

INTRODUCTION TO PUBLIC PROCUREMENT

Lecture - 1

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Scope of Presentation

- Economic Liberalisation including Defence Manufacturing
- Trends in Defence Expenditure
- Goals in Public Procurement
- Evolution of Major Policy Changes
- GFR, New Procurement Laws
- Defence Acquisition Procedure
- Lessons from Controversial Procurements

INDIA'S TRYST WITH LIBERALIZATION

- **1950: Centralized Planning (Soviet Model), PSUs as temples of Modern India, 1956 industrial Policy Resolution, Bank & Coal Nationalization**
- **Strategic Sectors: Defence Production (OFs & DPSUs) : Exclusive Preserve of Government**
- **Hindu Rate of Growth (3.5%),Low FE Reserve: 1991**
- **Accepted IMF Conditionality& Free Market Mechanism**
- **Liberal democracy as Endpoint of History: Fukuyama**
- **Liberalization, Privatization & Globalization**
- **Liberalization in Defence Manufacturing Policy 2001**

IMPACT OF ECONOMIC LIBERALIZATION



Parameter	1989	2017
Agriculture as % of GDP	38%	17%
Industry as % of GDP	26%	26%
Services as % of GDP	36%	57%
Export & Import as % of GDP	12%	41%
FDI & FII Inflow as % of GDP	2%	6.8%
Public Sector Investment as % GDP	9.8%	7.4%
Private Sector Investment	1.5%	11%
Average GDP Growth	3.5%	7%

TRENDS IN DEFENCE EXPENDITURE (Rs. Lakh Cr.)

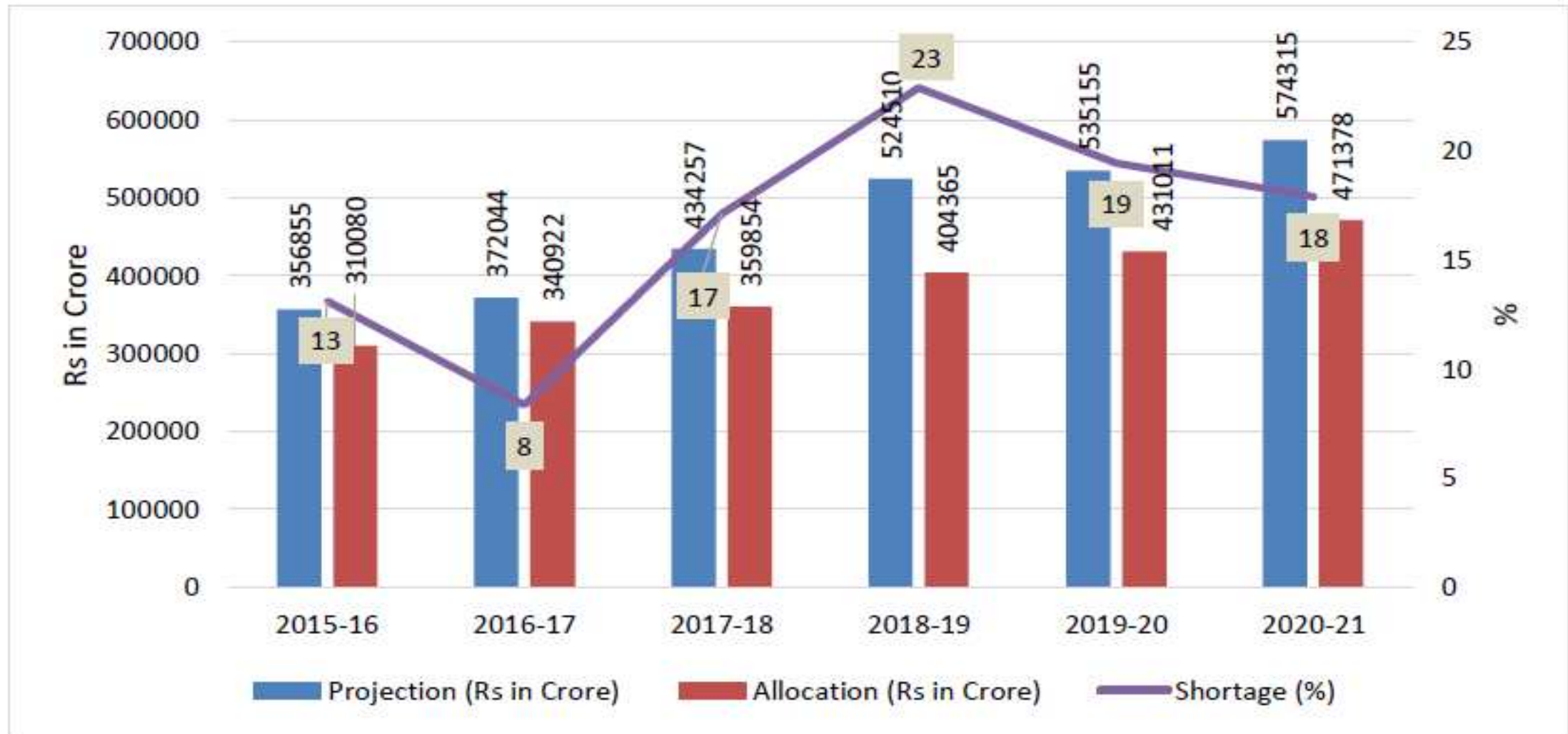
Head	2019-20 (Actual)	2020-21 (RE)	2021-22 (BE)	% of Change
Revenue	2.23	2.29	2.32	1.3
Capital	1.1	1.34	1.35	.7
Total	3.33	3.63	3.67	1.1
Pension	1.17	1.24	1.15	-7.8
Total	4.50	4.87	4.82	-1

- **14% of CG Expenditure**
- **40,000 crore (Stores), 12,0000 crore (Capital**
- **2.38% of GDP**

MODERNISATION EXPENDITURE OF ARMED FORCES

Department	2020-21 (BE) (Rs in Crore)	2020-21 (RE) (Rs in Crore)	2021-22 (BE) (Rs in Crore)	% Increase in 2021-22 (BE) over 2020-21 (BE)
Army	25,999	25,999	30,587	18
Navy	25,620	36,478	32,235	26
Air Force	39,031	51,804	48,870	25
Total	90,649	1,14,280	1,11,691	23

MISMATCH BETWEEN ALLOCATION AND PROJECTION



MAJOR GLOBAL EXPORTERS AND IMPORTERS

Exporter	Global Share	Importer	Global Share
USA	36%	South Africa	12
Russia	21%	India	9.2
France	7.9%	Egypt	5.8
Germany	5.8%	Australia	4.9
China	5.5%	China	4.3

Source: SIPRI Report 2020

GOALS OF PUBLIC PROCUREMENT

- **Transparency, Economy & Integrity**
- **Transparency:**
 - (a) **Nature of Requirement, Closing Date for Submission of Tender**
 - (b) **Evaluation and Selection Criteria**
 - (c) **How are Offers to be Submitted**
 - (d) **Schedule of Pre Bid Meeting**
 - (e) **DPM & DPP in Website**
- **Economy: L1(Consistent with Quality Required):GFR**
- **CAG (Performance Audit): 3Es**
- **Economy, Efficiency & Effectiveness**
- **Integrity of the Process**
- **Clear Understanding of Requirement, Short listing & Selection Criteria, To remain Generally Unchanged, Modification Notified to all**
- **Integrity Pact: Transparency International**

DIFFERENCE BETWEEN PUBLIC & PRIVATE PROCUREMENT

Parameter	Public	Private
Objective	Social Benefit	Profit Centric
Source of Funding	Taxes & Debt	Shareholder, Debenture
Procurement Procedure	Public Procurement Legal & Institutional Framework	Company Policy, Contract
Placement of Order	L1	No such Criteria
Accountability	3 Cs: CAG, CVC, Court	No such oversight

MAJOR POLICY CHANGES

- **Arun Singh & Delegation to SHQs (1986)**
- **Kalam Committee on Improving SRI(1993)**
- **Liberalisation in Defence Production Policy (2001)**
- **Full Private Sector Participation, 26% FDI**
- **Kelkar Committee (2005): PPP & Offset**
- **Dhirendra Singh (2016): SP Model**
- **FDI Limit: 76% (2020)**
- **Atma Nirbhar Bharat , Boost to SMEs**
- **IT , Collateral Free Loan, No global tender< 200 Cr**
- **Privatisation in all Sectors Except Strategic : PM Modi**

REFERENCE MATERIAL FOR PROCUREMENT

- **GFR 2017**
- **DFPR 1978**
- **Contract Act 1872**
- **Sale of Goods Act 1930**
- **Arbitration and Reconciliation Act 1996**
- **UNCITRAL 2003**
- **DGS&D Manual 2020**
- **DPM 2015**
- **DPP 2020**
- **INCOTERMS**

PUBLIC PROCUREMENT BILL 2012

- **Ensure Transparency in Procurement by Central Government and its Entities**
- **Exempts Procurement for Disaster Management, Security and Strategic Purposes**
- **Code of Integrity for Officials and the Bidders**
- **Mandate Publication of all Procurement related Information on Central Public Procurement Portal**
- **Open Competitive Bidding as Preferred Procurement Method**
- **Provide Reasons for Using any other Model**
- **Redressal Committee Penalise Acceptance of a Bribe by a Public Servant as well as Offering of a Bribe or undue Influencing of Procurement Process**
- **Does not Restrict Cost Plus Contract**

GENERAL FINANCIAL RULES (2017)

- **Two Stage Bidding for Hitech Products**
- **Finalize Specification after Pre-bid Meeting**
- **80% Weightage for Quality of Consultants**
- **E-publication of all Procurement Information**
- **No Administrative Redressal Mechanism**
- **Global Tender up to 200Cr. Scrapped (2020)**

PUBLIC PROCUREMENT (PREFERENCE TO MAKE IN INDIA) ORDER 2017

- **Purchase Preference to be given to local Supplier for Procurement up to 50 lakhs**
- **If more than 50 lakh and Local Bidder not L_1 , 50 to L_1 , Local Bidder to Match L_1 within Margin of Purchase Preference of 20%**
- **Minimum Local Content 50%**

SELF RELIANCE INDEX: KALAM

- **A High Degree of Self Reliance in Small Arms, Ammn. Bombs, but not in Weapons, Propulsion & Sensors**
- **SRI – 0.3 (93) - 0.7 (2005)**
 - **Total Transfer of Technology by end of 9th Plan**
 - **Aircraft, Missiles, Tanks**
- **Strategy**
 - **Invest in Critical Technology**
 - **Pool Indigenous Technology Expertise**
 - **Mission Mode Organization Structure**
 - **Standing Inter-Services Board**

CRITICAL TECHNOLOGY AREAS

Sl. No.	System/ Sub System	Critical Technology
1.	Gas Turbine Engines	Single Crystal, Special Coaling
2.	Missiles	FPP Seeker
3.	Aeronautics	Stealth, Smart Aero Structure
4.	Naval System	Super Cavitations Technology
5.	Sensors	AESA Radar, RLG, SAAR, Nano Technology
6.	Material	Carbon Fibres
7.	Avionics	Gen III Tubes
8.	Surveillance	UAVs, AESA Radar

***Source: Defence Procurement Procedure (DPP) 2016 &
Ministry of Defence, GOI, <https://mod.gov.in/>***

ACQUISITION PROCESS

- **Request for Information**
- **Services Quality Requirement**
- **Acceptance of Necessity**
- **Request for proposal**
- **Technical Evaluation**
- **Field Evaluation Trials**

DEFENCE ACQUISITION PROCEDURE (2020)

- **Further Self Reliance through Make, D&D & Strategic Partnership**
- **Make in India Initiative, Increasing Participation of Indian Vendors; Particularly MSMEs**
- **Simplification, Delegation and ↓ Timelines, Industry Friendly**
- **Timely Acquisition, Probity, Public Accountability, Transparency, Fair Completion, Level Playing Field**
- **Buy, Buy & Make, D&D, SP**
- **Buy: Buy (Indian-IDDM), Indian, Global**
- **Buy & Make (Indian), Global (Manufacture in India)**
- **Priority: Buy-IDDM, Buy (India), Buy and Make (India), Buy (Global-Indian Manufacture), Buy (Global)**

DEFINITION OF CATAGORIES

- **Buy (Indian: IDDM): 50% IC**
- **Buy (Indian): 60% IC on Cost**
- **Buy & Make (Indian): Technology Transfer from Foreign OEM, Followed by Indigenous Production**
- **Range & Depth: Minimum IC 50%**
- **Buy (Global-Man): Outright Purchase of Equipment from Foreign Vender; Indigenous Manufacture**
- **Buy (Global): Outright Purchase**
- **Make: D&D by an Indian Vender through Shipyard, BRD**
- **D&D: DRDO, DPSUs, OFB**
- **SPM: Indian Farms with Foreign OEM**

UNCITRAL MODEL LAW (2011)

- **Economy & Efficiency**
- **Wide Participation by Suppliers**
- **Maximize Competition**
- **Fair & Equal Treatment**
- **Promoting Transparency**
- **Two Stage Tendering : T Bid Followed by Q Bid**
- **Bid Protest**
- **De Briefing (World Bank Contract)**
- **Preferential treatment to domestic Bidder for Capacity Building, Make in India**
- **INCOTERMS: FOB, CIP, DAP**

BOFORS SCANDAL

- **Contract in March 1980: \$285M, 410 guns**
- **Swedish National Audit (1987)- \$40M paid in commissions to middle men, \$1.48B**
- **Quattrocchi as Middle man**
- **Lifting of ban during Kargil war**
- **CST not done properly**
- **Change in Technical Assessment by General Sunderji (Shoot and Scoot)**
- **Technology Transfer Document with us**

SUBMARINE DEAL WITH HDW (1987)

- **1979: CCPA approved submarine to submarine killer, diving depth of 300m**
- **Technical committee: Swedish, Italian, HDW**
- **Diving Depth of only 250 metres**
- **Subsequent Delegation cleared HDW**
- **7% commission paid to secure the Contract**
- **Failure to take a firm stand against HDW**

RAFALE DEAL CONTROVERSY

- **Jan 2012: MMRCA Contract: 126 aircraft, option 50%**
- **Fully assembled 18, balance to be manufactured by HAL (ToT)**
- **Lowest bidder based on life cycle costing**
- **HAL wanted Dassault to ensure quality of aircrafts**
- **Each aircraft cost Rs.746 crore**
- **25th March 2015 CEO of Dassault “95% complete”**
- **April 2015: India to acquire 36 Rafale (FF)**
- **Tenders for 126 aircrafts cancelled (2015) and negotiation for 36 begins**
- **IGA signed in September (2016) for 36 aircrafts**
- **Reliance Group & DA creates JV (DRAL)**
- **Escalation of cost from 715 crore – 1600 crore**

INTER GOVERNMENT AGREEMENT

- **Procurement for friendly foreign countries due to geo strategic advantages**
- **Would not follow classical DP procedures**
- **Equipment of proper technology and capabilities from a friendly country is identified while participants in joint international exercises**
- **Multiple source: Select one**
- **Large value weapon system/platform available lesser cost than original platform**
- **Strategic consideration, not necessarily L_1**

ISSUES AND CONCERNS

- **Changing the character of Contract (Buy & Make) to Buy**
- **IGA instead of Competitive Tendering with all Technically Shortlisted Firms of (2012)**
- **Inexperience of Reliance as IOP**
- **Letter of Comfort instead of PBG**
- **High Price due to Lack of Competition**
- **Make in India given a go by**
- **SC did not find Material for Commercial Favouritism**