

DIRECTORATE OF DISTANCE EDUCATION
NALSAR UNIVERSITY OF LAW, HYDERABAD
Course: M.A. (Security and Defence Laws)
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Defence Tenders & Bidding



Dr. Laxman Kumar Behera

Chairperson

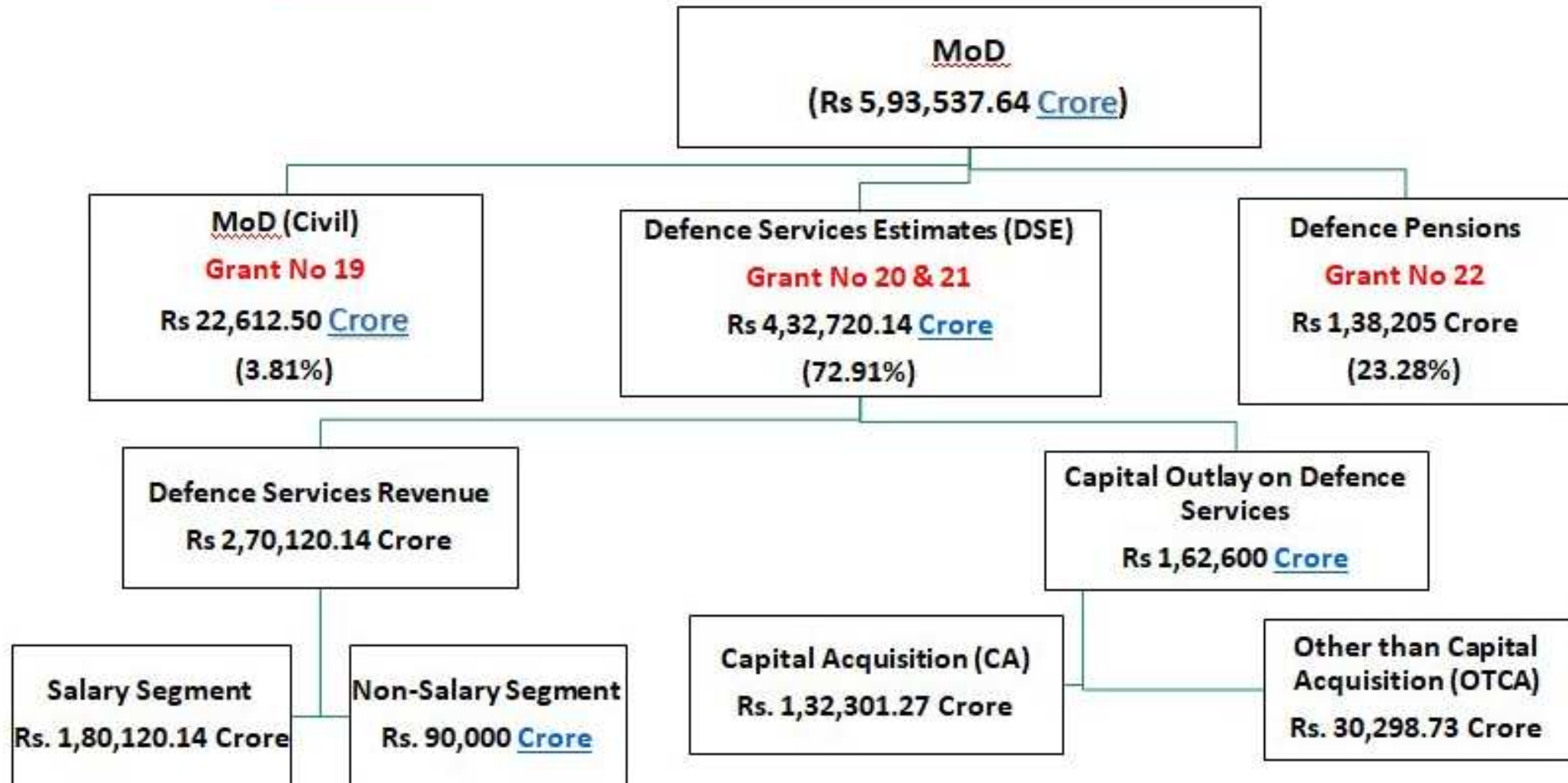
Special Centre for National Security Studies
Jawaharlal Nehru University (JNU)

Email: laxmanbehera@gmail.com; lkbehera@mail.jnu.ac.in

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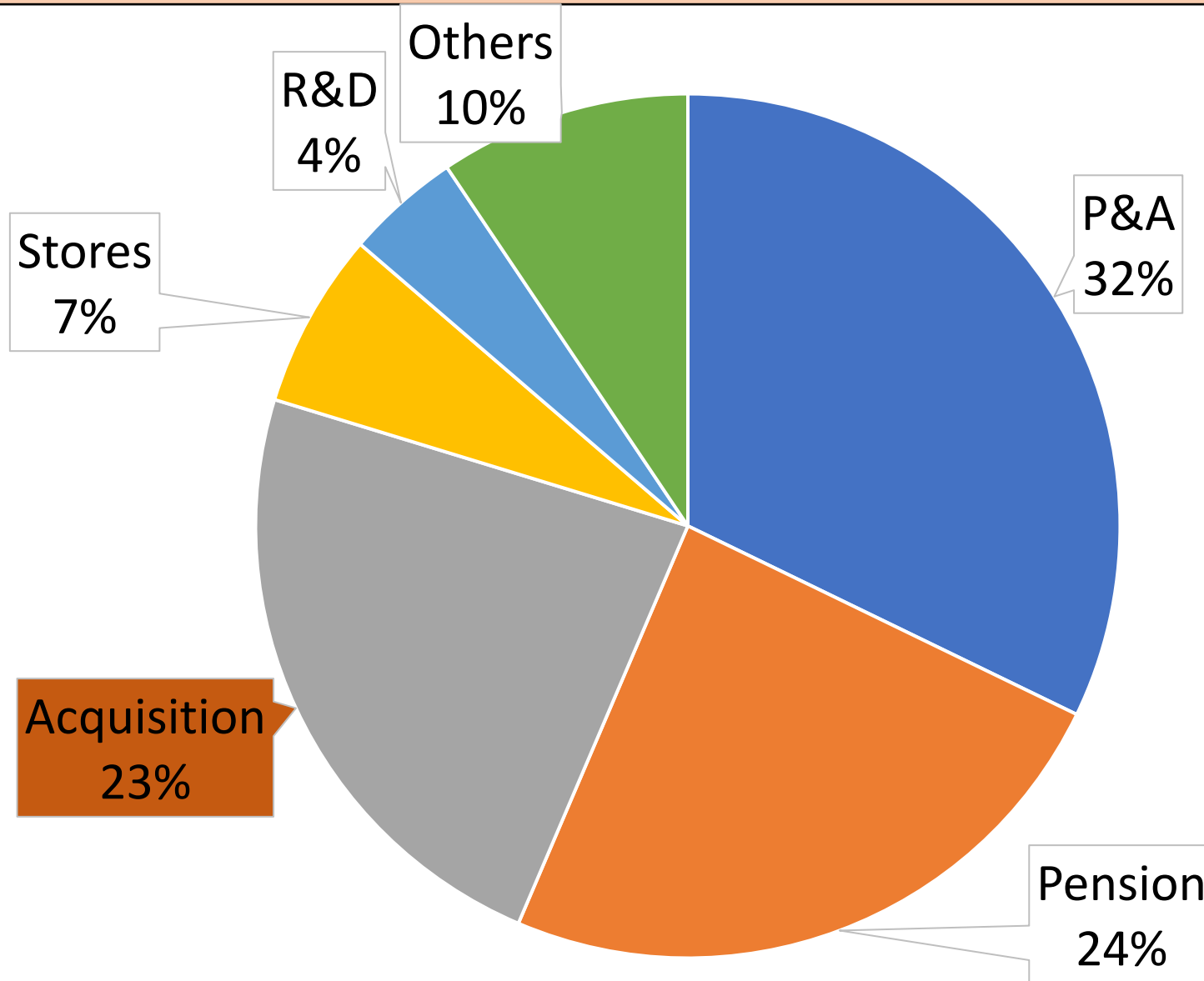
Defence Budget 2023-24

MoD Budget Estimates (BE) 2023-24



Defence Procurement Budget				
	2022-23 (BE) (INR billion)	2022-23 (RE) (INR billion)	2023-24 (BE) (INR billion)	% Increase in 2023-24 (BE) over 2022-23 (BE)
Army	25,809	27,050	30,063	16
Navy	46,518	45,841	49,354	6
Air Force	51,485	50,500	52,893	3
Total	1,23,812	1,23,391	1,32,309	7

Share of Acquisition in Defence Budget, 2021-22



Uniqueness of Defence Tender

- Involves huge expenditure
- One buyer and not many suppliers
- Involves geopolitics
- Involves security and national interests
 - Self-reliance (Make in India & Atmanirbhar Bharat Abhiyaan)

Prioritised Procurement Categories

DAP 2020			
Order of Priority	Prioritized Category	IC (%)	RFP issued to (Indian/Foreign)
1	Buy (Indian -IDDM)	≥ 50% and indigenous design	Indian
2	Buy (Indian)	≥ 50% if indigenous design; else ≥ 60%	Indian
3	Buy & Make (Indian)	≥ 50% IC in 'Make' portion	Indian
4	Buy (Global-Manufacture in India)	≥ 50%	Foreign
5	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 foreign 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 suppliers, 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 by using capital budget. The erstwhile Capital Budget Revenue Procedure (CBRP)
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.

DAP-2020: Chapters

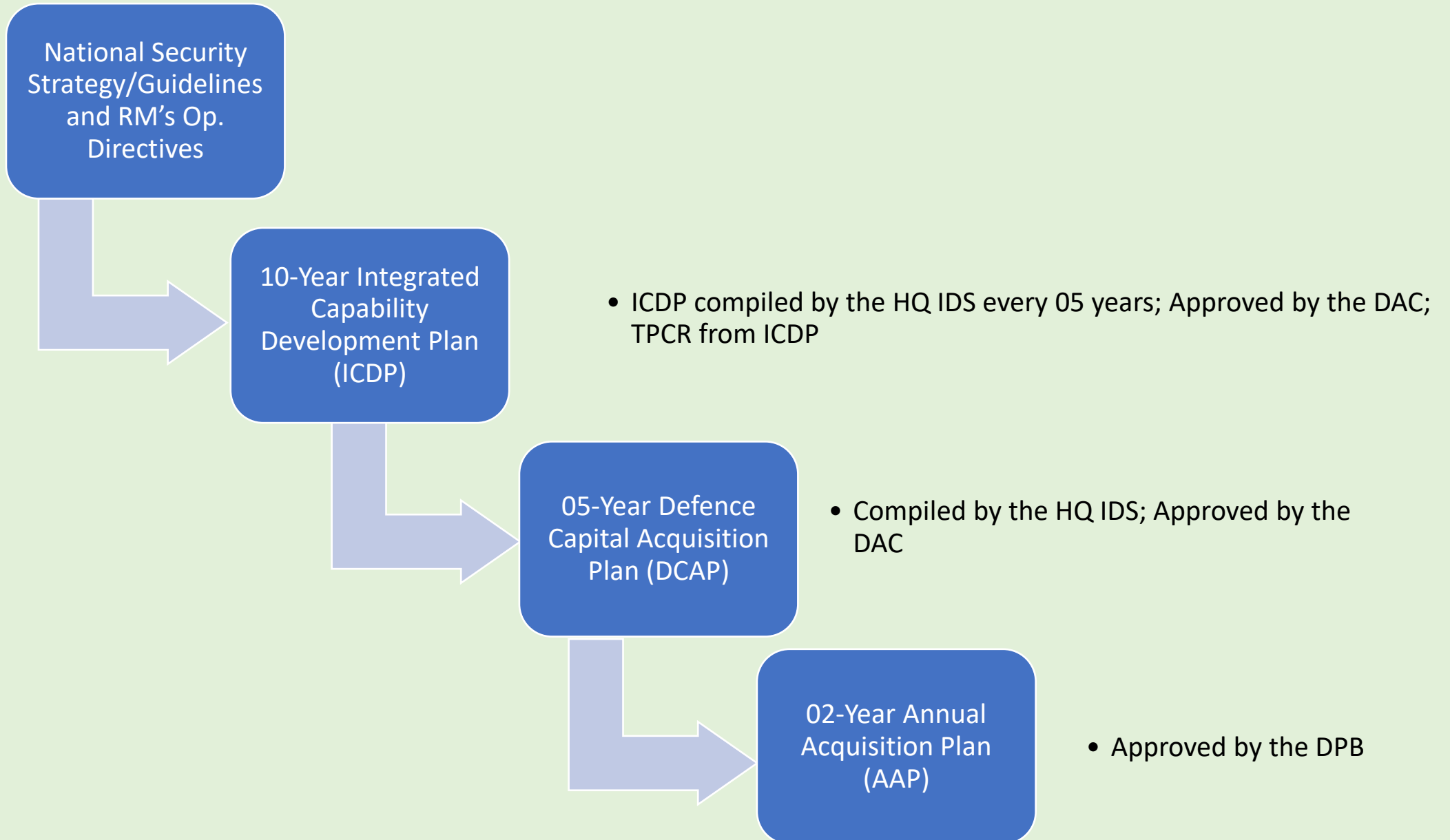
Chapter No.	Name
	Preamble
I	Acquisition Categories, Acquisition Planning and Indigenous Content
II	Acquisition Procedures for Categories under 'Buy' and 'Buy and Make' Schemes
III	Procedure for Procurement under 'Make' and 'Innovation' Categories
IV	Procedure for Acquisition of System Designed and Developed 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

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

Acquisition Planning Process



Stages of Procurement

1. Request for Information (RFI)
2. Formulation of Services Qualitative Requirements (SQRs)
3. Acceptance of Necessity (AoN)
4. Solicitation of offers through Request for Proposal (RFP), including Offset, if applicable
5. Evaluation of Technical offers by Technical Evaluation Committee (TEC)
6. Evaluation of Offset offers by Technical Offset Evaluation Committee (TOEC)
7. Field Evaluation Trial (FET)
8. Staff Evaluation
9. Oversight by Technical Oversight Committee (TOC), if required
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

Request for Information (RFI)

- 1st step in defence bidding process
- RFI is to solicit required info to facilitate:
 - Formulation of QRs
 - Determination of acquisition category, range & depth of ToT
 - Premonition of indigenous materials / software
 - Arrive at possible cost of equipment
 - Preparation of draft trial methodology
 - To prepare a better RFP
- RFI to be formulated by the SHQ in consultation with other stakeholders
- Non- response or non-conformity to any query does not debar any vendor from issue of RFP
- Incentive for use of indigenous materials and software

SQRs

- 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

SQR 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 cognizance 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, Acquisition (Technical) Wing and any other necessary department for obtaining their views/comments.

Format of SQRs

1. **Introduction** & Operational Philosophy/Proposed Employment of equipment/ system/ platform
2. **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
3. **Essential Parameters-B.** 
4. **Enhanced Performance Parameters (EPP)** along with proposed credit score 

- **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.
- **Essential Parameters B:** Parameters to be tested post signing of contract at a pre-decided time. Additional Bank Guarantee of 5-10%. Approved by AoN authority. Not allowed in ab-initio single vendor cases. To allow vendors to customize products to suit Indian requirements
- **Enhanced Performance Parameters (EPP):** Weightage of upto 10% for L1 evaluation. Each attribute not to exceed weightage of 3%



AoN

- Formal (official) approval to undertake procurement
- AoN to be obtained within one year of approval of SQRs
- AoN authority depending on the value of the proposal
- AON approval
- AoN Validity: 06 months for 'Buy' schemes; 01 year in case of Buy and Make (Indian) category
- AoN validity commences from the date of formal issue of Minutes of the AoN according authority
- If RFP is not issues with the AoN validity period, revalidation / fresh AoN required with due justification for not processing the case in time
- If RFP retracted within the AoN validity period, it can be reissued as long as AoN remains valid

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

Request for Proposal (RFP)

Solicitation of Offers:

- Solicitation of offers will be as per 'Single Stage – Two Bid System'. It means that the 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.

Layout of RFP:

- The RFP will be a self-contained document that shall clearly brings 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-II of DAP-2020. 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.

Request for Proposal (RFP)

➤ RFP will generally consist of five parts:

- 1. 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
- 2. General Requirements.** This part of RFP 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
- 3. Technical Requirements.** This part of 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 few cases (where no trial is envisaged). 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.

Request for Proposal (RFP)

4. Commercial Requirements:

- This 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-initio 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.

Request for Proposal (RFP)

5. Bid Evaluation and Acceptance Criteria.

- This part of 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.

RFP Vetting and Issue

- Collegiate Vetting and approval: JS, AM, TM, FM and reps from SHQ and QA
- RFP to be issued by the ADG Acquisition Technical
- 12 week time for vendors to respond to the RFP
- Provision for pre-bid meeting
- Amendments to RFP to be approved by AoN according authority, provided no disadvantage to any vendor

TEC and FET

- TEC to be constituted by the SHQ with reps. from other stakeholders
- TEC to examine the compliance or the extent of variations and differences, if any
- TEC to prepare a Compliance Statement
- TEC report to be approved by SHQ (except in ToT, Reward for IC and non-compliance – DG (Acq))
- FET for all equipment of TEC compliant vendors to be conducted by trial team based on Trial Methodology given in the RFP –the most time consuming process
- FET to consist of:
 - User trial
 - Technical trial (by QA agency)
 - Maintainability Evaluation Trial (MET)
 - EMC/EMI evaluation
 - Secrecy testing (if required)

TOC

- TOC for cases above Rs 300 crore
- Constituted by the DG (Acq), headed by a convenor nominated by the SHQ
- Job; To verify whether prescribed procedures have been followed

CNC/Contract Award

- CNC to be headed by JS & AM with representation from other stakeholders
- Opening of commercial bids of the qualified vendors
- Contract award to L1 vendor
- If L1 vendor withdraws, contract can be signed with L2 provided it agrees to the L1 price
- Pre-Contract Integrity Pact
 - To be submitted along with the bid documents
 - Integrity Pact Bank Guarantee (IPBG) for all cases above Rs 20 crore

Contents of Standard Contract Document (Articles)

Article	Name	Article	Name
#	Preamble	20	Claims
1	Scope of Contract	21	Taxes and Duties
2	Effective Date of Contract	22	Termination
3	Advance Payment Bank Guarantee	23	Law
4	Performance cum Warranty Bank Guarantee	24	Arbitration
5	Payment Terms	25	Penalty for Use of Undue Influence
6	Monitoring of Project Based on Contractual Milestones	26	Agents
7	Specification	27	Force Majeure
8	Quality	28	Non-Disclosure of Contract Documents
9	Pre-Dispatch Inspection (PDI)	29	Notices
10	Preservation, Packing and Marking	30	Transfer and Sub-Letting
11	Delivery	31 (31A)	Patents and Other Industrial Property Rights; Buyer's Right to Optimisation of Life Cycle Support and System Enhancements
12	Title and Risk of Loss	32	Amendments
13	Transportation	33	Product Support
14	Air Lift	34	Training
15	Liquidated Damages	35	Option Clause
16	Denial Clause	36	Buyer Furnished Equipment (BFE)
17	Joint receipt inspection (JRI) in India	37	Engineering Support Package (ESP)
18	Warranty Clause	38	Accesses to Book of Accounts
19	Indigenous Content (IC)	39	Survival After Cancellation or Expiration

Contents of Standard Contract Document (Annexures)

Annexure	Name	Annexure	Name
I	Statement of Prices & Quantities	IVC	Indemnity Bond for Performance and Warranty
IIA	Technical Specifications	V	Modifications to be incorporated as per Requirements of Buyer
IIB	Requirement and Scope of AMC/ CMC/ PBL/ LCSC	VI	Certificate of Conformity
III	Statement of Work (SoW) and Delivery Schedule	VII	Quantity Claim
IV	Bank Guarantee Format for Advance	VIII	Quality Claim
IVA	Bank Guarantee Format for Performance cum- Warranty Bond	IX	Prices Breakdown of Supplies and Services
IVB	Bank Guarantee Format for Additional Bank Guarantee for Essential Parameter B Cases	X	Letter of Credit

THANKS