

M.A. (Security and Defence Laws)
NALSAR UNIVERSITY OF LAW, HYDERABAD

Defence Acquisitions



Dr. Laxman Kumar Behera

Associate Professor
Special Centre for National Security Studies
Jawaharlal Nehru University (JNU)
Email: laxmanbehera@gmail.com

March 12, 2021



DEFENCE ACQUISITION PROCEDURE 2020



आत्मनिर्भर भारत
ATMANIRBHAR BHARAT

Defence Acquisition: Definition

- Defence Acquisition University (DAU), US defines defence acquisition as:
 - “The conceptualization, initiation, design, development, test, contracting, production, deployment, integrated product support (IPS), modification, and disposal of weapons and other systems, supplies, or services (including construction) to satisfy DoD needs, intended for use in, or in support of, military missions.”
- Contrast the above with the following:
 - Procurement is an “act of buying goods and services for the government.”

“During last five financial year (2015-16 to 2019-20) and current year (upto January 2021), 304 contracts were signed. Out of total 304 contracts, 190 contracts have been signed with Indian vendors for capital procurement of defence equipment for Armed Forces.”

*...Rajya Sabha, “Government Spending on Military Modernisation”, Unstarred
Question No. 1451, Answered on March 08, 2021*

Capital Acquisition Budget

	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

Note. *: Figures for army are approximate

Constituents of Army's Capital Acquisition Budget

Modernisation Head	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)
Aircraft & Aero-Engine	4,000	3,809	4,224	6
H&MV	1,589	1,319	2,673	68
Other Equipment	20,209	20,650	23,490	16
Rolling Stock	100	150	100	0
Rashtriya Rifles	100	70	100	0
Total	25,999	25,999	30,587	18

Note. Figures for army are approximate

Constituents of Navy's Capital Acquisition Budget

Modernisation Head	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)
Aircraft & Aero-Engine	4,640	8,687	5,511	19
H&MV	30	30	30	0
Other Equipment	3,000	5,950	5,500	83
Joint Staff	1,022	762	1,204	18
Naval Fleet	12,746	17,394	16,000	26
Naval Dockyard/Projects	4,182	3,654	3,990	-5
Total	25,620	36,478	32,235	26

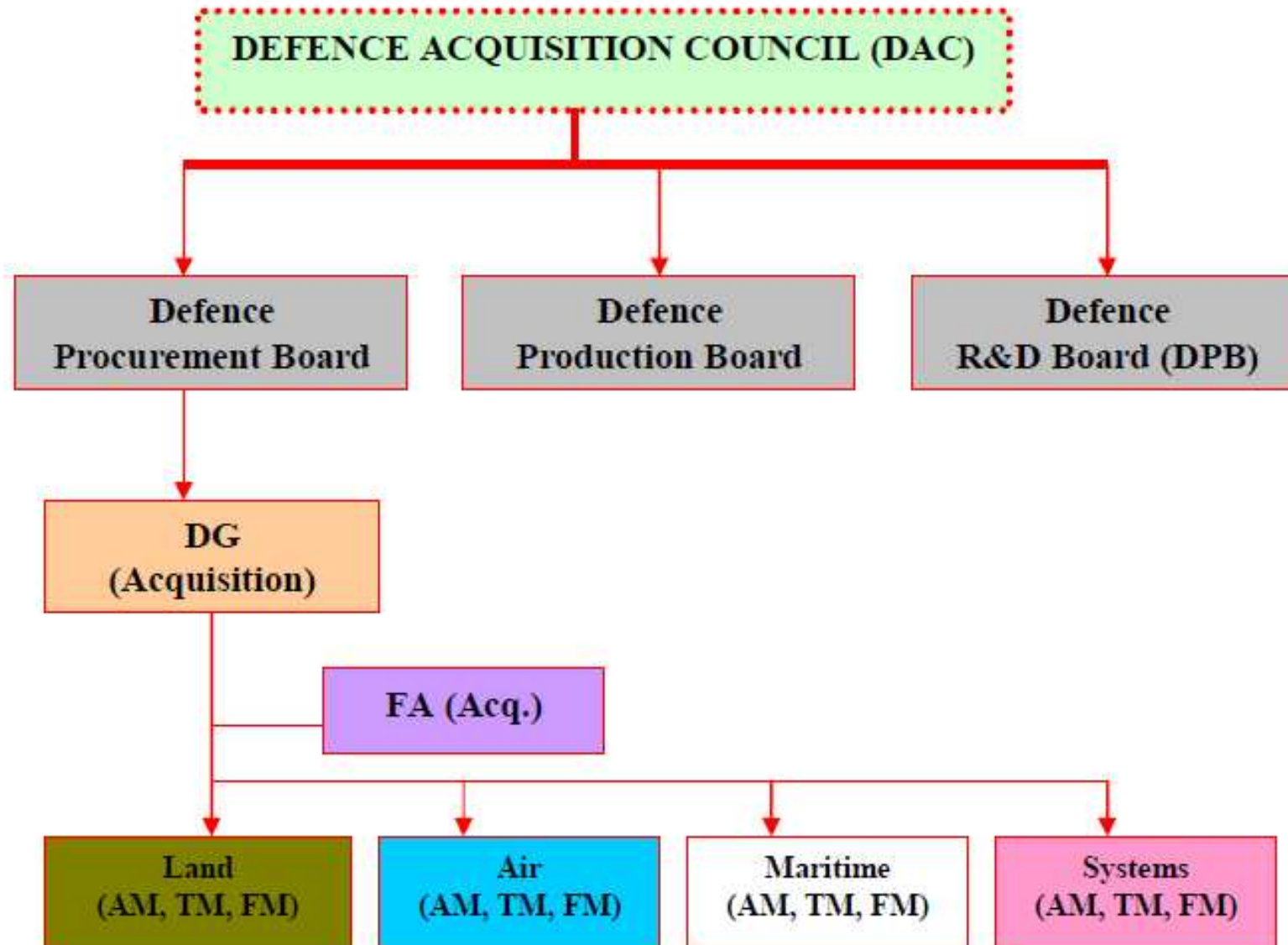
Constituents of Air Force's Capital Acquisition Budget

Modernisation Head	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)
Aircraft & Aero- Engine	26,910	29,425	24,268	-10
H&MV	120	80	120	0
Other Equipment	12,001	22,299	24,481	104
Total	39,031	51,804	48,870	25

Bofors Controversy & Evolution of India's Def Acq. System

- **Massive public outcry following 16th April 1986 Swedish Radio Broadcast about bribes in Bofors purchase**
- **JPC made an extensive examination of Army's then procurement practices, some of which were prone to subjective interpretation (e.g., Non-requirement of GSQRs for import)**
- **JPC did not recommend any institutional/procedural improvements, but these were finally picked up by the PAC in 1987.**
- **First ever DPP issued in 1992 – but the document has many inherent weaknesses – KRC termed it 'archaic' and suggested periodic review**
- **The real momentum came through GoM which recommended:**
 - **“Separate & Dedicated Structure to undertake entire gamut of procurement” -1st clear recommendation for institutional improvement**

Defence Acquisition Organisation



Evolution of Procurement Procedures

- 1st DPP in 1992 (classified document) (DRDO had major say; no provision of single state two bid system)
- 1st public DPP in 2002 and revised since then in:
 - 2003 (Stages of procurement, ToT Provision)
 - 2005 (Offsets, Timeframe, JSQR)
 - 2006 (Make)
 - 2008 (Buy & Make (Indian), Trial Methodology)
 - 2011
 - 2013 (Prioritization of procurement categories)
 - 2016 (Make in India)- DPP-2016
 - 2017(Strategic Partnership)
 - 2020: Name changed to DAP

India's Defence Acquisition: Objectives

“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 utilization of allocated budgetary resources.

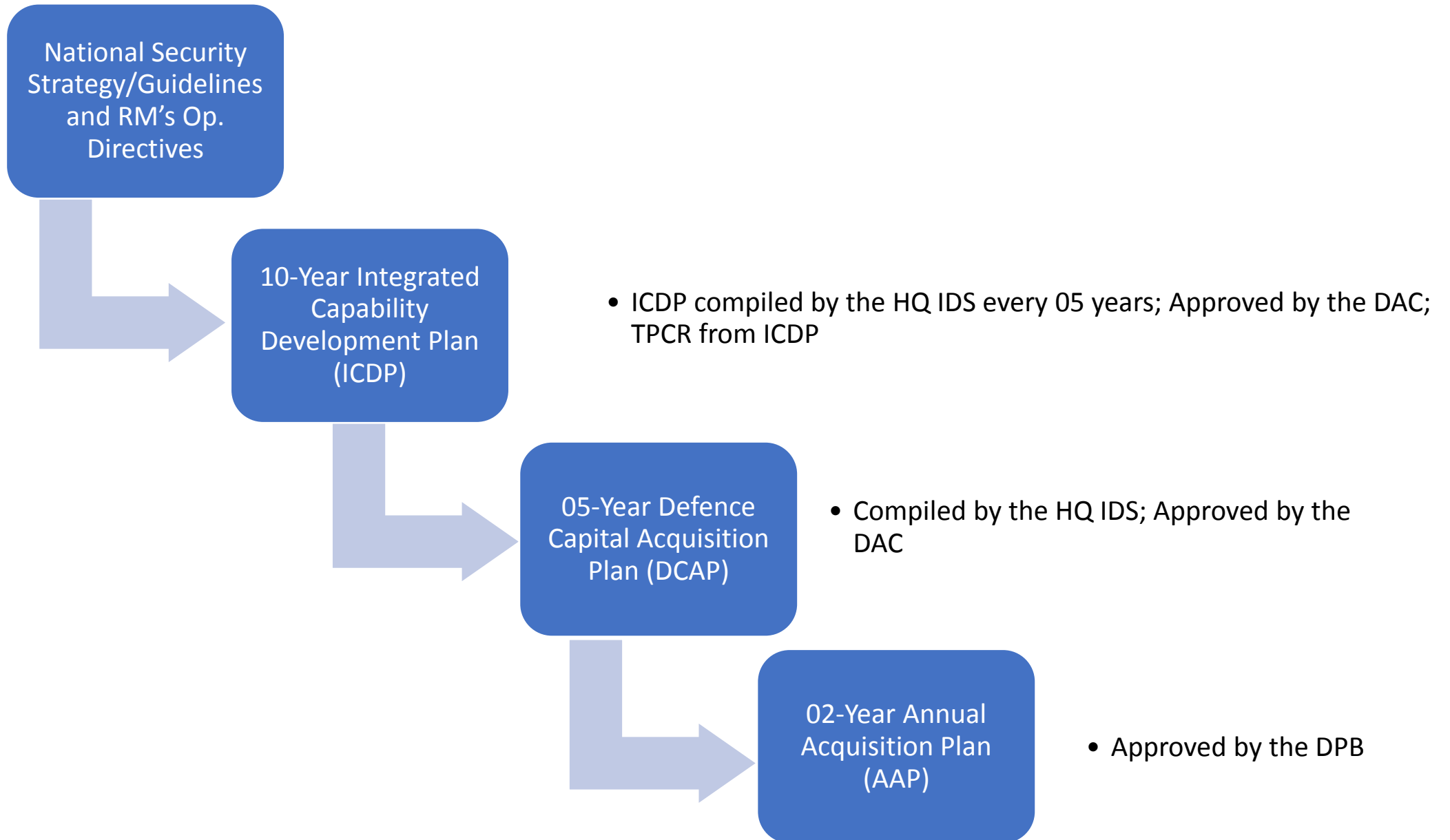
While enabling the same, DAP will provide for the highest degree of probity, public accountability, transparency, fair competition and level-playing field.

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.”

DAP-2020: Chapters

Chapter No.	Name
	Preamble
I	Acquisition Categories, Acquisition Planning and Indigenous Content
II	Acquisition Procedures for Categories under 'Buy' and 'Buy and Make' Schemes
III	Procedure for Procurement under 'Make' and 'Innovation' Categories
IV	Procedure for Acquisition of System Designed and Developed by DRDO/DPSU/OFB
V	Fast Track Procedure
VI	Standard Contract Document
VII	Revitalising Defence Industrial Ecosystem through Strategic Partnership
VIII	Acquisition of Systems Products and ICT Systems
IX	Leasing
X	Other Capital Procurement Procedure
XI	Post Contract Management
XII	Procedure for Defence Ship Building

Acquisition Planning Process



Annual Acquisition Plan

DPP-2016		DAP 2020	
Section	Contents	Section	Contents
A (Part A)	Schemes from approved DCAP which are accorded AoN in the previous year and during the year	A	Schemes for which Acceptance of Necessity (AoN) has been accorded in the previous year and during the year
A (Part B)	Schemes from approved DCAP which are to be processed for AoN in the coming year	B	Schemes for which AoN is to be processed in the coming year
B (Part A)	Make schemes for which AoN has been accorded in the previous year and during the year	C	Schemes under Make and Design and Development
B (Part B)	Make schemes for which AoN will be initiated in the coming year	D	Schemes to be processed under the Other Capital Procurement Procedure (OCPD)

Competent Authority

Financial Limit (Rs in Crore)	AoN According Authority	Competent Financial Authority
≤ 300	Services Procurement Board (SPB)	CISC, VCOAS, VCNS, DCAS and DGICG
$\geq 300 - \leq 500$	Defence Procurement Board (DPB)	Defence Secretary
$\geq 500 - \leq 2000$	DAC	Defence Minister
$\geq 2000 - \leq 3000$	DAC	Finance Minister
≥ 3000	DAC	CCS

Acquisition Process: 'Buy' and 'Buy & Make'

1. Request for Information (RFI)
 - To help in preparing realistic QRs, deciding acq. category, determining cost implications, formulating draft trial methodology; and promoting use of indigenous military materials/software
2. Formulation of Services Qualitative Requirements (SQRs)
 - Characteristics of QRs: Realistic, achievable and verifiable and avoid all kinds of ambiguity
 - QR parameters:
 - Essential Parameter-A (Which can be tested during FET)
 - Essential Parameters (To be achieved after contract signing and before delivery)
 - Enhanced Performance Parameters (EPP): maximum 10% weightage for higher performance
 - No amendment to QRs after the issue of RFP without DAC approval
3. Acceptance of Necessity (AoN)
 - In-principle approval
 - Categorization
 - 6 month validity for 'Buy' and 12 months for 'Buy and Make' schemes

Acquisition Process: 'Buy' and 'Buy & Make'

4. Solicitation of offers through Request for Proposal (RFP), including Offset, if applicable
 - Five parts of the RFP
 - Covering Letter (brief synopsis of the project)
 - General Requirements (No. time frame, eligibility, IC, Training, ToT, etc)
 - Technical Requirement
 - Commercial Requirements
 - Bid Evaluation and Acceptance Criteria
5. Evaluation of Technical offers by Technical Evaluation Committee (TEC)
 - SHQ to undertake technical evaluation
 - Examine the extent of variations/differences vis-à-vis QRs
 - Compliance Statement
6. Evaluation of Offset offers by Technical Offset Evaluation Committee (TOEC)
 - TOEC led by JD (DOMW)

Acquisition Process: 'Buy' and 'Buy & Make'

7. Field Evaluation Trial (FET)

- User trial
- Technical trials (DGQA evaluation)
- Maintainability evaluation trials (MET)
- EMC/EMI
- Secrecy testing

8. Staff Evaluation

- SHQ to undertake GS evaluation for shortlisting equipment

9. Oversight by Technical Oversight Committee (TOC), if required

- DG (Acq.) to constitute TOC for cases in excess of Rs 300 crore (or any cases recommended by Def Sec/DPB/DAC)
- TOC for multi-vendor cases
- TOC to verify if prescribed procedure has been followed
- 30 days time frame

Acquisition Process: 'Buy' and 'Buy & Make'

10. Contract negotiations by Contract Negotiation Committee (CNC)
11. Approval of Competent Financial Authority
12. Award of Contract / placing of indents
13. Post-Contract Management

Key New Features of DAP 2020

- Revised procurement categories
 - Prioritised and other than prioritised categories
- Thrust on greater indigenisation
- Revamped offset guidelines
- New chapters
- Hike in FDI in defence manufacturing
- Expeditious procurement

Prioritised Procurement Categories

DPP 2016			DAP 2020		
Prioritized Category	IC (%)	RFP issued to (Indian/Foreign)	Prioritized Category	IC (%)	RFP issued to (Indian/Foreign)
Buy (Indian-IDDMM)	≥ 40% if indigenous design; else ≥60%	Indian	Buy (Indian -IDDMM)	≥ 50% and indigenous design	Indian
Buy (Indian)	≥ 40%	Indian	Buy (Indian)	≥ 50% if indigenous design; else ≥ 60%	Indian
Buy & Make (Indian)	≥ 50% in 'Make' portion	Indian	Buy & Make (Indian)	≥ 50% IC in 'Make' portion	Indian
Buy & Make	IC on case-to-case basis	Foreign	Buy (Global-Manufacture in India)	≥ 50%	Foreign
Buy (Global)	NA	Foreign/Indian	Buy (Global)	Nil for foreign; ≥30% for Indian	Foreign/Indian

Source: Laxman Kumar Behera, "India's Defence Acquisition Procedure 2020: Imperatives for Further Reforms", *ORF Issue Brief*, 04 Feb. 2021

Other Than Prioritized Categories

Category	Features
Strategic Partnership Model (SPM)	The category intends to facilitate Indian private companies to become system integrators, by allowing them to tie up with approved forcing vendors to supply major equipment to the armed forces. The private sector is expected to develop an eco-system consisting of developmental partners and specialized supplies, particularly from the micro, small and medium enterprises (MSMEs).
Leasing	The category, which has two subcategories, Lease (Indian) and Lease (Global), allows the armed forces to possess and operate equipment without having to own them. It avoids payment of upfront capital cost of procurement and involves periodic rental payment.
Other Capital Procurement Procedure (OCP)	The category facilitates overhaul, major refits, upgrades and replacement of items of by using capital budget.
Make & Innovation	The category has four subcategories: Make-I (Government Funded up to 70%); Make-II (Industry Funded), Make-III and Innovation. Procurement of Make-I/II items post-successful development would be through Buy (India-IDDM) category with $\geq 50\%$ IC; whereas procurement of Make-III items would be through Buy (Indian) with $\geq 60\%$ IC. Prototype development under 'Innovation' would be through: iDEX, Technology Development Fund (TDF) and Internal Servicers Organizations. Post successful development Buy (Indian-IDDM) would be used for procurement of items developed through iDEX and TDF; whereas either Buy (Indian-IDDM) or Buy (Indian) category could be used for procurement of items developed through the Internal Services Organizations.
Design and Development	The category facilitates design and development by the Defence Research and Development Organization (DRDO), Defence Public Sector Undertakings (DPSUs) and Ordnance Factory Board (OFB). Procurement of successful products would be through the Buy (Indian-IDDM) category.

Thrust on Grater Indigenisation

- IC content increased to minimum 50% (30% prior to DPP-2016)
- Focus on use of indigenous military materials and software
- Aero engine and fab facilities – to be taken up as projects of national importance
- Linkage with the negative list

Revamped Offset Guidelines

- Focus on technology, investment and export of major platforms (as opposed to components)
- Changes have been made in avenues, list of eligible items and multiplier
- Abolition of offset banking



Key Features of Offset Guidelines 2020

Offset Discharge Avenue	IOP	Offset Discharge Subject To	Multiplier
Direct purchase of eligible defence products & Services	Both private and public sector including DPSUs / OFB	List of eligible defence products in seven categories (civil infrastructure generally excluded)	0.5 for components of eligible product; 1.0 for eligible products; 1.5 if IOP is Micro Small and Medium Enterprise (MSME)
Investment for manufacture of eligible defence products*	Private sector / DPSUs / OFB	List of eligible defence products in seven categories (civil infrastructure generally excluded); No restriction on production, sale or export	2.0 if investment is in notified Defence Industrial corridors; 1.5 in other places
Transfer of technology for manufacture of eligible products	Private sector / DPSUs / OFB	List of eligible defence products in seven categories (civil infrastructure generally excluded).	2.0
Technology acquisition for government institutions*	DRDO / DPSUs / OFB, etc.	Identified list of technologies in 49 areas	3.0
Technology acquisition*	DRDO	List of critical technologies in 32 areas	4.0

New Chapters

Chapter	Title	Remarks
Chapter IV	Procedure for Acquisition of systems designed and developed by DRDO/DPSU/OFB	The chapter expands an earlier provision of the DPP-2016 to facilitate procurement of items indigenously designed by the state-owned R&D and production agencies
Chapter VIII	Acquisition of Systems Products and ICT Systems	A dedicated chapter that attempts to address the uniqueness of procurement of ICT products especially in respect to interoperability and built-in upgradability, security requirement and change management
Chapter IX	Leasing	It facilitates operating defence equipment without owning them, thus substituting huge initial capital expenditure.
Chapter X	Other Capital Procurement Procedure	The chapter formalises the earlier practice followed by the armed forces to procure some of the revenue-oriented ‘stores’ items by using the capital budget
Chapter XI	Post Contract Management	The chapter articulates procedures to deal with post-contract-signing issues such as inspections, levying of liquidated damages and contract amendment, etc.

Source: Laxman Kumar Behera, “India’s Defence Acquisition Procedure 2020: Imperatives for Further Reforms”, *ORF Issue Brief*, 04 Feb. 2021

Hike in FDI

- FDI cap increased from 49% to 74% under automatic route
- The hike is permitted in: 'Buy (Indian)', 'Buy and Make (Indian)', and 'Buy (Global - Manufacture in India)' and Make-III.
- Procurement under 'Buy (Indian-IDDM)', Make-I, Make-II, Strategic Partnership Model (SPM), Design and Development through DRDO, DPSUs and OFB would still be subject to maximum FDI of 49 per cent

Thrust on Expeditious Procurement

- Single stage accord of AoN upto Rs 500 crores
- Delegated powers to process procurement under the fast-track procedures (FTP)
- Streamlined process for formulation of Qualitative Requirement (QR) and trial procedures

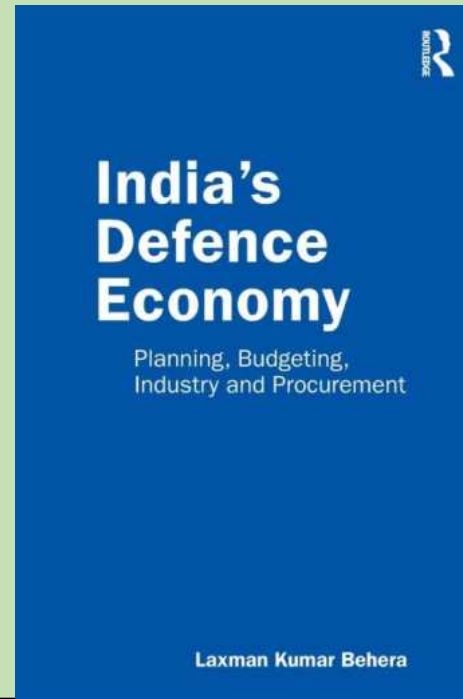
Efficacy of the Evolved Acq. System: Under/Over-Spending

Year	Allocation (INR Billion)	Expenditure (INR Billion)	Under/Over Spending (INR Billion)	Under/Over Spending (%)
2001-02	178.66	144.30	34.36	19
2002-03	188.82	129.39	59.43	31
2003-04	178.31	145.84	32.47	18
2004-05	293.79	286.00	7.80	3
2005-06	284.70	269.72	14.98	5
2006-07	317.22	278.18	39.05	12
2007-08	345.15	303.98	41.17	12
2008-09	401.63	324.23	77.39	19
2009-10	438.16	420.25	17.91	4
2010-11	475.28	503.96	-28.68	-6
2011-12	567.43	555.78	11.65	2
2012-13	665.49	591.51	73.98	11
2013-14	738.55	671.61	66.94	9
2014-15	756.95	662.27	94.68	13
2015-16	778.48	626.70	151.78	19
2016-17	704.14	698.79	5.35	1
2017-18	698.27	730.94	-32.67	-5
2018-19	743.66	763.54	-19.88	-3
2019-20	815.16	904.72	-89.56	-11

Source: Laxman Kumar Behera, India's Defence Economy: Planning, Budgeting, Industry & Procurement, Routledge, London, p. 115

Reading List on Defence Acquisitions

1. Laxman Kumar Behera, “Defence Acquisition Procedure 2020: Imperatives for Further Reforms: *ORF Issue Brief*, Issue No. 440, February 2021.
2. Laxman Kumar Behera and Amit Cowshish, “Draft DPP: Standard Contract Document”, *IDSA Issue Brief*, May 14, 2020.
3. Laxman Kumar Behera, “India’s Defence Acquisition System: Need for Further Reforms”, *The Korean Journal of Defense Analysis*, Vol. 24, No. 1, March 2012, pp. 89–105.



THANKS