in multiple contracts/ procurement cases, a single case will be progressed for seeking approval of the appropriate competent authority. All relevant documents with respect to multiple contracts/ procurement cases as per guidelines at Appendix F of Chapter II will be obtained from the vendor. If change of name is approved in

a contract/ procurement case, the same will be deemed to be approved for all other cases at any stage. The Acquisition Wing will inform all concerned organisations of MoD regarding the change of name of vendor.

Bank Guarantees (BGs) Management

12. The vendor is required to furnish Bank Guarantees as specified in the RFP and Contract. In the case of separate Offset Contract applicable for 'Buy and Make' and Buy (Global) categories which has been signed between Buyer and Seller, the Bank Guarantees with respect to the Offset Contract are to be issued and maintained by DOMW. All Offset contract correspondence also to be dealt with DOMW.

13. The Bank Guarantees for *i.e.*, IPBG, ~~Advance payment~~ APBG, PWBG, and Additional Bank Guarantee for Essential parameters - B are kept in a sealed envelope under lock and key with the Contract Executing Authority *i.e.* concerned directorate in the SHQ. The bidder may furnish BG from any Indian Public or Private Scheduled Commercial Bank notified by RBI or first-class banks of international repute.

14. Details of BGs are maintained by individual project-in-charge or project officer in the following format: -

Ser No	BG No	Milestone as per Contract	BG Amount	Issued by Bank	Issued Date	Expiry Date	Remarks

(More columns may be added as per requirement)

15. A formal request for extension of BG is sent to the Bank a month prior to expiry date. In case of extension of Bank Guarantee, re-validated BG is re-verified with other branch of the same bank and thereafter sealed and kept under lock and key.

16. Para 8.2 of Annexure I to Appendix O of Schedule I to Chapter II on Pre-Contract Integrity *inter alia* states that the IPBG shall be valid up to three years from the date of submission, the same would be kept in Custody of AMs/ SHQ till finalization of Contract. Post conclusion of Contract the same would be sent to SHQ who will return the IPBG to vendor post successful completion of Contract within four to six weeks. However, Bidders will be required to extend the IPBG as and when required by the buyer. In the case of the successful bidder, validity of the IPBG will be extended upto the satisfactory completion of the contract. On declaration of L1 vendor, the other vendors are at liberty to withdraw their IPBGs. However, the attention of vendors may be drawn to ~~Para 106-107~~ 104-105 of Chapter II regarding negotiation with L2 vendors. The IPBGs of such vendors will be returned within four to six weeks of application for withdrawal of IPBG.

17. Post signing of contract, it shall be the responsibility of the Contract Executing Officer in SHQ to ensure that IPBG is revalidated from time to time, till the conclusion of the contract, to the satisfaction of buyer and the seller.

18. The IPBGs shall be noted in a register or on computer in the following format by the contract executing agencies: -

S.No	Date	Name of Depositor	Contract No. & Date	Purpose	Due date of validity	Name and address of the Banker furnishing the BG
1	2	3	4	5	6	7

Amount for which BG is offered	Date of expiry of BG	Confirm advice number and date from the Bank in token of verification of genuineness of the BG	Initials of the contract executing Officer in the Service Headquarters	Remarks
8	9	10	11	12

No. and date of release letter	Particulars of acknowledgement by the vendor	<i>(More columns may be added as per requirement)</i>
13	14	

19. The register of BGs shall be reviewed every month in respect of guarantees likely to expire in the third subsequent month by the Acquisition Wing/Contract Executing Officer, to ensure that a close track is kept on the currency of the guarantee and that they are extended from time to time, wherever necessary, for such period as might be necessary with reference to completion of the relevant contract. A Double Banking System for monitoring of BG will be followed. Acquisition Wing and SHQ will maintain details of BGs and monitor the same. The custodian of the BG will be responsible for its extension.

20. In case a BG is required to be encashed, the Contract Executing Authority concerned will take necessary action in advance before expiry of the Guarantee.

21. As and when the BG is cancelled or its date of validity has expired and the Guarantee is not required to be renewed, the same shall be returned to the Party concerned with acknowledgement due from them. It should be noted that the expired Guarantees are returned within four to six weeks after fulfillment of RFP requirement/contract or on expiry of Guarantee Period.

22. The procedure for handling of IPBG is as below: -

Ser No	Procedure
(a)	IPBG Receipt from Vendor. IPBG alongwith Commercial and Technical proposals will be sent to ADGs Acquisition Technical/SHQ.
(b)	Technical Offer Opening Committee (TOOC). TOOC comprising members of ADGs Acquisition Technical, rep of SHQ, rep of FMs/IFA and rep of AMs will examine the IPBG and forward to concerned AMs/SHQ for approval/ any correction/time given to the vendor.

(c)	<u>IPBG Safe Custody.</u> Post acceptance of TOOC recommendations the IPBG shall be sent to Acquisition Wing/ SHQ by ADGs Acquisition Technical for keeping in safe custody/review to ensure a close track on the currency of the guarantee and that they are extended from time to time.
(d)	<p><u>Return of IPBG.</u></p> <p>(i) <u>Pre Contract.</u> In case, the vendor unilaterally decides to withdraw from the acquisition process or declared non-compliant at TEC/GS Evaluation stage, the IPBG shall be returned to the vendor by the concerned AMs/ SHQ within four to six weeks under intimation to ADGs Acquisition Technical provided the vendor gives a certificate that he does not have any complaint nor wishes to make any complaint. On declaration of L1 vendor, the other vendors are at liberty to withdraw their IPBGs. However, the attention of vendors may be drawn to Para 106-107 104-105 of Chapter II regarding negotiation with L2 vendors. The IPBGs of such vendors will be returned within four to six weeks of application for withdrawal of IPBG.</p> <p>(ii) <u>Post Contract.</u> In the case of the successful bidder, validity of the IPBG will be extended upto the satisfactory completion of the contract.</p>

23. **End Use Certificate (EUC).** EUC is to be issued by the buyer to the SELLER within 30 days of signing of the contract or as defined in the contract. In respect of defense acquisitions, the EUC shall be issued by a designated one-star level officer from the concerned SHQ/CGHQ. This shall be applicable for both delegated and non-delegated capital acquisition contracts/cases.

Payments Terms and Conditions

24. Payments will be governed as per terms and conditions given out in the contract documents. The indicative list of documents required for processing of payments is given below. This list does not indicate documents required for cases involving payment through LC. Specific documents required in each case will be as per prescribed contract: -

For Indian Vendors	For Foreign Vendors
(a) Ink-signed copy of Seller's bill.	(a) Clean On-Board Airway Bill/ Bill of Lading (Original).
(b) The relevant Transport Receipt.	(b) Commercial Invoice (Original).
(c) Inspection Acceptance Certificate of Buyer's QA agency demonstrating compliance with the technical specifications of the contract.	(c) Certificate of Conformity.
(d) Packing List	(d) Acceptance Test Certificate at PDI.

<p>(e) Certificate of Origin.</p> <p>(f) Claim for statutory and other levies to be supported with requisite documents/proof of payment, as applicable.</p> <p>(g) Exemption certificate for taxes/duties, if applicable.</p>	<p>(e) Certificate of Origin, duly stamped from Seller's Chamber of Commerce.</p> <p>(f) Certificate of Quality and current manufacture from OEM.</p> <p>(g) Dangerous Cargo Certificate.</p> <p>(h) Phyto-sanitary / Fumigation Certificate.</p> <p>(j) Packing List.</p> <p>(k) Insurance and freight documents.</p> <p>(l) Training certificate by the Buyer.</p>
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25. The bills and requisite documents complete in all respect must be submitted by the vendor to the SHQ who scrutinizes them for their correctness. The verified bills and documents are then submitted along with the Budget authorization to the concerned Principal Controller of Defence Accounts (PCDA)/ Controller of Defence Accounts (CDA) for release of payments to the vendor. The concerned PCDA/CDA will release the payment through cheque/EFT/ LC in a time bound manner so specified (within 30 days of submission of documents for each stage of delivery as given in RFP/ Schedule 1 of chapter-II). Payments are to be released by PCDA/ CDA accordingly with the documents mentioned above or as stated in the contract. No additional documents are to be sought by any agency without prior approval. The SHQ should obtain budget availability and correctness and ensure parallel processing of documents listed above for early release of payment to vendor utilizing digital verified documents.

26. The issues experienced in the release of payments are on account of incomplete documentation/ bills, budget availability and amendments required in the contracts. To address these issues half yearly review meetings will be held under the contract signing authority to be organized by the concerned SHQ directorate including the vendor, paying authority and all concerned stakeholders for timely resolution of issues and active monitoring of all contracts. In addition, there shall be a designated Point of Contact (PoC) in the SHQ indicated in the contract for all the issues related to the contract. This PoC in SHQ can be approached by the vendor for any issue faced with respect to the contract.

Non-Availability of Buyer Furnished Equipment (BFE)/Platform/ Infrastructure

27. Capital procurement contract may involve cases where Buyer Furnished Equipment / Platforms/ Infrastructure have to be provided by the BUYER to the SELLER for integration on or installation/ manufacturing /testing of the equipments which is to be procured. Such

provisioning of BFE/ Platforms/ Infrastructure by the buyer becomes essential for customization of procured equipment to country specific requirements and for promoting indigenisation.

28. Contracts of this kind are required to specify the timelines for provisioning of BFE/ Platform/ Infrastructure by Buyer at its own expense as provided for in **Article 36** of Standard Contract Document (SCD) on Buyer Furnished Equipment (BFE). Though timely provisioning of these items needs to be ensured, a situation may arise when provision of BFE/ Platforms/ Infrastructure from the buyer gets delayed or becomes unavailable after signing of the contract. These cases may be dealt under following two categories: -

(a) **BFE/ Platform/ Infrastructure from the Resources Already Available with the SHQ.** This includes cases where BFE/ Platforms/ Infrastructure have to be made available to SELLER from the resources already available with the SHQ.

(i) In-house BFE/ Platforms/ Infrastructure required for a contract should be earmarked for that purpose, not later than conclusion of CNC.

(ii) If an existing assembly is to be removed from infrastructure, the same may be planned at the RFP stage itself.

(iii) The project / SHQ to ensure that BFE/ Platforms/ Infrastructure are made available within the scheduled timelines.

(iv) SHQ to intimate MoD of the delay envisaged in availability/readiness of BFE along with measures taken to make good the delay. Projected timelines and its impact on delivery of goods and completion of the project may also be informed.

(v) Delay in availability of BFE/ Platforms/Infrastructure to Seller may be notified at least 60 days before scheduled timelines. The delivery schedule of associated equipment from the seller will be suitably extended.

(vi) Payments to Seller in such cases of delays shall be made as per RFP and Contract provisions.

(b) **When BFE/ Platforms/ Infrastructure is to be Procured from Other Vendor.** This includes case where BFE/ Platforms/ Infrastructure have to be procured from another vendor by the Buyer hereon referred to as SUPPLIER and then made available to SELLER.

(i) The timelines for procurement of BFE/Platform/Infrastructure may be planned at RFP stage itself.

- (ii) A status report and timelines for procurement of BFE/Platform/Infrastructure will need to be mentioned while obtaining CFA approval of the contract with SELLER.

Terms of Delivery

29. The milestones as defined in the contract to be monitored by the SHQ and report to be submitted to Acquisition Wing on achieving the milestones. Any issues if encountered during the contract to be brought to the notice of Acquisition Wing.

30. **Failure to Deliver within the Delivery Period (DP)**. When the supplies do not materialise by the stipulated contract delivery date, either of the under mentioned action should be initiated: -

- (a) Issuing a performance notice.
- (b) Extending the delivery date with imposition of LD and Denial Clause, which implies denial of increase in price, taxes, duties, etc. taking place during the extended period as also requisite extension of warranties/BGs in case of delay/DP extension.
- (c) Cancelling the contract.
- (d) Initiation of punitive action as per the terms and conditions of the contract.

31. **Deciding the Course of Action in the Event of Failure of Supply**. Extension shall be granted only where the DG(Acquisition)/ Vice Chiefs /DGICG are convinced that seller would come forward during extended DP. All DP extensions with or without LD as well as provisional DP would be granted as per extant delegation of powers as applicable on a case to case basis. Provisional/ changed Delivery Period will be accorded on a case to case basis.

32. Cases involving extension of DP with or without imposition of LD shall be brought to the notice of DG(Acquisition)/ Defence Secretary and RM when the extension involves delays of six months and 12 months respectively, so that project time overruns are highlighted, in accordance with extant delegation of powers for Post Contract management, as amended from time to time.

Liquidated Damages and Other Post-Contractual Issues

33. With a view of streamlining post contract management, in cases wherein contract amendments are necessitated particularly with regard to cases necessitating extension of delivery period, imposition or waiver of LD and release of milestone linked payments, guidelines as given in subsequent paragraphs shall be followed. These guidelines are intended to ensure uniformity in dealing with cases of DP extension and also to address delays in processing of DP extension cases so that project deliverables are not further impeded. The quantum of LD to be imposed shall be within the ceiling provided in the Contract. This

should also include levying LD in case of delay in mutually agreed timelines which are specified for warranty repairs at the time of signing of contract. The Liquidated Damages will be based on Base Contract prices of delayed goods as given in the RFP/Contract. Other provisions in Contract which may provide for parties to resort to other measures to resolve delays on non-compliance in contract implementation shall have no effect on the LD ceiling as provided in the Contract. The details are as given at Appendix A.

Contract Amendment Procedure

34. Contract Amendment Procedure is as given at Appendix B to this Chapter.

Delegation of Powers for Post Contract Management

35. The powers for Post-Contract Management of Capital Acquisition contracts is delegated in accordance with extant delegations of powers irrespective of the CFA at the time of sanctioning the contract and are listed at Appendix C to this Chapter.

Alteration/ Obsolescence Management/ Upgradation of the Equipment Post Signing of Contract

36. After signing of the contract, there may be a need to carry out technical alterations/upgradation in the design, drawings and specifications of the equipment due to change in manufacturing procedures, Indigenisation or obsolescence, with the vendor giving certificate that alterations/upgradations would be at no additional cost and no reduction in prices. However, in cases where it involves increase in cost, a Professional Officers' Valuation (POV) may be setup to establish the optimal cost variation for contract amendment.

37. 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. 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. For upgrades/alterations Contract Amendment needs to be undertaken as per extant delegation of powers for Post Contract Management of Capital Acquisition Contracts. However, if the upgrade/alteration involves a change in SQR, approval of the AON according authority will be obtained.

38. If the time required is more than six months, the present contract need not be accepted on grounds of likely delay in the current procurement. The cumulative time for this purpose should include 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. However, especially in cases of obsolescence management which may require more than six months, the time period may be extended on a case to case

basis by the competent authority. If such changes are technically approved by the SHQ, it shall move a case for Contract Amendment to incorporate such changes, to the Contract Signing Authority.

Verification of Indigenous Content

39. The format for computation of IC, 'Indigenous Content (IC) Proforma' by the Prime Vendor is placed as Annexure I to Appendix B of Chapter I. The Prime Contractor is required to maintain this Proforma for the purpose of any verification by the Contracting Authority during the tenure of the contract.

40. Verification of the IC aspects in a contract, if required will be conducted by a Committee headed by Advisor/Director (Cost) and may include members from the SHQ and MoD (Finance). Other technical/financial experts from any Government organisations may be co-opted into the Committee, as and when required.

41. A Committee may be constituted by the DG (Acquisition) at any time during the execution of the contract, including the warranty period, and shall submit its report within three months.

42. The Committee may visit vendor premises and/or call for relevant information from the vendor to verify the IC certification, submitted by the vendor on a case to case basis. The vendor shall facilitate the visit of the Committee to vendor premises and/or provide the Committee with all relevant documents and information required for verification of IC. It shall be incumbent upon the vendor to gather all relevant documents and certifications in respect of IC aspects of the equipment from his Tier 1 and Tier 2 vendors and provide the same to the committee.

43. The report shall be examined by MoD (Acquisition) and compliances/non compliances/shortcomings in the IC aspects will be suitably communicated to the vendor.

44. In case of any shortcomings noticed in the compliance to IC aspects, procedure as detailed in Para 13 and 14 of Appendix B of Chapter I, shall be initiated.

45. The JS & AM may ask the vendor to submit relevant documents in support of action taken to remove the above-mentioned shortcomings or order another verification.

Buy Back of Spares

46. During the process of procurement, the Buy Back Clause will form part of RFP. The buyer reserves the right to change/ alter MRLS as proposed by seller in range and depth within a period specified in the contract, post expiry of the warranty period. The same will form part of Buy Back Clause and included in the contract. In case the expenditure pattern is not as suggested by the seller, the buyer has the right to return the spares to seller at the cost

as per the contract. The Seller needs to agree to either 'Buy Back' the spares rendered surplus or exchange them on 'cost-to-cost' basis with the spares, as required by the Buyer.

Claims

47. The action regarding claims due to deficiency of quantity noticed during the JRI and quality for defect or deficiency noticed during the JRI or during warranty period shall as per Article 20 of the SCD.

Arbitration

48. The provisions and process of arbitration are provided at Appendix O to Schedule I to Chapter II and Article 24 of Chapter VI.

49. All disputes or differences arising out of or in connection with the Contract, including the one connected with the validity of the Contract or any part thereof, shall be settled by bilateral discussions.

50. In case dispute or differences are not settled amicably despite best efforts of Seller and Buyer, the provisions and process contained in the concluded contract for arbitration shall be followed.

51. The decision post arbitration will be moved on file for acceptance by Hon'ble RM for non-delegated case and VCOAS/VCNS/CISC/DCAS/DG(CG) for delegated power case.

Termination of Contract

52. SCD under Chapter VI of DPP 2020 provides Termination of Contract. Article 22 of SCD states that the contract can be terminated for default in delivery or meeting milestones by the seller or termination of Contract for (Procuring Entity's) Convenience.

53. **Procedure for Termination.** SHQ shall submit the proposal with full justification for obtaining the approval of respective CFA for termination of contract. Termination of CCS/Finance Minister approved cases will be put up for approval of RM.

Appendix A

(Refers to Paragraph 33 of Chapter XI)

LIQUIDATED DAMAGES AND OTHER POST-CONTRACTUAL ISSUES

1. The following procedure will be followed: -
 - (a) In all cases where a delay in delivery of project/ project milestones should move a case for DP extension at least three months prior to contract delivery date with an assessment of liability towards LD.
 - (b) Unless and until termination of contract is being contemplated: -
 - (i) DP extension may be granted with LD in usual course through a contract amendment wherever liability for the same is clear and not disputed by the vendor.
 - (ii) DP extension may be granted provisionally where attributability for delay is in dispute with the stipulation that payment in lieu of LD will be withheld pending determination of attributability. Provisional DP extension should be given for the purpose of release of milestone payments, undertaking PDI and accepting deliveries subject to final assessment of the attributability of delay.
 - (iii) In cases where attributability is disputed, this aspect will be examined by the concerned JS & AM and FM for MoD level cases and SHQ/IFA (Capital) for Delegated Cases, wherever felt necessary, a collegiate can be appointed by the concerned AMs/SHQ. Based on the recommendations of the concerned JS & AM and FM/Collegiate as the case may be, proposal for formal contract amendment would be moved for approval of competent authority. LD in such contracts shall normally be deducted from the final installment due to the contractor and it should be ensured that the amount is sufficient to cover the maximum LD as provided for.
 - (iv) Where deemed necessary, the recovery of LD as in (b)(i) and withholding of payment in lieu of LD as in (b)(ii) above may be done in a phased and proportionate manner from milestone payments after ensuring that sufficient balances would remain available for ensuring full recovery of LD by the time final payments are released. If the amount of the final installment is not sufficient to cover the amount of LD, the same may be deducted from the installment/ installment preceding the final installment until the entire amount of LD is covered. The amount withheld/recovered from each milestone payment should ordinarily not exceed 10% of the due milestone payment and overall amount withheld till the last payment should be limited to maximum

permissible LD. Amounts withheld from stage payment due to vendor will be adjusted in final installment after deciding on imposition of LD.

2. **Contracts with Deliveries in Lots/Consignments.** For this category of contract, the following procedure will be followed: -

(a) DP extension may be granted with LD by way of contract amendment wherever liability for the same is clear and not disputed by the vendor in the usual course.

(b) DP extension may be granted provisionally where attributability for delay is in dispute with the stipulation that payment in lieu of LD will be withheld pending determination of attributability. Provisional DP extension should be given for the purpose of undertaking PDI, accepting deliveries and release of payment subject to final assessment of the attributability of delay.

(c) In cases of staggered delivery, DP extension may be granted provisionally as above and payments may be released accordingly after receipt of each lot/consignment. However, it must be ensured, as far as possible, that before giving provisional DP extension for the next lot/consignment, contract amendment has already been done for the previous provisional DP extension of the preceding lot/consignment with LD liability, wherever required.

(d) In cases where attributability is disputed, this aspect will be examined by the concerned JS & AM and FM for MoD level cases and, wherever felt necessary, a collegiate can be appointed by the concerned AM. Based on the recommendations of the concerned JS & AM and FM/Collegiate, as the case may be, proposal for formal contract amendment would be moved for approval of competent authority.

(e) While effecting DP extension with or without LD for a specific lot/consignment, the Competent Authority shall also assess the cascading effect, if any, of the DP extension on subsequent lots/consignments and clarify the same in the instant Contract Amendment/DP extension.

3. **General Aspects.**

(a) Proposal for DP extension often are combined with other types of amendments in a single case. This leads to delay in processing amendments related to DP extensions. Hence, unless it is unavoidable, proposals for contract amendments for DP extensions should not be combined with other amendments.

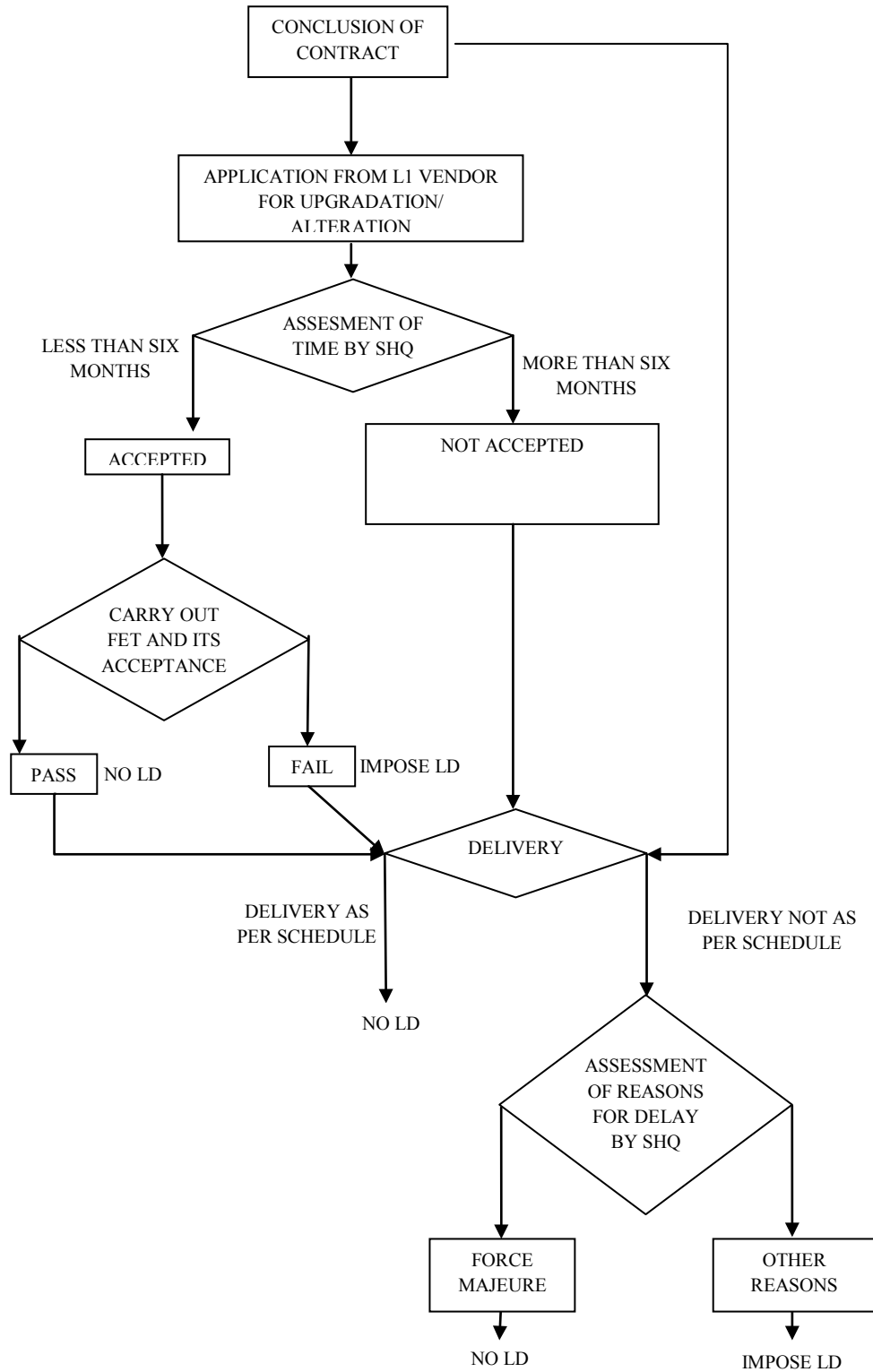
(b) In delegated power cases, SHQ shall adopt the above in consultation with IFAs.

4. The cases of DP extension with or without LD involving project time over run beyond 25% and 50% of the delivery schedule shall be brought to the notice of DG(Acq) and Defence Secretary respectively.

5. For cases involving Alteration/ Upgradation of the Equipment Post Signing of Contract the flow chart is given as **Annexure I**.

Annexure I to Appendix A
 (Refers to Para 5 of Appendix A)

WORK FLOW FOR IMPOSITION OF LIQUIDATED DAMAGE (LD)
IN UPGRADATION/ ALTERATION CASES



Appendix B to Chapter XI
(Refers to Para 34 of Chapter XI)

CONTRACT AMENDMENT PROCEDURE

1. Article 32 of Standard Contract Document (SCD) on 'Amendments' mentions 'No provisions of the Contract shall be changed or modified in any way (including these provisions) either in whole or in part except with an instrument in writing made after the date of this contract and signed on behalf of both Parties & which expressly states to amend the Contract'.
2. No variation in the terms of a concluded contract should normally be made, unless the contract specifically provides for it, in which case this can be done with the specific written consent of the parties to the contract and after due approval of the competent approving authority.
3. Amendment to a contract already concluded may become essential in certain situations and the case shall be processed for obtaining approval as per applicable delegation of powers to concurring and approving authorities for such amendments.
4. Amendment to Contract in Multi Service Cases. In case of multiservice contracts, contract amendment will be initiated by the affected SHQ. The affected SHQ will circulate the draft Contract Amendment to the other services which have also sought procurement under same combined contract. These Services will clearly indicate their desire to effect the same amendment in the Contract. Post receipt of comments, proposal for contract amendment would then be processed by the Lead SHQ, through the original contract concluding JS & AM/SHQ, for approval of the Approving Authority for non delegated and delegated cases as per **Appendix C** to this chapter (as amended from time to time). All other post contract issues pertaining to its management and monitoring will be processed by SHQ through their respective JS &AM/ Procurement Directorate of the SHQ.
5. No enhancement in rates/prices should be made unless the contract specifically provides for it. Such situations may arise in those cases where the contract provides for price variation clauses or the change is due to variation in GST/Custom Duties/other Government taxes & levies and the contract provides for payment of these duties on the basis of actual rates, provided the supplies are made during the original delivery period (with denial clause wherever applicable).
6. Once the Contract Amendment is signed by both the parties, it should be ensured by Service Headquarters that the copies are distributed to the concerned parties. After the distribution of Contract Amendment copies, the original contract or a copy should be placed in a folder and all important milestones should be chalked out for monitoring the payments and supplies till all the supplies and obligation are completed.

7. The need for Contract Amendment is required to be envisaged by seller and buyer well before the milestone/event impacted by the contract amendment and contract amendment shall usually be signed before the milestone/event impacted.
8. All contract amendments process to be completed within three months of initiation.
9. A status report on contract amendments in pipeline shall be presented by Service Headquarter to DG (Acq) on quarterly basis.

Appendix C to Chapter XI
(Refers to Para 35 of Chapter XI)

DELEGATION OF POWERS FOR POST CONTRACT MANAGEMENT

Ser No	Powers in respect of	Concurring Authority ^a	Approving Authority
(a)	(i) Payment of additional bank charges/ LC charges, payments due to amendments in taxes and statutory levies (with denial clause wherever applicable), additional cost in opening of LC. (ii) Payments in Foreign Exchange, ERV, transportation charges and Price Escalation as per the terms of the Contract (with Denial Clause wherever applicable). (iii) Provisional DP Extension.*	-	Delegated and Non-delegated Cases Designated Authority in SHQs, CGHQ & HQIDS not below the level of two star. <i>Note:</i> Paying Authority will carry out verification prior to release of payment at the stage of payments/bill processing as preferred by the Designated Authority.
(b)	Amendment to contracts involving (i) Extension of Delivery Period (DP) ^b with imposition of Liquidated Damages (LD) ^c ; and (ii) regularisation of Provisional DP Extension*(iii) Editorial changes in contracts due to typographical errors, inadvertent omissions from the CNC Report.	Delegated cases: PIFA/IFA Non-delegated Cases: FM, Acquisition Wing	Delegated cases: VCOAS/VCNS/CISC/DCAS/DG(CG) Non-delegated cases: AM
(c)	Amendment to contracts involving increase in the contract value other than on account of items covered in Sl. (a) above. <i>[Except cases that need to be referred to CCS & Finance Minister] ^d</i>	Delegated cases: PIFA/IFA Non-Delegated Cases: SDF/FA(DS)	Delegated cases: VCOAS/VCNS/CISC/DCAS/DG(CG) Non-delegated cases: Defence Secretary (<i>Where Defence Secretary is CFA</i>) RM (<i>For RM and above CFA cases except cases that need to be referred to CCS & Finance Minister</i>) ^d

(d)	(i) All other amendments to contracts including DP Extension ^b without imposition of LD, LD waiver, recoveries, penal levies, reallocation of funds within the overall sanctioned cost and residual issues within the overall contract value.(ii) regularisation of Provisional DP Extension*	Delegated cases: PIFA/IFA Non-Delegated Cases: AS &FA(Acq)	Delegated cases: VCOAS/VCNS/CISC/ DCAS/DG(CG) Non-Delegated cases: DG(Acq)
(e)	Payment to Government Counsels/ Advocates and Law Firms for their professional advice/ legal services rendered in Arbitration cases in defence capital contracts.	Delegated and Non-delegated Cases PIFA/ IFA	Delegated and Non-delegated Cases VCOAS/VCNS/CISC/ DCAS/DG(CG)

- Notes:**
- If a proposal is not concurred by the designated concurring authority, the decision will be taken by the approving authority if it is the CFA. If the approving authority is not the CFA, case will be taken for decision to the next higher level.*
 - The cases of DP extension with or without LD involving project time over run beyond 25% and 50% of the delivery schedule shall be brought to the notice of DG(Acq) and Defence Secretary respectively.*
 - The cases where imposition of LD is contested by the vendor will be disposed of at the level of DG(Acq) with the concurrence of AS&FA(Acq).*
 - Approval of CCS, in respect of CCS power cases and approval of Finance Minister in respect of Finance Minister's power cases to be sought in the cases of increase in the firmed up costs or Revised Cost Estimates as per the extant CCS ToBR.*

* As per Para 9.7.12 of Manual of Proc of Goods 2017 “ As per law, if stores are accepted after expiry of the delivery date of a particular instalment without extension in Delivery Period having being given, duly reserving our rights to levy LD”. If the vendor makes deliveries locally after the expiry of DP, the supplies may be provisionally retained under a franking clause reserving rights and the Contractor (i.e the Vendor) may be asked to obtain an extension of the delivery period from the authorised officer(i.e Contract Executing Authority) with or without any LD/denial clause. The following undertaking to be taken from the vendor:-

“The materials have been supplied after the expiry of contracted delivery date and its provisional retention does not acquiesce or condone the late delivery and does not intend or amount to an extension of the delivery period or keeping the contract alive. I shall be applying for an extension of delivery date from the procuring Entity. The goods may be retained without prejudice to the rights of the Government of India under the terms and conditions of the contract”.

CHAPTER XII

PROCEDURE FOR DEFENCE SHIP BUILDING

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PROCEDURE FOR DEFENCE SHIP BUILDING

General

1. A Naval/Coast Guard ship consists of an assortment of equipment comprising weapons, sensors and support systems, along with propulsion, power generation and auxiliary systems. In addition, the warship design caters for the facilities for crew, fuel and provisions. The system integration of complex weapons and sensors with the ship's systems and combat management system is crucial for a ship design and construction project.
2. To achieve this successfully, a ship construction program, therefore, involves feasibility studies on the basis of the staff requirements, concept design, model tests, specialists design studies to arrive at detailed design, system integration, construction, tests and trials. It also involves technology application and its transfer, selection of equipment including new developmental equipment, identification and purchase of large number of items from numerous indigenous and foreign suppliers.

Preamble

3. 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 three sections as follows: -
 - (a) **Section 'A'**. Acquisition of highly weapon intensive and/or specialised Naval platforms requiring transformational and evolutionary design like Aircraft Carrier, Next Generation Destroyer, through indigenous design by SHQ and construction by Indian shipyard(s) on nomination basis.
 - (b) **Section 'B'**. Acquisition of Naval Ships/Submarines, Coast Guard ships, Yard crafts and Auxiliary Crafts etc. to be constructed on competitive basis.
 - (c) **Section 'C'**. Acquisition of Naval Ships/Submarines of indigenous design by SHQ to be constructed by Indian Shipyards on competitive basis.
4. The fundamental difference between Shipbuilding procedures under nomination (Section A) and Competitive (Section B & C) is that, the cases where it is not feasible to freeze the design inputs due to evolutionary design and the complexity of the platform requires demonstrated capability of building similar ships of high complexity, or construction of the platform requires exclusive infrastructure that only one shipyard has, will be progressed under Section A. Cases where it is feasible to freeze the requirements in such details, prior to issue of RFP, would be progressed under Section B or C.

5. **Contract Operating Authority**. The Contract Operating Authority (COA/ DDG (M&M)) refers to the ability given to act on behalf of the President of India in order to execute all activities towards completion of the shipbuilding contract. The nominated COA/ DDG (M&M), in the major shipbuilding projects (approved by CCS) should be of the rank equivalent to Rear Admiral or above. For schemes which are processed under powers of SHQ or RM/ FM the COA can be of the rank equivalent to Commodore.

6. 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 SHIPS AND SUBMARINES
BY NOMINATION TO INDIAN SHIPYARD(S)**

7. **Applicability.** This section is applicable for acquisition of highly weapon intensive and/or specialized Naval platforms requiring transformational and evolutionary design like Aircraft Carrier, Next Generation Destroyer etc. through indigenous design by SHQ and construction by Indian Shipyard(s) on nomination basis. Ship building projects, wherein it is not feasible to freeze the design inputs due to evolutionary design and complexity of platform requires demonstrated capability of building similar ships, or wherein construction of the platform requires exclusive infrastructure which is available with only one shipyard, shall be progressed in accordance with the provision of this section.

8. **Procedure.** Naval Ship Building Procedure under this section will cover the following: -

- (a) Outline Staff Requirements (OSRs).
- (b) Feasibility Studies and Concept Design.
- (c) Acceptance of Necessity & Nomination of Shipyards.
- (d) Staff Requirements (SRs).
- (e) Preliminary Design.
- (f) Build Specifications.
- (g) Build Strategy.
- (h) Budgetary and Estimated Costs.
- (j) Contract Negotiations.
- (k) Approval of CFA.
- (l) Conclusion of Contract.
- (m) Detailed Design / Preparatory Activities.
- (n) Post Contract Management and Monitoring (Modification & Contingencies).
- (o) 2nd Stage Approval, if applicable.

- (p) Closure of the Project.
- (q) Liquidated Damages, if applicable.

9. **Outline Staff Requirements**. SHQ shall prepare the Outline Staff Requirements (OSRs), which shall include the role of the ship, dimensions of its hull, limiting dimensions and endurance if any, capability of major machinery, weapons, sensors and details of accommodation, manpower, endurance etc.

10. **Feasibility Studies and Concept Design**. The OSRs would form the basis on which the feasibility studies and concept design of the ship would be undertaken by SHQ along with identification of OEMs/vendors for specific weapons, sensors, machinery and equipment.

11. **Acceptance of Necessity (AoN)**. The proposal for induction of the ships shall be linked to the Maritime Capability Perspective Plan (MCPPE)/Five Years Plan which stipulates the numbers and type of vessels required. The Statement of Case for the proposal shall be prepared by SHQ and processed in line with the details given in Chapter II of DAP. 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 shall clearly indicate whether it is a new design, Follow-on ships or Follow-on ships with design/equipment changes. The validity of the AoN will be 36 months. The budgetary and estimated cost by shipyard would have to be submitted within the AoN validity period.

12. **Design Studies**. In certain cases, the Functional design studies for construction of major platforms could involve Model testing, Computational Analysis, other consultancies/ design validation studies and procurement of design tools/ software/ hardware. Separate case may be taken up to progress Preliminary/Functional design work such as design validation studies, consultancy services, development of Front-End Engineering Design (FEED) and creation of design facilities including procurement of software/hardware which will be projected to the AoN according authority, based on proposal in SoC.

13. **Nomination of Shipyard**. For nomination of the Shipyard(s) under this category, SHQ would undertake Technical Capacity Assessment of the entities against parameters listed at Annexure I to Appendix C. Names of the entities qualifying all Technical Capacity Assessment Parameters shall be forwarded to MoD prior to processing the case for accord of AoN. If more than one entity is nominated, lead entity shall be indicated along with allocation of ships to each Shipyard.

14. Cases for nomination of Yard for Coast Guard ships will be approved by AoN according authority.

15. **Staff Requirements (SRs)**. On completion of the feasibility studies, the OSRs may be refined, without any change in the operational parameters i.e. role of the ship, on which the AoN was accorded and Staff Requirements (SRs) are to be promulgated within three months of grant of AoN. The procedures for formulation of Services Qualitative Requirements (SQR) for procurement of equipment would be as per the procedures at Chapter II of DAP.

16. **Preliminary Design**. Based on the promulgated SRs, the preliminary design, including hull form design, weapons/sensors/equipment fit, identification of OEMs/vendors for specific equipment, model tests, validation studies and other design activities shall be carried out by SHQ / Shipyard in consultation, as necessary. This activity shall complete within 18 months of promulgation of SRs. During this period, the propulsion package, weapons/sensors, hull equipment and engine equipment may be identified by the SHQ.

17. **Developmental Equipment**. Due to long gestation period in Ship-building, there may be occasions when systems/equipment, which are still under development or not fully evaluated, are considered 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 such developmental system would be indicated in the Outline specifications/RFP (as applicable) and subsequently included in the contracts. Since adaptation of developmental systems or shortfalls in installation/trials of the equipment may also result in modifications in the design of the ship; as a safeguard, the RFP/Outline specifications and contracts may indicate Fall-back option (i.e. alternate equipment) that would be installed when the envisaged timelines for development of system/equipment are exceeded or if the FET/ UET has not been successful. Weapon and related sensors, under Fall-back option, would have to be included in the SoC during AoN stage along with the cut-off date.

Preliminary Build Specifications

18. Based on the preliminary design, the Preliminary Build Specifications (PBS) of the vessel shall be prepared by SHQ and forwarded to the nominated shipyard(s). This activity must complete within 21 months of promulgation of SRs.

19. In cases where the vessel is not designed by SHQ, the nominated shipyard will prepare the preliminary build specifications based on the SRs and finalise these, along with functional design (if applicable), draft contract and other related documents in consultation with SHQ.

20. **Build Strategy**. Based on the PBS, the nominated shipyard shall propose a build strategy indicating delivery schedules, yard infrastructure and available resources. Build strategy must be forwarded within 06 months of receipt of Preliminary Build Specifications from SHQ. Build Strategy would include the proposed construction schedule, Level-1 work breakdown structure, detailed master control plan along with resource allocation plan for utilisation of shipyard manpower, infrastructure and committed infrastructure up-gradation

specific to the project, if applicable, outsourcing plan, tentative procurement schedule for 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 new project together with other on-going projects. Shipyard in their build strategy should provide 'Gap Analysis' for various resources so that a more practical outsourcing plan can be envisaged at this stage. This would also help IN/ICG in assessing 'Actual' strategy of shipyard. Build Strategy would be approved by SHQ within three months of its receipt.

21. **Budgetary Cost.** Within three months of approval of the Build Strategy by SHQ, the shipyard shall forward a budgetary cost for construction of the ship along with the draft contract.

New Design Ships/Follow-On Ships with major Design/ Equipment Changes

22. **Budgetary Cost.** In case of new design projects or Follow-on projects with major 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, profits payable to shipyard, specially contracted works, cost of raw material, cost of major equipment, weapons, sensors and propulsion machinery, freight, insurance, clearing charges, taxes, duties and levies on input materials and services, etc as well as the expected year wise cash flow. The cost should take into account normal escalation at the scheduled time of procurement, 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.

23. **Estimated Cost.** The estimated cost of the project shall include the budgetary cost provided by the shipyard along with costs towards project studies, functional design development through design agencies and detailed design work by shipyard/specialist agencies. Augmentation of design facilities, creation of infrastructure and any other costs, in shipyard, if required are also to be reflected as separate items. Cost of supply of MRLS-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, cost of Services towards commissioning, setting to work (STW), testing and tuning spares and cost of on board spares (MRL-OBS) for onboard scheduled servicing and maintenance of all equipment falling due up to two years of operation of the vessel after warranty period, may also be included in the Estimated Cost, as applicable.

24. Variations in estimated cost of nominated equipment supplied by common single source, whether OFB, DPSU or private vendor will be paid as per final negotiated cost in the variable cost element of the project in accordance with Chapter II of the DAP 2020. For new design ships, the estimated cost shall be as close to final cost as possible, explicitly indicating variable cost elements and projected cost of weapons, sensors and other equipment under development, if any. Cost for BFE integration (on a case to case basis) will be decided by the CNC.

Follow-on Projects

25. In case of ships of Follow-on projects with minor design changes, the shipyard shall forward budgetary cost as 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.

26. The estimated cost for the follow-on ships with minor design changes is to be computed based on budgetary quote along with fixed and variable cost elements and cost broken down into labour cost indicating number of man-days, overheads, direct expenses, profit payable to shipyard, specially contracted works, approximate cost of raw material and cost of major equipment, weapons, sensors and propulsion machinery. For the purpose of cost estimation of the complete project, cost of supply of MRLS-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 on board spares for onboard scheduled servicing and maintenance of all equipment falling due till two years of operation of the vessel after warranty period, may also be included in the Estimated Cost, as applicable.

27. Variations in estimated cost of nominated equipment to be supplied by a common single source, whether OFB, DPSU or private vendor in accordance with provision at Chapter II of the DAP 2020 will be paid as per the final negotiated cost of BNE, in the variable cost element of the project.

28. Cost for BFE integration (on a case to case basis) will be decided by the CNC.

Modification and Contingencies

29. **Modifications**. 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, provision would be made for the same while obtaining CFA approval. Therefore, a percentage of basic cost of the vessels will be included on '*Not Exceeding Basis*' for modifications (excluding the cost of BNE/Systems), subject to a maximum of 4%. Any extra time required beyond the delivery date of the ship, on account of modification would also be restricted to a maximum of 4% of the original contract delivery period under the project. Expenditure on each modification applicable to one / all ships of contract along with commensurate time extension (if any) will be approved by the concerned CFA based upon delegated financial powers in consultation with IFA.

30. **Contingencies**. Contingencies for unforeseen expenditure of the project may also be catered, subject to a ceiling of 1% of basic cost of the vessel (excluding the cost of BNE/Systems). Contingencies may arise due to circumstances beyond the control of either of the parties. Payment towards contingencies will be made as per actuals. Expenditure on contingencies, along with commensurate time extension (if any), will be approved by the concerned CFA based upon delegated financial powers in consultation with IFA. Contingencies, inter alia, would cover broad categories such as following:-

- (a) Extension of Warranty/ Guarantee of the equipment to cover delays not attributable to shipyard.
- (b) Operations and Maintenance of equipment and additional charges for services of Engineers in case of delays in ship's delivery not attributable to shipyard.
- (c) To cover preservation cost of equipment with respect to delay in ship's delivery not attributable to shipyard.

31. **Contract Negotiations.** Before seeking the approval of CFA, negotiations on the price and terms and conditions for delivery of the ships are to be undertaken with the shipyard and concluded by Contract Negotiation Committee (CNC). The standard composition of the CNC shall be as per Chapter II.

Approval of CFA

32. The proposal for the design and construction of the ship is to be taken up for the approval of the CFA on completion of CNC.

33. 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 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.

34. While seeking CFA approval, the time schedule for the following activities, as applicable, may also be specifically indicated, if not already completed: -

- (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. The schedule should also bring out BFE ordering, availability of binding data and delivery of the equipment.

(f) Time schedule for obtaining subsequent approval of CFA for new design ships, Follow on ships with substantial design/equipment changes.

35. 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 major changes in the design/equipment fit, CFA sanction is to be obtained in accordance with provisions of this section given subsequently.

36. **New Design Ships/Projects with Major Changes in Design/Equipment.** In cases of new design ships as well as Follow-on projects with major changes in design/equipment, where it is not possible to estimate the likely firm cost, subsequent approvals of 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 Paragraph 46. Thereafter, after firming up cost estimates under variable cost, second stage approval of CFA will be taken {on not exceeding basis (if necessary)}, within a period, as specified at time of initial CFA approval.

Conclusion of Contract with the Shipyard

37. 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 major design/equipment changes, indicating inter alia permissible price escalation, exchange rate variations, increase in statutory levies etc. The variable price element would be indicated, in Supplementary Contract based on 2nd stage CFA approval.

38. The contract shall be signed within two months from date of CFA approval. In cases, where subsequent CCS approvals are necessitated, Supplementary Contracts shall be signed within two months of such approval.

39. In view of peculiarities associated with design and construction of naval ships, illustrative contracts shall be promulgated separately by MoD/DDP in consultation with SHQ, for guidance.

40. Amendments to contracts concluded with shipyards will be in accordance with guidelines for post contract management in accordance with MoD ID No. 1 (1)/D(Acq)/17 dated 27 Feb 20 and amended from time to time.

41. **Detailed Design.** On conclusion of contract, shipyard shall 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.

42. **Preparatory Period.** To achieve design maturity for the first ship of new design projects as well as follow on projects with changes in design/equipment vis-à-vis parent ship, preparatory period may be proposed in the respective SoC for AoN. The preparatory period will start from the date of first stage payment. The extent of detailed design completion to be targeted by end of preparatory period shall be finalized as part of shipbuilding contract.

Procedure for Procurement of Ship-borne Equipment

43. The procurement of ship-borne equipment would be undertaken by shipyard in accordance with the shipyards internal policy based on SOTRs/ PTS prepared by shipyard and approved by SHQ. Nominated Equipment/Buyer Furnished Equipment would be specified separately.

44. **Procurement of Non-Weapon Equipment.** Procurement of long lead and other items shall 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.

45. **Procurement of Weapons and Related Sensors.**

(a) The operational details and potency of the weapons and sensors to be fitted on the ship shall be indicated while seeking AoN and CFA approval.

(b) The categories of weapons and sensors shall be as approved by the CFA. As illustrated in the diagram at Paragraph 46, procurement of weapons and sensors will be as per following procedure:-

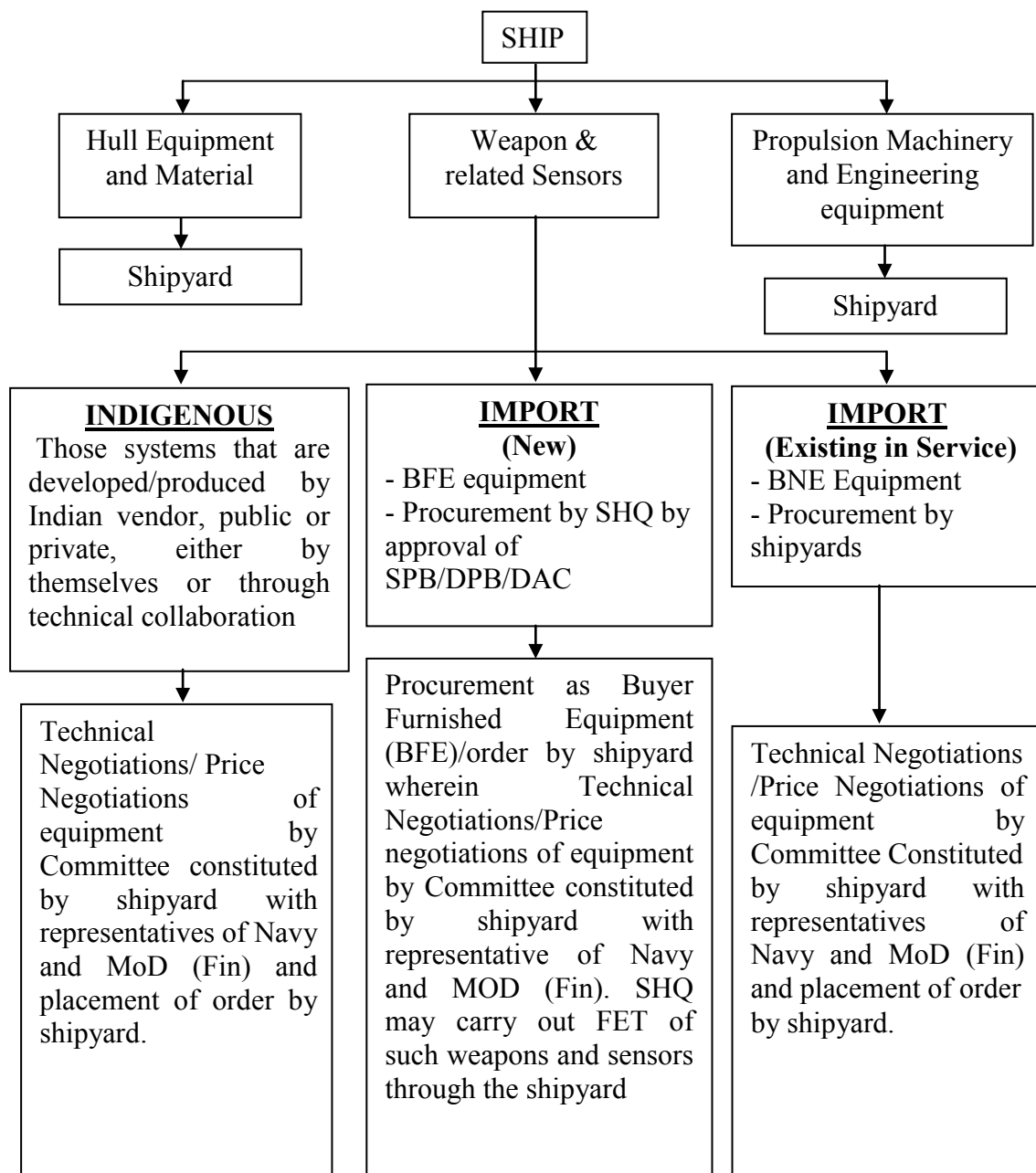
(i) **Weapons and Sensors Imported for First Time.** Weapons and Sensors imported for the first time may be processed for procurement as BFE. If these weapons and sensors are to be procured by shipyard, Technical Negotiations/Price Negotiations will be undertaken by Committee constituted by the Shipyard with representatives of SHQ and MoD (Fin). FET of such weapons and sensors may be carried out by SHQ, 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, within a period specified at the time of initial CFA approval. The orders would be placed by the shipyard.

(ii) **Imported Weapons and Sensors Existing in Service.** Procurement of imported weapons and sensors, which are existing in service or their upgraded versions, shall be undertaken by the Shipyard. Technical Negotiations/Price Negotiations will be undertaken by a committee constituted by the Shipyard

with representatives of SHQ and MoD (Fin). The orders would be placed by the shipyard.

(iii) **Indigenous Weapons and Related Sensors under Development or Existing in Service.** Procurement of indigenous weapons and sensors under development or existing in service shall be undertaken by the shipyard. Technical Negotiations/Price Negotiations will be undertaken by a Committee constituted by Shipyard with representatives of SHQ and MoD (Fin). The placement of order would be by the shipyard.

46. Procedure for procurement of ship-borne equipment is broadly depicted in diagram below:-



47. **Nomination of Equipment**. To enable standardisation, accruing advantage of ToT, retain/select equipment on Follow-on ships which are fundamental to design, facilitate interchangeability, interoperability, optimization of repair infrastructure, maintenance and support of OEM, spares logistics and inventory control etc SHQ may nominate these in-service equipment and weapon sensors from single vendor. For Weapons and Sensors nominated on Single Vendor by SHQ, procedures of obtaining approval of AoN for shipbuilding scheme will be followed. For other equipment, not being weapon and related sensors, the requirement of single vendor nomination will be vetted by a Committee comprising members from SHQ, DDP (Directorate of Standardisation) and Shipyard representative. Based on the recommendations of the Committee, a certificate for procurement on single vendor basis, duly approved by PSO, will be issued. For the procurement of BNE equipment, the extant policy of MoD would be applicable.

48. The Statement of Technical Requirements (SOTRs) and Ordering Instructions (OIs) for the shipyard will be prepared by SHQ as per approved procedure within SHQ.

49. **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, and being procured for the first time (BFE), the procedure set out in Chapter II shall be followed.

50. **Inter Government Agreement/ Strategic Considerations**. 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 or considerations of strategic partnerships between countries are involved, the procedure set out in Chapter II shall be followed.

51. **Timelines (Pre-Contract)**. Following broad timelines shall be adhered to for the shipbuilding projects, under Nomination, prior to conclusion of contract: -

<u>Ser</u>	<u>Activity</u>	<u>Maximum Timelines</u>	<u>Cumulative in Months (T0 – AoN)</u>
(a)	AoN	-	T0
(b)	Promulgation of PSR	03 Months from AoN.	T0 +03
(c)	Completion of Preliminary/ Functional Design	18 Months from PSR finalization.	T0+21
(d)	Preliminary Build Specification (PBS)	21 Months from PSR	T0+24
(e)	Build Strategy	06 Months from PBS	T0+30
(f)	Budgetary & Estimated Cost by Shipyard	03 Months from approval of Build Strategy	T0+33

<u>Ser</u>	<u>Activity</u>	<u>Maximum Timelines</u>	<u>Cumulative in Months (T0 – AoN)</u>
(g)	Contract Negotiations (CNC Stage) and CFA Approval	06 Months post receipt of Budgetary & Estimated Cost	T0+39
(h)	Signing of Contract	Within 02 Months of CFA Approval	T0+41 (Approximately 3.5 Years)
<i>Note:-The budgetary and estimated cost by shipyard would have to be submitted within the AoN validity period. Deviation from timelines tabulated above need to be apprised to VCNS/DG CG with due justification.</i>			

Payment Terms

52. 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 A1, Appendix A2 and Appendix B** for guidance.

53. Payment terms for augmentation/ modernisation of shipyard infrastructure, where provided for, will be separately formulated and negotiated with shipyard and finalised by the DDP.

54. 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. Shipyard can make payments against negotiated cost during PNC, after submission of relevant documents.

55. **Monitoring of Projects/ Post Contract Management.** After conclusion of contract, physical construction activity shall commence at the shipyard. Guidelines for post contract management in accordance with MoD ID No.1(1)/D(Acq)/17 dated 27 Feb 20 would also be applicable, as amended from time to time. All shipbuilding projects shall be monitored as follows: -

(a) Six monthly review by an Apex Steering Committee under the Chairmanship of Defence Secretary as notified by MoD.

(b) Committee under the chairmanship of CWP&A with members from MoD (Acquisition 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 representatives on as required basis.

(c) In case of ICG, the Committee would be headed by JS& AM (MS) with DDG (M&M), PD (Mat), FM (MS), ADG Acquisition Technical (MS) and CMD of concerned project as members.

Delegation of Powers to Apex Steering Committee

56. To ensure efficient execution of the project, the Apex Steering committee shall be empowered with suitable delegation of powers (on lines of Project Management Boards in vogue currently for Defence Infrastructure Projects). This would help projects to be steered with necessary course corrections and timely overcoming procedural delays in the shipbuilding process rather than mere monitoring progress of work.

57. Apex Steering Committee under chairmanship of Defence Secretary will consist of following: -

- (a) DG (Acquisition).
- (b) Additional Secretary (DP).
- (c) Joint Secretary (NS), Member Secretary.
- (d) Joint Secretary & Acquisition Manager (MS).
- (e) Additional FA & JS (Defence PSUs).
- (f) ADG Acquisition Technical (MS).
- (g) Financial Manager (MS).
- (h) CWP&A.
- (j) DGND/ACCP/ACWP&A/ DG-P75 (as applicable).
- (k) ACNS(P&P)/ Cmde (NP).
- (l) CMD of concerned Shipyard.
- (m) Director and Project Superintendents of concerned project of Shipyard.
- (n) Cmde(ND)/Cmde(SP).
- (o) DDG (M&M), PD (Mat) and PD (SA) in case of ICG.

58. The terms of reference of the Steering Committee shall be as follows: -

- (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 Government.
- (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 Government.
- (d) To review fulfillment of contractual obligations at pre-determined stages.
- (e) To monitor commitments made by the shipyard in Build Strategy or during contract negotiations phase to meet the resource requirement of the new project together with other ongoing projects.
- (f) To examine anticipated expenditure likely to be incurred beyond the existing sanction, in exceptional cases in the interest of the project.
- (g) Any other matter requiring direction and guidance of the Steering Committee.

59. The secretarial assistance for the committee will be provided by Naval System Division of Department of Defence Production. Apex Steering Committee will meet once in six months.

Approval for Revised Project Cost

60. After the project is approved by CCS, the MoD, SHQ/ICG HQ, and the shipyard will endeavor 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 procedure to be adopted for seeking approval of Competent Authority for the revised cost would be as per Order No. 1(1)/D(Acq)/17 dated 27 Feb 20: -

- (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 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 will be submitted to the CCS for approval.

(e) Statutory levies' means State and Central Taxes, including import and export duties as notified by Government 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 in this section will be followed with approval of Apex Steering Committee based on recommendation of Revised Cost Committee.

(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.

(h) **Revised Cost Committee.** For fixing accountability, SHQ is to refer all cases with project cost overruns of over 20% and accompanied by time overrun of over 10% to a Revised Cost Committee (RCC), under Chairmanship of CWP&A comprising representatives of Acquisition Wing and Advisor (Cost), prior putting up the second stage CCS proposal for consideration of CCS. Recommendations of the RCC shall be incorporated into the CCS Note. Action taken by SHQ would be monitored by the Vice Chief and periodically reviewed by Defence Secretary/DG(Acquisition). The composition of RCC would be as follows: -

- (i) CWP&A/ADGCG.
- (ii) Joint Secretary (NS), Member Secretary.

- (iii) Joint Secretary & Acquisition Manager (MS).
- (iv) Additional FA &JS (Defence PSUs).
- (v) ADG Acquisition Technical (MS).
- (vi) Financial Manager (MS).
- (vii) DGND/ACCP/ACWP&A/ DG-P75 (as applicable).
- (viii) ACNS(P&P)/ Cmde (NP).
- (ix) ACNS(SR)/Cmde (SR).
- (x) CMD of concerned Shipyard.
- (xi) Director and Project Superintendents of concerned project of Shipyard.
- (xii) Cmde (ND) / Cmde (SP).
- (xiii) DDG (M&M), PD (Mat) and PD (SA) in case of ICG.

Note: While the approval for enhancement of project cost/ time is being processed, the work on the project is to be progressed without waiting for the final approval.

Closure of the Project

61. The cost analysis of the first ship of the project, if required, shall be carried out by a team led by Advisor Cost MoD (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.

62. Closure of all accounts related to construction of a particular ship of the project shall be carried out by COA/SHQ within 12 months from second reading of the D-448 document check list of the ship. Any pending shipyard liabilities at the time of account closure should be mutually valued by the Committee. The valued amount should be deducted from the last stage payment.

63. The final closure of the ship construction project shall 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. Where the final closure is not possible within the specified time frame, the approval of the competent authority at SHQ 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

64. 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 month) x 100 / (Build Period in month as per contract)} of the vessel cost upto a limit of 10%, for every month of delay or part of a month delay (Any extension given by the buyer for delay attributable to buyer or Force Majeure Clause to be factored in delivery period). Vessel cost, excluding cost for BFE and B&D spares is as defined in the RFP placed at MoD ID www.mod-acq.in

65. Applicability of LD would be as per the guidelines for post contract management in accordance with MoD ID No. 1(1)/D(Acq)/17 dated 27 Feb 20 would also be applicable, as amended time to time.

66. **Deviations and Exemptions.** Based on the experience gained, deviations and exemptions to the procedure may be proposed by SHQ and will be approved by DAC through DPB as per current guidelines in force.

SECTION 'B'**ACQUISITION OF NAVAL AND COAST GUARD SHIPS, SUBMARINES, YARD CRAFT AND AUXILIARIES ETC ON COMPETITIVE BASIS**

67. **Applicability.** While the acquisition of ships on Nomination basis has been prescribed in Section A, the methodology in this section shall be followed for acquisition of ships, submarines, auxiliaries and yard crafts through competitive bidding on multi-vendor basis under the categories as specified in Chapter I of DAP, namely; 'Buy (Indian- IDDM)', 'Buy (Indian)', 'Buy and Make (Indian)', 'Buy (Global)- Manufacturing in India', Buy (Global), 'Leasing', 'Design and Development/ Innovation'. The acquisition process under this section would be applicable for construction through DPSU, PSU or Private Shipyard(s) and an amalgamation of processes prescribed in Section A and to be read in conjunction with clauses of Chapter I & II.

68. The process of acquisition of ships under this procedure would involve following steps: -

Acquisition Process

- (a) Outline Staff Requirements (OSRs).
- (b) Feasibility Studies and Concept Design.
- (c) RFI.
- (d) AoN.
- (e) Staff Requirements (SRs).
- (f) Guideline Specifications (GLS).
- (g) Shortlisting of Shipyards based on Capacity Assessment (concurrent activity).
- (h) Solicitation of Offers.
- (j) Financial Parameter Evaluation (FPET) & TEC.
- (k) CNC.
- (l) Approval of CFA.
- (m) Award of Contract.
- (n) Detailed Design by Shipyards.
- (o) Post Contract Management and Monitoring (Modification & Contingencies).

- (p) Closure of the Project.
- (q) Liquidated Damages, if applicable.

69. For cases being steered under 'Buy and Make (Indian)', the additional steps as envisaged at Chapter II of DAP would be applicable. Relevant paragraphs of Chapter II on Repeat order/Option clause would also be applicable, on case to case basis.

70. The applicability of various provisions of Chapter I, II and Section A of this chapter are enumerated below: -

S/No.	Steps Involved	<u>Applicability</u>
(a)	Staff Requirements (SRs)	Procedure for Outline Staff Requirements (OSRs), AoN and SRs would be guided by Section A, as applicable. <i>AoN will be valid for 18 months.</i> Draft RFP is not mandatory to be enclosed along with the AoN. The SRs are to be finalised without any change in operational parameters i.e. role of the ship, on which the AoN was accorded.
(b)	Acceptance of Necessity (AoN)	
(c)	Solicitation of offers	(i) The paragraphs of chapter II under group headings Solicitation of Offers, TEC and CNC would be followed as applicable. Collegiate vetting of RFP will be undertaken post finalization of SRs.
(d)	FPET (Financial Parameter Evaluation)	
(e)	Evaluation of Technical Offers by Technical Evaluation Committee (TEC)	
(f)	Commercial Negotiations by Contract Negotiations Committee (CNC)	(ii) RFP will be finalized based on SRs and would be issued post finalization of Guideline Specification. [Paragraphs relevant to Chapter II on RFP/TEC/CNC would be applicable]. (iii) SHQ will carry out Technical Capacity Assessment of entities at periodic interval in accordance with Guidelines at Appendix C and forward recommendations to DG(Acquisition) through ADG Acquisition Technical (MS) for issue of RFP. (iv) RFP shall include requirement for Assessment of Financial Parameters defined for each project category at Annexure II to Appendix C . Assessment of Financial parameters would be undertaken prior to

S/No.	Steps Involved	<u>Applicability</u>
		<p>commencement of TEC, by Financial Parameter Evaluation Team (FPET), constituted by SHQ. FPET is to be completed within four weeks.</p> <p>(v) FPET shall include a Finance member (Representative from MoD (Fin) for non-delegated power case(s) and representative from PIFA/IFA (Cap) for delegated power case(s) in addition to listed TEC members. For all delegated power cases, FPET would be approved by the SHQ.</p> <p>(vi) For Non-delegated cases where all entities participating in RFP are found compliant, FPET report would be approved by SHQ. However, in case an entity or entities participating in the RFP are found non-complaint to Financial Assessment Parameters, the FPET report would be approved by DG (Acquisition).</p>
(g)	Approval of Competent Financial Authority (CFA)	To be guided by relevant Paragraphs of Chapter II.
(h)	Award of Contract	To be guided by relevant Paragraphs of Chapter II.

71. **Field Trials.** The requirement of Field Evaluation Trials (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 equipment being bought through shipyard should be detailed in the RFP. These would also be included in the Statement of Case while seeking the AoN. TEC for such equipment should be completed prior to issuance of the RFP. FET and shortlisting of such equipment through Staff Evaluation (SE), could be delinked from the main shipbuilding process. However, the Staff Evaluation (SE) and shortlisting of equipment and vendor is to be completed prior to conclusion of shipbuilding contract.

72. **Transfer of Technology (ToT).** In cases where ToT is being sought, the appropriate Production Agency (PA) shall be approved by AoN according authority based on recommendations of MoD DDP. Clauses in Chapter II covering ToT would apply in shipbuilding cases, as applicable. The PA can be selected from any of the public/private firms including a joint venture company based on the inputs from MoD DDP and, if required, from DRDO. The RFP in such cases would define the requirements of TOT depending upon the

depth of the technology which is required. Clauses related to ‘ownership of design’ or ‘manufacture under license’ shall be clearly mentioned in the RFP. The nominated Production Agency (PA) for the receipt of technology will be closely associated in the preparation of RFP.

73. **RFP.** All issues related to terms and conditions of procurement would be amplified in RFP, which would be aligned as per finalised SRs. A standardised RFP on Shipbuilding is placed at MoD ID www.mod.nic.in.

74. **Closure of Project, LD, Deviations, Modifications, Contingencies, and Exemptions.** For approval of cases for closure of Project, LD, Deviations and Exemptions, Modifications, Contingencies provisions of Section A would apply.

75. **Contract Administration and Post Contract Management and Monitoring.** Contract administration and post contract management and monitoring would be undertaken by COA. Post contract management would be as per guidelines on contract management in accordance with MoD ID No. 1 (1)/D(Acq)/17 dated 27 Feb 20, as amended from time to time. All shipbuilding projects under this Section shall be monitored as follows: -

(a) Review by a Apex Steering Committee headed by DG (Acquisition) at MoD once in six months with members from MoD, MoD (Fin), Controlling Ministry of the shipyard {MoD (DP) in cases of DPSUs, MoS representatives in cases of PSUs, CMD of shipyard in cases of private shipyards}, CWP&A/ COA. The committee may co-opt members as required.

(b) To ensure efficient execution of the project, the Apex Steering committee shall be empowered with suitable delegation of powers (on lines of Project Management Boards in vogue currently for Defence Infrastructure Projects). This would help the projects to be steered with necessary course corrections and timely overcoming procedural delays in the shipbuilding process rather than mere monitoring progress of work. The terms of reference of the Apex Steering Committee shall be as follows: -

(i) To review physical progress of project with specified reference to compliance of milestones laid down for completion of various activities of ship construction.

(ii) To monitor the financial progress of the project to ensure that the project progresses within the financial limits sanctioned by the Government.

(iii) 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 Government.

- (iv) To review fulfillment of contractual obligations at pre-determined stages.
 - (v) Any other matter requiring direction and guidance of the Steering Committee.
- (c) The Secretarial assistance for committee will be provided by the Acquisition Wing.
 - (d) Quarterly Project Monitoring Review under chairmanship of CWP&A with members from MoD (Acquisition Wing), DP (if applicable), MoD(Fin), Design/ Production Directorate, CDA (N) and shipyard. Reviews may be delegated to nominated representatives on required basis.
 - (e) A corresponding Committee may also be constituted for ICG.

76. **Procedure for Procurement of Ship-borne Equipment.** The procedure for procurement of Ship-borne Equipment would be guided by as per procedure indicated in Section A.

77. **Nomination of Equipment.** The Nomination of equipment as BNE would be undertaken as per procedure indicated in Section A of this Chapter.

78. **Developmental Equipment.** The consideration of the developmental equipment may be undertaken as per procedure indicated in Section A of this Chapter.

79. **Payment Terms.** 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 A1** and for submarines in accordance with **Appendix A2**. The Payment Terms for yard craft 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. The bank guarantee will be submitted by all shipyards, including DPSUs/PSUs, against non-deliverable stages. The deliverable stages would be defined in RFP.

80. **Build Strategy.** The shipyard shall propose build strategy for required delivery schedules, yard infrastructure and available resources. Build strategy must be submitted by shipyard as part of RFP response. Build Strategy would include proposed construction schedule, Level 1 work breakdown structure, detailed master control plan with resource allocation plan for utilisation of shipyard manpower, infrastructure and committed infrastructure up-gradation specific to project, if applicable, outsourcing plan, the tentative

procurement schedule for major long lead items, including weapons and sensors and 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. Build Strategy would be deliberated during TEC/CNC and included in contract for further monitoring during post contract management.

81. **Detailed Design by Shipyard.** On conclusion of contract, Shipyard shall commence Detailed Design, order equipment & material and obtain binding data for the detailed design. The actual construction of the ship may, however, start in parallel along with the process of detailed design. Then Preparatory period for the design of the ship may be in accordance with Section A.

SECTION 'C'**ACQUISITION OF NAVAL WARSHIPS OF INDIGENOUS DESIGN BY SHQ
CONSTRUCTED BY INDIAN SHIPYARDS ON COMPETITIVE BASIS**

82. **Applicability.** This section is primarily applicable for acquisition of Naval warships/ submarines of indigenous designs by SHQ to be constructed by DPSU/PSU/Private Shipyard(s) on competitive basis. The acquisition process under this section has been derived from processes prescribed in Section A and B, and to be read in conjunction with clauses of Chapter I & II.

83. **Procedure.** The process of acquisition of ship under this section would follow the following steps: -

- (a) Outline Staff Requirements (OSRs).
- (b) Feasibility Studies and Concept Design.
- (c) RFI.
- (d) AoN including approval for Design Consultancy.
- (e) SRs/ Guideline Specifications.
- (f) Formulation of Functional Design Deliverables Set-I.
- (g) Shortlisting of Shipyards based on Capacity Assessment.
- (h) Solicitation of Offers.
- (j) Financial Parameter Evaluation (FPET) & TEC.
- (k) CNC.
- (l) Approval of CFA.
- (m) Delivery of Functional Design Deliverables Set-II to Shipyard.
- (n) Award of Contract.
- (o) Detailed Design/ Preparatory Activities by Shipyard.
- (p) Post Contract Management and Monitoring (Modification & Contingencies).
- (q) Approval for Revised Project Cost, if applicable.
- (r) Closure of the Project.
- (s) Liquidated Damages, if applicable.

Concurrent
Activity

84. **Outline Staff Requirements (OSRs)**. The procedure for preparation of OSRs would be as per procedure indicated in Section A.

85. **Feasibility Studies and Concept Design**. 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 shall be carried out by SHQ.

86. **Functional Design Deliverables (FDD)**. In order to evolve Function Design Deliverables, iaw promulgated SRs, detailed functional design studies may be required, especially for the construction of major platforms. This could involve Model testing, Computational analysis, design validation studies/ other consultancies and also procurement of design tools/ software/ hardware/ other design facilities. The FDD could be in two parts ie Set-I and Set-II. FDD-I will be finalised prior to issue of RFP whereas FDD-II will be finalised and handed over to L1 Shipyard at the time of conclusion of contract. FDD-II would amplify the design specifications outlined in FDD-I and would be within the design envelop on which competitive bidding has been progressed. The requirements for design validation studies, consultancy services, development of Front End Engineering Design (FEED) if any, shall be projected to the AoN according authority, based on the proposal in SoC.

87. **Acceptance of Necessity (AoN)**. The proposal for induction of the ships shall be linked to the Maritime Capability Perspective Plan (MCPPE)/Five Years Plan which stipulates the numbers and type of vessels required. The Statement of Case for the proposal shall be prepared by SHQ and processed in line with the details given in Chapter II of DAP. 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 shall clearly indicate whether it is a new design, Follow-on ships, or Follow-on ships with major design/equipment changes. Draft RFP is not mandatory to be enclosed along with the AoN. The validity of the AoN will be 30 months during which the RFP would be issued, post finalisation of SRs, GLS and FDD-I.

88. **Staff Requirements**. The procedure for preparation of SRs would be as per procedure indicated in Section A.

89. **Guideline Specifications**. Functional Design Deliverable Set I leading to Guideline Specification essential for RFP shall be prepared by SHQ. The functional design will be based on the promulgated SRs, 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 carried out by SHQ. The propulsion package, weapons/sensors, hull equipment and engine equipment may be identified by the customer.

90. **Nomination of Equipment.** The Nomination of equipment as BNE would be undertaken as per procedure indicated in Section A of this Chapter.
91. **Developmental Equipment.** The consideration of developmental equipment may be undertaken as per procedure indicated in Section A of this Chapter.
92. **Capacity Assessment.** The Technical capacity assessment of the shipyards would be undertaken by SHQ as per CA guidelines at **Appendix C** of this chapter and recommendations on shortlisting of the shipyard for project would be forwarded prior to RFP.
93. **RFP.** All issues related to terms and conditions of procurement would be amplified in RFP, which would be aligned as per finalised SRs and issued after finalisation of Guideline Specifications. A standardised RFP is placed at MoD ID www.mod-acq.in. The solicitation of offers, TEC, FPET and CNC would follow the provisions in Section B.
94. **Financial Parameters Evaluation by Team (FPET) & TEC.** Prior to evaluation of the technical offers, the financial parameters evaluation will be undertaken by the FPET in accordance with the guidelines stipulated at Section B and **Appendix C** of this chapter. The technical offers of those firms which qualify FPE (Financial Parameters Evaluation) would be considered for the evaluation by the TEC.
95. **Commercial Negotiations by Contract Negotiation Committee (CNC).** Finalisation on terms and conditions of contract along with price negotiations shall be undertaken with L1 shipyard and concluded by Contract Negotiation Committee (CNC), prior to seeking approval of CFA.
96. **New Design Ships/ Projects with Major Changes in Design/ Equipment.** In cases of new design ships as well as follow-on projects with major changes in design/ equipment, where it is not possible to estimate the likely firm cost of BNE equipment/ systems, the CFA approval will be taken separately on fixed cost component and cost component of BNE equipment/ systems. In such cases, based on the CFA approval, 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 BNE equipment/ systems will be guided in accordance with diagram at Paragraph 46 of Section A to this Chapter. Thereafter, post firming up estimates of BNE equipment/ systems, second stage CFA approval of firmed up cost will be taken, within a period, as specified at the time of initial CFA approval. Guideline Specifications and Fixed cost component of the project are not to be revised/ changed during revision of cost of project post contract. Cost of BNE equipment/ systems of the project would not be utilised for purpose of L1 determination. RCC, if and as applicable will be constituted as per Section A to this Chapter.

Conclusion of Contract

97. The contracts would be concluded on Fixed cost plus cost of BNE equipment/ systems, based upon the CFA approval, indicating inter alia fixed element and price of BNE equipment/ systems, exchange rate variations, increase in statutory levies etc. However, the cost of BNE equipment/ systems would be finalised at time of firming up of project cost for second stage CFA approval.

98. The complete Functional Design Deliverable Set II shall be handed over by SHQ to the contracting shipyard at the time of conclusion of contract.

99. The contract shall be signed within a period of two months from the date of CFA approval. In cases, where subsequent CFA approvals are necessitated, supplementary contracts shall be signed within two months of such approval. In view of the peculiarities associated with the design and construction of naval ships, illustrative contracts shall be promulgated separately by MoD/DDP in consultation with SHQ for guidance.

100. **Detailed Design by Shipyard.** On conclusion of contract, Shipyard shall commence Detailed Design, order equipment & material and obtain binding data for the detailed design. The Preparatory period for design of ship may be accorded in accordance with Article 42 of Section A.

101. **Contract Administration, Post Contract Management and Monitoring.** The contract administration, post contract management and monitoring would be as per Section A.

102. **Apex Steering Committee.** To ensure efficient execution of the project, an apex steering committee with ToR as defined in Section A shall be set up to monitor the progress of ship building cases.

103. **Procurement of Shipborne Equipment.** The procurement and nomination of equipment would be guided as per procedure specified at Section A.

104. **Procurement of Weapons and Related Sensors.** The procedure for procurement of Weapons and Sensors would be as per procedure indicated in Section A.

105. **Field Trials.** Procedure for field trials would be as per procedure indicated in Section B.

Payment Terms

106. 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 be against achievement of these stages. In this regard, a broad suggested payment schedule for

fixed price element, is placed at **Appendix A-1**, **Appendix A-2** and **Appendix B** for guidance. 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.

107. The cost of BNE equipment/ systems, where applicable, will be paid on actuals, within the overall ceiling of total cost approved by CFA. Payment of BNE equipment/ systems would be done through opening of a separate project account. Shipyard can make payments against actual cost incurred for procurement after submission of relevant documents.

108. The bank guarantees will be submitted by all shipyards, including DPSUs, against non-deliverable stages. The deliverable stages will be defined in the RFP.

Modification and Contingencies

109. **Modifications**. The construction of ships may require to accommodate unforeseen changes necessitated due to operational requirements of the user etc. Since it is not feasible to forecast these, provision would be made for the same while obtaining CCS/CFA approval. A percentage of basic cost of the vessels (excluding the cost of BNE / systems) will be included on '*Not Exceeding Basis*' for modifications, subject to a maximum of 4%. 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 each modification applicable to one / all ships of contract along with commensurate time extension (if any), will be approved by the concerned CFA based upon delegated financial powers in consultation with IFA.

110. **Contingencies**. Contingencies for unforeseen expenditure of the project may be catered, subject to a ceiling of 1% of the basic cost of vessel (excluding the cost of BNE / systems) excluding taxes, duties and levies. The conditions of contingencies would be applicable as given in Section A of this Chapter.

111. **Approval for Revised Project Cost**. After the project is approved by CFA, MoD/SHQ and the shipyard will endeavor to ensure that ship construction proceeds strictly as per time schedule and cost approved. Since projects under this section are on competitive bidding only change feasible post first stage CFA sanction is the firm cost of BNE / systems. Towards this, procedure outlined in Section A would be adopted.

112. **Closure of the Project**. The procedure for closure of project would be as per procedure indicated in Section A.

113. **Liquidated Damages**. The procedure for implementation of LD would be guided as per procedure indicated in Section A.

Appendix A-1 to Chapter XII
(Refers to Paragraphs 52, 79 and
106 of Chapter XII)

TERMS OF PAYMENT- SHIPS

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: -

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 (b) Submission 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 a 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 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 series only (b) Completion of main engines, gear boxes, grids & Seatings/m/c seating 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 series only (b) All access holes to be cut and preparation of main seating in m/c compartment (c) Placement of order for majority 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 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	

Stage	% of Vessel's Fixed Cost	Activity	Schedule to be finalised during CNC
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 Documents, 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%	On completion of 'shipyard guarantee liabilities' and GRDD	

Note :-

Payment to be made as per the defined stages and not necessarily to be linked with the sequence. All advance payments are to be secured with Bank Guarantees of equivalent amount. However, for high value projects, SHQ may revise the APBG requirement and provide justification for the same in the SoC while seeking specific AoN.

Appendix A-2 to Chapter XII
(Refers to Paragraphs 52, 79 and
106 of Chapter XII)

TERMS OF PAYMENT- 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:-

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 (b) Submission Cardinal date programme /Production PERT	
III	15%	(a) Submission of Drawing Schedule (b) Submission of detailed network of activities including Work Breakdown up to launching a 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 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 series only (b) Completion of main engines, gear boxes, girders & Seatings /m/c seating as applicable to erecting of 60% hull	
VI	15 %	(a) Completion of 25% physical progress of construction and submission of weight analysis for first ship series only (b) All access holes to be cut and preparation of main seating in m/c compartment (c) Placement of order for majority 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	15%	(a) Completion of installation of machinery , equipment & fittings with associated system required for reaching pre-	

Stage	% of Vessel's Fixed Cost	Activity	Schedule to be finalised during CNC
		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	2.5%	Completion of 40% physical progress of construction and submission of weight analysis for first ship of the series only	
X	2.5 %	Completion of 60% physical progress of construction and submission of weight analysis for first ship of the series only	
XI	2.5%	Completion of 85% physical progress of construction and submission of weight analysis for first ship of the series only	
XII	2.5%	Completion of Basin Trials	
XIII	2.5%	(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	2.5%	(a) Successful completion of FMT (b) Stowage of all onboard spares (c) All Documents, 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	5 %	On completion of all 'shipyard guarantee liabilities' and GRDD'	

Note:-

Payment to be made as per the defined stages and not necessarily to be linked with the sequence. All advance payments are to be secured with Bank Guarantees of equivalent amount. However, for high value projects, SHQ may revise the APBG requirement and provide justification for the same in the SoC while seeking specific AoN.

Appendix B to Chapter XII

(Refers to Paragraphs 52, 79 and 106 of Chapter XII)

TERMS OF PAYMENT - YARD CRAFTS/AUXILIARIES

In addition to the broad guidelines indicated in Appendix A1-A2, a seven stage indicative guideline for yard crafts is given below: -

Stage	% of Vessel 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 (c) Submission of main hull structural drawings. (d) Order for all major pre-launch items finalised and placed (e) Erection of equipment schedule. (f) Submission of equipment of equipment schedule. (g) Completion of main engines, Gear box girders & seatings / machinery seatings as applicable to erection of 40% hull.	To be certified by owner's representative/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 compartment. (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 representative/Overseer.
IV	10%	(a) Erection of 100% main hull (b) Placement of order for major equipment &	To be certified by Owner's representative/Overseer.

		system affecting conduct of basin trials (c) Pressure test of built in tanks (d) Submission of network of balance activities	
V	15%	(a) Completion of installation of machinery, equipment and fittings with the associated systems required for reaching pre launch stage. (b) Launching of vessels or equivalent stage of construction reached. Note. 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	To be certified by Owner's representative/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 representative/Overseer.
VII	5%	All defects, deficiencies and contractor's liabilities including guarantee repairs & dry docking to be completed.	To be certified by Owner's representative/Overseer.

Note :-

Payment to be made as per the defined stages and not necessarily to be linked with the sequence. All advance payments are to be secured with Bank Guarantees of equivalent amount.

Appendix C to Chapter XII

(Refers to Paragraphs 13, 70, 92,
94 of Chapter XII)

**GUIDELINES ON CAPACITY ASSESSMENT
INDIAN SHIPBUILDING ENTITIES**

1. In accordance with Paragraphs 13, 70 and 92 of this Chapter, 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 yard craft 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 EFP 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 {Representative from the MoD (Fin) for non-delegated power case(s) and representative from PIFA (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 complaint, the FPET report would be approved by the SHQ. However, in case an entity or entities participating in the RFP are found non-complaint to the Financial Assessment Parameters, the FPET report would be approved by DG(Acquisition).** 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 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/DPP and MoD/Acquisition 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.

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) | ACCP/ACWP&A | - | Chairman |
| (b) | Commodore(SP) | - | Member |
| (c) | PD (Ship Acquisition) | - | Member from Coast Guard |
| (d) | Representative SHQ/DND (Captain) | - | Member |
| (e) | Representative SHQ/DNP | - | Member |
| (f) | Cdr(SP) | - | Member Secretary /SHQ |

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, 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 for 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 validated 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 any 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

(Refers to Paragraphs 2(a) & 3(a) of Appendix C)

TECHNICAL CAPACITY ASSESSMENT PARAMETERS FOR SHIPBUILDING PROJECTS

Sl	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 (WE>5000T)	Weapon Intensive Warships (Wt<5000T) Frigates, Corvettes, etc	Low Weapon Intensive Warships (LCV,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
2.	Building Dock/Slipway/ Ship Lift Features for ships as defined at TCA#	Building Dock/ Slipway/ Ship Lift for ship more than 5,000T Light ship Displacement, LOA greater than 125m, and draught greater than 5 m	Building Dock/Slipway/ Ship Lift for ship lesser than 5,000T Light ship Displacement, LOA greater than 90m, and draught lesser than 5 m	Building Dock/Slipway/ Ship Lift for ship lesser than 4,000T Light ship Displacement, LOA greater than 60m, and draught lesser than 4 m	Building Dock/Slipway/ Ship Lift for ship more than 3,000T Light ship Displacement, LOA greater than 40m, and draught lesser than 4 m	Building Dock/Slipway/ Ship Lift/ Building Berth for ship 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.						

Sl	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 (WE>5000T)	Weapon Intensive Warships (Wt<5000T) Frigates, Corvettes, etc	Low Weapon Intensive Warships (LCV,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 300T steel	Storage for 100T steel
6.	Steel Fabrication	CNC machines and automatic/ semi-automatic welding facilities with minimum capacity of 500T fabrication monthly.	CNC machines and automatic/ semi-automatic welding facilities with minimum capacity of 500T fabrication monthly.	CNC machines and automatic/ semi-automatic welding facilities with minimum capacity of 300T fabrication monthly.	CNC machines and automatic/ semi-automatic welding facilities with minimum capacity of 300T fabrication monthly.	Minimum capacity of 100T fabrication monthly.	Minimum capacity of 50T fabrication monthly.
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 8/10mm (Firms to indicate in-house/ outsourced capacity)

Sl	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 (WE>5000T)	Weapon Intensive Warships (Wt<5000T) Frigates, Corvettes, etc	Low Weapon Intensive Warships (LCV,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)	
8.	Exposure to Shipbuilding	Demonstrated capacity 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 capacity in Construction and successful delivery of at least one Warship of CAT B except LCU/PCV with experience in installation of weapons/ Sensors.	Demonstrated capacity in Construction and successful delivery of at least one ship of CAT C.	Demonstrated capacity 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 capacity in Construction and successful delivery of at least one non propelled vessel (as applicable).	Demonstrated capacity in maritime 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(Acquisition).

(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 individual JV members.

(iii) For considering eligibility in the criteria of 'Exposure to Shipbuilding', either the capability of the JV firm or of at least 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 app covered and uncovered areas of Steel Stockyard, Blasting & Printing, 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)
(l)	Copy of certificate from ISO and OHSAS
(m)	Additional documents iaw amplification orders issued by SHQ

Annexure II to Appendix C
(Refers to Paragraph 2(b) of Appendix C)

FINANCIAL ASSESSMENT PARAMETERS FOR SHIPBUILDING PROJECTS

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					
Sl	Subject	Requirement	₹ 3000 Cr and above	Greater than ₹ 1000 Cr and less than or equal to ₹ 3000 Cr)	Greater than ₹ 75 Cr and less than or equal to ₹ 1000 Cr)	Greater than ₹ 25 Cr and less than or equal to ₹ 75 Cr	Lesser than or equal to ₹ 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.
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 MoD ID www.mod-acq.in
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 the 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 MoD ID www.mod-acq.in

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					
Sl	Subject	Requirement	₹ 3000 Cr and above	Greater than ₹ 1000 Cr and less than or equal to ₹ 3000 Cr)	Greater than ₹ 75 Cr and less than or equal to ₹ 1000 Cr)	Greater than ₹ 25 Cr and less than or equal to ₹ 75 Cr	Lesser than or equal to ₹ 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 ₹ 500 Cr and above, from participating in Yard craft projects under CAT D (except FIC and ISV) and CAT D* (Non propelled yard crafts and Barges) with per year project outflow lesser than or equal to ₹ 100 Cr)	N.A.			Average Annual Turnover less than ₹ 500 Cr at the time of bid submission		FORM-1 MoD ID www.mod-acq.in

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 new 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 on the ratio of their share holding pattern based on the audited balance sheets.

(iii) **Working Capital**. JV firm should meet the Working Capital requirement.