



Procurement Manual 2016

Defence R & D Organisation (DRDO)

Government of India
Ministry of Defence
Defence Research & Development Organisation
Directorate of Material Management
DRDO Bhawan, New Delhi-110 011

PROCUREMENT MANUAL 2016



NOVEMBER 2016

**DEFENCE RESEARCH & DEVELOPMENT ORGANISATION
MINISTRY OF DEFENCE
NEW DELHI**



रक्षा मंत्री
भारत

**MINISTER OF DEFENCE
INDIA**



FOREWORD

Procurement in a research and development organization such as DRDO is not a standard commercial, off the shelf procurement, and has unique features such as suppliers' constraints, technological complexity, diverse and customised requirement of projects with low volume, trade embargos / denial of technology and non availability of specific material held by monopolistic foreign suppliers and so on. DRDO has the mission of achieving technological self-reliance in weapons systems and platforms for the Defence Services. DRDO is undertaking a large number of projects in areas venturing into frontiers of technology through a network of Labs/Estts for design, development and leading to production of the state-of-the-art weapon systems, platforms and allied equipment to maintain the operational effectiveness of our Armed Forces. In order to achieve their mission a wide variety of goods and services are required by Labs/Estts expeditiously while adhering to highest standards of transparency in processes, probity and public accountability, free competition and impartiality. A need was felt to update the existing procurement manual and incorporate a number of new policy changes which have taken place recently including the thrust on 'e-procurement'.

This manual incorporates, at one place, the rules and guidelines and the processes involved for procurement of goods and services, to enable the Labs/Estts to achieve their mission of development of weapons and systems incorporating futuristic technologies within the framework of Government rules, duly maintaining highest standards of probity and transparency and contribute to the national objective of 'Make in India'.

I hope this comprehensive manual will bring greater efficiency in the system and ensure timely supply of items/products as per 'essential' quality requirements, broad based competition and optimal utilization of DRDO Budget. I hope that all the stakeholders will greatly benefit by this manual and it will bring greater uniformity in application at various levels where financial powers are being exercised.

'Jai Hind'

New Delhi

28th Sept, 2016



(Manohar Parrikar)

डॉ. एस. क्रिस्टोफर
Dr. S. Christopher



सत्यमेव जयते
भारत सरकार
Government of India

अध्यक्ष, डीआरडीओ
व
सचिव, रक्षा अनुसंधान तथा विकास विभाग
Chairman, DRDO
&
Secretary, Department of Defence R&D



Message

DRDO has vision to empower India with cutting edge defence technologies and its mission is self reliance in critical defence technologies while equipping the Armed Forces with the state-of-the-art equipment, weapon systems and platforms in partnership with industry, academia and other R&D centres. In order to achieve the mission wide variety of goods and services are required by Labs/Estts expeditiously while adhering to required financial regulations. Any policy guidelines issued in a dynamic organisation like DRDO needs to be relooked to see if any changes are required in order to meet changing national and defence procedures & policies. A need was felt to review the existing procurement manual to bring out a new manual covering Government guidelines on the subject, feedback of the stakeholders and experience gained in the implementation of the previous manual.

This Manual has been made after a lot of deliberations and extensive discussions with all the stakeholders and is aimed to provide necessary guidelines and clarity to the Labs/Estts for timely procurement of goods and services.

This manual provides, at one place, the rules and guidelines for procurement of goods and services, both to meet the day-to-day administrative requirements of Labs/Estts and also to handle the core tasks of

design and development of emerging/ new products and technologies that will provide an enabling environment for 'Make in India' initiative. The primary objective of PM-2016 is to ensure expeditious procurement of stores and services of requisite quality complying to technical requirements in the prescribed time frame while adhering to highest standards of financial propriety, transparency with level playing field for the bidders and hand holding support for joint development of technologies.

I hope all the stakeholders will find the new procedure more useful, transparent and simpler over earlier procedures which will further streamline the procurement process. This manual also incorporates new policy changes such as e-procurement for ease of e-governance.

I wish to place on record my appreciation for the hard work done by all the team members.



(Dr. S Christopher)

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MESSAGE

DRDO was set up in 1958 with only ten laboratories and has grown manifold and emerged today as a core defence research organization with a large network of more than fifty laboratories and establishments spread across the country. These Lab/Estt will be spending more than Rs. 5000 crore on stores procurement during the current financial year. Procurement in an R&D environment is a complex decision-making process that needs to balance competing requirement of expeditious procurement to meet the project timelines, development of indigenous suppliers and conformity to the highest standards of transparency, probity and public accountability. Existing document was issued in 2006, since then lots of changes have taken place, therefore need was felt to review existing Purchase Management - 2006. I am glad that after extensive deliberations, PM-2016 has been evolved which will make the procurement in DRDO more transparent and effective. This manual will help in reduction of procurement lead time as it enables faster decision making at the same time ensuring highest standard probity and financial prudence.

2. The Procurement Manual (PM-2016) has been made more descriptive and self-contained by incorporating new chapters and arranging them in sequential order of procurement processes. L1 determination has been addressed in line with instructions since issued by MOD and for certain cases it can be selected on CQCCBS i.e. 'Price' and 'Non Price' attributes. The manual has taken into account CVC guidelines issued from time to time, standards of financial propriety from revised GFR and overarching Guidelines of the Government, related to procurement have also been incorporated.

3. The Purchase Management - 2016 have been evolved after lot of deliberations and reviews at various levels, implementation of this manual in the Labs/Estt will be a smooth affair. I hope that all efforts would be made by the concerned officers for timely implementation of these guidelines in their respective Lab/Estts.

4. Further I wish to place on record my appreciation and thank my team members particularly Dr. Zakwan Ahmed, OS & Dir DMS & DMM; Shri Sanjay Tandon, Dir DBFA; Shri Jagdeep, Sc'F', DMM; Dr. K K Gaur, Sc E', TSO to CC R&D (R&M) and Shri Rajani Ranjan, Sc'E', DMM who have put in concerted efforts in addition to their pressing assignments and have worked very hard in bringing out this important manual in consultation with all the stakeholders. Also I want to place on record the professional inputs & guidance provided by Smt Vandana Kumar, then IFA (R&D)/DRDO HQ for the manual. I also thank Secretary Defence (Finance)/FA (DS)/ Addl FA (R&D), IFAs (R&D), CGDA and CsDA (R&D) for their invaluable guidance and unstinted support in formulating this manual.


(Gurinder Singh Malik)

No. DMM/II/PP/0000216/M/2121/D (R&D)
Government of India
Ministry of Defence
Deptt. of Defence Research & Development
New Delhi – 110 011

Dated: 4th Nov 2016

To

Chairman
Defence Research & Development Organisation,
Ministry of Defence, New Delhi.

Sub: **ISSUE OF PROCUREMENT MANUAL – 2016**

Sir,

I am directed to convey the approval of the President of India for adoption of “**Procurement Manual-2016**” as enclosed.

2. The applicability of “**Procurement Manual – 2016**” will be as per Para 1.5 of the Manual. These procedures will be implemented keeping in view the relevant rules & orders in force from time to time, and also subject to the directives with regard to economy in expenditure. This supersedes the purchase procedure PM-2006 issued vide Govt of India, Ministry of Defence letter No. DMM/PP/0000205/M/868/D (R&D) dated 22 Mar 2006 and all other instructions issued vide Corrigenda to PM-2006 till date. This also supersedes all the relevant paras of Materials Management Policy issued vide Govt of India, Ministry of Defence letter No. DMM/81001/Policy/95-96/5482/D (R&D) dated 29 Nov 1996.

3. Any clarification required in implementation/interpretation of the procedure will be referred to DRDO Hqrs (DMM) for examination. Necessary clarification, if required will be issued with approval of Competent Authority.

4. This issues with the concurrence of the Ministry of Defence (Fin/R&D) vide their Dy No. **1348/Director (Finance/R&D) dated 04 Nov 2016.**

Yours faithfully,



(HARSHA RANI)

Under Secretary to the Govt of India

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CHAPTER 1

INTRODUCTION

1.1 Organisational Objectives and Functions

The vision of Defence Research & Development Organisation (DRDO) is to empower India with cutting edge defence technologies. Its mission is to facilitate achievement of self-reliance in critical technologies, while equipping the Armed Forces with state-of-the-art equipment, weapon systems and platforms developed in partnership with the industry, academia and other R&D institutions. DRDO was set up in 1958 with only ten laboratories and has grown manifold and emerged today as a core defence research organization with a large network of more than fifty laboratories and establishments spread across the country. It has completed many major projects relating to development of strategic & tactical military hardware and related technologies successfully, which has led DRDO to win national and global recognition.

1.2 Purpose of Manual

To establish the detailed procedure to be followed in DRDO for procurement of goods and services keeping in view the organisation specific requirements. The manual incorporates several policy and procedural changes that have taken place in the Government since its last issue in 2006, the latest CVC guidelines, and general instructions/notifications containing directions of the Central Govt. relating to specific industry segments. The aim of the manual is to provide a standard reference point for authorities under DRDO for all procurements for ensuring efficient, economic, transparent, fair and equitable procedure promoting competition in accordance with the relevant rules and regulations of the Govt. of India.

1.3 Scope of Manual

- a) The manual will be followed by all Labs/Estts of DRDO for procurement of all kinds of goods/ stores/ services. This procedure will also apply for acquiring all types of services/ outsourcing of services, job contracts, including packing, unpacking, preservation, transportation, insurance, delivery, printing and other services, leasing, technical assessment, consultancy, systems study, software development, etc.
- b) In order to facilitate expeditious installation of equipment/ plant & machinery, civil works limited to installation of equipment like laying of foundation, electrical earthing/ fittings and hook-up can be clubbed along with procurement of equipment. However, for civil works beyond these, MES/ Directorate of Civil Works & Estates (DCW&E) in DRDO should be consulted.

1.4 Effective Date

The Procurement Manual, 2016 (PM-2016) will be applicable with effect from the date specified in the Govt. letter of its issue. However, all on-going cases of procurement in which Request for Proposal (RFP)/ Contract/ Supply Order has already been issued may continue to be regulated as per the provisions contained in the issued RFP/ Contract/ Supply Order.

1.5 Applicability

The principles and procedures contained in this Manual are to be followed for the procurement of goods and services by DRDO and ATPV.

1.6 Exclusions

This document will not be applicable for creation of civil infrastructure.

1.7 Standard Templates

Labs/Estts shall use the templates of procurement forms being issued separately with the approval of Secretary Defence (R&D) in consultation with Secretary Defence Finance / FA (DS).

1.7.1 Any additional information on procurement forms considered essential for the local/ specific needs of the Lab/Estt may, however, be incorporated without affecting the basic templates.

1.8 Removal of Doubts and Suggestions for Modifications/ Amendments

Where any instance of variance between the provisions of this Manual and other Government Orders comes to notice or a doubt arises as to the interpretation of any provision of this Manual, the matter should be referred through proper channel to DMM, DRDO HQ. Suggestions for improvements/amendments, if any, may also be sent to DMM, DRDO HQ. Doubts/ queries received from the users of the manual will be examined by DMM and necessary clarifications, if required, will be issued after approval of Secretary Defence (R&D) with concurrence of Secretary (Defence Finance) / FA (DS).

1.9 Disagreement with the Integrated Finance

In case of disagreement with finance, the CFA may refer the case to next higher CFA who would consult his/her financial advisor for resolution of the issue. Case will be dealt as per the following situations:

- a) Cases where financial advisor of next higher CFA concurs with the views of CFA: The proposal will be approved/ sanctioned by next higher CFA with the concurrence of his/her financial advisor. The approval/ sanction letter will have UO/ID No., where applicable, of financial advisor of next higher CFA.
- b) Cases where financial advisor of next higher CFA does not concur with the views of CFA: The next higher CFA may agree with advice of his/her financial advisor or overrule the advice of financial advisor by recording reasons on file. In the latter case, the approval/ sanction letter issued in such cases will not contain UO/ID No., of financial advisor of next higher CFA but will clearly indicate that the advice of the financial advisor was taken but the same was overruled and copy of relevant noting of financial advisors & CFAs will be endorsed along with the approval/ sanction letter to CDA (R&D) concerned for internal audit/ payment. Secretary Defence (R&D) will be fully empowered to approve any such proposal within his delegated financial powers in consultation with FA (DS)/SDF. A copy of the order overruling advice of financial advisor will be provided to the concerned financial advisor for information. A quarterly report will be submitted by the financial advisors through CGDAs to MoD (Fin) on such overruling cases.

1.10 Deviations from Procedure

There should normally be no occasion to deviate from the procedure as sufficient flexibility has been built into the provisions of this Manual. However, if such a need arises, Lab/Estt will forward the case to DMM, DRDO HQ with due justification for approval of the Secretary Defence (R&D) with concurrence of Secretary (Defence Finance) / FA (DS). Depending on the merit of the case, the matter may also be submitted for approval of the Hon'ble Raksha Mantri (RM).

1.11 Conformity of the Manual with other Government Orders, etc.

The provisions contained in this Manual are in conformity with General Financial Rules, other orders issued by Ministry of Finance and recommendations of Central Vigilance Commission from time to time. If any instance of variance between the provisions of this Manual and MoF guidelines/ CVC recommendations comes to the notice of anyone, the same may be referred to DMM, DRDO HQ who shall take necessary action for resolution of the issue and continuation of on-going procurements, if so necessitated, with the approval of Secretary Defence (R&D) with the concurrence of Secretary (Defence Finance)/ FA (DS).

1.12 Budgeting, Banking Instrument and Contract Overview

- a) Budgeting for procurement: All Labs/Estts will project their annual budget requirements under various heads including procurement of stores/ services in accordance with guidelines issued by Directorate of Budget, Finance & Accounts (DBF&A). As procurement of stores form a sizeable part of the budgetary projection, these requirements need to be realistically worked out to ensure progress of the major programs/ projects and other R&D activities. Annexure ‘A’ may be referred with respect to budget projection, budget monitoring and expenditure consolidation.
- b) Banking Instruments: Generally, payments to the foreign firms in case of procurement of stores are made through Letter of Credit (LC) or Direct Bank Transfer (DBT). The Uniform Customs and Practices for Documentary Credit (UCPDC) are a set of internationally recognized definition & rules for interpretation of documentary credit issued by the International Chamber of Commerce, Paris. Annexure ‘B’ may be referred with respect to banking instruments available for effecting payment to the foreign firm and the procedure for obtaining, accepting and verification of Bank Guarantees.
- c) Contracts Overview: The elements and principles of contract law and the meaning and import of various legal terms used in connection with the contracts are contained in the Indian Contract Act, 1872 read with the Sale of Goods Act, 1930. The law relating to redressal of disputes is laid down in the Arbitration and Conciliation Act, 1996. Some of the salient principles relating to contracts are set out briefly in the Annexure ‘C’.

1.13 Applicability of Instructions/ Orders Issued in Future

The provisions of this Manual would be subject to general or special instructions/ orders/ amendments which the Government may issue from time to time.

1.14 Implementation of E-Procurement

As per directives issued by the Ministry of Finance/Dept. of Expenditure vide Office Memorandum (OM) No. 10/3/2012-PPC dated 30th March 2012, all Ministries/Departments of the Central Government, their attached and subordinated offices need to commence e-procurement in respect of all procurements with estimated value of Rs. 10 Lakhs or more in a phased manner. Min of Finance/Dept. of Expenditure vide their (OM) no. 26/12/2014-PPC dated 9th Jan 2014 has again re-iterated compliance of its directives dated 30th March 2012 and has brought down the ceiling of e-procurement level to 2 lakhs w.e.f 01st April 2016 (as amended). As per MoF instructions issued vide O.M No. 10/3/2012- PPC dated 3rd Sept 2012 the adopted solution at DRDO HQrs has to comply with the “Guidelines for compliance to Quality requirements of e-Procurement System” issued by Diety in Aug 2011.

DRDO has commenced e-Procurement w.e.f from 01st Jan 2016. It was also felt that adoption of complete automation of the system in one go may be a bit gigantic and over optimistic, therefore, e-Procurement in DRDO is being implemented in a phased manner instead of implementation of full cycle approach. This approach on one hand will help in customization and configuration of the system and on the other hand will take care of the concerns of the stakeholders by giving sufficient lead time to adapt to new technologies/system.

1.15 Definitions

Unless the context otherwise requires, definitions/terminology used in this Manual are as under:

Basic Cost	For indigenous contracts: Cost of procurement excluding all applicable taxes & duties on the final product. For import contracts: CIF/CIP (Destination port) cost, as applicable.
Bid	An offer made in pursuance of an invitation by a procuring entity, e.g., proposal or quotation.
Bid Security/ Earnes Money Deposit (EMD)	Security provided to the procuring entity by bidders for securing the fulfillment of any obligation in terms of the provisions of the bidding documents.
Bidder	Any person, including a consortium (that is association of several persons, or firms or companies), participating in the procurement process.

Bidding Document	Document issued by the Buyer, including any amendment thereto, that sets out the terms and conditions of the given procurement and includes the invitation to bid.
Build-Up	Covers procurements to support the R&D activities of the Lab/Estt and maintenance of infrastructure.
Buyer	The President of India acting through the authority issuing the supply orders or signing the Contracts/ Memorandum of Understanding/ Agreements is the Buyer in all cases of procurement on behalf of the Government of India.
Central Purchase Organisation	An organisation which is authorised by the Central Government by an order, made on this behalf, to make procurement for one or more procuring entities or to enter into rate contracts or framework agreements for procurement by other Ministries/ Department of Govt. of India.
Competent Financial Authority (CFA)	An authority duly empowered by the Government of India to sanction and approve expenditure from public accounts up to a specified limit in terms of amount of such expenditure and subject to availability of funds. Where financial powers have been delegated to more than one authority under the same Serial/Head, authority with higher delegated financial powers will constitute the 'higher CFA'.
Contract	An agreement, if made with free consent of parties competent to contract, for a lawful consideration and with a lawful object, is a contract.
Financial Power	Financial power is the power to approve expenditure to be incurred for bonafide purposes in accordance with the laid down procedure and subject to availability of funds.
Free Issue Material (FIM)	Stores supplied by the Buyer without charges to the Seller as per the terms of contract in order that it be incorporated into for the completion of subject activity.
Goods/Stores/Services	The term 'goods/stores/services' used in this Manual includes all item mentioned in para 1.3 of this Manual such as all articles, material, livestock, spares, instruments, plant & machinery, equipment, etc. and all types of services/ outsourcing of services, job contracts including packing, unpacking, preservation, transportation, insurance, delivery, printing and other services, leasing, technical assessment, consultancy, systems study, software development, etc. but excludes books, publications, periodicals etc. for a library.
Indent	An indent is a requisition placed by the User on MMG of the Lab/Estt to procure an item.
Inspecting Agency	The agency authorized by the Inspecting Authority to carry out the inspection.
Invitation to Bid	Means a document and any amendment thereto published by the Buyer inviting bids relating to the subject matter of procurement which includes Notice Inviting Bid (NIB) and Request For Proposal (RFP).
Notification	Means a notification published in the Official Gazette.
Original Equipment Manufacturer	The Original Equipment Manufacturer (OEM) is the firm manufacturing the item/ equipment under procurement.
Parties	Buyer and Seller whenever referred collectively are termed as Parties.
Paying Authority	In respect of procurements made under this Manual, Paying Authority means any of the following authorities: Offices of the Principal Controller of Defence Accounts (R&D)/ Controller of Defence Accounts (R&D) under the Controller General of Defence Accounts. A sub-office of the Principal Controller of Defence Accounts (R&D)/ Controller of Defence Accounts (R&D). An authority holding cash assignment/ imprest and duly authorized to make payment for procurement.
Pre-Qualification Document	Means the document including any amendment thereto issued by the Buyer, which set out the terms and conditions of the pre-qualification proceedings and includes the invitation to pre-qualify.
Pre-Qualification Procedure	Means the procedure set out to identify, prior to inviting bids, the bidders that are qualified.
Procurement or Public Procurement	Procurement refers to the entire gamut of activities involved in and the procedures to be adopted for acquiring goods and services as defined in para 1.3 of this Manual.
Promise	The proposal or offer when accepted becomes a promise.

<i>Promisee</i>	The party to which a promise is made is called the Promisee.
<i>Promisor</i>	The person (entity) making a promise is called the Promisor.
<i>Seller</i>	Seller is an entity, which enters into a contract with the Buyer to supply goods and services. The term includes agents, assigns, successors, authorized dealers, stockists and distributors of such an entity. Where the context so warrants, other terms, such as contractor, have also been used synonymously in this Manual.

CHAPTER 2

GENERAL PRINCIPLES OF PROCUREMENT

2.1 General

The authorities vested with the processing and approval of purchases shall adhere to the highest standards of financial propriety taking due care and caution as expected from a prudent person. Procurements should be made only in cases of proven necessity and in an efficient and economical manner.

2.2 Standards of Financial Propriety

This Manual, in consonance with Rule 21 of GFR 2005, endorses that every officer incurring or authorizing expenditure from public money should be guided by high standards of financial propriety. Every officer should also enforce financial order and strict economy and see that all relevant financial rules and regulations are observed, by his own office and by subordinate disbursing officers. Among the principles on which emphasis is generally laid are as following:

- a) Every officer is expected to exercise the same vigilance in respect of expenditure incurred from public money, as a person of ordinary prudence would exercise in respect of expenditure of his own money.
- b) The expenditure should not be prima facie more than what the occasion demands.
- c) No authority should exercise its powers of sanctioning expenditure to pass an order which will be directly or indirectly to its own advantage.
- d) Expenditure from public money should not be incurred for the benefit of a particular person or a section of the people, unless:
 - (i) A claim for the amount could be enforced in a Court of Law, or
 - (ii) The expenditure is in pursuance of a recognized policy or custom.
- e) The amount of allowances granted to meet expenditure of a particular type should be so regulated that the allowances are not on the whole a source of profit to the recipients.

2.3 Guiding Principles of Public Buying

Every authority delegated with the financial powers of procuring goods in public interest shall have the responsibility and accountability to bring efficiency, economy, transparency and for fair and equitable treatment of firms and promotion of competition in public procurement.

2.3.1 The procedure to be followed for public procurement must conform to the following yardsticks:

- a) Specifications in terms of quality/ type and quantity of goods to be procured should be clearly spelt out keeping in view the specific needs of the Buyer;
- b) The specifications should be worked out to meet the essential requirement and should not include superfluous and non-essential features, which may result in unwarranted expenditure;
- c) Care should also be taken to avoid purchasing quantities in excess of requirement to avoid inventory carrying costs. Stockpiling of critical components is, however, allowed for important projects to ensure their uninterrupted availability with due approval;
- d) Offers should be invited following a fair, transparent and reasonable procedure;
- e) Procuring authority should be satisfied that the selected offer adequately meets the requirement in all respects and that the price of the selected offer is reasonable and consistent with the quality required.

2.3.2 The following further cautions will be observed while purchasing stores:

- a) Supply orders will not be split-up to avoid the necessity for obtaining sanction of the higher authorities.
- b) Competitive bidding should be adopted to ensure fair competition, unless it is considered expedient to follow other approved modes of bidding. Purchases will be made from the best acceptable bidder as per evaluation criteria to realize the value for money.
- c) Adequate care would be exercised to ensure that delivery from the Seller is within the specified time schedule.

- d) All expenditure on purchases would only be need-based and public fund will not be spent on anticipatory requirements not having immediate use.
- e) Where stockpiling of critical component has been approved, care should be taken that it does not result in expiry of shelf life or redundancy due to obsolescence.

2.3.3 Code of Integrity: The code of integrity lays down the obligations on the part of the Buyer and the Bidder in order to maintain the integrity of the procurement transactions. The obligations on both the parties are as follows:

No official of Buyer or a bidder shall act in contravention of the code of integrity which include provisions

for

- a) Prohibition of –
 - (i) Making offer, solicitation or acceptance of bribe, reward or gift or any material benefit, either directly or indirectly, in exchange for an unfair advantage in the procurement process or to otherwise influence the procurement process;
 - (ii) Any omission, or misrepresentation that may mislead or attempt to mislead so that financial or other benefit may be obtained or an obligation avoided;
 - (iii) Any collusion, bid rigging or anti-competitive behavior that may impair the transparency, fairness and the progress of the procurement process;
 - (iv) Improper use of information provided by the Buyer to the bidder with an intent to gain unfair advantage in the procurement process or for personal gain;
 - (v) Any financial or business transactions between the bidder and any official of the Buyer;
 - (vi) Any coercion or any threat to impair or harm, directly or indirectly, any party or its property to influence the procurement process;
 - (vii) Obstruction of any investigation or auditing of a procurement process.
- b) Disclosure of conflict of interest.
- c) Disclosure by the bidder of any previous transgressions made in respect of the provisions of para 2.3.3 (a) of this Manual with any entity in any country during the last three years or of being debarred by any other procuring entity.
- d) Penalties for Violation: If the Buyer comes to the conclusion that a bidder or prospective bidder, as the case may be, has violated the code of integrity, the Buyer may take appropriate measures including:
 - (i) Exclusion of the bidder from the procurement process;
 - (ii) Calling off of pre-contract negotiations and forfeiture or encashment of EMD/ Bid Security;
 - (iii) Forfeiture or encashment of any other security or bond relating to the procurement;
 - (iv) Recovery of payments made by the Buyer along with interest thereon as per the provisions of contract/ supply order;
 - (v) Cancellation of the relevant contract and recovery of compensation for loss incurred by the Buyer;
 - (vi) Debarment of the bidder from participation in future procurements for a period not exceeding two years or as prescribed.

2.4 Overarching Guidelines of the Government

Govt. orders and instructions on product reservation policy for Khadi Village Industries Commission (KVIC), Association of Corporations and Apex Societies of Handlooms (ACASH), Micro and Small Enterprises (MSEs), Pharmaceuticals Purchase Policy (PPP) from CPSEs, etc. issued from time to time will be adhered to while doing procurement. A brief is also placed at Annexure 'D', 'E', 'F' and 'G' for reference. Details of product reservation/ purchase preference for these entities are given in their respective websites. Lab/ Program may refer www.kvic.org.in (in respect of KVIC), www.persmin.nic.in (in respect of KB/NCCF) and www.dcmsme.gov.in (in respect of MSEs). The provisions of OM No. 10/1/2011-PPC dtd 30 Nov 2011 (as amended) issued by Dept of Expenditure, Public Procurement Cell, Ministry of Finance regarding publicity through website would be adhered.

2.5 Types of Procurement

2.5.1 Capital Procurement: In consonance with Rule 90 of the GFR 2005, significant expenditure incurred with the object of acquiring tangible assets of a permanent nature or enhancing the utility of the existing assets,

shall broadly be defined as Capital expenditure. Further, in consonance with Rule 91(a) of the GFR 2005, all charges for the first construction and equipment of a project as well as charges for intermediate maintenance of the work while not yet opened for service will be treated as Capital expenditure. It shall also bear charges for such further additions and improvements, which enhance the useful life of the asset. Capital procurement would, therefore, refer to procurement of all goods and services that fit the description of Capital expenditure. As per existing guidelines of DBF&A, DRDO HQ, items where the unit cost is more than Rs.10 lakh and life is more than 7 years (both criteria to be met) would be treated as Capital procurement. DBF&A letter No. DRDO/DBFA/BE/82092/M/01 of 08.01.2002 as amended may be referred.

2.5.2 Revenue Procurement: In consonance with Rule 91 of GFR 2005, revenue should bear all subsequent charges for maintenance and all working expenses, including all expenditure on working and upkeep of assets and also on such renewals and replacements and such additions, improvements or extensions, etc., as under rules made by the Government are debitable to revenue account. The revenue procurement, therefore, implies procurement of items and equipment, including replacement equipment (functionally similar) assemblies/ sub-assemblies and components, to maintain and operate already sanctioned assets in the service, the necessity of which has been established and accepted by the Government.

2.6 Mandatory Documents to be Maintained

2.6.1 The Buyer shall maintain record of the procurement proceedings, which shall include the following:

- a) Documents pertaining to determination of need for procurement, e.g. demand initiation form etc.;
- b) Description of the subject matter of the procurement, e.g. statement of case (SOC), scope of work, specification etc.;
- c) Reason for choice of mode of bidding other than Open Bidding Mode (OBM);
- d) Documents relating to pre-qualification and registration of bidders, if applicable;
- e) Particulars of the participating bidder at each stage, e.g., at pre-bid conference stage, bid opening stage, techno-commercial evaluation stage, negotiation stage;
- f) Requests for clarifications and any reply thereof including the clarifications given during pre-bid conferences;
- g) Bids evaluated, and documents relating to their evaluation;
- h) Details of any grievance redressal proceeding, and the related decisions;
- i) Any document, notification, decision or other information generated in the course of a procurement and communicated relating to the course of a meeting, or forming part of the record of the procurement process, which may be used for subsequent reference;
- j) Any other information or record as may be prescribed.

2.6.2 Subject to the provisions of any other law in force relating to retention of records, the Buyer shall retain the records for following types of procurements as indicated:

- a) Build-up: Five years beyond completion of all contractual obligations.
- b) Project: Five years beyond closure of the Project or completion of all contractual obligations, whichever is later.

2.7 R&D Procurement

2.7.1 Department of Defence R&D acts as integrator of various technologies from engineering and scientific knowledge base to realize products/ systems required by Armed Forces.

2.7.2 Most of time, the procurement for R&D includes purchase of non-commercial items and sometimes also lead to purchase of goods/ services that do not exist or require new features. To realize such requirements, it is imperative to embed sufficient flexibility in the procurement procedures like:

- a) Pre-Qualification of Bidders: To be able to screen the potential sources of supply by employing pre-qualification of bidders for the realization of high end technology equipment/ turnkey contracts requiring multi-disciplinary expertise.

- b) Cost estimation: Provision to continue with the procurement process even if the quoted cost is beyond the expected variation with respect to the estimated cost.
- c) Revision of specification to meet the objective: To be able to admit minor revision in the technical parameters/ specifications emerging during the technical evaluation of bids or clarification received from the bidders, which does not affect the basic functional requirement of the product.
- d) Commercial terms: To be able to admit broader commercial terms like involvement of Indian Agent in the procurement process where inescapable; acceptance of recommendations of Techno-Commercial Evaluation Committee (TCEC) by the Director; Repeat Order for 50% of the original ordered quantity and flexible payment terms etc.
- e) Selection of service provider based on combination of “Price” and “non-Price” attributes under certain conditions.

2.7.3 Since R&D is a continuous process involving iteration, it may not be desirable/ feasible to change design/ development/ production partners till completion of technical/ user trials for supply of components/ sub-systems. Care should, therefore, be taken to follow a transparent selection mechanism for selection of such partners through wide publicity and after their capability/ capacity assessment. On the merits of the case, procurement of individual items/ components specifically developed/ fabricated during the process of R&D may be processed on Single Source basis from such developed partners with the approval of CFA. Cost reasonability would be worked out in such procurements with clear demarcation of recurring and non-recurring costs.

CHAPTER 3

VENDOR MANAGEMENT - REGISTRATION AND EVALUATION

3.1 General

- a) The objective behind identification of proper sources of supply, registration of firms and their periodic evaluation is to obviate the necessity of de novo search of a Seller for each demand. An exhaustive directory of reliable firms dealing with different categories of stores is an essential pre-requisite for prompt initiation of purchase action. Such approved firms will be known as registered firms/ vendors.
- b) Selection and registration of firms, their performance appraisal and classification must be clearly spelt out in unambiguous terms. Providing equal opportunity and ensuring fair competition are also important requirements to achieve transparency. For this purpose, the Lab/Estt may invite offers from prospective Sellers for registration by giving wide publicity. Such registration will be done in accordance with the criteria and qualifications prescribed in the registration notification.
- c) Lab/Estt may register a firm on their own initiative without going in for registration process by recording the reasons for the same and with the explicit approval of Director/ Head of the Lab/ Estt.
- d) The electronic directory/ data base of registered firms on DRONA will be continually updated by exploring new firms and by sharing of such information among Labs/Estts with emphasis on reliable sources of supply.

3.2 Source Selection

The selection of firms, with potential to successfully execute supplies against orders placed by the Buyer, will be done on the basis of information obtained through the following sources:

- a) User divisions and written suggestions from scientists.
- b) Referred by consultants/ subject experts.
- c) Central purchase organizations of Government of India, e.g., DGS&D.
- d) Industrial directories/ trade journals.
- e) Advertisement through renowned media sources.
- f) Inter-Service organizations/ Government/ Scientific or Research Institutions/ other DRDO Labs/Estts, etc.
- g) Technical literature circulated by firms.
- h) Responses received against 'Open Bidding'.
- i) Response to Expression of Interest (EOI).

3.3 Registration of Indigenous Firms

Registration of indigenous firms would be done for specific items/ class of items under following categories:

3.3.1 Manufacturers/ Distributors : The registration will be awarded to the firms who are manufacturers or authorized stockists/ distributors/ dealers of Commercially-Off-The-Shelf (COTS) Items.

3.3.2 Service Providers : Firms which are providing professional services for the outsourced jobs and maintenance services such as AMC of computers, air conditioners and other utility services to the Lab/ Estt would be registered as Service Providers.

3.3.3 Fabrication/ Production (P) Agency: The firms having only production facilities for converting designs into hardware or end stores or those capable of specified process such as fabrication, casting, machining etc. will be included in this category. These firms do not have any contribution of intellectual property.

3.3.4 Development and Production (DP) Agency: The firms having capability for development/ up-gradation

and manufacturing would be categorized as DP. Such firms do not have infrastructure for design, i.e., conversion of a concept into an engineering design.

3.3.5 Design, Development and Production (DDP) Agency: The firms having design capability and infrastructure for research & development apart from manufacturing capability covering all requirements of a quality system would be categorized as DDP.

3.3.6 Others: Firms not falling in any of above categories may be registered under this heading.

3.4 Procedure for Registration of Indigenous Firms

3.4.1 Registration process may be initiated by issuing a notification in leading national and local newspapers through Directorate of Advertising and Visual Publicity (DAVP) and by publication in the Indian Trade Journal (ITJ) or by responding to firm's advertisements or through trade fairs and exhibitions or through market surveys or on DRDO website and CPP Portal. Invitation for registration of vendors will be made in a three year cycle.

3.4.2 No formal application for registration is necessary for the firms already registered with DGS&D/ other Inter-Service Organizations/ Government Dept/ reputed Scientific Institutions/ NSIC etc. If a firm produces a certificate of registration from any of the above, the registration committee may consider the registration certificate produced by the firm in accordance of para 3.4.10 of this Manual.

3.4.3 The firms seeking registration with the Labs/Estts will have to apply separately for each category in the prescribed application form, available on DRDO website or with Labs/Estts, on payment of a non-refundable nominal fee of Rs.500/- payable in the form of a bank draft drawn in favour of the "PCDA/ CDA (R&D), (place)". The specimen of "Application Form for Registration of Firms" is given at DRDO. VR.01.

3.4.4 Eligibility for Registration: Any firm, registered under the appropriate Act in India, who is in the business of manufacturing, stocking or marketing of goods and operating/ operator of services of specified categories, shall be eligible for registration. The firm, against whom punitive action has been taken, shall not be eligible for re-registration for a period of two years or as prescribed. The registration requests may not be entertained from such firms/ stakeholders who have any interest in de-registered/ banned firms.

3.4.5 Criteria for the registration of the firm will be explicit and comprehensive and would be publicized. The credentials of firms seeking registration will be verified to ascertain their credibility with regard to their financial status, the manufacturing and quality control facilities, past performance (for the goods in question), facility for after-sales service, the business ethics and market standing etc. before registering them. Broadly following factors will be borne in mind while registering a firm. The firm shall:

- a) Possess the necessary professional, technical and managerial resources and competence required.
- b) Have sound financial standing, capacity, reliability, bonafides (Tax returns, Bank Account details, Tax Registration details etc.).
- c) Not be insolvent, in receivership, bankrupt or being wound up;
- d) Not have its affairs administered by a court or a judicial officer;
- e) Not have its business activities suspended; and
- f) Not be the subject of legal proceedings for any of the foregoing reasons;
- g) The proprietor or directors and officers should not have been convicted of any criminal offence related to their professional misconduct or not otherwise have been disqualified pursuant to debarment proceedings.

3.4.6 The application forms received for registration will be screened by the Vendor Registration Committee (VRC) appointed by the Director. The registration committee will normally be appointed for a year. The constitution of the VRC will be as follows:

Sc. 'F' or above Chairman
Sc. 'D'/'E' Member
Head MMG or Rep Member Secretary

Specialists from the respective fields may be included in the Vendor Registration Committee (VRC) while examining the applications of firms seeking registration. Director may consider constituting more than one VRC for various types of stores/ different categories of registration. The Chairman may co-opt any other specialist members if considered necessary.

3.4.7 The Director may re-nominate one or all members for the next year.

3.4.8 VRC will scrutinize applications received for registration on periodic basis. VRC shall verify the antecedents of the firm and where deemed necessary, the same may be verified through the police department/ bankers of the firm as per the proforma for “Verification of antecedents of the firms” given at DRDO.VR.02.

3.4.9 Capacity verification of the firms seeking registration may be carried out, wherever necessary by the registration committee based on the data asked and furnished by them as per DRDO.VR.01.

3.4.10 The satisfactory performance report of the firms, claiming to have been registered with other Government organizations, must be obtained from the concerned organization, to assess their suitability before registration.

3.4.11 In case of firms seeking re-registration, VRC will assess the past performance of these firms. In case a firm has not been awarded any order during the currency of last registration, the reasons for recommending renewal of registration would be explicitly recorded.

3.4.12 After examination of the application forms and the reports mentioned above, VRC will recommend the name/ list of firm(s) found acceptable as per DRDO.VR.03 to the Director for approval. Adequate caution would be exercised before recommending any firm/vendor that they have not been debarred by MOD/ DRDO. Status of barred/banned firm may be obtained from the Dte of Vigilance & Security. If a firm has already been registered in any other Lab/Estt under certain classification of stores, then its duplication shall be avoided.

3.4.13 The firms approved for registration will be allotted a unique registration number which shall remain valid for a fixed period not exceeding three years. The intimation informing firm’s registration will be sent to them as per DRDO.VR.04.

3.4.14 The details of registration will include the MSME status (if applicable) and ownership details such as SC/ST as per the guidelines of Ministry of Micro, Small and Medium Enterprises (www.msme.gov.in).

3.4.15 In order to facilitate e-payment to the Sellers, information about name of beneficiary customers, name of beneficiary bank, bank account number and IFS Code of receiving branch of bank will be taken from the firms/ vendor seeking registration.

3.4.16 At the end of registration period, the registered vendors willing to continue with registration are required to apply afresh for renewal of registration. New vendors may also be considered for registration at any time, provided they fulfill all the required conditions.

3.4.17 A register for allotment of registration numbers will be maintained by Labs/Estts for each category which will include names of all firms registered with them.

3.5 Registration of Firms as a Foreign Firm

Registration may not be feasible in respect of foreign firms. Labs/Estts should maintain a register of foreign firms dealing in various types of stores/ items based on their satisfactory experience. Details such as type of items, address, telephone/ fax number, subsidiary office of the foreign firm in India/ Indian rep (if any), rep for installation & commissioning of equipment may be recorded in the register by Lab/Estt. A list of such

firms will be updated regularly on centralized data base on DRONA. The VRC will ensure maintenance of the register of foreign firms.

3.6 Enlistment of Indian Firms/ Individuals as an Agent of a Foreign Oem/ Firms

It is not the policy of Government per se to look for, encourage or engage agents. There is no need for engaging any such agent, wherever it is possible to secure supplies and ensure after-sale-services etc; on reasonable terms without the intercession of agents. However, at times foreign OEM/ firms may employ Indian agents for performing certain services on their behalf. Such cases would be governed as per Rule 143 of GFR and the Compulsory Enlistment Scheme of the Department of Expenditure, Ministry of Finance. It would be mandatory for the Indian agents to get themselves enlisted with the Lab/Estt or Central Purchase Organisation (e.g. DGS&D) to quote or provide any service on behalf of their foreign principals. Such enlistment, however, is not equivalent to registration.

3.6.1 Procedure for Enlistment with Lab/Estt: Indian Agents of foreign OEM/ firms may be considered for enlistment after obtaining following details:-

- a) Name of foreign firm/ Original Equipment Manufacturer represented by the Indian representative/ Indian agent
- b) Agency Agreement with the foreign principal giving details of contractual obligation of OEM and its Indian agent and its validity.
- c) PAN, name and address of bankers in India and abroad in respect of Indian agent.
- d) The nature of services to be rendered by Indian agent/ Indian representative and
- e) Commission payable to them by the foreign principal and mode of payment.
- f) Conditions for appointment of agents by foreign vendors as mentioned at para 7.2.5 would also be applicable.

3.7 Criteria for Assessment of Performance of Registered Vendors

A vendor performance has to be assessed in a systematic manner for meeting the various standards set out by the Lab/Estt based on quality, delivery, price and service rating. Several rating systems are available wherein some aspects can be objectively rated whereas some cannot, but they shall also be considered while evaluating the vendors. Vendor rating provides basis for comparing one vendor against the other for the purpose of eliminating the vendors who repeatedly fail to meet the required standards. The vendors who are on the regular list should be periodically appraised for their performance. VRC will periodically (at least twice a year) review the performance of the firms registered with the Lab/Estt and submit report to the Director for further necessary action. Performance of vendors registered with other Labs/Estts would also be assessed by VRC and performance ratings of vendors will be intimated to the registering Lab/Estt. Characteristics for the vendor rating are as under:

3.7.1 Quality Rating: It pertains to delivery/ rendering of goods/services as per the specifications. Quality of goods/ services can be assessed from the inspection/ performance report and feedback from the actual users. Quality of supplies is of paramount importance and quality rating constitutes main part of the vendor rating. The quality rating will have 60% weightages while assessing the performance of the vendor.

3.7.2 Delivery Rating: It pertains to delivery of goods/ services as per the schedule mentioned in the supply order. It is based on the parameters like goods/service supplied/rendered within stipulated time and actual delivery/ completion time. The stipulated time for delivery rating would be the amended delivery period if extended without imposing liquidated damages. The delivery rating will have 30% weightages while assessing the performance of the vendor.

3.7.3 Product Support/ Service Rating: It is related to quality and promptness of the response of the vendor after getting the supply order/ contract and till the completion of contractual obligations. It includes product support in form of timely support during the warranty period. A part of the service rating can be estimated by assessing the cooperation of the vendor and his response in emergency situations after

the completion of contractual obligations. The product support/service rating will have 10% weightages while assessing the performance of the vendor.

JSG:015:03:2007 provides “Guidelines for Assessment and Registration of Firms for Defence” and relevant BIS guidelines for development of vendor rating system. It may be referred to for detailed information and methodology.

3.7.4 Importance of Vendor Rating: Vendor rating is a beneficial tool not only for the DRDO, but also for the firms. The firms get information regarding their own performance compared with competitors. It is a fair evaluation since the rating is based on fact and not on opinion. In some cases vendors may be called for a discussion to point out the areas of improvement, so that vendor becomes more fruitful to the Lab/ Estt. Such constructive approach based on a judicious rating system will definitely help in improving the performance of the vendors. Therefore, performance rating of the vendor should be periodically intimated to the vendor. This action is mandatory before initiating any action against the vendor on the basis of performance evaluation.

3.8 De-Registration of Firms

In case of violation of terms and condition of the registration, the registration of the firm will be cancelled by giving a prior notice of at least 30 days. A registered firm is liable to be removed from the list of registered firms, if it:

- a) Fails to abide by the terms and conditions under which the registration has been given.
- b) Makes any false declaration to the Buyer.
- c) Other than in situations of force majeure, withdraws from the procurement process after opening of financial bids.
- d) Supplies sub-standard goods or uninspected goods.
- e) Renders services (including after sales services and maintenance services) of an inferior quality than those contracted.
- f) Fails to execute a contract or fails to execute it satisfactorily.
- g) The required technical/ operational staff or equipment are no longer available with the firm or there is change in its production/ service line affecting its performance adversely.
- h) Is declared bankrupt or insolvent.
- i) Fails to submit the required documents/ information for review of registration, where required.
- j) Adopts unethical business practices, not acceptable to the government.
- k) The performance is rated below par during the evaluation process.
- l) The firm fails or neglects to respond to three consecutive invitations to bid within the range of products for which it is registered.
- m) The registration of a firm is cancelled under a Government notification (from list of firms) by another department/organization of Government.
- n) Any other ground which, in the opinion of the registering authority, is not in public interest.

3.9 Procedure for Removal from the Registered List

De-registration of approved firms from the list will be considered on the grounds mentioned above. It would be done by the registering Lab/Estt. under intimation to DMM in DRDO HQ and status of firm on the centralized database would be updated. The authority to de-register a firm would be Director of registering Lab/ Estt on the recommendations of the VRC.

3.10 Effect of Removal from the list

Whenever a firm is removed from the list of registered firms, its registration stands cancelled and registration status would be updated on centralized database. The other Labs/Estts which have already initiated the procurement process with such firm would seek information from de-registering Lab and consult DMM before proceeding further.

3.11 Suspension/ Ban on Business Dealings

For serious acts of omission and commission, action may be taken for suspension/ banning of business dealing with defaulting Sellers as per Govt. orders issued from time to time.

3.11.1 Grounds for Suspension of Business Dealings with Firms: Suspension of business dealings may be ordered where pending full enquiry into the allegation, it is not considered as desirable that business with the firm should continue. Such an order may be passed:

- a) If the firm is suspected to be of doubtful loyalty to India.
- b) If the Central Bureau of Investigation or any other investigating agency recommends such a course in respect of a case under investigation, and
- c) If a prima-facie case is made out that the firm is guilty of an offence involving moral turpitude in relation to business dealings which, if established, would result in business dealings with it being banned.

3.11.2 Grounds for Banning of Business Dealings: Banning of firm/ vendor may be resorted to in the following cases

- a) If security considerations including question of loyalty to the State so warrant.
- b) If the Proprietor of the firm, its employees, partner or representative is convicted by a court of law following prosecution for offences involving moral turpitude in relation to the business dealings.
- c) If there is strong justification for believing that the proprietor or employee or representative of the firm has been guilty of malpractice such as bribery, corruption, fraud, substitution of bids, interpolation, misrepresentation, evasion, habitual default in payment of any tax levied by law etc.
- d) If the firm continuously refuses to return Government dues without showing adequate cause and the Government/ procuring entity is satisfied that this is not due to reasonable dispute which would attract proceedings in arbitration or court of law.
- e) If the firm employs a Government servant, who has been dismissed or removed on account of corruption or employs a non-official convicted for an offence involving corruption or abetment of such an offence, in a position where he could corrupt Government servants.

3.11.3 Types of Banning: The banning of business will be of two types as per the directive issued by D (Vigilance)/ Ministry of Defence.

- a) Banning confined to Ministry of Defence and all its Deptt/Estt
- b) Banning to be implemented by all Ministries of Govt. of India.

3.12 Procedure for Ban on Dealings with Firm

When the misconduct of a firm justifies suspension/ imposition of ban on business dealings with the firm, Lab/Estt should forward the case with full facts, detailed justification and supporting documents and circumstances to DMM for taking up the case with DV&S. Under no circumstances, any Lab/Estt shall suspend/ ban any vendor from business dealings.

3.13 Pre-Qualification of Vendors

Pre-qualification is a useful method of gaining knowledge of prospective bidders and reduces cost and risk for both Buyer and Sellers.

3.13.1 Realization of high end technology equipment/ turnkey contracts requiring multi-disciplinary expertise of the bidders at times involves in part or full activities of detailed engineering, procurement, sub-contracting, inspection, transportation, erection and commissioning. In such cases, contractor is expected to coordinate all the activities and supply the item/equipment, complete the erection, commissioning and handing over the facility to the Lab/Estt. Such bidders are required to possess necessary technical and organizational skills, financial capabilities, human resources and past experience to complete the assignment. There may not be many vendors competent to execute complex high value contracts. In such scenario, Lab/Estt may need to interact with potential bidders, identify those who are competent (both

technically and financially) to execute such jobs and make them understand the actual requirement. In such circumstances, the normal two-bid system may not yield the desired results and pre-qualification of bidders may be resorted to screen the potential bidders. It is intended to provide the following benefits:

- a) It promotes quality control in procurement.
- b) Lab/Estt is more confident about the performance of the seller.
- c) Evaluation of bids from qualified bidder results in savings of processing time and cost.
- d) Unqualified bidders save the cost of bid preparation which results on lower overhead cost for them.
- e) Scale of interest by potential Sellers can be measured and procurement strategy planned accordingly.
- f) Less resources are required to process the bids.

3.14 Types of Stores and Criteria for Pre-Qualification

Pre-qualification may be resorted for acquisition/ development of major plants and machinery, complex information technology systems, medical equipment, sophisticated weapon system, telecom equipment, high end software development and other special goods. In these cases, well defined procedures should be followed for the pre-qualification of vendors. While doing so, wide publicity would be given through print and electronic media. Pre-qualification document would outline the requirements and criteria for pre-qualification in unambiguous terms based on the requirement of the items and work to be carried out. It should be broad based, objective and must not be tailor-made for a few specific brands/ companies. Thereafter, the respondents will be pre-qualified as per stated criteria. Subsequently detailed RFP will be issued to all qualified vendors and process of two-bid system will be followed. The pre-qualification criteria should be based upon, but not necessarily restricted to, the technical capability and resourcefulness of the prospective bidders to perform the particular contract satisfactorily, taking into account their:

- (i) Experience and past performance on similar contracts
- (ii) With reference to personnel, equipment, manufacturing facilities
- (iii) Financial standing

3.14.1 Guidelines to Determine Pre-Qualification Criteria: Broadly, following guidelines may be referred to determine pre-qualification criteria:

- a) Experience and Capacity: The financial criteria may be stipulated with a view that the contractor needs to allocate his resources to other jobs in hand. The percentage of his capacity to be allocated for this work has to be decided based on the estimated value of the contract. The turn-over criteria can be set considering annual cash outgo. The single order value criteria are used to ascertain whether contractor has requisite experience in carrying out the nature and value of job presently envisaged. In this regard, it is necessary that bidders should have experience of having supplied and erected similar item/equipment of the value equivalent to some percentage of the estimated cost. Pre-qualification criteria should specify:
 - (i) The details and nature of similar works in clear and unambiguous terms.
 - (ii) That single order value would be considered to determine the value of the job completed satisfactorily.
 - (iii) That the executed order value would not take into account the Free Issue Material (FIM) value issued to the contractor.
- b) Technical Requirements: Availability of infrastructure required to perform intended work.
 - (i) Availability of qualified personnel and support staff (minimum qualification may be mentioned).
 - (ii) Experience of key personnel.
 - (iii) Availability of in-house QA practices.
- c) Other relevant details, such as:
 - (i) Incorporation details about the company.
 - (ii) Organization expansion plan in the near future.
 - (iii) Details of orders under execution/orders received, work to be started.
 - (iv) Past performance details with DRDO (if any).
 - (v) Details of litigation/arbitration with other clients, if any.
- d) Prospective bidders would be asked to submit relevant documents in support of their claims.
- e) For further details, CVC guidelines on Pre-Qualification Criteria issued vide OM No. 12-02-1-CTE-6 dated 17.12.2002 as amended available on CVC website may be referred.

CHAPTER 4

DEMAND INITIATION AND APPROVAL

4.1 Determination of Need

In every case of procurement, the Buyer shall first determine the need (including anticipated requirement). While assessing the need the Buyer, to the extent possible, shall take into account the estimated cost of the procurement and shall also decide on the following matters, namely:

- a) The scope and quantity of procurement;
- b) Limitation on participation of bidders with justification;
- c) The mode of bidding with justification;
- d) Need for pre-qualification, if any;
- e) Any other matter as may be required.

4.2 Classification of Demands

The demands for procurement are generally classified in following categories:

- a) Procurement of goods and services;
- b) Placement of design development and fabrication contracts (covered in Chapter 12 of this Manual);
- c) Procurement of books and periodicals for library (covered in Chapter 13 of this Manual);
- d) Outsourcing of services (covered in Chapter 14 of this Manual).

4.3 Formulation of Specifications

The most important step in any procurement is drawing up of the specifications that meet the requirement. With the increasing complexity of the projects, the materials and equipment needs have also become exacting, requiring professional skill in drawing up the specifications. Detailed specifications supported by drawings and by specifying standard units of measure in the Request For Proposal (RFP) will eliminate ambiguity. It will also minimize apprehension of bidders on the level of risks they are expected to bear and elucidate precise standards to which the commodity under purchase will be tested/ inspected. This will also reduce chances of bidders inflating their prices to cover perceived risks.

4.3.1 Unambiguous and detailed specifications help in methodical evaluation of bids by assigning percentage marks to each individual attribute and establish a viable techno-commercial link between performance/ quality standards and costs, for fair and equitable price assessment/ comparison.

4.3.2 The Buyer will observe adequate caution and set up a mechanism to ensure that detailed specifications of an intended procurement are not tailor made to suit a particular brand of product. Broad coverage of the functional performance and environmental parameters will be spelt out in the specifications to allow competition.

4.3.3 While drawing specifications, we should ensure that it meets essential needs, it is objective, functional and it sets out required technical/ qualitative performance characteristics. It should not indicate a requirement for a particular trademark/ brand. To the extent possible, the specifications should be based on national or international standards.

4.3.4 In case of lack of information while working out specifications, the Buyer may resort to any of the methods given below:

- a) Drawing the broad performance/ environmental parameters from the product catalogues of reputed manufacturers. Detailed technical specifications may be sought from different vendors through enquiries made verbally or official correspondence or press notification by inviting Expression of Interest (EOI)/ Request for Information (RFI).

- b) Seek expert advice from academic institutions and other scientific organizations having specialized knowledge and expertise.
- c) Assignment of contracts to suitable professional agencies/ consultants for drawing up of detailed specifications and evaluation parameters.
- d) Directors may consider hiring the services of experts for preparation of Detailed Project Report (DPR) and other pre-contract activities for procurement of high-tech items mentioned under (b) and (c) above. It is expected that the consultancy charges paid for the same would not exceed 1% of the estimated unit cost.

4.3.5 Expression of Interest (EOI)/ Request for Information (RFI)

In those cases where specifications/ cost/ likely sources of supply/ time schedule/ pre-qualification of prospective bidders in respect of the desired goods or services are not clear, a notice calling for EOI/RFI may be issued/ published with “in-principle” approval of CFA or CC R&D/ DG Cluster (whichever is lower). Discussions may be held with the firms which have responded to EOI/RFI to firm up the above before issuing the RFP. This may be resorted to only for high value items (estimated cost \geq Rs. 50 lakhs).

- a) The EOI/RFI may be published in case of non-sensitive items in at least one national daily and the website of DRDO and CPP Portal. The address of website should also be mentioned in the advertisement. Enquiry for seeking EOI should include in brief, the broad scope of work or service, inputs required by the Buyer. The prospective Sellers/ service provider may also be asked to forward their comments/ suggestions on the scope of the work or service projected in the enquiry. Normally three to four weeks time should be allowed for getting responses from interested prospective Sellers/ service providers.
- b) Caution: No respondent will be eliminated at EOI stage unless it has been done for the sole purpose of pre-qualification of prospective bidders as per the provisions in Chapter 3 of this Manual. In such cases, the outcome of the pre-qualification process will be intimated to all respondent and RFP may be issued, with the approval of CFA, on Limited Bidding Mode (LBM) only to the pre-qualified vendors.

4.4 Points to be considered while initiating demand

Demands for procurement of stores/services will be initiated by an officer as per para 4.5 of this Manual after checking the availability of stores with MMG. Indenter will ensure:

- a) That list of deliverables is clearly identified with specifications (refer para 4.3 of this Manual) and quantity in case of procurement of goods/ stores. The desired and realistic delivery period also needs to be specified.
- b) That scope and period of work is identified in case of procurement of services.
- c) That the quality related requirements are explicitly mentioned, where required.
- d) That cost of the proposal is estimated with due diligence and care. The basis of estimation will be placed on record. Estimated cost should be worked out in a professional manner as it is a vital element in establishing the reasonableness of prices. It should be worked out in realistic and objective manner on the basis of prevailing market rates, last purchased price, economic indices for raw material/ labour, other inputs costs, and assessment based on intrinsic values etc.
- e) That proposed Mode of Bidding/ Repeat Order / Rate Contract/ Syllabus Work Order Demand (SWOD) is mentioned along with likely sources of supply.
- f) That “Proprietary Article Certificate” (PAC) as per format at DRDO.DM.02 for proprietary items or justification for procurement on Single Bidding Mode (SBM) as per DRDO.DM.03 is submitted, if applicable.
- g) That inspection/acceptance test procedure, mode of transportation and requirement of insurance cover along with other special instructions, as applicable are clearly indicated.
- h) That waivers sought from normal procurement process, if any, are explicitly specified. For example, from e-Publishing, from submission of Bank Guaranty (BG), where applicable, for Free Issue Material (FIM) etc.
- i) That reference of projected demand in the Forecast Budget Estimate (FBE) is mentioned, else reasons for non-reflection in FBE is recorded.
- j) That Vendor Qualification Criteria (VQC), where required, and special terms & conditions for the particular purchase, as applicable, are mentioned.

- k) Free Issue Material (FIM): In contracts where Govt. property is entrusted to the Seller for doing further work on such property, specific provision for safeguarding Govt. property needs to be included in the RFP and contract. FIM to be used as raw material would be safeguarded, as per provisions of para 6.43.2(b), through Bank Guarantee (BG) of the matching value in favour of the Director of Lab/Estt. FIM issued for the other purposes would be safeguarded through a comprehensive insurance cover.
- l) That Statement of Case/ Justification is enclosed with demand form. SoC should clearly bring-out the justification/ reason and other relevant details associated with the procurement. It should be kept in mind that expeditious processing of proposals depends on the comprehensiveness and quality of the SoC. The SoC would be initiated by the indenter and is expected to include:
- (i) Justification for the requirement and quantity.
 - (ii) Justification for the proposed mode of bidding (if not an open bidding) and selection of unregistered bidders, if any, in the list of likely sources.
 - (iii) A self-certification that the drawn specifications are not tailored to suit a particular brand and are generic to attract competitive bidding if proposed mode of bidding is competitive bidding.
 - (iv) Basis of estimated cost.
 - (v) Justification for each waiver sought.
- Indenter will clearly highlight if Expenditure Sanction is also required from the CFA along with demand approval.

4.5 Demand Initiation

4.5.1 Authority for Initiating Demand: Demands for procurement of stores/ services will be initiated by officers of following level duly countersigned by the Head of division/ group:

Estimated Cost	Minimum Level of Initiation
Up to Rs. 10 lakh	Sc. 'B'/ TO 'B' or Equivalent Head MMG/ Store Officer (for centrally stocked items)
Up to Rs. 50 lakh	Sc. 'C'/ TO 'C' or Equivalent
Up to Rs. 100 lakh	Sc. 'D'/ TO 'D' or Equivalent
Any Value	Sc. 'E' or Equivalent

4.5.2 Process of Demand Initiation:

- a) "Demands" will be initiated as per the format at DRDO.DM.01.
- b) Items falling under different Major Heads of Budget/ Projects shall not be clubbed in the same indent to facilitate proper accounting.
- c) For procurement against sanctioned project, it needs to be confirmed that the proposed delivery is within the PDC of the project. Procurement should be planned in a manner so as to ensure utilization of ordered stores/ services in the Project for the stated purpose.

4.5.3 Initiation of Demand for Projects Submitted for Approval/ PDC extension/ Cost Enhancement:

- a) The Buyer may raise a demand for procurement and process it for approval under Build-up as per the delegated powers against the requirement in a project which is submitted for approval of CFA. SoC for such cases should clearly record the reasons for doing so. The Buyer will ensure that the commitment will be made only after project approval and the sanctions accorded would be deemed transferred to the project.
- b) The demands for procurement in sanctioned projects awaiting extension of PDC/enhancement of funds from the CFA may be processed in the project in anticipation of approval. However, the commitment will be made only after receipt of the necessary approval.

4.5.4 Determination of CFA: The level of approval by the CFA would depend on the total cost of proposal, inclusive of all taxes, levies and other charges vis-à-vis mode of bidding.

- a) CFA for the procurement of stores against Repeat Order would be decided as per the provision of para 10.11.3 of this Manual.
- b) CFA for the procurement of goods and services already developed and being manufactured by the Ordnance Factories, through Syllabus Work Order Demand (SWOD) would be determined as per delegation of financial powers for competitive bidding.

- c) In case of procurement of stores, directly or through referral order, on Rate Contract concluded by DGS&D, MoD, SHQs and PSOs of SHQ (MGO, COL, AOM, DGIS etc.), the CFA would be determined as per delegation of financial powers for competitive bidding.

4.6 Processing of Demand for Approval

4.6.1 Role and Responsibilities of Indenter: Indenter will initiate the demand as per provisions of para 4.4 of this Manual and submit the same to the Head of Group/ Division. Thereafter, he would continue to extend support during scrutiny of demand, at the time of bid evaluation, order monitoring and acceptance stage.

4.6.2 Role and Responsibilities of Head of the Group/ Division: Group/ Division Head will scrutinize specifications, quantity, estimated cost, special terms and conditions, vendor qualification criteria, bid evaluation criteria, format of the price bid as proposed in the demand and submit the same to MMG with recommendations after examining the following aspects:

- a) Existing holding of indented stores vis-à-vis consumption pattern or proposed utilization.
- b) Confirm that the necessity is absolute and there is no duplication.
- c) Check against splitting of demand to avoid approval of higher CFAs.
- d) Confirmation that the specifications mentioned are generic and do not contain any brand name/ part/ model number except by way of indication of comparable quality.
- e) Recommend mode of bidding with justification/ comment on justification given by indenter for recommending Single/ Limited/ PAC mode of bidding or Repeat Order or RC or SWOD, as applicable. Also comment on justification for choosing un-registered vendor, if any, and need of pre-bid conference, if required.
- f) Confirm that proposed procurement is part of an approved annual build up/ project procurement plan with reference to the relevant entry, else record reasons for its non-reflection.
- g) Ascertain if proposed procurement requires any other complementary/ supplementary expenditure such as on hardware, software, Civil works? If so, provide details thereof.
- h) Specify a realistic time for MMG to process the approved demand till the supply order which normally should not exceed one year.
- i) Comment on justifications given for dispensation from e-publishing and other waivers, if requested.
- j) Comment on proposed VQC and special terms and conditions.
- k) Comment on the requirement of Expenditure Sanction along with demand approval.

4.6.3 Role and Responsibilities of Lab: On receipt of demand proposal, MMG will either issue the stores, if available in the central stores or from declared surplus in any other group/ division of the Lab, else endorse “Not Available (N/A)” and assign control/ reference number on demand and process the same for the approval of the Competent Financial Authority (CFA). Before putting up the proposal to CFA for approval,, Lab/Estt would ensure following:

- a) Non-availability endorsement will be made for centrally stocked items. This endorsement is not required in case of service/maintenance contracts.
- b) Ascertain whether the indented stores are covered under the purchase/ price preference and product reservation policy given in Chapter 2 of this Manual and recommend suitable action.
- c) That demand has not been split to avoid sanction of higher CFA.
- d) Scrutinize the special terms and conditions in RFP.
- e) Explore the possibility of bulk purchase of common use items, PCs, spares for other standard equipment/ machinery to derive quantity discount.
- f) Endorse details of previous procurements, if any, in last three years including quantity and prices.
- g) Specify the registration status of proposed vendors in case of Single/ Limited/ PAC mode of bidding.
- h) Check the applicability of issue of Excise Duty Exemption and/or Custom Duty Exemption for the proposed procurement. Further, if CDEC u/n 39/96 is proposed to be issued, applicable para and/or sub para number would be indicated. .
- i) In case of PAC mode of bidding, concurrence of finance on PAC certificate would be taken for cases where financial concurrence is otherwise not required for demand approval.
- j) Record consolidated values of expenditure booked, commitments entered and cases in the pipeline for

procurement in sanctioned project.

- k) Ensure availability of funds in relevant budget head at the time of expected cash outgo.
- l) Fix an amount for EMD between 2% to 5% of the estimated cost.
- m) Fix a percentage for Performance Cum Warranty Bond between 5 to 10 which would be taken from the successful bidder.
- n) Scrutinize the estimated cost of the proposal.
- o) Recommend the requirement of Expenditure Sanction on cost not exceeding basis, subject to compliance of terms and conditions of the RFP, along with demand approval.

4.6.4 Head of the Lab/Estt will satisfy himself about the roles and responsibilities of the Lab as given above and sign or countersign the check-list as given in Part-II of DRDO.DM.01.

4.6.5 Head of the Lab/Estt may decide suitable procedure to process demand for approval but the adopted procedure must ensure compliance of above stated points.

4.7 Processing for Demand Approval by CFA

Demand for approval of CFA will be processed under following categories:

4.7.1 Programs with Financially Empowered Boards : Specific projects/ programs, where special sanctioning powers have been delegated to various management boards like PJB, PMB and Apex Board, the proposed demands will be put up to the standing committees of the respective management boards for approval as per the delegation of financial powers. In such cases, standing committee of concerned board will endorse compliance of roles and responsibilities of the Lab/Estt as stated in para 4.6.3 of this Manual. Approvals accorded by standing committee will be ratified by the concerned board. Cases beyond the delegated financial powers of Apex Board will be submitted to the CFA by the Project/ Program Director for approval along with recommendations of Apex Board and documents listed in para 4.8 of this Manual.

4.7.2 All Other Cases: MMG will submit the demand along with documents as listed in para 4.8 of this Manual for the approval of CFA. Concurrence of finance would be taken as per the delegated financial powers.

4.7.3 Further action on procurement of such items will be taken after the approval is accorded by the CFA.

4.8 Documents Required for Demand Approval

- a) Copy of demand as per format DRDO.DM.01 with SoC.
- b) Check-list signed/countersigned by the Director/Program Director as per Part II of DRDO.DM.01.
- c) Copy of Draft RFP or all relevant details as per DRDO.BM.02.
- d) Copy of PAC as per format DRDO.DM.02, if applicable.
- e) Copy of detailed justification for procurement through single bidding mode as per format DRDO.DM.03, if applicable.
- f) Duly filled-in questionnaire for acceptance of necessity in case of Capital procurement as per format DRDO.DM.04, where applicable.
- g) List of vendors with vendor registration/enlistment No. and basis of selection of vendors (for Limited Bidding Mode (LBM)/ Single Bidding Mode (SBM) only).
- h) EOI/RFI report, if applicable.
- i) Scope of Free Issue Material (FIM).
- j) Justification for waiver of e-Publishing and other terms and conditions.

4.9 Approval of Demands

Demand will be approved by the CFA as per the delegation of financial powers. The demand approval by the CFA would freeze the item, quantity, mode of bidding and RFP conditions. Wherever demand approval for procurement of stores has been obtained along with the project sanction, then there is no need to obtain fresh demand approval from CFA provided the project sanction letter explicitly specifies such approvals/ sanctions.

4.9.1 Expenditure Sanction along with Demand Approval: CFA may consider the proposal to accord expenditure sanction along with demand approval on cost not exceeding basis provided a rigorous costing exercise has been done and the cost ceiling is supported with costing details as per para 8.9 of this Manual. The letter conveying the demand approval will specify the same. Expenditure sanction so accorded will remain valid subject to confirmation by the Head of Lab/Program on compliance of following conditions:

- a) That no amendment to the RFP, except in Part I, has been issued.
- b) That finalized cost of the contract is within the sanctioned cost mentioned in demand approval-cum-expenditure sanction.
- c) That no deviation from the prevailing procurement process has been made.
- d) That no deviation from the terms and conditions as stated in the Request For Proposal (RFP) except the ones that have been recommended in the CNC meeting and recorded in minutes.

4.9.2 All cases where demand has been approved by the CFA with the concurrence of finance as per the delegated financial powers, the PAC signed by the Director would be deemed as concurred by the finance, else concurrence of finance would be taken prior to issue of PAC.

4.10 Combining Various Stages of Processing

A proposal, when initiated, should be complete in all respects so that all aspects relating to cost, demand approval, vetting of Notice Inviting Bid/ RFP, etc., could be examined simultaneously by the Integrated Finance, where required as per the delegation of financial powers. Various stages of processing, to the extent feasible, may be combined on the basis of requirement.

4.11 Submission of Multiple Demands In One-Go

Labs/Estts may submit multiple demands in one go for the approval of CFA. Such demands will be approved by appropriate CFA.

4.12 Validity of Demand Approval

The demand approval accorded by the CFA will be issued in the form of an order and will remain valid for one year from the date of issuance unless otherwise specified. The Buyer shall ensure placement of Supply Order (SO) or signing of Contract, as per laid-down procedure, within the period of validity; else re-validation of demand would be required.

4.13 Amendment of Demand

After demand approval and before issue of RFP if there is any change, the approval of the appropriate CFA as per delegated financial powers will be required.

CHAPTER 5

PROCUREMENT OF GOODS/SERVICES: WITHOUT BIDDING

5.1 General

Certain goods/ services may be procured without formal bidding process. The different modes of purchase in such cases can be classified as under:

- a) Petty Purchase
- b) Minor Purchase through Local Purchase Committee (LPC)
- c) Purchase using Rate Contract
- d) Govt. designated Sources
- e) SWOD

5.2 Petty Purchase Procedure

5.2.1 Petty purchase will normally be resorted to for procurement up to the amount specified in the GFR (at present Rs.15000/- per occasion) or as per the delegated petty purchase powers in respect of cases mentioned below:

- a) For small value items/ services.
- b) For procurement of unanticipated/ emergent/ breakdown prevention of goods & services required to be made at a short notice.
- c) To meet requirements of parts/ components & services for trials of major equipment and systems at outstation.

5.2.2 CFA will ensure that splitting of demands is avoided and provisions of purchase preferences as given in Chapter 2 of this Manual are followed.

5.2.3 In the following types of cases, even though the value does not exceed petty purchase limit, a regular supply order will be placed:

- a) Foreign purchase,
- b) Where the sale procedure of a particular firm does not provide for cash sale, and
- c) Where the nature of transaction makes it necessary to issue a regular supply order.

5.2.4 *Approval and processing of Petty Purchase:* The Directors/ Project Directors/ Program Directors can approve demand against petty purchase to meet small value requirements as per delegated powers. All petty purchases made under such delegated powers will be compiled monthly and a report, as given in the format at DRDO.DM.05 will be submitted to CFA by Head MMG. Heads of divisions should ensure that all bought out items have been Brought On Charge (BOC). Stores Management Guidelines may be referred for accounting of such purchased items.

5.2.5 A team comprising minimum two officials, including one officer nominated by CFA will be deputed to make petty purchases. The petty purchases will be made on the verbal enquiries by this team on the spot. Preference should be given to authorized dealers/ agencies.

5.2.6 This team will certify in respect of each item that the purchase made by them was the cheapest or alternatively record reasons for the purchase at higher cost. The team will render a certificate as per following format:

“We _____, are jointly and individually satisfied that these goods/services purchased are of requisite quality and specifications and have been purchased from a reliable source/ service provider at a reasonable price.”

5.2.7 *Petty purchase by trial team leaders at outstation:* For outstation trials, trial team leader will be specifically authorized by the CFA for hiring of vehicles and making on-the-spot urgent petty purchases

for each individual item up to the delegated petty purchase power. These purchases will be effected through verbal enquiries by a team of two persons, one of whom will be an officer, from the local market. The trial team leader will record a certificate as per para 5.2.6 of this Manual. For this purpose, the trial team leader will be authorized to carry a lump sum amount as required. The settlement of such advances will be completed within 15 days after return from the trials.

Note: The word “trial” is defined as “For this purpose, trial will be that activity wherein an appropriate trial directive has been issued by the Directors of Labs/Estts/ appropriate user authority. Such a directive will include nomination of a trial team indicating members along with the leader, specifying scope of trial to be conducted in the field/combat environment such as battle terrain, sea-borne or airborne.”

5.2.8 Petty purchase at outstation : When petty purchase at outstation is necessitated to meet emergency/ special requirements or due to non-availability of stores at the local station, approval of the CFA will be necessary to make such purchases.

5.2.9 Drawl and settlement of advances in petty purchase: Project/ Group Heads will consolidate their requirements against demands for which petty purchase has to be done and forward the same as per proforma at DRDO.DM.06 to the Accounts Officer in advance. The Accounts Officer will approach CFA for approval of consolidated demands. Thereafter, user will be informed and Accounts Officer will give cash for procurement.

- a) On the intended day of petty purchase, the nominated officer will draw cash advance from the Accounts Officer.
- b) Petty purchases will be completed within two working days from the date of drawl of cash.
- c) The printed Cash Memo will be obtained, clearly indicating description of stores, unit of accounting, prices and taxes charged. In case of Bill/Invoice, payment receipt will also be taken.
- d) The details of petty purchased items will be entered in the register maintained at the gate security office before entering the Lab/Estt. Cash-memo/ Invoice/ bill will be authenticated on the reverse by the security staff on duty.
- e) After completion of the petty purchase, prompt action will be taken for settlement of advance. One copy each of Cash Memo / Bill & Receipt will be handed over to the Accounts Officer/ Advance Paying Officer along with the consolidated statement of advance drawn and the amount actually spent on the petty purchase. The relevant proforma to be used up to the final settlement are given in DRDO.DM.06 (on reverse). Balance amount will be refunded in full settlement of advance within a day after completion of the purchase.
- f) One copy of the Cash Memo/ Bill & Receipt will be sent to MMG for centralized accounting of petty purchase items.

5.2.10 Special dispensation for remotely located Labs/Estts : Some of DRDO Labs are located in snowbound and other remote areas, which are communication-wise, industrially and commercially under-developed. These Labs, besides their normal activities, are called upon to provide support to the Services and local population in disaster management. The Labs/Estts may approach DBF&A, DRDO HQ to seek additional budget allocation and enhancement of their delegated petty purchase powers to meet the emergency.

5.2.11 Purchase of Drugs/ Medicines: The medicines in the Labs/Estts may be procured to meet the immediate requirements of MI rooms/ dispensaries located within the premises of the Labs/Estts. The normal source of supply for the medicines is Armed Forces Medical Stores Depots (AFMSDs). The Labs/Estts will place their quarterly demands on the nearest AFMSD to ensure regular supply.

- a) In the event of non-materialization of normal supply through the AFMSD, Labs/Estts may resort to petty purchase of the medicines within their delegated petty purchase powers after obtaining Non-Availability Certificate (NAC) from AFMSD. Petty purchase may also be carried out to buy medicines to meet immediate requirements. NAC will not be insisted in such cases. Such purchases should be made from the authorized wholesale distributors of the manufacturers or through super bazaars/ co-operative stores/ stockists, etc.
- b) Medicines with appropriate shelf life will be bought in petty purchase.

5.3 Minor Purchase Procedure

Purchase of goods/ services costing up to the amount specified in the GFR (at present Rs. one lakh on each occasion) may be made on the recommendations of a duly constituted Local Purchase Committee (LPC) consisting of three members of an appropriate level as decided by the Director of Lab/Estt. The committee will survey the market to ascertain the reasonableness of rate, quality and specifications and identify the appropriate firm. Before recommending placement of the purchase order, the members of the committee will jointly record a certificate as under.

"Certified that we _____, members of the Local Purchase Committee (LPC) are jointly and individually satisfied that the goods/services recommended for purchase are of the requisite specification and quality, priced at the prevailing market rate and the firm recommended is reliable and competent to supply the goods/ services in question."

5.3.1 CFA will ensure that splitting of demands is avoided and provisions of purchase preferences as given in Chapter 2 of this Manual are followed.

5.3.2 *Obtaining of Quotations by the LPC:* The CFA may direct the LPC, responsible for carrying out the market survey, to obtain quotations as a part of the market survey. Where no such direction has been given, it would be up to the LPC to decide whether or not to obtain quotations as a part of documentation of market survey. In either case, details of the market survey (firms contacted and the rates quoted by them) would be recorded by the LPC.

5.3.3 After approval of LPC recommendations by CFA, supply order would be placed on selected firm.

5.3.4 All relevant forms applicable for purchases with bidding process would be used in purchases through LPC.

5.3.5 A separate record of such purchases for periodical review is advisable.

5.4 Expenses on Trials/ Launch Campaign/ Exhibitions at Outstation

Lab/Program/Project Director will estimate the provisional expenditure that may be incurred on outstation activities such as exhibitions, development trials of missiles, tanks, weapon systems, etc. and initiate the demand proposals for appropriate approvals. The procurement of goods/ services for the purpose would be as per the approval accorded. In such cases the amount required in cash would be drawn in advance. The goods/ services up to Rs. one lakh may be procured without bidding as per para 5.2 or 5.3 of this Manual, as applicable. No capital item would be procured through such approvals. CRV preparation, where required, would be completed for the purchased goods within 15 days after the completion of the event.

5.5 Purchase of Goods Through Director General of Supply & Disposal (DG S&D)

Orders may be placed on-line on DG S&D for procurement of goods required on the prices and terms & conditions given in the Rate Contracts (RC) concluded by DG S&D with various firms. In such cases, the Buyer shall adhere to the terms & conditions including payment and inspection specified by DG S&D Manual. CFA will be determined as per para 4.5.4 (c) of this Manual. However, in case the rate contracted items is expected to be available at a lower rate in the open market, the Buyer may purchase the same on competitive basis at a more economical price.

5.6 Purchase of Goods Under Rate Contract (Referral Orders)

Goods, for which DGS&D, MoD, SHQs and PSOs of SHQ (MGO, COL, AOM, DGIS etc.) has rate contracts, can be procured directly from the original Rate Contract holding firm. The original Rate Contract holding firm includes the authorized dealers/ distributors/ agents of the RC holding firm, provided the latter has pre-disclosed the names of these agents/ authorized dealers at various locations or the local stockist/ authorized dealers can substantiate their claim by producing a certificate from the RC holding firm to the effect that they are the firm's authorized stockist/ distributor/ agent/ dealer or can show an agency agreement between them as

proof thereof. The purchase must be accompanied by a proper manufacturer certification. While resorting to such procurement, it should be ensured that the prices to be paid for the goods do not exceed those stipulated in the RC and the other salient terms and conditions of the purchase are in line with the terms and conditions as specified in the contract except for payment by paying authority. The Buyer should also make its own arrangement for inspection and testing of such goods, where required. CFA will be determined as per para 4.5.4 (c) of this Manual. Payment in such cases would be made by the concerned CDA (R&D), their subordinate offices or other paying authorities as per the existing arrangement.

5.7 Procurement from Govt. Designated Agencies

The following categories of items may be procured directly from Govt. designated agencies as per the procedures mandated by them:

- a) Restricted items of supply.
- b) In cases where Labs/Estts find it convenient to meet their requirement for certain items through inter-service channels.
- c) Where specific Government instructions exist to procure certain items only through inter-service channels, e.g., standard MT vehicles, FOL, medical supplies, other ASC/ Military Farm supplies/ Ordnance Depot items.

5.7.1 Procedure for Procurement : For such items, CFA will be determined as per delegation of financial powers for competitive bidding. The following process shall be adopted for procurement of stores from the Services Depots/ Ordnance Factories, etc:

- a) The requirement will be based on standard scales or on actual requirements, duly approved by CFA.
- b) The demand will be prepared in proper form duly signed by an authorized officer and submitted to Service Depots/ Ordnance Factories.
- c) Controlled/ Census category of stores contained in the master list of controlled/ Census stores for the Army and equivalent publications in the Navy/ Air Force, will not be demanded by the Labs/Estts directly from the Services Depots but got released from the respective service HQ through DRDO HQ by submitting proper statement of case justifying the necessity.

5.7.2 Ordnance Factories: Certain stores peculiar to Ordnance Factories, either stocked by them or manufactured by them, shall be procured from the factories after approval of CFA in the under-mentioned manner. Such indents would be placed directly on OFs without the need to issue any RFP. The CFA would be determined as per delegation of financial powers for competitive bidding.

- a) Factory Stocked Stores (FSS): Demands for such items shall be raised directly on factories concerned, with a copy to Ordnance Factories Board (OFB).
- b) Factory Manufactured Stores (FMS): Such items shall be procured by raising Syllabus Work Order Demand (SWOD) on OFB with copies to concerned factory and their respective accounts office.
- c) New Items/ Stores/ Fabrication Work: Labs/Estts may place supply orders/contracts after negotiating the price and other terms. Issue of formal RFP would not be mandatory.

5.8 Accounting Of Purchases

Copies of all demands placed on OFB, DG S&D, Govt. designated Agencies, etc., where payment is effected through book adjustment, will be endorsed to the accounting cell of the Lab/Estt. Labs/Estts will send a monthly report of new commitments made with payment details, if any, to DBFA, DRDO HQ.

CHAPTER 6

BIDDING PROCESS

6.1 General

Goods/ services should be procured by adopting one of the modes of bidding given in this chapter except for the cases which are already covered under Chapter 5 of this Manual.

6.2 Single/ Two Bid System

6.2.1 Single Bid System: For Commercial-Off-The-Shelf (COTS) general use items where specifications are well established and technical clarifications are not required, single bid system may be opted. In this system, techno-commercial and price bids are invited in a single envelope. No sample should be called for in single bid system at the RFP stage.

6.2.2 Two Bid System: For high value plant and machinery, technically complex equipment and turnkey projects which need a thorough technical evaluation, two bid system may be followed. In this system, the bids are invited in two envelopes sealed in single cover, as techno-commercial bid and price bid respectively, as follows:

- a) Techno-commercial bid consisting of all technical details along with commercial terms & conditions; and
- b) The price bid indicating prices of items mentioned in techno-commercial bid and cost break up as indicated in the RFP.

6.2.3 In the two bid system, only techno-commercial bid is opened at the time of opening of bids. Price bids are opened only for those bidders who qualify technical scrutiny as per RFP.

6.3 Modes of Bidding

Generally the following modes of bidding will be followed for obtaining bids:

- a) Open Bidding Mode (OBM)
- b) Limited Bidding Mode (LBM)
- c) Single Bidding Mode (SBM)
- d) Proprietary Bidding Mode (PBM)

6.4 Open Bidding Mode (OBM)

Open Bidding Mode (OBM) should be the preferred mode for procurement of common use item, with generic/ commercial specifications, which are readily available off-the-shelf in the market from a wide range of sources. All procurements of goods and services where estimated cost is more than Rs. 25 lakh and Rs. 10 lakh respectively should generally be made through this mode subject to exceptions provided in this Chapter. However, OBM may also be resorted to in case of procurements where estimated cost is less than the values specified above if considered advantageous.

6.4.1 Open Bidding Mode involves wide publicity through advertising media (press, trade journals, website, etc.) to ensure extensive competition. RFP will necessarily be hosted on DRDO website (www.drdo.gov.in) and Central Public Procurement (CPP) Portal in addition to other means of publicity. RFP notifications will also be sent to Director General of Commercial Intelligence and Statistics, Calcutta for publication in Indian Trade Journal (ITJ) and to the DAVP, New Delhi for publication in leading national newspapers. In case of exigencies of work, besides publication of RFP notification in ITJ, Director may issue RFP advertisements directly for inviting offers through the leading national newspapers at DAVP rates, if considered expedient, after recording reasons for the same on the file.

- 6.4.2** Simultaneously, attention of renowned prospective bidders may also be drawn to the RFP notification to enable them to offer the quotations after obtaining the RFP documents from the Lab/Estt concerned or website.
- 6.4.3** In case a need is felt, Lab/Estt may also approach Foreign Embassies in India and Indian Embassies/ Defence Attaché abroad by sending them a copy of RFP notification with the list of prospective bidders to seek offers/ assistance through their liaison.
- 6.4.4** In case the RFP are downloaded from the website by the bidder, it will not be charged. However, if the bidder wants it from the Lab/Estt, it will be supplied at rates tabulated below which include postal charges. RFP will be supplied free of cost to MSEs registered with National Small-Scale Industries Corporation (NSIC) and other such agencies as decided by the Govt. Lab/Estt will not be responsible for any postal delay.

Sl. No.	Mode of Access to RFP	Price (Rs.)
1	If downloaded from website	Free of cost
2	If supplied by Lab/Estt	Rs. 500

- 6.4.5** OBM will also be followed for items where limited bidding, irrespective of its estimated value, has not resulted in creation of expected competition and getting the best offer.

6.5 Limited Bidding Mode (LBM)

This mode of bidding may be chosen where estimated value of goods and services to be procured is up to Rs. 25 lakh and Rs. 10 lakh respectively. RFP will be floated to more than six firms registered for that category of goods/ services with the Lab/Estt. In case the number of firms registered with the Lab/Estt is less than seven, the central database of registered vendors on DRONA would be referred for identification of other potential sources. In exceptional cases, CFA may consider issuance of RFP to lesser number of potential bidders after recording the reasons in file. The following aspects will be kept in mind while issuing RFP:

- 6.5.1** Vendor selection for the purpose of LBM must be done with utmost diligence so as to give fair opportunity to the vendors who are registered with R&D Labs/Estts and the Government designated agencies as mentioned in Chapter 2 of this Manual.
- 6.5.2** Un-registered vendors may also be considered for the purpose of LBM with the explicit approval of CFA. However, their registration would be mandatory before placement of order on them.
- 6.5.3** RFP documents are not transferable.
- 6.5.4** Help of Foreign Embassies in India and Indian Embassies/ Defence Attaché abroad may be sought, if required, for the procurement of imported items.
- 6.5.5** Special circumstances for LBM: Purchase through LBM may also be adopted even where the estimated value of the procurement is more than the specified values with the approval of CFA under the following circumstances:
- When the sources of supply are definitely known/ available (established through OBM/ EOI in last one year) and possibility of fresh sources beyond these is remote.
 - When it is not in the public interest to call for open bidding due to reasons of security or when superior authorities have issued specific instructions in this regard.
 - When Government policies designate specific agencies.
 - When the requirement of stores is urgent and reasons for such urgency are justified by the indenter. Urgency of such cases will be specifically monitored till the placement of order.

6.5.6 Demand approval accorded by CFA would include the names of the vendors to whom the RFP will be sent.

6.5.7 RFP will be issued to all vendors as approved by CFA.

6.5.8 E-Publishing of RFP on LBM on the CPP Portal will be ensured unless approval of the Secretary Defence R&D has been obtained with the concurrence of Addl. FA (R&D) & JS. Unsolicited offers received as a result of e-publishing would not be considered for the instant procurement but the response would be given to the Vendor Registration Committee for consideration for future procurements.

6.6 Inadequate Response in OBM and LBM

Quotations received (in single bid system) or technically qualified (in two bid system) from at least three firms are considered adequate to process the procurement. Receipt of less than three quotations (in single bid system) or technically qualified quotes (in two bid system) will be considered as inadequate response. Such cases would be dealt as per para 6.30 of this Manual.

6.6.1 In cases where RFP on LBM was issued to only two potential bidders with the prior approval of CFA, quotations received (in single bid system) or technically qualified (in two bid system) from only one firm will be considered as inadequate response and would be dealt as per para 6.30 of this Manual.

6.7 Single Bidding Mode (SBM)

Procurement from a single source may be resorted to with the approval of CFA as per delegation of financial powers. In such cases, detailed justification as per format DRDO.DM.03 will be submitted for the approval of CFA. Procurement on SBM may be resorted to under following circumstances:

- a) In case of emergency.
- b) On account of operational/ technical requirement.
- c) Non-proprietary items, when only single response is available, in spite of competitive bidding.
- d) Items to be purchased from a Government specified source.
- e) Where any other mode of bidding is not considered appropriate in the interest of national security.
- f) Procurement on SBM for technology intensive projects: For technology intensive projects/ programs in progress, the materials/ components required are available only with a few qualified manufacturers/ vendors of repute. In such cases, flexibility will be allowed to effect purchases on SBM.
- g) Where a source has been developed by DRDO for supply of components, sub-systems or systems, SBM may be considered when larger quantities are required in the production phase to ensure scale up and incentivize indigenous vendors.

6.8 Award of Proprietary Article Certificate (PAC) Status

6.8.1 PAC status can be awarded to a firm under following conditions:

- a) Certain goods/ services are proprietary products of a particular manufacturing firm having the Intellectual Property Rights (IPR) and the detailed specifications are not available with others to manufacture/ provide the same. Such goods/ services have necessarily to be obtained from the Original Equipment Manufacturer (OEM) or its sole authorized dealer/ stockist/ distributor on the basis of the information provided by the OEM. A PAC may be issued in favour of such OEM as per format DRDO.DM.02, on the advice of the competent technical experts (from within Lab/Estt or outside).
- b) PAC status can be awarded to the firm selected and qualified as development partner in execution of a development contract when associated subsequently for fabrication/ up-gradation/ modification thereof. Orders will be placed on PAC basis till such time an alternative source is developed.
- c) PAC status can also be awarded to source services/ spares/ maintenance of equipment from OEM/ authorized dealer.

6.8.2 Caution to be exercised while granting PAC: PAC bestows monopoly and obviates competition. Hence, PAC status should be granted only after careful consideration of all factors like fitness, availability, standardization and value for money. The spares should be sourced from OEM or OEM approved/ recommended manufacturers/ dealers only in order to make the OEM responsible for the malfunctioning of the main equipment in which the spares have been fitted.

6.8.3 Authority for Award/ Cancellation of PAC Status: At the time of award of PAC status to a firm, the concurrence of the finance shall be taken. The general declaration of PAC status would be approved at the minimum level of Lab Director/ Programme Director with the concurrence of Integrated Finance. The PAC status, once granted, will remain valid for two years from the date of issue unless cancelled earlier by the Competent Authority. The PAC award can be cancelled by the issuing authority in consultation with their Integrated Finance.

6.9 Procurement on PBM Basis

6.9.1 Procurements on PBM basis will be made from firms awarded with PAC status or their sole distributor on the following conditions:

- a) Only a particular firm is manufacturer of required goods/ services.
- b) In execution of a development contract from the firm selected and qualified as development partner when associated subsequently for fabrication/ up-gradation/ modification thereof till such time an alternative source is developed.
- c) In order to ensure compatibility of spare parts/ components with the existing sets of equipment as per the advice of the competent technical experts.
- d) When there is a need for standardization of machinery and equipment with existing holding.
- e) Repairs and servicing of equipment purchased may be got done through the OEM approved service provider.

6.9.2 In cases, where OEM has more than one authorized dealers/ stockists/ distributors/ service provider, orders would be placed on them on competitive basis. The CFA for such purchases would, however, be determined in accordance with PAC mode of bidding.

6.10 Earnest Money Deposit (EMD)/ Bid Security

EMD, also known as Bid Security, is taken to safeguard against withdrawal/ alteration of bid by the bidder during its validity. Requirement of EMD prevents non-serious vendors from making infructuous offers. All un-registered bidders responding to RFP will be required to furnish EMD for an amount as indicated in the RFP. In the two bid system, EMD would be deposited along with techno-commercial bid. EMD would be received and returned in INR only.

6.10.1 EMD will be a fixed amount between 2% to 5% of the estimated cost of the proposed procurement, suitably rounded off. The following organizations/ firms are exempted from submission of EMD:

- a) Bidders registered with DRDO, Min of Defence, NSIC and DGS&D.
- b) DPSUs, Other Govt. Organizations.
- c) KVIC, Kendriya Bhandar/ NCCF.
- d) Micro and Small Enterprises (MSEs) as per their registration.

6.10.2 In case of small value purchases (up to Rs. 2 lakh)/ development contracts/ Single Bid/ PAC case, CFA may waive the requirement of EMD at the time of demand approval.

6.10.3 EMD may be accepted in the form of Bank Draft drawn in favour of the Director of the Lab/Estt, Fixed Deposit Receipt, Banker's Cheque or a Bank Guarantee in acceptable form as per DRDO.BG.01, from any of the nationalized Banks, private sector bank authorized for Govt. transactions for safeguarding the Buyer's interest in all respects. In case of foreign bidder, EMD will be accepted in INR only.

6.10.4 The EMD should remain valid for a period of 45 days at least beyond the bid validity period.

6.10.5 EMD will be refunded in full without any interest to the unsuccessful bidders after finalization of the TCEC/ supply order. For successful bidder, this amount will be refunded without any interest after receipt of applicable Performance cum Warranty Bond.

6.10.6 Forfeiture of EMD: EMD will be forfeited in following cases:

- a) If the bidder withdraws/ amends/ derogates from the bidding process in any respect within the period of validity of bid.
- b) If the successful bidder fails to furnish required Performance cum Warranty Bond.

6.11 Preparation of Notice Inviting Bid (NIB)

In case of OBM, notice inviting bid will be published in the journals/ newspapers, as per DRDO.BM.01. It should contain salient features of the requirement in brief to give a clear idea to prospective bidders about the requirements. Superfluous or irrelevant details should not be incorporated in the notice inviting bid, as they will needlessly increase the cost of advertisement.

6.11.1 The notice should normally contain the following information:

- a) RFP reference number.
- b) Nomenclature of the goods and quantity.
- c) Cost of the RFP document.
- d) Amount and form of bid security/ earnest money deposit.
- e) Address of the website from where the RFP document could be downloaded.
- f) Place(s), cost and timing of sale of RFP documents.
- g) Place and deadline for receipt of bids.
- h) Place, time and date for opening of bids.
- i) Any other important information.

6.11.2 Copy of NIB may also be sent to known potential bidders to invite their attention.

6.12 Publicity through the Website

All RFP notifications should invariably be posted on the DRDO website and CPP portal unless exempted. The website address should also be given in the OBM notification advertised through the Indian Trade Journal (ITJ) and the National newspapers.

6.12.1 All RFPs on OBM would be e-published on DRDO website and CPP Portal.

6.12.2 RFPs on LBM/ SBM and PBM would also be e-published on DRDO website and CPP Portal. In case Labs/Estts feel that e-publishing a particular RFP may jeopardize the procurement, they would require explicit approval of Secretary Defence (R&D) with the concurrence of Addl. FA (R&D) & JS. Such exemptions may be considered for procurements that are sensitive in nature. Labs/Estts would submit the proposal to DMM, DRDO HQ stating reasons for not e-publishing duly approved by their DG Cluster/ CC R&D for the waiver.

6.12.3 In case there is no requirement of Non-Disclosure Agreement (NDA), the complete RFP document should be posted on the website to enable the prospective bidders to download document for bid submission. Cases where NDA is required, the complete RFP document would be issued after signing of NDA.

6.12.4 RFP documents must be secured to avoid possibility of modification and restriction of access to bidders.

6.13 Preparation of the Request For Proposal

Request For Proposal (RFP) is the most important document in the procurement process. The RFP will be prepared by MMG with due care and should contain complete details of the items or services required, qualification criteria for vendors wherever applicable, standard terms & conditions, special terms & conditions,

evaluation criteria, price bid format and clear instructions for submission of bids. MMG may consult Indenter and Quality Assurance Cell (QAC) of the Lab/Estt, wherever required, while finalizing the RFP.

6.13.1 All RFPs must invariably carry a clause that the Government reserves the right to cancel the procurement process at any stage and accept or reject any bid, fully or partially, without assigning any reasons.

6.13.2 RFP should also specify that Indian bidders should quote only in Indian currency and foreign bidders may quote in a currency, specified in the RFP, with the understating that payment in foreign currency is subject to regulations by the Reserve Bank of India.

6.13.3 The RFP should ask the foreign bidder to quote the FOB/ FCA cost. However, for the purposes of comparison of bids, the foreign bidders will also be asked to quote CIF/ CIP cost up to a specified place of delivery. It would also be clarified that if the CIF/ CIP cost is not indicated, their bid will be loaded by 10% of FOB/ FCA cost to arrive at the CIF/ CIP price for purpose of bid evaluation. Quotation from Indian bidder shall be sought on FOR (destination) basis.

6.13.4 No preferential terms and conditions will be indicated in the RFP for any category of bidders except as provided under Govt. policy given in Chapter 2 of this Manual.

6.13.5 The evaluation/ loading criteria with respect to important terms having financial implications like payment terms etc. need to be specified in unambiguous terms so that the evaluation of bids after opening of bids could be made in a transparent manner without any subjectivity.

6.14 Format of RFP

The suggested format for the RFP for procurement of goods/ services is as per DRDO.BM.02. The specimen format is based on various instructions contained in this Manual. The RFP consists of following seven parts:

6.14.1 Part I contains General Information and Instructions for the Bidders about the RFP such as the time, place of submission and opening of bids, validity period of bids, etc.

6.14.2 Part II contains Standard Terms and Conditions of RFP which have legal implications and will form part of the contract/ supply order with the successful Bidder(s). Therefore, neither deviation from the text given in the clauses nor deletion of any of these clauses should be admitted. In case a deviation from these clauses has to be considered/ allowed, approval of DRDO HQ will be required.

6.14.3 Part III contains Special Terms and Conditions applicable to this RFP and which are supplementary conditions applicable to a specific RFP. A conscious decision needs to be taken to incorporate the relevant clauses from this set. The wordings of these clauses can also be appropriately modified to suit a particular case. These conditions will also form part of the contract with the successful bidder(s).

6.14.4 Part IV contains Vendor Qualification Criteria such as minimum level of experience, past performance, technical capability, manufacturing facilities etc. to be met by the bidders. This part is case specific and should be included only if required. This part is not normally recommended for the procurement of Commercial-Off-The-Shelf (COTS) items. It may be invoked with the approval of CFA for large works, major plants and machinery, complex information technology systems, medical equipment, sophisticated weapon systems, telecom equipment and other special goods. In the absence of this part, no vendor would be disqualified on the basis of capacity/ capability.

6.14.5 Part V contains Details of the store(s)/ service(s) required e.g. Technical Specifications, Delivery Period, Mode of Delivery, Consignee Details etc.

6.14.6 Part VI contains Evaluation Criteria of bids which can be suitably amplified/ modified to suit the specific requirements of each case.

6.14.7 Part VII contains Format of Price Bid which can be set to get the desired cost break-up as per requirements. All bidders will be requested to indicate time-wise and currency-wise amount required as per the price bid in the given below. In case, a bidder does not provide time-wise cash flow details in the price bid, the amount quoted in the price bid will not be discounted for comparison purposes.

Time	Currency					Total Cash Flow
	US Dollar	Euros	Pound Sterling	Rupees	Other (Specify)	

6.15 General Guidelines

The common factors to be kept in mind while inviting bids are:

- 6.15.1** Indenter may propose the mode of bidding and the system of bid submission to be adopted for each purchase, however CFA is the competent authority to decide on the mode of bidding and system of bid submission for the procurement as per the delegation of financial powers.
- 6.15.2** As far as possible, procurement of items shall be sourced from original manufacturers unless the original manufactures themselves decline to entertain RFPs and redirect the inquiries to their authorized distributors/ dealers. This may happen when the procurement is too small to elicit attention of original manufacturers or due to their contractual obligations. Adequate care must be taken to discourage mere traders, especially in procurement of expensive items, after careful consideration of aspects like after-sale-services/ support/ maintenance and manufacturer’s warranty against manufacturing defects.
- 6.15.3** Due date & time of submission and opening of bids will be clearly mentioned in the RFP. Time gap between submission and opening of bids should generally be kept within 24 hours. In two bid system, only techno-commercial bid will be opened on the date of opening.
- 6.15.4** The day selected for opening of bid should be a working day. Monday or day followed by a series of holidays should be avoided, as far as possible.
- 6.15.5** Normally, the reasonable time to be allowed for submission of bids should be four to eight weeks from the date of publication of the NIB or availability of the bidding document for sale, whichever is later. Time likely to be taken to secure and study specifications/ drawings by the firm will be taken into account, wherever applicable to decide the reasonable time for submission of bid. Reduced time frame for submission of bids may be adopted in the case of emergent procurement of stores/ services and emergent repairs by use of FAX, etc.
- 6.15.6** Realistic validity period of the bids will be specified in the RFP. This period will be fixed keeping in view the nature of stores and other administrative formalities. A bid shall remain valid for 90 days for single-bid system and up to 180 days for two-bid system from the date of opening of bid, unless otherwise specified.
- 6.15.7** RFP will be signed for and on behalf of ‘President of India’.
- 6.15.8** Only relevant clauses from different parts of RFP template, as applicable, will be included in the RFP. Non-applicable clauses would be struck off to obviate any confusion in the mind of bidders.
- 6.15.9** All correspondence with vendors in respect of the RFP and supply order, etc., will preferably be done through MMG only.

6.15.10 The RFP must reflect all special conditions/ clauses required to be incorporated in the contract/ supply order.

6.15.11 Any Purchase preference/ Product Reservation Policy of Govt. applicable to the procurement must be mentioned upfront in the RFP.

6.15.12 In case samples are also required for techno-commercial evaluation, it should be mentioned in the RFP that the bidders found technically compliant would have to provide specified quantity(ies) of the item on 'no-cost-no-commitment' (NCNC) basis for trial evaluation/ testing. The period within which the bidder must submit the equipment/ sample, after being found technically compliant, must be indicated in the RFP. Such provision should be included only after obtaining approval of CFA as per delegation of powers.

6.15.13 In case pre-bid conference is required with the prospective bidders for better understanding of the RFP requirements, the same shall be mentioned in the RFP with the date, time and venue.

6.16 Reference to Brand Names in the RFP

Standards and specification, provided in bidding documents in generic terms shall promote the broadest possible competition while assuring the critical performance or fulfillment of other requirements for the goods. Reference to brand names, catalogue numbers, etc. in the RFP should be avoided.

6.17 Vetting of RFP by Integrated Finance

To the extent possible Labs/Estts are advised to use the standard RFP as per DRDO.BM.02. In case of any deviation from the standard text, CFA may get the RFP vetted by Integrated Finance. Waiver of clauses such as Performance cum Warranty Bond, Liquidated Damages (LD) and Bank Guarantees, where applicable, to safeguard Free Issue Material (FIM) would be termed as deviation from the procedure and will be dealt as per para 1.10 of this Manual.

6.17.1 RFP should be vetted by Integrated Finance for the cases beyond delegated power of the Director of Lab/ Estt.

6.18 Dispatch of RFP Documents

6.18.1 RFP shall be dispatched as per the mode of bidding approved by the CFA.

6.18.2 In LBM/ SBM/ PBM, the copies of the RFP should be sent directly by speed post/ registered post (with AD)/ courier/ e-mail/ fax to firms which is/ are approved by the CFA for the goods/ services being procured. Copies of the RFP should also be sent by speed post/ registered post (with AD)/ courier to the firms to whom these were initially sent by fax/ e-mail.

6.18.3 In case of dispatch of RFP on LBM by means other than speed post/ registered post with AD, it would be ensured to keep the proof of delivery in the file.

6.18.4 In case of OBM, the RFP may be dispatched by speed post/ registered post/ courier to the firms after receipt of fee as per para 6.4.4 of this Manual.

6.18.5 Simultaneously, e-publication of RFP on CPP portal will be ensured unless waiver from Secretary Defence (R&D) with the concurrence of Addl. FA (R&D) & JS for doing so has been taken.

6.19 Pre-Bid Conference

Pre-bid conference with the bidders will be held as per the date, time and venue specified in the RFP or as separately notified. After pre-bid conference, necessary clarifications (if any) to the RFP would be notified to all prospective bidders in case of RFPs not hosted on website and in other cases, it would be hosted on website.

6.20 Amendment to The RFP and Extension of Bid Opening Date

6.20.1 Amendment to the RFP: Situations may necessitate modification of the bidding document already issued due to change(s) in the required quantity or specifications/ conditions etc. Further, sometimes a bidder may point out some genuine mistake in the RFP necessitating amendment. In such cases, it may become necessary to amend/ modify the RFP suitably prior to the date of submission of bids. Change in the quantity affecting the CFA status would require approval of appropriate CFA.

6.20.2 Approval of Amendment: If there is no change in mode of bidding and no significant departure from functional parameters/ specifications, amendment to RFP would require approval of Director/ Program Director or else approval of CFA will be obtained. Concurrence of integrated finance would be taken in all cases except where amendment is restricted to Part I of the RFP or where demand was approved without concurrence of integrated finance as per the delegated powers.

- a) Integrated Finance would recommend the amendment to the Director/ Program Director after analyzing the financial implications due to proposed amendments and would indicate any changes in the source or in the standard/ special terms and conditions.
- b) Director/ Program Director would take into account the recommendations of Integrated Finance, examine the justification given, essentiality of change and recommend/ approve the amendment.

6.20.3 Methodology of Communicating Amendments in RFP: Copies of such amendment/ modification would be simultaneously sent to all the prospective bidders by registered post/ speed post/ courier/ e-mail in case of LBM/ SBM/ PBM. In case of OBM, copies of such amendments/ modifications would be dispatched simultaneously free of cost by registered/ speed post/ courier/ e-mail to all the parties who may have already purchased the RFPs and copies of such amendments are also required to be prominently attached to the unsold bidding documents (which are available for sale), including the RFPs hosted on the website. Such amendment/ clarification would be hosted on website at least a week before the last date of submission of bids.

6.21 Extension of Bid Submission/ Opening Date

When the amendment/ modification changes the requirement significantly and/ or when sufficient time is not left for the bidders to submit/ revise their bids, the time and date of submission of bid should be extended suitably. Suitable changes in the corresponding time-frames for receipt of bids, bid validity period etc. and validity period of the corresponding EMD/ Bid security should also be made. Any extension of bid submission/ opening date, for whatever reason, shall be communicated to the prospective bidders as described in para 6.20.3 of this Manual.

6.22 Receipt of Bids

6.22.1 A box, locked and sealed, will be placed at the security gate or any other secured convenient place in the Lab/Estt to facilitate uninhibited access to the bidders to drop their bids. This box will be removed from the place or made inaccessible to the vendors at the time of closing, as specified in the RFP. The key of the box will be kept in the personal custody of a responsible officer. Bids received through couriers/by post will be immediately put into the box without opening.

6.22.2 The bids received from Indian bidders by fax/ e-mail, except in cases of PBM/ SBM will not be accepted. However, for imported items, the bids received from foreign bidders by fax/ e-mail may be considered if the same are received before expiry of the notified date and time. In such cases, bids received in the Director's office may be kept in his personal custody and placed before bid opening committee.

6.22.3 Bid Opening Committee (BOC) will collect all the bids from the box and other places e.g. central dak receipt section, etc. at the appointed time of closing of bids.

6.22.4 Withdrawal of an Offer or Proposal : A bidder may modify or withdraw his bid after submission provided written notice for modification/ withdrawal is received prior to the deadline prescribed for submission of

bids. No bid may be withdrawn or modified in the interval between the deadline for submission of bid and expiration of the period of bid validity specified. Withdrawal of bid during this period will result in forfeiture of EMD. If bid is withdrawn by the agency exempted from submission of EMD, the registering authority will be intimated.

6.23 Late Bid

All bids or modifications received thereto, beyond the due date and time of submission of bid, shall be marked as 'Late' and will not be considered. These bids would be returned to the respective bidders unopened.

6.24 Scrapping of Bidding Process

Scrapping of bidding process may be resorted to with the approval of the Director under intimation to the CFA in the following circumstances:

- a) Cancellation of the demand by the user.
- b) Change in basic specifications of stores.
- c) Non-receipt of offers as per specifications laid down.
- d) Sudden downward market trend.
- e) Prices quoted being very high/ unreasonable.
- f) Large/ manifold variation in prices quoted by bidders etc.

6.25 Opening of Bids and Evaluation

Bids will be opened by Bid Opening Committee constituted as under:

6.25.1 Bid Opening Committee (BOC): Director of Lab/Estt will nominate officials of BOC as per following constitution for opening of bids on the date and time specified in the RFP:

Sc. 'C'/ TO 'C' or above	Chairman
Vigilance/Security Officer or his rep	Member
Duty Officer of the day	Member
MMG rep	Member Secretary

Any two of the committee members besides Chairman may open the bids.

6.25.2 Role of BOC: BOC will identify and categorize the bids received as under:

- a) Single Bid System:
 - (i) For non-CNC cases: Bids will be opened by BOC and handed over to MMG for preparation of Comparative Statement of Bids (CSB) as per para 6.32 of this Manual.
 - (ii) For CNC cases: Bids will not be opened by the BOC. Such bids will be handed over to MMG for safe keeping till they are opened by the CNC and bidders would be informed in advance.
- b) Two Bid System: BOC will open techno-commercial bids only and hand it over to MMG for techno-commercial evaluation by the TCEC. Price bids will not be opened by BOC and the same will be handed over to MMG in a separate cover, sealed and signed by BOC for further action.

6.26 Bid Opening Procedure

6.26.1 Prior to the date and time of bid opening, BOC will ensure that all bids received in time are available for its consideration.

6.26.2 All relevant bids received on time should be opened by the BOC in the presence of authorized representatives of the bidders at the time, date and place prescribed in the RFP. The authorized representatives, who intend to attend the bid opening event, would be required to bring with them letters of authority from the concerned bidders.

6.26.3 BOC should announce the salient features, as applicable, of all opened bids like description and

specification of stores, quoted price, terms of delivery, delivery period, discount if any, whether EMD furnished or not and any other special feature of the bids for the information of the representatives attending the bid opening event.

- 6.26.4** After opening of bids, every bid should be numbered serially, initialed with date on the first page by the officials of the BOC. Each page of the price bid or letter attached to it shall also be initialed by them with date, particularly the prices, delivery period, details of discount offered, and any other financial terms including taxes and duties, which should also be encircled and initialed indicating the date. Blank bids, if any, should be marked accordingly by the BOC.
- 6.26.5** All bids received and opened will be entered in the bid register indicating the names of the firms, RFP reference number, file number and other pertinent details.
- 6.26.6** In case of alterations/ crossings and cuttings in quotations made by the bidders, substituted words should be encircled and initialed with date and time by the officials of BOC to make it perfectly clear that such alterations were present on the bid at the time of opening.
- 6.26.7** All late bids will be declared non-responsive and returned to the bidders unopened.
- 6.26.8** BOC will prepare a list of the representatives attending the bid opening event and obtain their signatures on the list. The list should contain the representatives' name and the corresponding bidders' name and their addresses. The authority letters brought by the representatives should be attached with this list. This list should be signed by officials of BOC with date and time.
- 6.26.9** The list of representatives attending the bid opening event, the bid register along with the bids which are opened or otherwise will be handed over to MMG.
- 6.26.10** In two bid system, only the techno-commercial bids would be opened in the first instance. The BOC would sign on all the envelopes containing price bids and hand over the same to MMG in a sealed and signed cover.
- 6.26.11** In two bid non- CNC cases, price bids of only those firms who have been declared technically compliant by TCEC will be opened by BOC and handed over to MMG for preparation of CSB as per para 6.32 of this Manual. Technically qualified bidders would be called to witness opening of the price bids.

6.27 Inadvertent Opening of Price Bid Before Schedule

Due care must be taken to avoid opening of 'price-bid' before schedule or its opening along with "techno-commercial bid" in a two bid system as it is a serious matter. In such case opened price bid would be sealed again in a separate envelope by the committee under the signatures of bid opening officers. The incident would be recorded in the bid opening register. Chairman BOC will report the matter to the Head of the Lab/ Estt highlighting the circumstances and reasons. In case Head of the Lab/Estt is satisfied that it is an inadvertent opening of price bid, MMG would inform the affected bidder about the incident and give him a fixed and reasonable time to represent. In case, objection is raised by the bidder by the specified date, the case will not be processed further without bidding afresh, otherwise, bid processing will continue with the original price bids.

6.28 Preliminary Examination of Quotes

The purchase cell/ officer should examine the quotations to determine whether they are complete in all respects, and check for any computational errors which will be rectified on the following basis:

- 6.28.1** 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 shall prevail and the total price shall be corrected.
- 6.28.2** If there is a discrepancy between words and figures, the amount specified in words shall prevail.

6.29 Handling Cartel Formation/ Bid Rigging/ Ring Prices

Sometimes a group of bidders quote identical rates against RFP on competitive bidding. Such Pool/ Cartel formation is against the basic principle of competitive bidding and defeats the very purpose of open and competitive bidding. Such practices should be severely discouraged with strong measures and brought to the notice of DMM. Suitable administrative actions like rejecting the offers, reporting the matter to Registrar of Companies, Competition Commission of India (CCI), and National Small Industries Corporation (NSIC) etc. should be initiated against such firms, on case to case basis, as decided by the competent authority. However, this does not cover DGR empanelled security service providers.

6.30 Procedure in Case of Inadequate Response

In some cases response may be inadequate (refer para 6.6 of this Manual) consequent to open/ limited bidding. This situation may arise in single bid system as well as in two bid system before or after technical evaluation indicating lack of competition. In such situations, following aspects may be examined before proceeding further:

- a) Is it possible to redefine the specifications and make them broad based/ industry friendly for wider competition? (Yes/ No)
- b) Whether time and criticality of requirement permits reformulation of the specifications. (Yes/ No)
- c) Whether proper vendor selection has been done in case of LBM or wide publicity has been given in case of OBM. (Yes/ No)
- d) Whether vendor qualification criteria / special terms and conditions of RFP were very restrictive. (Yes/ No)
- e) Review if sufficient time was given to the bidders to respond while issuing the RFP. Whether the RFP had been properly dispatched and duly received by the prospective bidders to whom these were sent. (Yes/ No)

6.30.1 The above examination would be done, based on the information provided by the user, by TCEC for two bid system and a Committee (comprising of indenter, technical expert from other Group and Rep. MMG) for single bid system. If the examination reveals that answer to (a), (b) and (d) are no, and answers to (c) & (e) are yes, recommendations of committee would be processed as per para (a) and (b) below. Otherwise, case will be re-floated i.e. in case of any doubt about the bidding process or it is considered feasible to reformulate specifications/ terms and conditions of RFP/ vendor qualification criteria without compromising the requirement, the RFP should be retracted and re-issued after rectifying the deficiencies.

- a) Receipt of two quotations (in single bid system) or technically qualified (in two bid system): Approval of CFA as per delegation of financial powers for OBM/ LBM procurements would be obtained for processing the procurement case further.
- b) Receipt of only one quotation (in single bid system) or technically qualified (in two bid system): Such cases, the mode of bidding should be changed to Single Bid without PAC and appropriate approval of CFA as per delegation of financial powers would be obtained for processing the procurement case further.

6.30.2 However, cases with inadequate response, beyond the delegated powers of Secretary Defence (R&D), would require 'in-principle' approval of Secretary Defence (R&D) with the concurrence of Addl. FA (R&D) & JS for further processing the procurement case. Approval of CFA shall be taken at the time of obtaining Expenditure Sanction.

6.31 Re-Floating of RFP

Re-floating will be resorted to only in exceptional circumstances as it entails additional costs as well as delays the procurement process. Approval of CFA would be taken as per delegation of financial powers for re-floating of RFP. It should be done with utmost caution under the following circumstances:

- a) Offer(s) do not conform to qualitative requirements and other terms and conditions set out in the RFP.
- b) There are major changes in specifications and quantity, which may have considerable impact on the price.

- c) Prices quoted are unreasonably high with reference to estimated cost or there is evidence of a sudden slump in prices after receipt of the bids.
- d) Where there is lack of competition and there are clear and reasonable grounds to believe that the lack of competition was due to restrictive specifications, which could have restricted participation. Such cases should, however, be rare as the specifications must be formulated with due care.
- e) Before re-floating, Lab should consider if there is a possibility of reviewing the specifications/ special terms and conditions/ vendor qualification criteria to meet the objective.
- f) Withdrawal of offer by L1: In case the lowest bidder withdraws its offer, re-floating should be resorted to as per the instructions issued by the Central Vigilance Commission. While re-floating, RFP will not be issued to the bidder who had backed out and EMD, if any, of such a firm should be forfeited.
- g) If the objectives for re-floating are not met when fresh bids are received, Director for non CNC cases or CNC may take stock of the situation keeping in view changed market conditions, repercussions of further delay, any other factors and recommend accordingly.

6.32 Preparation of Comparative Statement of Bids (CSB) in NON-CNC cases

The CSB will be as per the format given at DRDO.BM.04. The Part I of CSB will record details of bids received and indicate their compliance vis-à-vis terms and conditions of the RFP. Bids without material deviations would be considered in Part II. Part II of CSB will indicate all details of offers, i.e., nomenclature, price, payment terms, statutory levies, duties, insurance, packing & forwarding charges, installation & commissioning charges, training charges etc., as given in the quotations. In case of variation in payment terms quoted by the bidders, the Net Present Value (NPV) method of evaluation may be followed for purposes of comparison as indicated in RFP. For a fair comparison and to determine the real cost of procurement, details as given in the quotations such as delivery ex-godown or FOR destination, transportation, inspection costs etc. will be reflected in the CSB. In case cash flow involves more than one currency, these should be brought to a common denomination in Rupees by adopting exchange rate (RBI reference rate) as on the date of opening of price bids. The CSB will be signed by the Head of the User Group and Head MMG. Assessment of L1 will be done on the basis of criteria stated in the RFP and negotiation, if required, will be carried out only with L1. The case will be further processed as per para 6.42 of this Manual onwards. Deviations, if any, from the prevailing procedure and/ or from RFP would be clearly recorded in the CSB.

6.33 Evaluation of Techno-Commercial Bids

In the two-bid system, a thorough evaluation of techno-commercial bids will be carried out by a duly appointed Techno-Commercial Evaluation Committee (TCEC). The evaluation of techno-commercial bids must be done within the framework of RFP.

6.33.1 Techno-Commercial Evaluation Committee (TCEC)

A TCEC will be appointed by the Director/ Program Director comprising of following officers:

Sc. 'F' or above (from other than user group)	Chairman
Technical Expert (Sc. 'D' or above from other than user group)	Member
Rep MMG	Member
Rep QAC	Member
Rep User Group	Member Secretary

In addition, the Constituting Authority may include technical experts from sister Lab/Estt and/or outside experts from other Govt. Dept/ Academic Institutions to derive technical advantage based on their expertise.

6.33.2 Finance rep need not be associated with the TCEC. However, in cases where commercial terms are to be normalized before opening of Price Bid, a rep from finance will be co-opted by the Chairman/ Constituting Authority.

6.33.3 Evaluation of Technical Bids: The main objective of the TCEC is to prepare compliance matrix showing

how the technical parameters of bids received are compliant with the parameters mentioned in the RFP. TCEC can accept better specification being offered after recording the gist of deliberations and reasons/ justification for the same provided it is acceptable to the user. This kind of changes would not be used to reject any bidder. It is reiterated that TCEC's job is to evaluate the technical bids from the viewpoint of "compliance to RFP" or "non-compliance to RFP". It is not open to TCEC to set aside the RFP and start making a de novo exercise of finding, which technical bid is acceptable and which is not.

6.33.4 Normalization of Commercial Terms: TCEC should also evaluate the commercial terms such as payment terms, warranty/ guarantee, taxes & duties, End Use Certificate (EUC), export license, installation & commissioning, and training etc. to ensure compliance of RFP in the bids submitted. Normally commercial normalization after opening of bid should be avoided, however, where it becomes essential to bring uniformity, finance rep will be involved. All technically acceptable bidders may be offered uniform commercial terms. If necessary, they may be given equal opportunity to revise/ amend their price bids as per the normalized commercial terms. TCEC minutes should appropriately record the same. If, in spite of the efforts made by the TCEC, variations persist in commercial terms; this will not form the basis for rejection of technically acceptable offers except in case of EUC. Where EUC has to be submitted, TCEC should scrutinize the format provided by the technically accepted bidders for its acceptability. TCEC can refer the EUC format to the Directorate of International Co-operation (DIC), DRDO HQ in case need is felt for the same. The decision to reject the bid on the basis of EUC can be taken only with the concurrence of DIC.

6.34 Important Guidelines for the TCEC

For the purpose of proper assessment/evaluation, the TCEC will prepare a techno-commercial CSB as per format at DRDO.BM.05 bringing out the comparison between the specifications/ other terms asked for and that offered by vendors. While preparing TCEC minutes, value of technical parameters/ specifications as quoted by bidders along with compliance/ non-compliance status must be clearly indicated against all parameters/ requirements stated in the RFP.

6.34.1 The TCEC is empowered to invite/ interact with bidders, who have responded to the RFP, for technical presentation/ clarification if considered necessary. Confirmation of clarifications received in such meetings/ interactions may be obtained in writing from respective bidders.

6.35 Revision of Bids

6.35.1 For minor revision in the technical parameters/ specifications emerging during the technical evaluation of bids by TCEC or clarification received from the bidders, which does not affect the basic functional requirement of the product, equal opportunity must be given to all bidders to re-submit their bids to ensure fair play.

6.35.2 The original price bid must remain firm/ fixed and no price revision should be permitted during TCEC. However, while procuring/ developing complex systems/ products, it may not be feasible to incorporate all possible details in technical specifications. During the techno-commercial evaluation process, in case any changes in original technical specifications are being made, all the participating bidders should be asked to indicate separately the financial impact from the original quote in terms of addition or deduction from the quoted price, either by amount or percentage in a sealed cover, instead of calling for fresh price bids. This is done to retain the sanctity of the original price bid and should be considered only as supplement. It is mandatory to record this in the TCEC minutes. Once the modified price bids are received, both original and modified price bids are to be opened, compiled and evaluated on a common platform.

6.35.3 In case major changes become necessary, the TCEC may recommend re-floating of RFP with revised specifications.

6.36 Rejection of Technical Bid

TCEC must be guided by the sole consideration that only those bidders whose products are technically deficient in terms of the qualifying criterion stated in the RFP are excluded. The reasons for such rejection of any offers should be clearly recorded in the TCEC minutes. While doing so, all efforts should be made to retain as many bidders as possible in the fray without compromising on the technical requirements.

6.36.1 TCEC should identify all line entries whether quoted as essential items or optional items whose prices need to be included for price evaluation of the bids. Selection of these entries should be done only as per the requirement given in the RFP. Exclusion/inclusion of such entries (as the case may be), should be recorded with absolute clarity in TCEC minutes to facilitate preparation of CSB by CNC/MMG.

6.37 Acceptance of TCEC Recommendation

The TCEC will scrutinize the bids as per the guidelines given above and submit its report for consideration and acceptance to the Constituting Authority.

6.38 Commercial Negotiation Committee (CNC)

All purchases where estimated cost is over Rs. 10 lakh, except for Repeat Orders, SWOD and supply orders against rate contracts shall be scrutinized by the CNC and would be processed for approval of CFA along with the recommendations of CNC. The basic objectives of CNC are to study the recommendations of TCEC besides ensuring transparency, fairness and negotiating the price.

6.38.1 The estimated value will be the criteria for deciding the level of CNC. In case the negotiated value exceeds 10% of the limit of the level of CNC, recommendations of higher CNC will be required.

6.38.2 Compositions of 'Standing CNCs' have been specified for procurement under delegated powers as per details given below:

(a) Project Cases within Delegated Powers of Financially Empowered Boards:

(i)	Rep of Chairman of concerned Board	Chairman ¹
(ii)	Financial Concurring Authority/ Rep	Finance Member ²
(iii)	Chairman, TCEC (for Two Bid System)	Member
(iv)	Head User Group/ Rep	Member
(v)	Head (MMG)/ Rep	Member Secretary

• ¹An officer of the level of Scientist 'G', Lab Director and DG (Cluster) would chair CNC as reps of Chairmen of PJMB, PMB and Apex Board respectively. For PJMB, nomination of Chairman will be done by Lab Director. If officer of Scientist 'G' level is not available, the senior-most officer next to the Lab Director would preside over the CNC.

• ²Secretary Defence (Fin)/ FA (DS) would be represented by Addl. FA (R&D) & JS, posted in Defence (R&D) for Apex Board sanctioned procurements. IFA R&D and DyIFA/ Jt IFA would be associated with procurements sanctioned by PMB/ PJB. .

(b) All Other Cases within the Delegated Powers of Secretary D R&D:

(i)	Rep of CFA (Not below the level of Scientist 'G'/ Equivalent)	Chairman ¹
(ii)	Financial Concurring Authority/ Rep	Finance Member ²
(iii)	Chairman, TCEC (for Two Bid System)	Member
(iv)	Head User Group/ Rep	Member
(v)	Director MM, DRDO HQ/ Rep	Member ³
(vi)	Director Lab/Estt	Member ³
(vii)	Director (Admin) of Cluster/ Rep	Member ⁴
(viii)	Head (MMG) of Lab/Estt	Member Secretary

• ¹An officer of the level of Scientist 'G', Lab Director and DG (Cluster)/CC R&D would chair CNC as

reps of Lab Director, DG (Cluster)/CC R&D and DG (DRDO)/ Secretary Defence (R&D) respectively. For cases within the delegated powers of Lab/Estt Director, nomination of Chairman will be done by Lab Director. If officer of Scientist 'G' level is not available, the senior-most officer next to the Director would preside over the CNC.

- ²Secretary Defence (Fin)/ FA (DS) would be represented by Addl. FA (R&D) & JS, posted in Defence (R&D). Where Fin Rep under IFA scheme is not available locally, rep of local CDA (R&D) will be Fin Rep for cases with estimated cost up to Rs. 1 crore (Till full scale implementation of IFA system).
- ³Directors of Lab and DMM at DRDO HQ would be a member for cases beyond the delegated power of DG (Cluster)/ CC R&D.
- ⁴Director (Admin) of Cluster would be member for cases beyond the delegated power of Lab/ Estt Director.

6.38.3 Constitution of CNC for cases beyond the Delegated Powers of Secretary Defence (R&D), Financially Empowered Boards and for cases not covered above: In all cases beyond the delegated powers of Secretary Defence (R&D) and financially empowered boards, Secretary Defence (R&D) would constitute CNC, on case to case basis, in consultation with Secretary Defence (Fin)/ FA (DS). Besides finance member, it may comprise of concerned DG (Cluster), CC R&D (R&M), Lab/ Program Director. Head MMG will be the member secretary.

For complex/ large value procurements having long term/ strategic implications, a special procurement committee/ CNC may be set up having cost experts, external experts and members as considered appropriate. Constitution of CNC would be processed by the Lab through concerned DG (Cluster) for the approval of Secretary Defence (R&D).

6.38.4 The Chairman CNC may co-opt any other expert member from the Lab/Estt or any other organization.

6.38.5 Care should be taken that CFA for the procurement is not nominated as Chairman of the CNC.

6.39 Actions Prior to CNC Meeting

6.39.1 Scheduling of CNC meetings: The date and venue of these meetings will be approved by the Chairman, preferably in consultation with the designated members else, the latter should be informed at least 15 days in advance.

6.39.2 Labs/Estts shall ensure the validity of demand approval, quotations and availability of approved TCEC report before scheduling CNC meeting.

6.39.3 Reasonable price/ benchmark price needs to be worked out prior to opening of price bid in all modes of bidding but mandatorily in LBM/SBM/PBM cases to ensure reasonableness of quoted prices (refer para 8.7 of this Manual). Such assessment ought to be done prior to opening of price bid to ensure complete objectivity and transparency of this process. If required, an independent cost estimation committee may be set up by the Director or Chairman of CNC to determine the reasonable price/ benchmark prior to opening of the price bid.

6.40 Documents to be provided to the Members of CNC

- a) Technical brief
- b) CNC information as per format DRDO.BM.03
- c) Demand approval by CFA
- d) Report of TCEC with technical & commercial CSBs
- e) Other briefing papers, if any

6.40.1 The member secretary will issue notice, indicating date/ time and venue for scheduling of the meeting. He will compile and send agenda papers, duly supported by documents to all members so as to reach them at least 10 days in advance.

6.40.2 All qualified bidder(s) will be informed well in advance to enable them to be present on the day of price bid opening/ CNC meeting.

6.41 Guidelines for Conducting CNC Meeting

6.41.1 Price Reasonableness: The basic objective of CNC is to establish reasonableness of price being paid by the Buyer. This is a complex task and many factors need to be considered. Detailed guidelines for determining the reasonable cost are given in Chapter 8 of this Manual.

6.41.2 Scrutiny by CNC: In order to derive maximum advantage for successful materialization of the procurement within time schedule at the most favourable rate and payment terms, the CNC will examine the following points before opening the price bids:

- a) Description of the item and basis of estimation.
- b) If requirement is for project, PDC of the project.
- c) Likely availability of funds.
- d) Likely cash outgo during current financial year.
- e) If the mode of bidding is 'Limited', bids were invited from registered vendors else, approval of CFA has been taken.
- f) Validity of bids.
- g) Reasonableness of estimated price.
- h) Registration status of Indian agent where required, commission payable and currency in which payable.
- i) Mode of inspection/ inspection facilities available.
- j) Facilities for installation and commissioning are available/ covered in the firms' quotations.
- k) Requirement of specialized training, if any.
- l) Warranty period and availability of post-warranty facilities.
- m) Payment terms.
- n) Delivery period.
- o) Availability of FIM in the agreed time frame.
- p) Other commercial terms e.g. taxes and duties, packing and forwarding charges, mode of dispatch, transit insurance cover, place of delivery, etc.

6.41.3 Opening of Price Bids: The price bids of the technically accepted bids will be opened in front of rep of bidders present. Such opening of price bids should only be done when the CNC is fully convinced that no issues are left which need to be settled prior to opening of bids. All opened price bids will be signed by the CNC members.

6.41.4 Comparative Statement of Bids (CSB) for CNC Cases: The comparative statement of bids should be prepared with due care showing each element of cost (basic cost, taxes, levies, etc.) separately for each bid. The CSB will be as per the format given at DRDO.BM.06 The CSB will indicate all details of offers, i.e., nomenclature, price, payment terms, statutory levies, duties, insurance, packing & forwarding charges, installation & commissioning charges, training charges etc., as given in the bids. In case of variation in payment terms quoted by the bidders, the Net Present Value (NPV) method of evaluation may be followed for purposes of comparison as indicated in RFP. For a fair comparison and to determine the real cost of procurement, details as given in the bids such as delivery ex-godown or FOR destination, transportation, inspection costs etc. will be reflected in the CSB. In case cash flow involves more than one currency, these should be brought to a common denomination in Rupees by adopting exchange rate (BC selling rate of SBI) as on the date of opening of price bids. The CSB should be prepared after opening of the price bids and will be vetted by the finance rep for its correctness. The CSB will be signed by the member secretary and finance member. Assessment of L1 will be done as per the criteria stated in the RFP.

6.42 Commercial Evaluation

Evaluation of price bids is the core activity in any purchase decision. If the correct evaluation of price

bids is not carried out as per the criteria incorporated in the RFP, purchase decision may become deficient and faulty. Detailed guidelines on establishing reasonability of prices and ranking of bids are given in Chapter 8 of this Manual. CNC will also take into account the provisions of purchase/ price preference as given in Chapter 2 of this Manual and RFP in terms of policy directives issued by the Govt. from time to time.

6.43 Commercial Negotiations

It is not necessary to hold commercial negotiations in each case, particularly in open and limited mode of bidding, where the response has been substantial and the L1 price is found to be very close to the reasonable price, provided such assessment had been carried out prior to opening of the price bids. However, commercial negotiation may become necessary to ensure that the interest of the State is fully protected and the price paid is reasonable. Commercial negotiations are invariably conducted in case of single source situations, including PAC cases, or when price is considered high with reference to assessed reasonable price, irrespective of the mode of bidding. Such negotiations should be conducted by CNC or a duly appointed committee, which should invariably include a finance member, unless the negotiation is carried out by the committee CFA itself.

6.43.1 The cost of post-warranty maintenance contracts for high value complex equipment will be included in the initial price-negotiations by the CNC to seek price concession. However, it will not be included in determination of L1 unless the evaluation criteria in RFP are based on Life Cycle Cost of the product.

6.43.2 When negotiations are considered necessary, only the firm with the lowest acceptable bid as per evaluation criteria will be called for negotiations by CNC. The following points may be borne in mind while negotiating:

- a) **Performance cum Warranty Bond:** To ensure due performance of the contract till the warranty period, Performance cum Warranty Bond is to be obtained from the successful bidder(s) awarded the contract irrespective of its registration status. Performance cum Warranty Bond should be for an amount of five to ten percent of the contract value (excluding of taxes and duties) for safeguarding the Buyer's interest in all respects. In case of Indian bidder, Performance cum Warranty Bond may be accepted in the form of Bank Draft, Fixed Deposit Receipt, Banker's Cheque or a Bank Guarantee. For foreign bidders, it may be accepted in the form of Bank Guarantee or Stand-by Letter of Credit. It should remain valid for a period of sixty days beyond the date of completion of all contractual obligations, including warranty obligation. Performance cum Warranty Bond is returned to the Seller on successful completion of all its obligations, including warranty obligation, under the contract. In case the execution of the contract is delayed beyond the contracted period and the Buyer grants the extension of delivery period, with or without liquidated damages, the Seller must get the BG revalidated, if not already valid.
- b) **Free Issue of Material (FIM) as Raw Material:** Lab/Estt will analyze the availability/ source of supply of the FIM and the time frame etc. before accepting any terms related to it. Bank Guarantee of the matching value would be taken to safeguard the FIM to be issued to the Seller. In specific cases where cost of the FIM exceeds the cost of the order, it will be ensured that BG is taken from the Seller for the order value and insurance cover is taken by the Buyer for the balance amount through Nationalized Insurance Agency or their subsidiaries. Requirement of BG or Indemnity Bond may not be insisted upon and should be at the discretion of CFA for Govt. Departments/ PSUs.
- c) **Stores issued as FIM for Repair/ Maintenance etc.:** Stores issued for purposes such as equipment or vehicle for painting/ repair/ fixture mounting etc. to the firm would be safeguarded through a comprehensive insurance cover taken by Lab/Estt through a Nationalized Insurance Agency or their subsidiaries.
- d) **Liquidated Damage (LD):** The Buyer reserves the right to impose LD in case of delay in supply attributable to the Seller at the rate of 0.5% per week or part thereof for stores which the Seller has failed to deliver within the period agreed for delivery in the contract subject to maximum of 10% of the total order value (excluding taxes & duties). In certain categories of procurement, LD can also be levied on the Seller on the basic cost of the stores supplied partially within the scope of the order/ contract that could not be put to use due to late delivery of the remaining stores.
- e) **Bank Guarantees (BGs):**
 - (i) For Indian Sellers: Applicable BGs may be accepted from a public sector bank or a scheduled

- private commercial bank in the format prescribed by RBI.
 - (ii) For Foreign Sellers: Applicable BGs may be accepted in the prescribed format from an Indian Public Sector/ Schedule Private Commercial Bank or a First Class International Bank of repute, acceptable to the Buyer. Guidelines on verification of BGs from Foreign Banks through SBI are given in Annexure 'B' of this Manual.
 - (iii) Indemnity bond may be accepted only from Government Departments/ DPSUs/ PSUs in lieu of BG.
- f) Any waivers from requirement of Performance cum Warranty Bond, BG for FIM and LD Clause would be considered as deviation from the prescribed procedure and will be dealt as per para 1.10 of this Manual.

6.44 Payment Terms

The payment terms should normally be in accordance with those indicated in the RFP. Any change of payment terms from those specified in the RFP can alter L1 determination. As such CNC must take into account the time value of money as per Discounted Cash Flow (DCF) Technique given in Chapter 8 of this Manual while agreeing to any change and record the justification for accepting any variation in payment terms from the RFP. The broad payment terms are as under:

6.44.1 Normal Payment Term: The normal terms of payment are 100% within 30 days after receipt & acceptance of stores in good condition or the date of receipt of the bill whichever is later. In cases where installation is required and is covered in the scope of the order, not more than 80% payment will be released on receipt of goods and balance will be paid after installation and commissioning. However based on the merit of the case, payment up to 100% against proforma invoice/ delivery may be agreed for consumable stores such as chemicals, gases, etc., when insisted upon by the bidder.

6.44.2 Advance Payment: Ordinarily, payments for services rendered or supplies made should be released only after the services have been rendered or supplies made. However, it may become necessary to make advance payments in the following types of cases:

- a) Advance payments are demanded by bidders for maintenance contracts such as servicing of air-conditioners, computers, other costly equipment, etc.
- b) Advance payments demanded by bidders against Project with long execution time, development contract, fabrication contracts, turnkey contracts, etc.
- c) Where envisaged earlier and decided to provide advance payment, the quantum should be incorporated upfront in the RFP.
- d) Quantum of Advance: Such advance payments should not exceed the following limits:
 - (i) 15% of the basic contract value for the procurement of COTS/ general use stores;
 - (ii) 30% of the basic contract value for developmental contract; fabrication contract; turnkey contract or suck like contracts where mobilization of resources is required;
 - (iii) Basic amount payable for six months in case of maintenance contracts;
 - (iv) For projects sanctioned by GOI through CCS or EC/PC of NCA route, advance payments would be considered as per the necessity in line with Delegation of Financial Powers in vogue.
 - (v) Wherever justified organizations such as NICS, MTNL, RailTel, BSNL etc. which function under the aegis of government departments and payment to Air Consolidation Agent towards custom duty for clearance of goods from customs authorities will be allowed up to 100% advance payment whenever insisted upon either in one-go or in stages approved by the CFA based on recommendation of CNC.
- e) Securing the Advance: While making any advance payment, adequate safeguards in the form of bank guarantee or indemnity bond for PSU/ Govt. Dept. in favour of the Director of Lab/Estt of appropriate value (~110% of advance amount), should be obtained from the Seller. Sample format of bank guarantee and indemnity bond are given in forms DRDO.BG.02 and DRDO.BG.03 respectively. Requirement of BG or Indemnity Bond may not be insisted upon and should be at the discretion of CFA for Govt. Dept/ reputed academic institutions such as IITs etc. or for low value orders up to Rs. 2 lakh to reputed private firms when no other mode of payment is acceptable to them. However, following points must be ensured:

- (i) Since, advance paid to the Seller is prone to be used by them for the purpose other than the one for which it is disbursed, adequate steps must be taken to ensure that advance is disbursed against anticipated cash out flow and the Seller is not benefited unduly by the way of retention of advance when no cash outflow is anticipated.
- (ii) The vendors should be informed that the advance given would become interest bearing in case of termination of order/contract due to their default or if it is used for the purposes other than this contract as per the terms stated in the RFP.
- (iii) Delivery Period (DP) extension for the default of the Seller would make advances paid interest bearing.

6.44.3 Stage/ Part Payments

Where progressive payments are anticipated, the same shall be agreed against identified and verifiable milestones. The same should broadly be as per the RFP. All progressive payments, where stores of equivalent amount are not received, should be secured. In cases, where the stage payment is not mentioned in the RFP, the same may be approved by the CFA on the recommendations of CNC.

6.44.4 Pro rata payment: In case the bidder requests for pro rata payment, the same may be approved by the CFA on the recommendations of CNC.

6.44.5 Payment to Foreign Firms: Payment to foreign Sellers may be done through Letter of Credit/ Direct Bank Transfer. Details are given in the Annexure 'B' of this Manual.

6.44.6 Deviation from Standard Terms of Payment: CFA can approve any of the payment terms mentioned above. Deviations from the above mentioned terms will, however, be allowed in exceptional circumstances on the specific recommendations of CNC and will be dealt as per para 1.10 of this Manual.

6.45 Apportionment of Quantity

6.45.1 Where it is Pre-decided: The total order quantity would be split in the ratio as indicated in the RFP. Ratio of splitting would be preferably in favour of L1. All efforts would be made to negotiate a reasonable price with the L1 bidder and, thereafter, counter offers would be made to L2, L3 etc. sequentially at the rate & terms and conditions accepted, except duties and taxes, by L1. If none of the other bidders agree to match the negotiated rate & terms and conditions of L1, except duties and taxes, then the order may be placed on L1 for the full quantity, else alternative source may be explored through separate bidding process.

6.45.2 Where it is not Pre-decided: If L1 does not have the capacity to supply the entire quantity, the balance order may be placed on L2, L3, etc. sequentially at the rate & terms and conditions, except duties and taxes, negotiated with L1 in a fair, transparent and equitable manner. In case the bidders are not in a position to execute the total order quantity, then alternative source may be explored through separate bidding process for the balanced quantity.

6.46 Buy-Back Offer

When it is decided with the approval of the competent authority to replace an existing old item(s) with a new and better version, the department may trade the existing old item while purchasing the new one. For this purpose, a suitable clause is to be incorporated in the bidding document so that the prospective and interested bidders formulate their bids accordingly. Depending on the value and condition of the old item to be traded, the time as well as the mode of handing over the old item to the successful bidder should be decided and relevant details in this regard suitably incorporated in the bidding document. Further, suitable provision should also be kept in the bidding document to enable the purchaser either to trade or not to trade the item while purchasing the new one. In such cases, the RFP should call for the bidders to quote the price of new equipment and buy-back offer for the existing equipment explicitly in their bid. CFA/ CNC may assess a benchmark price for the item to be traded off in buy-back process. On buy-back cases, L1 would be decided on the basis of net cash outgo

excluding taxes and duties. Lab/Estt will follow the security guidelines in vogue while trading the old item against buy-back offer.

6.47 Concluding CNC Meeting (For CNC Cases)

6.47.1 Detailed minutes of the CNC meeting will be recorded, highlighting the deviations, if any, from prevailing procedures and/ or from the RFP along with recommendations made by the committee as per DRDO.BM.07. The gist of CNC recommendations must appear on the page containing signatures of the members.

6.47.2 The minutes of the CNC must be issued duly signed by all the members and cleared by the Chairman.

6.47.3 In case the CNC is unable to conclude the negotiations satisfactorily, it may recommend to CFA to refer the case for negotiations by the next higher CNC. The minutes of every CNC meeting convened for a particular procurement should be recorded and signed by all the members.

6.48 Dissenting Opinion

Dissenting opinion, wherever expressed, will be recorded in the CNC minutes and the same will be referred to CFA for decision.

6.49 Letter of Intent (LOI)

At times, it may be necessary to follow up the negotiations with the issue of a LOI or fax acceptance due to imminence of expiry of the bid or for any other reason. LOI amounts to final acceptance of the offer. It is, therefore, imperative that all-important and relevant aspects such as description of stores, quantity, price, delivery period, etc. are properly reflected in the advance communication. It will be ensured that in such cases there is no variation between the LOI and the formal supply order issued subsequently. The advance communication should specifically confirm acceptance of the offer and state that the formal supply order showing full details will follow. The formal supply order will be issued without any avoidable delay.

6.49.1 LOI is a legally binding document and should be issued on the recommendations of CNC if the negotiated amount does not exceed the estimated cost in demand approval and no deviation from the prevailing procurement process has been made so far.

CHAPTER 7

TERMS & CONDITIONS OF RFP

7.1 General

A contract is a legal document created on the basis of terms & conditions of RFP, submitted bid and the revised offer received after negotiation. RFP is the basic document on which the contract is formulated. Contractual obligations are governed by terms and conditions to protect the interest of both the parties to the contract. It is, therefore, necessary to spell out the terms and conditions in the RFP in clear and unambiguous manner, so that bidders respond and submit their bid with clarity. The RFP format (DRDO.BM.02) contains reference to the standard as well as special conditions in Part II & Part III respectively which bidders would be required to abide with. The contract must also include the standard as well as special conditions specific to a particular case, as mentioned in the RFP. The Buyer shall provide the requisite information. Only applicable clauses would be retained in the RFP.

7.2 Standard Terms & Conditions

Law of the country are reflected in these terms and conditions, therefore, neither deviation from the standard text given in the clauses nor deletion of any of these clauses should normally be admitted. In case a deviation from these clauses has to be considered/ allowed, approval of DRDO HQ will be required through DMM. Clause on Pre-Integrity Pact is mandatory for cases where estimated cost is above Rs. 100 crore.

7.2.1 *Effective Date of the Contract:* Effective date of the contract/ SO is the date from which Contract is deemed to have commenced. Time keeping for both the parties i.e. Buyer and Seller to carry out their respective contractual obligations starts from this date. The standard text of this clause is as under:

“In case of placement of a supply order, the date of acceptance of the Supply Order would be deemed as effective date or as agreed by both the parties. In case a contract is to be signed by both the parties, the Contract shall come into effect on the date of signatures of both the parties on the Contract (Effective Date) or as agreed by both the parties. The deliveries and supplies and performance of the services shall commence from the effective date of the Contract.”

7.2.2 *Law:* A contract/ SO is a legally enforceable document in a court of Law. Therefore, it is very important to specify the country under whose law the contract/ SO will be governed and interpreted in the RFP itself. The standard text of this clause is as under:

“The Contract shall be considered and made in accordance with the laws of the Republic of India and shall be governed by and interpreted in accordance with the laws of the Republic of India.”

7.2.3 *Arbitration:* This clause defines the mechanism of dispute resolution and an alternate to litigation. The disputing parties hand over their power to decide the dispute to the arbitrator(s). The standard text of this clause is as under:

“All disputes or differences arising out of or in connection with the Contract shall be settled by bilateral discussions. Any dispute, disagreement or question arising out of or relating to the Contract or relating to product or performance, which cannot be settled amicably, shall be resolved by arbitration in accordance with the following applicable provision:

- a) For Central and State PSEs: The case of arbitration shall be referred to the Department of Public Enterprises for the appointment of sole arbitrator by the Secretary to the Government of India in-charge of the Department of Public Enterprises. The Arbitration and Conciliation Act, 1996 shall not be applicable to arbitration under this clause.
- b) For Defence PSUs: The case of arbitration shall be referred to the Secretary Defence (R&D) for the appointment of arbitrator(s) and proceedings.
- c) For other Firms: Any dispute, disagreement or question arising out of or relating to the Contract or relating to product or performance, which cannot be settled amicably, shall be resolved by arbitration in

accordance with either of the following provisions:

“The case of arbitration may be referred to respective CFA or a person appointed by him who will be sole arbitrator and the proceedings shall be conducted in accordance with procedure of Indian Arbitration and Conciliation Act, 1996.”

Or

“The case of arbitration may be referred to International Centre for Alternative Dispute Resolution (ICADR) for the appointment of arbitrator and proceedings shall be conducted in accordance with procedure of Indian Arbitration and Conciliation Act, 1996.”

Or

“The case of arbitration may be conducted in accordance with the rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said rules in India. However, the arbitration proceedings shall be conducted in India under Indian Arbitration and Conciliation Act, 1996.”

7.2.4 Penalty for Use of Undue influence: This clause informs bidders to undertake that they will not use any kind of undue influence for any purpose. Any breach this undertaking by the Seller or anyone employed by him or acting on his behalf (whether with or without the knowledge of the Seller) 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. The standard text of this clause is as under:

“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 Contract 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 of India for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other contract with the Government of India. Any breach of the aforesaid undertaking by the Seller or anyone employed by him or acting on his behalf (whether with or without the knowledge of the Seller) or the commission of any offers 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, 1986 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. 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”.

7.2.5 Agents/ Agency Commission: It is not the policy of Government, per se, to look for or encourage or engage agents. There is no need for engaging any such agent, wherever it is possible to secure supplies and ensure after-sale-services etc. on reasonable terms without the intercession of agents. However, at times, agents may be employed by the OEM for supplies/after sale services. The clause pertains to enlist such agents. The standard text of this clause is as under:

“The Seller confirms and declares to the Buyer that the Seller has not engaged any individual or firm, whether Indian or foreign whatsoever, to intercede, facilitate or in any way to recommend to the Government of India or any of its functionaries, whether officially or unofficially, to the award of the contract to the Seller; nor has any amount been paid, promised or intended to be paid to any such individual or firm in respect of any such intercession, facilitation or recommendation. 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 the Seller has engaged any such individual/ firm, and paid or intended 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 to refund that amount to the Buyer. The Seller will also be debarred from entering into any contract with the Government of India for a minimum period of five years. The Buyer will also have a right to consider

cancellation of the Contract either wholly or in part, without any entitlement or compensation to the Seller who shall in such an 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 (i) Prime Lending Rate of State Bank of India for Indian bidders, and (ii) London Inter Bank Offered Rate (LIBOR) for the foreign bidders. The applicable rates on the date of opening of bid shall be considered for this. The Buyer will also have the right to recover any such amount from any contracts in vogue with the Government of India.”

Or

The Seller confirms and declares in the Techno-Commercial bid that they have engaged an agent, individual or firm, for performing certain services on their behalf. The Seller 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 at DRDO.SA.01. Without prejudice to the obligations of the vendor as contained in various parts of this document, appointment of an Agent by vendors 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 Seller is required to disclose termination of the agreement with the Agent, within two weeks of the agreement having been terminated.
- c) Buyer /MoD reserves the right to inform the Seller at any stage that the Agent so engaged is not acceptable whereupon it would be incumbent on the Seller either to interact with Buyer / MoD directly or engage another Agent. The decision of Buyer /MoD on rejection of the Agent shall be final and be effective immediately.
- d) 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 Buyer / MoD.
- e) The Agent will not be engaged to manipulate or in any way to recommend to any functionaries of the Govt of India, whether officially or unofficially, the award of the contract to the Seller 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 Seller 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 Seller and the Agent engaged by him.
- h) If the equipment being offered by the Seller 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 Sellers 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 Seller 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.

Following details are also to be submitted in the Techno-Commercial bid:

- i) Name of the Agent
- ii) Agency Agreement between the Seller and the agent giving details of their contractual obligation
- iii) PAN Number, name and address of bankers in India and abroad in respect of Indian agent
- iv) The nature and scope of services to be rendered by the agent and
- v) Percentage of agency commission payable to the agent

7.2.6 Access to Books of Accounts: This provision gives right to the Buyer to access Seller’s books of accounts

for checking if Seller has violated its undertaking given at the time of submission of bid on use of undue influence and/or employment of agent. The standard text of this clause is as under:

“In case it is found to the satisfaction of the Buyer that the Bidder/ Seller has violated the provisions of use of undue influence and/or employment of agent to obtain the Contract, the Bidder/ Seller, on a specific request of the Buyer, shall provide necessary information/ inspection of the relevant financial documents/ information/ Books of Accounts.”

7.2.7 Non-disclosure of Contract Documents: This clause restricts parties not to share the information provided by each other without explicit consent. The standard text of this clause is as under:

“Except with the written consent of the Buyer/ Seller, other party shall not disclose the Contract or any provision, specification, plan, design, pattern, sample or information thereof to any third party.”

7.2.8 Handling of Classified Information by Indian Licensed Defence Industry: Any classified document/ information/ equipment being shared with Indian Licensed Defence Industries will be protected/ handled to prevent unauthorized access as per provisions of Chapter 5 of Security Manual for Indian Licensed Defence Industries issued by MoD (Department of Defence Production).

7.2.9 Withholding of Payment

This clause authorizes the Buyer to withhold payment till end when the Seller fails in its contractual obligation. The standard text of this clause is as under:

“In the event of the Seller's failure to submit the Bonds, Guarantees and Documents, supply the stores/ goods and conduct trials, installation of equipment, training, etc. as specified in the Contract, the Buyer may, at his discretion, withhold any payment until the completion of the Contract.”

7.2.10 Liquidated Damages (LD): Compensation of loss on account of late delivery, where loss is pre-estimated and mutually agreed to, is termed as LD. Law allows recovery of pre-estimated loss, provided such a term is included in the contract. For imposition of LD, there is no need to establish actual loss due to late supply. The legal position with regard to claim for LD is as follows:

- a) Whatever the quantum of the loss sustained, the claim cannot exceed the sum stipulated in the contract.
- b) Only reasonable sum can be calculated as damages, which in a given situation may be less than the sum stipulated.
- c) What is a reasonable sum would depend on facts.
- d) Court may proceed on the assumption that the sum stipulated reflects the genuine pre-estimates of the parties as to the probable loss and such clause is intended to dispense with proof thereof.
- e) The distinction between penalty and LD has been abolished by the Indian Contract Act and in every case, the Court is not bound to award more than ‘reasonable compensation’ not exceeding the amount so named.

The standard text of this clause is as under:

“The Buyer may deduct from the Seller, as agreed, liquidated damages at the rate of 0.5% per week or part thereof, of the basic cost of the delayed stores which the Seller has failed to deliver within the period agreed for delivery in the contract. LD can also be levied on the Seller on the basic cost of the stores supplied partially within the scope of the order/ contract that could not be put to use due to late delivery of the remaining stores. The maximum quantum of LD would be 10% of the total order value (excluding taxes & duties).”

7.2.11 Termination of Contract: This clause highlights the conditions under which a Contract/ SO can be legally terminated before the contractual obligation/ duties have been fulfilled. This is governed by the Law of the Contract/ SO. The standard text of this clause is as under:

- a) “The store/ service is not received/ rendered as per the contracted schedule(s) and the same has not been extended by the Buyer.

Or

The delivery of the store/service is delayed for causes not attributable to Force Majeure for more than __ months after the scheduled date of delivery and the delivery period has not been extended by the Buyer.

- b) The delivery of store/service is delayed due to causes of Force Majeure by more than __ months provided Force Majeure clause is included in the contract and the delivery period has not been extended by the

Buyer.

- c) The Seller is declared bankrupt or becomes insolvent.
- d) The Buyer has noticed that the Seller has violated the provisions of use of undue influence and/ or employment of agent to obtain the Contract.
- e) As per decision of the Arbitration Tribunal.”

7.2.12 Notices: This clause specifies the mode of communication between parties. The standard text of this clause is as under:

“Any notice required or permitted by the Contract shall be written in English language and may be delivered personally or may be sent by FAX or registered pre-paid mail/ airmail, addressed to the last known address of the party to whom it is sent”.

7.2.13 Transfer and Sub-letting: By this clause Seller is bound not to transfer/ sublet the contract/ SO or any of its part to a third party without the written consent of the Buyer. The standard text of this clause is as under:

“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 Contract or any part thereof without written consent of the Buyer.”

7.2.14 Use of Patents and other Industrial Property Rights: This clause protects Buyer from a third party claim against infringement of Industrial Property Rights. The standard text of this clause is as under:

“The prices stated in the Contract/ SO 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. The 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 be responsible for the completion of the supplies including spares, tools, technical literature and training aggregates irrespective of the fact of infringement of the supplies or any or all the rights mentioned above.”

7.2.15 Amendments: This clause specifies the way by which any amendments to the contract/ SO can be made. The standard text of this clause is as under:

“No provision of the Contract/ SO shall be changed or modified in any way (including this provision) either in whole or in part except when both the parties are in written agreement for amending the Contract/ SO.”

7.2.16 Taxes and Duties: This clause identifies the taxes and duties admissible and to be paid by the respective parties during the course of execution of the Contract/ SO. The standard text of this clause is as under:

- a) “In respect of Foreign Bidders: All taxes, duties, levies and charges which are to be paid for the delivery of stores/services, including advance samples, shall be paid by the parties under the Contract in their respective countries. However, the corporate/ individual income tax, if applicable, will continue to be paid by the concerned party/ individual.
“DRDO is a public funded research institution and has been exempted from the payment of Customs Duty, as per the description of stores and conditions thereon, under Customs Notification No. 51/96 as amended and Notification No. 39/96 as amended. However, if required, Basic Custom Duty and applicable cess is to be paid as per prevailing notification. [Applicable where INCOTERM is DDP (destination)].”
- b) In respect of Indigenous Bidders:
 - (i) General
 - Bidders must indicate separately the relevant taxes/ duties likely to be paid in connection with delivery of completed goods specified in RFP. In absence of this, the total cost quoted by them in their bids will be taken into account in the ranking of bids.
 - If a Bidder is exempted from payment of any duty/ tax upto any value of supplies from them, he should clearly state that no such duty/ tax will be charged by them up to the limit of exemption which they may have. If any concession is available in regard to rate/ quantum

- of any Duty/ tax, it should be brought out clearly. In such cases, relevant certificate will be issued by the Buyer later to enable the Seller to obtain exemptions from taxation authorities.
- Any changes in levies, taxes and duties levied by Central/ State/ Local governments such as excise duty, VAT, Service tax, Octroi/entry tax, etc on final product upward as a result of any statutory variation taking place within contract period shall be allowed reimbursement by the Buyer, to the extent of actual quantum of such duty/ tax paid by the Seller. Similarly, in case of downward revision in any such duty/ tax, the actual quantum of reduction of such duty/ tax shall be reimbursed to the Buyer by the Seller. All such adjustments shall include all reliefs, exemptions, rebates, concession etc, if any, obtained by the Seller. Section 64-A of Sales of Goods Act will be relevant in this situation.
 - Levies, taxes and duties levied by Central/ State/ Local governments such as excise duty, VAT, Service tax, Octroi/ entry tax, etc on final product will be paid by the Buyer on actuals, based on relevant documentary evidence, wherever applicable. Taxes and duties on input items will not be paid by Buyer and they may not be indicated separately in the bids. Bidders are required to include the same in the pricing of their product.
 - TDS as per Income Tax Rules will be deducted and a certificate to that effect will be issued by the Buyer.
- (ii) Customs Duty:
- DRDO is a public funded research institution and has been exempted from the payment of Customs Duty, as per the description of stores and conditions thereon, under Customs Notification No. 39/96 as amended.
 - The successful bidder would be issued a Customs Duty Exemption Certificate (CDEC) under the said notification at the time of import clearance for the goods being imported against the Contract. Bidder would be required to submit a copy of their order to principal along with principal's acceptance and proforma invoice at least four weeks in advance from the expected date of arrival of goods to this office for issuance of CDEC.
 - Vendors may note that issue of CDEC would be governed as per prevailing orders.
- (iii) Excise Duty:
- DRDO is a public funded research institution and has been exempted from the payment of Excise Duty, as per the description of stores and conditions thereon, under Notification No. 64/95 as amended and 10/97 as amended.
 - The successful bidder would be issued Excise Duty Exemption Certificate (EDEC) by this office under the said notification at the time of dispatch of finished material from the factory for goods manufactured against the Contract.
 - Bidders may note that EDEC would be issued ONLY in favour of beneficiary of the Contract unless otherwise specified in the SO/ Contract.
 - Unless otherwise specifically agreed to in terms of the Contract, the Buyer shall not be liable for any claim on account of fresh imposition and/or increase of Excise Duty on raw materials and/or components used directly in the manufacture of the contracted stores taking place during the pendency of the contract.
 - CENVAT Excise Duty: Bidders are advised to specifically mention the rate of Excise Duty payable in spite of issuance of EDEC. In the absence of such explicit declaration, it would be deemed that quoted prices include applicable CENVAT Excise Duty.
- (iv) Octroi Duty & Local Taxes:
- Normally, materials to be supplied to Government Departments against Government Contracts are exempted from levy of Town Duty, Octroi Duty, Terminal Tax and other levies of local bodies. The local Town/Municipal Body regulations at times, however, provide for such exemption only on production of such exemption certificate from any authorised officer. Seller should ensure that stores ordered against contracts placed by this office are exempted from levy of Town Duty/ Octroi Duty, Terminal Tax or other local taxes and duties. Wherever required, they should obtain the exemption certificate from the Buyer, to avoid payment of such local taxes or duties.
 - In case where the Municipality or other local body insists upon payment of these duties or taxes, the same should be paid by the Seller to avoid delay in supplies and possible demurrage charges. After the issue of exemption certificate by the Buyer, the Seller may get the reimbursement from the local authority.”

7.2.17 Denial Clause: Denial clause informs Seller that the Buyer reserves the right to admit additional payment due to upward revision of statutory levies beyond the original delivery schedule in case Seller fails to deliver the goods as per schedule. The standard text of this clause is as under:

“Variations in the rates of statutory levies within the original delivery schedule will be allowed if taxes are explicitly mentioned in the contract/ supply order and delivery has not been made till the revision of the statutory levies. Buyer reserves the right not to reimburse the enhancement of cost due to increase in statutory levies beyond the original delivery period of the supply order/ contract even if such extension is granted without imposition of LD.”

7.2.18 Pre-Contract Integrity Pact Clause: Integrity pact is a specific tool used to build transparency in public procurement by both public institutions and private agencies. The goal of the integrity pact is to eliminate chances of corrupt practices during procurement process through a binding agreement between the parties for specific contract. The standard text of this clause is as under:

“An “Integrity Pact” would be signed between the Ministry of Defence/ Buyer and the Bidder and the Bidder shall be asked to deposit Rs. ___ crore as Earnest Money Deposit (EMD), in favour of The Director (Lab Name), (Place), in the form of appropriate Bank Guarantee (from a first class bank of international repute confirmed by the State Bank of India in case of foreign Seller). This EMD would be submitted by the Bidder along with Integrity Pact (IP) (as per format at Annexure ‘H’) at the time of submission of bid in a separate envelope clearly marked as ‘IP and EMD’ put together in an envelope containing the bid. This is a binding agreement between the Buyer and the Bidders for specific contracts in which the Buyer promises not to accept bribes during the procurement process and Bidders promise that they will not offer bribes. Under this Pact, the Bidders for specific services or contracts agree with the Buyer to carry out the procurement in a specified manner. The essential elements of the Pact are as follows:

- a) A pact (contract) between the Government of India (Ministry of Defence) (the authority or the “Principal”) and firms submitting a bid for this specific activity (the “Bidder”);
- b) An undertaking by the Principal that its officials will not demand or accept any bribes, gifts etc., with appropriate disciplinary or criminal proceedings in case of violation;
- c) A statement by each Bidder that they have not paid, and will not pay, any bribes;
- d) An undertaking by each Bidder to disclose all payments made in connection with the Contract in question to anybody (including agents and other middlemen as well as family members, etc., of officials); the disclosure would be made either at the time of submission of Bids or upon demand of the Principal, especially when suspicion of a violation by that Bidder emerges;
- 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) Undertaking on behalf of a Bidding company will be made “in the name and on behalf of the company’s Chief Executive Officer”.
- g) Any or all of the following set of sanctions could be enforced for any violation by a Bidder of its commitments or undertakings:
 - (i) Denial or loss of contracts;
 - (ii) Forfeiture of the EMD and Performance cum Warranty Bond;
 - (iii) Liability for damages to the Principal and the competing Bidders; and
 - (iv) Debarment of the violator by the Principal for an appropriate period of time.
- h) Bidders are also advised to have a company code of conduct clearly rejecting the use of bribes and other unethical behavior and compliance program for the implementation of the code of conduct throughout the company.
- i) The draft Pre-Contract Integrity Pact is attached as Annexure ‘H’. The Bidders are required to sign the pact and submit it separately along with the Techno-Commercial and Price bid.”

7.2.19 Undertaking from the Bidders: An undertaking will be obtained from the Bidder/firm/company/vendor that in the past they have never been banned/debarred for doing business dealings with Ministry of Defence/Govt. of India/ any other Govt. organisation and that there is no enquiry going on by CBI/ED/ any other Govt. agency against them.

7.3 Special Terms & Conditions

Part III of RFP format contains Special Terms & Conditions pertaining to the procurement in question. Part of the conditions may be relevant depending on the requirement. A conscious decision needs to be taken to incorporate the relevant clauses from this part. The wordings of these clauses can also be appropriately modified to suit a particular case. Only relevant clauses should be retained in the RFP. While opting the payment terms, Buyer shall keep in mind that the Stage-wise/ Part payments and Advance payment should not form a part of payment terms in the RFP for the procurement of 'Commercially-Off-The-Shelf (COTS)' store(s).

7.3.1 Apportionment of Quantity: Cases where apportionment of quantity is desired for whatsoever reasons, the ratio of apportionment should be mentioned upfront in the RFP:

"Buyer reserves the right to apportion the quantity among ____ bidders in the ratio of - _____ starting from Lowest Bidder (L1) and proceeding to Next Higher Bidder and so on subject to their consent to meet the L1's rates as well as terms and conditions, as negotiated. The bidders are requested to submit the price bid catering the need of apportioned quantity as well as total quantity, else the unit cost of the store(s) for total quantity will be considered for the apportioned quantity while evaluating the bid." (Splitting of the quantity should be in favour of L1).

7.3.2 Performance cum Warranty Bond: It is an amount of money paid in advance and held in reserve or a written undertaking given by the Seller through his bank as a guarantee that he would perform the promised/ contractual obligation as per terms and conditions stipulated in the Contract/ SO. The standard text of this clause is as under:

- a) Indigenous Bidder: The Seller may be required to furnish a Performance cum Warranty Bond by way of Banker's Cheque/ Fixed Deposit Receipt/ Demand Draft (DD)/ Bank Guarantee (BG), in favour of the Director (Lab Name), (Place), for a sum equal to __% of the Contract value (excluding taxes). The Bond submitted by way of Banker's Cheque/ Fixed Deposit Receipt/ Demand Draft (DD)/ Bank Guarantee (BG) should be valid up to 60 days beyond the date of completion of all contractual obligations, including warranty obligation. The specimen of bond can be provided on request.
- b) Foreign Bidder: The Seller may be required to furnish a Performance cum Warranty Bond by way of Bank Guarantee (BG) from Seller's Bank through an internationally recognized first class bank, in favour of The Director (Lab Name), (Place), for a sum to __% of the Contract value. The BG should be valid up to 60 days beyond the date of completion of all contractual obligations, including warranty obligation. The specimen of bond can be provided on request.

"The Performance cum Warranty Bond will be forfeited by the Buyer, in case the conditions regarding adherence to delivery schedule and/or other provisions of the Contract/ SO are not fulfilled by the Seller."

7.3.3 Tolerance Clause: This clause provides the Buyer an opportunity to address the change in the requirement during the period starting from issue of RFP till placement of SO/ Contract. The standard text of this clause is as under:

"To take care of any change in the requirement during the period starting from issue of RFP till placement of the Contract, Buyer reserves the right to increase or decrease 25% of the quantity of the required goods, proposed in the RFP, without any change in the terms and conditions and rates quoted by the Seller. While awarding the Contract, the quantity ordered can be increased or decreased by the Buyer within this tolerance limit."

7.3.4 Option Clause: This clause empowers the Buyer to place additional orders, within the currency of the original Contract/SO, for additional quantity up to a maximum of 50% of the originally contracted quantity (rounded up to the next whole number) at the same rate and terms of the original Contract/SO. The standard text of this clause is as under:

"The Contract will have an Option Clause, wherein the Buyer can exercise an option to procure an additional 50% of the original contracted quantity (rounded up to the next whole number) in accordance with the same terms and conditions of the Contract. This will be applicable within the currency of the Contract. It will be entirely the discretion of the Buyer to exercise this option or not".

7.3.5 Repeat Order Clause: This clause empowers the Buyer to place additional orders up to 50% quantity of the original contracted quantity (rounded up to the next whole number), within six months from the date of completion of supply under the original Contract/ SO, at the rates on not exceeding basis while the terms and conditions will remain unchanged. The standard text of this clause is as under:

“The Contract will have a Repeat Order Clause, wherein the Buyer can order up to 50% quantity of the original contracted quantity (rounded up to the next whole number) under the Contract within six months from the date of completion of supply under the original Contract/ SO. The Repeat Order will have rates on not exceeding basis while the terms and conditions will remain unchanged. It will be entirely the discretion of the Buyer to exercise the Repeat order or not.”

7.3.6 Purchase Preference Clause: The RFP should inform potential bidders about purchase preference as prescribed by the Govt. of India from time to time through statutory orders or administrative instructions. The standard text of this clause is as under:

“Purchase preference will be granted to the nominated agencies for the specified quantity as per the policy of Govt. of India in vogue.”

7.3.7 Transfer of Technology (ToT): ToT is the process of transferring skills, knowledge, technologies, methods of manufacturing and facilities by one party to other. This is to ensure that the scientific and technological developments are accessible to Labs/Estts to further develop and exploit the technology for development of new product, processes, applications, materials or services. Following clause may be included in the RFP where ToT is being sought:

“Buyer is desirous of license production of (generic name of store(s)) under ToT. Buyer reserves the right to negotiate ToT terms subsequently but the availability of ToT would be a pre-condition for any further procurements. If negotiations for ToT are not held as a part of the negotiations for store(s), then subsequent and separate ToT negotiations would continue from the stage where the store(s) has been selected.”

(In such cases, Labs/Estts. would spell out the requirements and scope of ToT depending upon the depth of the technology which is required).

7.3.8 Permissible Time Frame for Submission of Bills: RFP should explicitly state about the timeline for submission of bills for claiming payment. The standard text of this clause is as under:

“To claim payment (part or full), the Seller shall submit the bill(s) along with the relevant documents within ___ days from the completion of the activity/ supply.” (Lab should mention the no. of days and the activity from which the counting will start)

7.3.9 Payment Terms: Payment terms are of great importance to both Buyer and Seller as the cost of finance plays a very important role in deciding the cost of an item or service being contracted for. RFP should clearly state the terms of payment including stage payment/ advance payment, if any, as well as the mode of payment. The payment terms should normally be in accordance with the options given in RFP as any change of payment terms specified in the RFP can alter LI determination. In case where the payment terms offered by the bidders differ from the options given in the RFP, DCF technique may be utilized for LI determination. The standard text of this clause is as under:

a) For Indigenous Seller: The payment will be made as per the following terms, on production of the requisite documents:

(i) 100% payment within 30 days after receipt, satisfactory installation and acceptance of stores/equipment in good condition or the date of receipt of the bill whichever is later.

Or

Stage-wise/Pro rata payments as per the milestone/time described here. (Payment milestone/time shall be identified by the Lab and mentioned here.)

(ii) Pro rata payment for the services rendered will be made as per the frequency described here. (The frequency shall be pre-defined by the Lab

b) For Foreign Seller:

(i) 100% payment within 30 days after receipt, satisfactory installation and acceptance of stores/equipment in good condition or after receipt of necessary documents warranted by delivery terms.

Or

Stage-wise/Pro rata payments as per the milestone/time described here. (Payment milestone/time shall be identified by the Lab and mentioned here.)

- (ii) Pro rata payment for the services rendered will be made as per the frequency described here. (The frequency shall be pre-defined)

c) Advance Payments:

No advance payment will be made.

Or

Interest free mobilization advance payment of ___% of the Contract value may be made, preferably in not less than two installments, against submission of Bank Guarantee, in favour of The Director (Lab Name), (Place), of 110% of advance payment (from first class bank of international repute in case of foreign Seller) by the private firm or against submission of Indemnity Bond by the Govt. organizations/ PSUs. In case of termination of the Contract/ extension of delivery period due to default of the Seller or where advance taken has not been/ could not be used for the purpose of order execution, interest free mobilization advance would be deemed as interest bearing advance, compounded quarterly, at the rate of 2% above (i) Prime Lending Rate of State Bank of India for Indian Seller, and (ii) LIBOR rate for the foreign Seller. The rates as applicable on the date of receipt of advance will be considered for this.

d) Part Supply and Pro rata Payment:

Part supply will not be acceptable.

Or

Full supply may be accepted in maximum _____ nos. of lots. However, Pro rata payment will not be made for the part supplies of the stores(s) made.

Or

Full supply may be accepted in maximum _____ nos. of lots. Pro rata payment will be made as per the applicable payment terms for the part supply of the stores(s).

e) Mode of Payment:

- (i) For Indigenous Sellers: It will be mandatory for the Bidders to indicate their bank account numbers and other relevant e-payment details to facilitate payments through ECS/EFT mechanism instead of payment through cheque, wherever feasible.
- (ii) For Foreign Seller: The payment will be arranged through Letter of Credit from Reserve Bank of India/ State bank of India/ any other Public Sector Bank, as decided by the Buyer, to the Bank of the Foreign Seller as per mutually agreed terms and conditions. The Letter of Credit will preferably be opened with validity of 90 days from the date of its opening, on extendable basis by mutual consent of both the parties. Letter of Credit opening charges in India will be borne by the Buyer. However, the extension charges, if any, will be borne by the party responsible for the extension.

For the contract costing up to US \$ 100,000 (or equivalent) or the payment of Training/ Installation & Commissioning/ AMC charges, preferable mode of payment will be by Direct Bank Transfer (DBT). DBT payment will be made within 30 days of receipt of clean Bill of Lading/ AWB/ Proof of shipment and such other documents indicating completion of the contractual obligation on part of the Seller as provided for in the contract, 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.

7.3.10 Documents to be furnished for Claiming Payment: RFP should clearly spell out the list of documents required from the Seller for claiming payment. The standard text of this clause is as under:

- a) Indigenous Sellers: The payment of bills will be made on submission of the following documents by the Seller to the Buyer
 - (i) Ink-signed copy of Contingent Bill.
 - (ii) Ink-signed copy of Commercial Invoice / Seller's Bill.
 - (iii) Bank Guarantee for Advance, if applicable.
 - (iv) Guarantee/ Warranty Certificate.
 - (v) Details for electronic payment viz. Bank name, Branch name and address, Account Number, IFS Code, MICR Number (if these details are not already incorporated in the Contract).
 - (vi) Original copy of the Contract and amendments thereon, if any.

(vii) Self certification from the Seller that the CST/ VAT received under the contract would be deposited to the concerned taxation authority. In this regard, extant Government orders will be applicable as communicated by DRDO HQ.

(viii) Any other document/ certificate that may be provided for in the Contract.

(Note – Lab may specify any other documents required as per need)

b) Foreign Sellers: In case of payment through Letter of Credit (LC), paid shipping documents are to be provided to the Bank by the Seller as a proof of dispatch of goods as per contractual terms/ LC conditions so that the Seller gets payment from LC. The Bank will forward these documents to the Buyer for getting the goods/ stores released from the Port/ Airport. However, where the mode of payment is DBT, the paid shipping documents are to be provided to the paying authority by the Buyer. Documents will include:

- (i) Clean on Board Airway Bill/Bill of Lading
- (ii) Original Invoice
- (iii) Packing List
- (iv) Certificate of Origin from Seller’s Chamber of Commerce, if any.
- (v) Certificate of Quality and year of manufacture from OEM.
- (vi) Dangerous Cargo Certificate, if applicable.
- (vii) Insurance Policy of 110% value in case of CIF/ CIP contract
- (viii) Certificate of Conformity and Acceptance Test at PDI, if any.
- (ix) Phyto-sanitary/ Fumigation Certificate, if any.
- (x) Any other documents as provided for in the Contract.”

(Note –Lab may specify any other documents required as per need)

7.3.11 Exchange Rate Variation (ERV) Clause: To cover the exchange rate fluctuation due to volatile market in a long term contract, it may be necessary to make a provision for such variation in exchange rates. The standard text of this clause is as under:

“This clause will be applicable only in case the delivery period exceeds 12 Months from the Effective Date of the Contract which involves import content (foreign exchange).

a) Detailed time schedule for procurement of imported material and their value at the FE rates adopted for the Contract is to be furnished by the Bidder as per the format given below.

Year Wise and Major Currency Wise Import Content Break up

Year	Total Cost of Material (Import)	FE Content Outflow (Equivalent in Rs. in crores)			
		\$	€	£	Others

b) ERV will be payable/ refundable depending upon movement of exchange rate with reference to exchange rate adopted for the valuation of the Contract. Base Exchange rate of each major currency used for calculating FE content of the Contract will be the SBI selling rate of the foreign exchange element on the date of the opening of Price Bids.

c) The base date for ERV would be the Date of opening of Price Bid and variation on the base date will be given up to the midpoint of manufacture unless the Bidder indicates the time schedule within which material will be imported by them. Based on information given above, the cut-off date/dates within the Delivery schedule for the imported material will be fixed for admissibility of ERV.

d) ERV clause will not be applicable under following circumstances:

- (i) Cases where delivery periods for imported content are subsequently to be refixed /extended except for reasons solely attributable to the Buyer or Force Majeure.
- (ii) Cases where movement of exchange rate falls within the limit of $\pm 2\%$ of the reference exchange rate adopted for the valuation of the Contract.

e) The impact of notified ERV shall be computed on a yearly basis for the outflow as mentioned by the Bidder in their bid and shall be paid / refunded before the end of the financial year based on certification by the Buyer.”

7.3.12 Force Majeure Clause: Force majeure clause allows a party to suspend or terminate the performance of its obligation when certain circumstances beyond their control arise, making performance inadvisable,

commercially impracticable, illegal or impossible. The provision may state that the contract is temporarily suspended, or that it is terminated in the event of force majeure continues for a prescribed period of time. The standard text of this clause is as under:

- a) Neither party shall bear responsibility for the complete or partial non-performance of any of its obligations, if the non-performance results from such Force Majeure circumstances as Flood, Fire, Earth Quake and other acts of God as well as War, Military operations, blockade, Acts or Actions of State Authorities or any other circumstances beyond the parties control that have arisen after the conclusion of the present contract.
- b) In such circumstances the time stipulated for the performance of an obligation under the Contract is extended correspondingly for the period of time commensurate with actions or circumstances and their consequences.
- c) The party for which it becomes impossible to meet obligations under the Contract due to Force Majeure conditions, is to notify in written form to the other party of the beginning and cessation of the above circumstances immediately, but in any case not later than 10 (Ten) days from their commencement.
- d) Certificate of a Chamber of Commerce (Commerce and Industry) or other competent authority or organization of the respective country shall be considered as sufficient proof of commencement and cessation of the above circumstances.
- e) If the impossibility of complete or partial performance of an obligation lasts for more than 6 (six) months, either party hereto reserves the right to terminate the Contract totally or partially upon giving prior written notice of 30 (thirty) days to the other party of the intention to terminate without any liability other than reimbursement on the terms provided in the agreement for the goods received.

7.3.13 Buy-Back: In case where Buyer is interested to trade the existing old goods while purchasing the new ones, the appropriate provision shall be mentioned in the RFP. The standard text of this clause is as under:

“The Buyer is interested to trade the existing old goods while purchasing the new ones. Bidders may formulate and submit their bids accordingly. Interested Bidders can inspect the old goods to be traded through this transaction. The Buyer reserves the right to trade or not to trade the old goods while purchasing the new ones and the Bidders are to frame their bids accordingly covering both the options. Details for buy-back offer are as under:

- a) Details of Items for Buy-Back Scheme – Make/ Model, Specs, Year of Production/ Purchase, Period of Warranty/ AMC etc.
- b) Place for Inspection of Old Items – Address, Telephone, Fax, e-mail, Contact personnel, etc.
- c) Timings for Inspection – All working days between the time of ___ to ____.
- d) Last Date for Inspection – 1 day before the last date of submission of bids.
- e) Period of Handing Over of Old Items to Successful Bidder – Within ___ days of _____
(No. of days and condition to be specified by the Lab)
- f) Handling charges and transportation expenses to take out the old items will be on account of the successful Bidder.

7.3.14 Export License: RFP should specifically seek the details and format for end use certificate required by the Seller for obtaining export clearance. The standard text of this clause is as under:

“The Bidder is required to furnish full details and formats of End Use Certificate required for obtaining export clearance from the country of origin. This information will be submitted along with Techno-Commercial bid. In the absence of such information, it would be deemed that no document is required from the Buyer for export clearance from the country of origin.”

7.3.15 Free Issue of Material (FIM): Wherever FIM is to be issued by the Buyer, the same should be clearly stated in the RFP along with the method of safeguarding the govt. property. Free Issue Material (FIM) to be used as raw material would be safeguarded as per the provisions of para 6.43.2 (b) of this Manual. However, FIM issued for other purposes (e.g. issue of equipment or vehicle for painting/ repair/ fixture mounting etc.) would be safeguarded through a comprehensive insurance cover taken by Lab/Estt through a Nationalized Insurance Agency or their subsidiaries. The standard text of this clause is as under:

The list of FIM are given below: (Lab has to provide the list as per the format given below)

Sl. No.	Description of Store(s)	Qty.	Unit Cost	Total Cos

Free Issue of Material (FIM) as raw material

FIM is government property and will be secured through a Bank Guarantee. In cases where cost of FIM exceeds the order value, Seller will submit the BG for the order value and insurance cover is taken by the Buyer for the balance amount through Nationalized Insurance Agency or their subsidiaries in favour of the Director of Lab/Estt. Indemnity Bond instead of Bank Guarantee may be accepted from PSUs and other Government organizations.

Or

Stores issued as FIM for repair/ maintenance etc.: FIM is government property and will be secured through a comprehensive insurance cover taken by Lab/Estt from Nationalized Insurance Agency or their subsidiaries

7.3.16 Terms of Delivery: Terms of delivery plays direct role in determining cost of the contract/ SO. The standard text of this clause is as under:

- a) For Foreign Bidder: Foreign bidders are required to quote both on CIF/CIP (destination) and FCA/FOB (Gateway) basis. If CIP/CIF cost is not available, an additional 10% of FCA/FOB cost over and above quoted FCA/FOB cost will be loaded on their respective bid for comparison purposes.
- b) For Indigenous Bidder: The delivery of goods shall be on FOR (destination) basis.

7.3.17 Packing and Marking Instructions: Following clause shall be retained in the RFP:

- a) The Seller shall provide packing and preservation of the equipment and spares/goods contracted 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 sufficiently strong. The packing cases should have provisions for lifting by crane/ fork lift truck. Tags with proper marking shall be fastened to the special equipment, which cannot be packed.
- b) 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.
- c) A label in english shall be pasted on the carton indicating the under mentioned details of the item contained in the carton. The cartons shall then be packed in packing cases as required.
 - (i) Part number :
 - (ii) Nomenclature :
 - (iii) Contract annex number :
 - (iv) Annex serial number :
 - (v) Quantity contracted :
- d) 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.
- e) The Seller shall mark each package with indelible paint in english language as follows:-
 - (i) Contract No. _____
 - (ii) Consignee _____
 - (iii) Port / airport of destination _____
 - (iv) Ultimate consignee _____
 - (v) Package No. _____
 - (vi) Gross/net weight _____
 - (vii) Overall dimensions/volume _____
 - (viii) The Seller's marking _____
- f) If necessary, each package shall be marked with warning inscriptions: <Top>, <Do not turn over>, category of cargo etc.
- g) 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 damage or deterioration during transportation by land, air or sea. In such case the Buyer shall finalize the marking with the Seller.

7.3.18 Inspection Instructions: Detailed procedure for following inspection (applicable) to be spelt upfront in the RFP:

- a) Raw material inspection
- b) Part inspection
- c) Stage/Subsystem inspection
- d) Pre-Delivery Inspection
- e) Factory Acceptance Test
- f) Post Delivery inspection on receipt of store
- g) Inspection Authority: The Inspection will be carried out by a representative of the Lab/Estt duly nominated by the Director.

(The Lab shall choose clauses as applicable and provide detailed procedure for inspection for each of the clauses. Any other inspection instruction, if required, may be added.)

7.3.19 Franking Clause: The fact that the stores have been inspected after the delivery period and accepted by the inspectorate does not bind the Buyer, unless at his discretion he agrees, to accept delivery thereof. A suitable provision shall be made in the RFP to address such type of concern. The standard text of this clause is as under:

- a) In Case of Acceptance of Store(s): “The fact that the goods have been inspected after the delivery period and passed by the Inspecting Officer will not have the effect of keeping the contract alive. The goods are being passed without prejudice to the rights of the Buyer under the terms and conditions of the Contract”.
- b) In Case of Rejection of Store(s): “The fact that the goods have been inspected after the delivery period and rejected by the Inspecting Officer will not bind the Buyer in any manner. The goods are being rejected without prejudice to the rights of the Buyer under the terms and conditions of the contract.”

7.3.20 Claims: For settlement of claim in respect of deficiency in quality/ quantity of supplies made under the contract, following clause may be provided in the RFP:

- a) The quantity claims for deficiency of quantity and/ or the quality claims for defects or deficiencies in quality noticed during the inspection shall be presented within 45 days of completion of inspection.
- b) The Seller shall collect the defective or rejected goods from the location indicated by the Buyer and deliver the repaired or replaced goods at the same location, within mutually agreed period, under Seller’s arrangement without any financial implication on the Buyer.

7.3.21 Warranty: Following clause should be provided in the RFP where warranty of goods being procured is required:

- a) “The Seller will declare that the goods, stores articles sold/ supplied shall be of the best quality and workmanship and new in all respects and shall be strictly in accordance with the specifications and particulars contained/ mentioned in the contract. The Seller will guarantee that the said goods/ stores/ articles would continue to conform to the description and quality for a period of, ___ months from the date of acceptance/ installation of the said goods stores/ articles. If during the aforesaid period of ___ months, the said goods/ stores are discovered not to conform to the description and quality aforesaid, not giving satisfactory performance or have deteriorated, the Buyer shall be entitled to call upon the Seller to rectify the goods/ stores/ articles or such portion thereof as is found to be defective by the Buyer within a reasonable period without any financial implication on the Buyer.”
- b) “In cases of procurement of software, Seller shall issue/provide up grades of the software free of cost during the warranty period.”

7.3.22 Product Support: Following clause should be provided in the RFP where product support beyond a period of warranty is required:

- a) The Seller agrees to provide product support for the stores, assemblies/ sub-assemblies, fitment items, spares and consumables, Special Maintenance Tools (SMT)/ Special Test Equipments (STE) for a minimum period of ___ years including ___ years of warranty period after the delivery.
- b) The Seller agrees to undertake a maintenance contract for a minimum period of ___ years/ months. The Seller is required to quote the price for both comprehensive and non-comprehensive maintenance of the equipment after the expiry of warranty period in the price bid.

7.3.23 Annual Maintenance Contract (AMC) Clause: In case of AMC or where AMC is also required along with the procurement of goods, a clause to cover such maintenance contract may be incorporated in the RFP. The standard text of this clause is as under:

- a) The Seller would provide a Non- Comprehensive AMC for a period of ___ years.
Or
The Seller would provide a Comprehensive AMC for a period of ___ years. The AMC services should cover the repair and maintenance of all the equipment and systems purchased under the Contract and specify following:
 - (i) Maximum repair turnaround time for equipment/system would be _____ days.
 - (ii) Required spares that may be stored at site by the Seller at their own cost to avoid complete breakdown of the equipment/system and to ensure serviceability.
- b) The AMC services would be provided in two distinct ways:
 - (i) Preventive Maintenance Service: The Seller will provide a minimum of _____ Preventive Maintenance Service visits during a year to the operating base to carry out functional checkups and minor adjustments/ tuning as may be required.
 - (ii) Breakdown Maintenance Service: In case of any breakdown of the equipment/system, on receiving a call from the Buyer, the Seller is to provide prompt maintenance service to make the equipment/ system serviceable.
- c) Response Time: The response time of the Seller should not exceed _____ hours / days from the time breakdown intimation is provided by the Buyer.
- d) Serviceability of ___% per year is to be ensured. This amounts to total maximum downtime of ___ days per year. Also un-serviceability should not exceed ___ days at any given time. Total down time would be calculated at the end of the year. If downtime exceeds permitted limit, LD/ Extension/ Termination may be considered as per merit of the case as decided by the Buyer.
- e) Technical Documentation: All necessary changes in the documentation (Technical and Operators Manual) for changes carried out on hardware and software of the equipment will be provided.
- f) During the AMC period, the Seller shall carry out all necessary servicing/repairs to the equipment/system under AMC at the current location of the equipment/system. Prior permission of the Buyer would be required in case certain components/sub systems are to be shifted out of location. On such occasions, before taking over the goods or components, the Seller will give suitable bank guarantee to the Buyer to cover the estimated current value of items being taken out of location.
- g) Period of AMC may be extended as per mutual agreement subject to satisfactory performance.
- h) The Buyer reserves the right to terminate the maintenance contract at any time without assigning any reason whatsoever, after giving a notice of ___ months. The Seller will not be entitled to claim any compensation against such termination. However, while terminating the Contract, if any payment is due to the Seller for maintenance services already performed in terms of the Contract, the same would be paid as per the Contract terms.

7.3.24 Price Variation (PV) Clause: Generally, the contract should be entered with a fixed and firm price. However, in cases, where it is required to enter into a contract with price variation clause, following clause may be incorporated in the RFP:

- a) “(Applicable only if DP is more than 18 Months) –DGS&D Manual provides Standardised Price Variation Clauses. Any of those clauses could be considered for inclusion. A sample clause is indicated below) The formula for Price Variation should ordinarily include a fixed element, a material element and a labour element. The figures representing the material element and the labour element should reflect the corresponding proportion of input costs, while the fixed element may range from 10 to 25%. That portion of the price represented by the fixed element will not be subject to variation. The portions of the price represented by the material element and labour element will attract Price Variation. The formula for Price Variation will thus be:

$$P_1 = P_0 \left\{ F + a \left(\frac{M_1}{M_0} \right) + b \left(\frac{L_1}{L_0} \right) + \dots \dots \dots \right\} - P_0$$

where

P_1 Adjustment amount payable to the Seller (a minus figure will indicate a reduction in the Contract Price)

P_0	Contract Price at the base level
F	Fixed element not subject to Price Variation
a	Assigned percentage to the material element in the Contract Price
b	Assigned percentage to the labour element in the Contract Price
L_0	Wage indices at the base month and year
L_1	Wage indices at the month and year of calculation
M_0	Material indices at the base month and year
M_1	Material indices at the month and year of calculation

If more than one major item of material is involved, the material element can be broken up into two or three components such as M_x, M_y, M_z . Where price variation clause has to be provided for services (with insignificant inputs of materials) as for example, in getting technical assistance normally paid in the form of per diem rate, the price variation formula should have only two elements, viz. a high fixed element and a labour element. The fixed element can in such cases be 50% or more, depending on the mark-up by the seller of the per diem rate vis-à-vis the wage rates.

- b) Following conditions would be applicable to price adjustment:
- (i) Base date shall be due date of opening of price bids.
 - (ii) Date of adjustment shall be midpoint of manufacture.
 - (iii) No price increase is allowed beyond original Delivery Period unless the delay is attributable to the Buyer or Force Majeure.
 - (iv) Total adjustment will be subject to maximum ceiling of ____%.
 - (v) No price adjustment shall be payable on the portion of the payment made as an advance payment made in the Contract to the Seller.

7.3.25 Intellectual Property Rights (IPR): In case of Development Contract, RFP should clearly spell out the holder of IPR developed under the contract. The standard text of this clause is as under: “The rights of Intellectual Property, developed under the Contract, will be either the property of Govt. of India or jointly owned by the Govt. of India and the Development Partner. The holding of rights of intellectual property will be decided by the Buyer based on the merits of the case. Even where IPR is jointly held, Govt. of India will have the marching rights on IPR, i.e., the Development Partner will have to give technical know-how/design data for production of the item to the designated Production Agency nominated by Govt. of India. The Development Partner will, however, be entitled to license fee / royalty from designated agency as per agreed terms and conditions. The Development Partner will also be entitled to use these intellectual properties for their own purposes, which specifically excludes sale or licensing to any third party.”

CHAPTER 8

EVALUATION OF QUOTATIONS AND PRICE REASONABILITY

8.1 Introduction

GFR 2005 prescribes that every authority delegated with the financial powers of procuring goods in public interest shall have the responsibility and accountability to bring efficiency, economy and transparency in matters relating to public procurement and for fair and equitable treatment of firms and promotion of competition in public procurement.

8.2 Cost Estimation

Correct estimation of rates/ cost is vital for establishing the reasonability of the offers received from the bidders. It is, therefore, important that the rates/ cost are worked out in a realistic, objective and professional manner on the basis of the prevailing market rates, last purchase price, economic indices for raw material/ labour, other input costs and assessment based on intrinsic value etc. It is equally important to evaluate the quotations/ offers received in response to the RFP correctly to select the best offer. The guidelines for assessment of rates/ cost, evaluation of quotations and determining price reasonability are given herein.

8.2.1 Costing of Procurement Proposals:

- a) Need for costing: The first stage at which costing needs to be done is when the proposal is initiated by the indenter. It is necessary to work out the complete cost of a procurement proposal to determine availability of funds to meet the expected cash outflow and the level at which it would need to be approved. It is, therefore, essential that the cost is assessed realistically and comprehensively. The entire, all inclusive, assessed cost should be the basis for determining the CFA.
- b) Basis of costing: The cost of a procurement proposal may be assessed on the basis of the Last Purchase Price (LPP), Cost Estimation Reasonability Committee (CERC) report, Budgetary Quote obtained from one or more prospective Sellers, Market Survey or any other method as may be appropriate in the context of a particular purchase proposal. Any one or more of these methods can be used to arrive at estimated cost. Cost input may also be taken from other DRDO Labs/Estts or other Scientific Organisation of Govt. where Buyer is not confident about the estimated cost.
- c) Cost to be worked out in INR: Wherever applicable, the assessed cost should be converted into the common denomination of Indian Rupees (INR) and shown both in terms of the foreign currency and INR. The exchange rate adopted should be clearly indicated.

8.3 Commercial Evaluation of Quote

8.3.1 RFP is issued on the basis of the assessed cost as approved by the CFA. The next important stage is the commercial evaluation of the bids received in response to the RFP that are found technically compliant. These have to be evaluated to work out the financial implication of each offer. In order to ensure that all offers are compared in a fair & equitable manner and that the bidders are provided a level playing field, all elements of cost, excluding taxes and duties, including the terms and conditions with financial implications are to be taken into account. The evaluation criteria adopted for this purpose should be indicated in the RFP and the quotations should be ranked as per criteria indicated therein. In cases where RFP specifies Life Cycle Cost (LCC) as the criteria for the determination of successful bidder, AMC/ product support costs for the specified period beyond the original warranty period, will be loaded in CSB and taken into consideration for determining L1.

8.4 Basis of Comparison of Cost

The financial bids of the qualified bidders will be compared on the basis of price quoted in the price bid format of the RFP/ Bid Document but excluding statutory levies, taxes and duties on final product, which

are to be paid extra as per actuals, wherever applicable. For Indian bidders, the FOR destination cost excluding all statutory levies, taxes and duties payable on final product and for foreign bidders, quoted CIF/CIP cost at destination port would be the basis for ranking of the quotations. Guidelines as issued by Ministry of Defence from time to time regarding evaluation of bids will be applicable.

8.4.1 Determining CIP/CIF cost: All foreign bidders would be asked in RFP to invariably indicate the CIP/ CIF Cost in addition to FOB/ FCA Cost. In cases where CIP/CIF Cost is not indicated by a foreign bidder, their FOB/ FCA Cost would be loaded by 10% to arrive at CIP/CIF Cost for the purposes of evaluation. However, the Buyer may finalize any other term of delivery on the merit of case as per the INCOTERMS 2010 issued by International Chamber of Commerce (ICC). Standard INCOTERMS 2010 in use are placed at Annexure 'I' of this manual.

8.5 Comparative Statement of Bids (CSB)

MMG will collate prices of all qualified bids in the form of a CSB. If the prices quoted are in foreign/ multiple currencies, the same will be brought to rupee denomination by adopting the exchange rate (BC selling rate of SBI) prevailing on the date of the opening of price bids. The CSB should be exhaustive and it must include all details given in the quotations. Deviations from the RFP and the price bid format should be highlighted in the CSB. MMG rep. would sign the CSB and it should be vetted and countersigned by rep. of Integrated Finance where either financial powers are to be exercised with their concurrence or CNC cases.

8.5.1 Determination of lowest acceptable offer: MMG will determine the lowest acceptable offer, L1, based on the overall evaluation criteria indicated in the RFP for all non CNC cases. Wherever CNC is formed, only CNC will determine the lowest acceptable offer (L1 bidder) based on the evaluation criteria indicated in the RFP for award of the contract/ supply order.

8.6 Negotiations

In multi-bidder cases, once L1 bidder is identified, the contract should be concluded with L1 and there would be no need for any further price negotiations. Negotiations can be held in exceptional circumstances where valid reasons exist and such negotiations should be held only with L1. Exceptional situations include procurement of proprietary items, items with limited sources of supply and items where there is suspicion of cartel formation. The justification and details of such negotiations should, however, be recorded and documented giving reasons for holding negotiations. Negotiations through a CNC should invariably be conducted in case of single source situations including PAC cases. Negotiations may also have to be conducted in multi-bidder cases where the offered price is considered high with reference to the assessed reasonable price. CNC would record its recommendations regarding reasonableness of the price offered by the L1 bidder and the need for negotiation or otherwise with justification. In cases where a decision is taken to go for re-floating of RFP but the requirements are urgent, negotiations may be under taken with L1 bidder(s) for the supply of a bare minimum quantity in accordance with para 3 of CVC instructions dated 3rd March 2006 (for latest guidelines issued by CVC in this regard, CVC website may be referred).

8.7 Price Bench Marking

Before scheduled negotiation, (wherever considered necessary), it would be advisable to work out the estimated reasonable rate or the benchmark, to judge acceptability of the L1 bidder based on available information. Benchmarking of price should be done before opening of the price bids to ensure complete objectivity and fairness and the fact that decision to negotiate or not itself depends upon such an assessment. Data may be collected from trade journals/internet/ technical literature/industry sources/international or domestic market survey or Cost Estimation & Reasonability Committee (CERC) may be constituted to arrive at an assessed reasonable price through cost break-up analysis or by surveying the products performing similar functions or using similar components/ materials/ technology etc.

8.8 Evaluation against Bench-Mark

The Benchmark price is an estimated price and will not be taken as a rigid cut-off price in deciding the reasonableness of the quoted price. It will be used as a basis/ yardstick for comparison with the quoted price. The decision regarding reasonableness of the quoted price would have to be taken by the CNC on the merit of the case.

8.9 Benchmarking/ Reasonableness of Prices

There can be multiple methods of arriving at a benchmark for assessing reasonability of prices quoted. It may be acknowledged that a budgetary quote can at best be an indicative price but not an assessment of reasonability of cost. Therefore following approaches either singly or in combination may be adopted:

- a) Ascertain element wise breakup of cost. For e.g. the quote/selling price would generally constitute elements such as material cost, labour cost, overhead cost along with applicable warranty and profit.
- b) Ascertain the Last Procurement Price (LPP) of similar item, supplied by the vendor recently to same service or other sister services/ organizations. If LPP is of an earlier period then Price Level (PL) is required to be fixed as per last delivery of item and applicable escalation to be given on that PL till year of delivery.
- c) Escalation will have to be worked out on the basis of material composition and analysis of raw materials used to make the item. The movement of price indices of raw materials (year on year average), wholesale price indices, consumer price indices, global metal indices such as London metal indices, US indices, UK MM19 etc. may be used to assess the escalation rate.
- d) Delivery period is to be ascertained and if the delivery is scheduled for more than one year then midpoint of delivery period is to be taken for deciding escalation. Month wise escalation from date of LPP may be given or if it is yearly then seven months or more may be considered for one additional year's escalation. For e.g. if item has to be delivered in the year 2014-2018 and LPP is for 2010, then the prices have to be escalated from the year 2010 till 2016.
- e) Budgetary Quote (BQ) obtained from one or more prospective Sellers may also form the basis of benchmarking cost. If there is huge variation in BQ, the aberrations have to be marginalized.
- f) Prevailing market rates obtained through Market Survey (MS) or prices available from open sources like internet etc. may be taken for benchmarking. However, these should be referenced in the CNC regarding source & authenticity.
- g) Labour cost has to be broken down into labour hours used and the Man-hour Rate (MHR). In case of procurement of major item, the apportionment of estimated hours required by the vendor and the MHR of the vendor, where available, is to be used for working out the labour cost. For e.g. for manufacturing an aircraft by HAL, many Divisions would be involved over a period of 4-5 years. The total labour hours of each HAL Division as per Detailed Project Report (DPR) after factoring reduction in hours on account of learning curve is to be worked out. Further the man hours have to be apportioned year-wise for each Division and multiplied by MHR of respective years to arrive at the total labour cost.
- h) Professional Officers' Valuation (POV) may be considered in case no other prices are available of that particular item.
- i) Discounts may be factored-in while benchmarking viz. on account of Long Term Business Agreements (LTBA) with other OEMs or economies of scale. In case of Bought out Foreign terms or indigenous items with substantial import content, LPP plus Exchange Rate Variation (ERV) since last purchase, if any, have to be factored-in benchmarking.
- j) Factors such as obsolescence/ Redundancy, Freight & Insurance, Profit & Warranty, etc. may be factored in while arriving at benchmark price.
- k) Taxes and duties may not be factored while benchmarking.
- l) In case of DPSUs, the parameters of cost as per Pricing Policy or Govt. of India letters, if any, may be factored-in while arriving at benchmark price.

8.10 Adoption of Discounted Cash Flow (DCF) Technique

The DCF is a method of evaluation by which cash flow of the future are discounted to current levels by

the application of a discount rate with a view to reducing all cash flows to a common denomination and make comparison.

8.10.1 The DCF procedure is to reduce both cash in-flows and out-flows into Net Present Values (NPV) through a more scientific and reliable method. The use of NPV analysis is based on the concept of time value of money. Money has a time value because of the opportunity to earn interest or the cost of paying interest on borrowed capital. This means that a sum to be paid today is worth more than a sum to be paid in a future time. The cash out-flows/in-flows and the average cost of capital i.e., cost of borrowing becomes an important constituent in evaluation process. The following formula is to be used for calculating NPV of a bid:

$$NPV = \sum_n \frac{A_n}{(1 + i)^t}$$

Where

NPV Net Present Value

A_n Expected cost flow for the period mentioned by the subscript

i Rate of Interest or discount factor

t Period after which payment is to be made

n Payment schedule as per the payment terms and conditions

When comparing the various bids based on NPV analysis, the bid with the lowest NPV should be declared as L1.

8.10.2 Steps involved in NPV: The application of NPV analysis in defence procurement would involve the following five steps:

- a) Step 1: Selection of the discount rate
- b) Step 2: Identifying the cash outflows
- c) Step 3: Establishing the timing of the cash outflow
- d) Step 4: Calculating the NPV of each alternative
- e) Step 5: Selecting the offer with the least NPV

8.10.3 Example In response to a RFP, two bidders have quoted different prices and payment terms as per the details given underneath:

	Quoted Price	Payment Plan				
		T0 + 1	T0 + 6	T0 + 7	T0 + 9	T0 + 12
Bidder (1)	102	10%	20%	-	30%	40%
Bidder (2)	100	30%	-	40%	-	30%

Here T0 is Contract Effective Date (CED); Let the rate of interest be 12%.

Then as per the formula given above, NPV of Bidder (1) is:

8.10.4 Discounting Rate Discounting rate to be used under the method is prime lending rate of the State Bank of India on the date of opening of the price bids.

8.10.5 Method for structuring cash flows A suitable model for structuring cash flows for bids is as under:

- a) The first step would be to exclude the unknown variables like escalation factors etc while determining the cash flows.
- b) Thereafter the cash out flow as per the price bids of different bidders should be taken into consideration and where the cash out flows are not available in the bids, the same should be obtained from the respective bidders. Where bids are received in different currencies/ combination of currencies, the cash outflow will be brought to a common denomination in rupees by adopting exchange rate (BC selling rate of SBI) as on the date of opening of price bids.
- c) Once the outflows of different bids become available, NPV of different bids to be calculated using the

formula given above and the one with the lowest NPV is to be selected.

8.10.6 When the DCF is to be used The alternative with the smallest payment of NPV in the procurement is the obvious choice. The DCF may be made use of to facilitate determination of L1 in following procurement situations:

- a) To compare different payment terms of the bidders to a common denomination for determining L1 status.
- b) To deal with the cases where entering into AMC over a period of more than one year is part of the contract for evaluating L1 status. Determination of L1 by merely adding the arithmetic values spread over a long period of time would be an incorrect procedure for determining L1 and the correct procedure would be to reduce cash out flows into present values through the DCF technique, for which the discount rate to be adopted should form part of the RFP.

8.11 Analysis of Offers from Foreign Bidders

Apart from the parameters enumerated earlier in this Chapter regarding analysis, cost break up and price indices wherever feasible, efforts should be made to analyze:

- a) The price fixation procedure/ methodology prevailing in the country of the bidder.
- b) The prices of similar products, systems and subsystems wherever available should be referred. The database maintained in the respective division connected with the procurement of such type of stores should be accessed.

8.11.1 The foreign bidder may be asked to provide the details of past supplies and contract rates, if any, of similar kind of product to other Buyers.

8.12 Transparency in Assessment Process

Assessing of reasonableness of price is an arduous task, especially where price data is not available or in case of overseas purchases. In such cases, it is important to place on record efforts made for arriving at the acceptable price and taking the procurement decision.

CHAPTER 9

EXPENDITURE SANCTION AND ISSUE OF SUPPLY ORDER/ CONTRACT

9.1 Expenditure Sanction

As per Rule 22 of GFR, no authority may incur any expenditure or enter into any liability involving expenditure or transfer of moneys for investment or deposit from Govt. account unless the same has been sanctioned by a competent authority. Expenditure Sanction is a written authority from the CFA authorizing expenditure to be incurred on procurement. It invariably indicates a reference to the authority/ delegation under which expenditure is being sanctioned, the financial implications, the purpose of expenditure, relevant budget heads and code heads for booking of expenditure. The CFA for the expenditure is determined on the basis of the total expenditure inclusive of all taxes & duties and all incidental charges i.e. cost to the Buyer. However taxes and duties will be paid to the Seller at actuals on production of relevant documentary evidence. It will be clearly mentioned in the S.O/ Contract that the applicable taxes and duties will be paid separately at actuals. Hence, there would be no requirement of fresh sanction of the CFA on account of any changes in taxation structure/ rates.

9.1.1 The essential elements that need to be shown in a letter conveying expenditure sanction are as under:

- a) Reference of Government Authority/ Letter and Schedule/ Sub-Schedule of delegation of financial powers under which the sanction/ approval is being accorded.
- b) Description of store(s)/ service(s) and quantity
- c) Sanction will indicate basic cost and taxes and duties separately applicable on the date of sanction. Applicable taxes and duties would be paid at actuals against documentary evidence. Any variation (increase / decrease) in taxes and duties will not require fresh sanction of CFA.
- d) Name of the Seller
- e) Category of procurement - whether for Project/ Build-up/ Maintenance
- f) Source of funding
- g) Nature of procurement - whether Revenue/ Capital along with details of Major Head, Minor Head, Sub Head, Code No. and Unit Code (as mentioned in the Defence Services Classification Hand Book, as amended)
- h) Details of approval of CFA to be provided (Approval of CFA obtained vide Note Number _____ dated _____ in file number _____) in case sanction is communicated on behalf of CFA by an authorised officer
- i) UO Number allotted by the integrated finance (when the CFA's delegated powers are being exercised with financial concurrence) or in case of disagreement with finance (refer para 1.9 of this Manual), a copy of relevant noting of financial advisors & CFAs to be endorsed
- j) Unique Sanction Code (USC) as per the guidelines issued by DBF&A, DRDO HQ

9.1.2 Cases where separate expenditure sanction is not required: In cases where Expenditure Sanction by the CFA has been accorded on not exceeding basis along with the project sanction or at the time of demand approval in accordance with para 4.9 of this Manual, fresh expenditure sanction will not be required subject to compliance of conditions mentioned therein.

9.1.3 Availability of Funds: A procurement proposal can normally be processed for demand approval and expenditure sanction up to the stage of placement of supply order/contract subject to availability of funds by the budget holder. Prior to placement of supply order/ contract, confirmation of availability of funds in the current financial year as per scheduled cash out-go would be ensured by the Lab/Estt. In case of cash out-go in the subsequent financial year(s), availability of funds in the respective financial year(s) would be ensured.

9.1.4 Procedure for obtaining expenditure sanction: Prior approval of the competent authority would be required to admit deviations, if any, from the purchase procedure in vogue before seeking expenditure

sanction of the CFA. Expenditure sanction from CFA, on file, would be obtained as per following procedure:

- a) Cases falling within delegated financial powers of Project Director/ Program Director/ Director/ CC R&D or DG (Cluster): The procurement file containing all the relevant papers like demand approval, RFP, TCEC report, CSB (non-CNC cases) & CNC minutes (CNC cases) and waivers sought, if any, will be put up to the CFA for sanction as per delegated financial powers.
- b) Cases falling beyond delegated financial powers of CC R&D or DG (Cluster): The proposal will be submitted to DMM/ DRDO HQ for obtaining expenditure sanction of the CFA. A copy of demand approval, RFP, TCEC report, CNC minutes and waivers sought, if any, will be enclosed along with the proposal.
- c) *Cases with Financially Empowered Boards* The procurement file containing all the relevant papers like demand approval, RFP, TCEC report, CNC minutes and waivers sought, if any, will be put up to the appropriate board for expenditure sanction as per the delegation of financial powers. Cases beyond financial powers of Apex Board will be referred along with recommendations of Apex Board for approval of the CFA.

9.1.5 All sanctions accorded in the file will be followed by issue of an order conveying expenditure sanction giving details as per para 9.1.1 of this Manual and copy shall be endorsed to the paying authority and concerned office of DGADS.

9.1.6 All CFAs shall maintain sequential details of all expenditure sanctions issued by them. A monthly statement of all expenditure sanctions accorded under Stores (Capital) and Stores (Revenue) Budget Head would be submitted by Lab/Estt. along with anticipated cash outgo to DBF&A, DRDO HQ.

9.1.7 *Ex-post-Facto Financial Concurrence:* There is no provision under the delegated financial powers to obtain ex-post-facto concurrence of Integrated Finance. Cases where concurrence of Integrated Finance is not obtained, prior to issue of expenditure sanction, though required as per the delegation of financial powers, would be treated as cases of breach of rules and regulations and referred to the next higher CFA for regularization. Such regularization will be subjected to concurrence of IFA to the next higher CFA.

9.1.8 *Ex-post Facto Approval/ Sanction of the CFA:* Where a proposal is approved, with or without the concurrence of Integrated Finance, by an authority not competent to sanction that proposal as per the delegation of financial powers, ex-post-facto sanction may be accorded by the appropriate CFA (as per delegation of financial powers) with or without the concurrence of the Integrated Finance, as the case may be, as per delegation of financial powers.

9.2 Preparation of Supply Order

9.2.1 The following details will be incorporated in the supply order:

- a) Supply order number and date.
- b) Reference(s) & date(s) of bidder's quotation and revised offer submitted at the time of CNC meeting, as applicable.
- c) Description of items/stores with detailed specifications including model no., part no., make, brand etc.
- d) Quantity required and the accounting unit.
- e) Currencies and rates both in figures and words.
- f) Total number of items and their aggregate value shown below the list of items.
- g) Delivery date to be specified clearly with reference to the date of supply order.
- h) Payment terms.
- i) Payment of taxes and duties: It will be clearly mentioned in the supply order that taxes and duties will be paid at actuals on production of relevant documentary proof.
- j) Standard terms and conditions of the RFP.
- k) Details of FIM to be issued along with their time schedule.
- l) Special terms and conditions as mutually agreed.
- m) Orders will be signed for and on behalf of 'President of India' by an officer specifically authorised.

9.2.2 MMG will prepare Supply Order and acknowledgement as per DRDO.SO.01 and DRDO.SO.02 respectively. Form given at DRDO.SO.03 will be used to prepare Contracts as per the guidelines given in Annexure 'C' of this Manual. Information regarding Seller's bank account details along with IFS Code of receiving branch of bank will be reflected in the SO/ Contract to facilitate e-payment.

9.2.3 *Scrutiny of Supply Order:* Supply order/ Contract may be referred to the user group/ Finance for scrutiny.

9.2.4 *Distribution of Supply Order/ Contract:* In case of SO, a minimum of four ink signed copy and in case of Contract a minimum of three ink signed copy will be prepared. Distribution of SO/ Contract will be as follows:

- a) Seller
 - (i) In case of supply order: 2 copies with markings as "Original to be Acknowledged & Return" and "Original to be Retained" (both ink-signed copies) with a request to return the one marked as "Original to be Acknowledged and Return" for settlement of bills
 - (ii) In case of contract: 1 copy (ink-signed)
- b) Local CDA (R&D) authority (paying authority) – 1 copy (ink-signed).
- c) Demanding officer – 1 copy.
- d) Stores Movement Control Div. (Receipt & Dispatch Section) – 1 copy.
- e) Bill Payment Section – 1 copy.
- f) Case file – 1 copy (ink-signed).

9.2.5 *Dispatch of Supply Order/Contract* The SO/ Contract will be signed only after obtaining expenditure sanction by the CFA and dispatched to the Seller along with required number of blank bill forms. Lab/ Estt will ensure receipt of BGs of appropriate value and validity. Copy of the SO/ Contract will invariably be hosted on the website of DRDO and CPP portal for procurements on OBM basis or where RFP was hosted on the website/ CPP Portal.

9.3 Order Acceptance

9.3.1 *Acceptance of SO:* A supply order is not signed by both parties, namely the Buyer and the Seller. It becomes a deemed contract and comes into force with acceptance of the bid as per mutually agreed terms & conditions contained in the RFP and the firm's offer. The firm should check the supply order and convey acceptance of the same within seven days of its receipt. If such an acceptance or communication conveying firm's objection to certain parts of the supply order is not received within the stipulated period, the supply order is deemed to have been fully accepted by the firm.

9.3.2 *Acceptance of Contract:* In case of contract, both parties sign the document thus conveying their acceptance. In such cases, there is no requirement of acknowledgement receipt.

9.4 Post Contractual Obligations

MMG/ User Group will monitor the progress of supply order/ contract specifically related to the validity of BGs given by the firm, the stage payments, delivery period, issue of duty exemption certificates, stages of inspection and design reviews as envisaged.

CHAPTER 10

POST CONTRACT MANAGEMENT

10.1 General

Lab/Estt will maintain a 'Progress Register' or 'Electronic Database' wherein the details of all supply orders/ contracts will be sequentially entered. Such registers/ records will be updated with stages of progress of supply orders/ contracts relating to amendments, if any, stage/ part payments, delivery details, payment details etc.

10.2 Supply Order/ Contract Monitoring

The supply order/ contract monitoring will be carried out by user group/ Contract Monitoring Committee (CMC)/ Progress Review Committee (PRC), if constituted specifically, and MMG.

- a) Aspects to be monitored by the user group:
 - (i) Drawings submission/approval
 - (ii) Design reviews
 - (iii) FIM
 - (iv) Testing of components/ Pre-Delivery Inspection (PDI)
 - (v) Site preparation for installation & commissioning etc.
- b) Aspects to be monitored by MMG:
 - (i) Continued validity of all BGs/ indemnity bonds
 - (ii) Submission of details of design reviews
 - (iii) BG/ Insurance for FIM and its continued validity
 - (iv) Issue of CDEC/ EDEC
 - (v) Delivery schedule
 - (vi) Timely information for inspection
 - (vii) Requirement related to freight forwarder
 - (viii) Feedback etc.

10.3 Role of CMC/ PRC

A CMC/ PRC may be constituted by the Director of the Lab/Estt, with members from MMG and user group. CMC/ PRC will monitor the overall progress of the supply order/ contract and submit its recommendations for the remedial measures to be taken, where required.

10.4 Responsibility of User Group

In cases where obligation of supply order/ contract requires design reviews (PDR/ CDR), site preparation for installation/ commissioning, readiness of FIM for issue, timely inspection for quality clearances etc. are involved, the user group will ensure completion of such activities as per the schedule provided in the contract/ supply order.

10.5 Amendment to Supply Order/ Contract

Amendments to supply order/ contract will be issued in writing in under-mentioned circumstances with the approval of appropriate authority.

10.5.1 Rectification of typographical errors The approval of Project Director/ Program Director/ Director (Lab/ Estt.) would be obtained on file for rectifying the typographical errors made in the SO/ Contract at the time of issuing SO/ Contract.

10.5.2 Arising without any change in scope of work : There would not be any requirement of holding CNC to review the proposed amendments such as revision of DP; limiting/ waiving of LD; admissibility of change in statutory levies/ taxes & duties; duties exemption certificates etc.

- a) For DP extension limited to 100% of DP: Director / CFA at Lab level would be empowered to extend delivery period upto 100% of original DP, limited to one year, for the cases within their delegated financial powers. DG (Cluster)/ CCR&D would be empowered to extend upto 100% of original DP, limited to three years, for the cases within their delegated financial powers. For the cases beyond delegated financial power of DG (Cluster)/ CCR&D, CFA would be empowered to extend DP without restriction on time limit. Concurrence of financial advisor would be obtained on file with due justification. The cap on the DP extension period has been prescribed in the para 10.7.3 of this Manual.
- b) *For DP extension beyond 100% of DP* For cases within their delegated financial powers of Director/ CFA at Lab level, next higher CFA would be empowered to extend DP beyond 100% of the original DP. Secretary Defence (R&D) would be empowered to extend DP beyond 100% of the original DP for the cases beyond delegated financial power of DG (Cluster)/ CCR&D and upto delegated financial power of Secretary Defence (R&D). For the cases beyond delegated financial power of Secretary Defence (R&D), CFA would be empowered to extend DP without restriction on time limit. Concurrence of financial advisor would be obtained on file with due justification. The cap on the DP extension period has been prescribed in the para 10.7.3 of this Manual.
- c) *Limiting/ waiver of LD* For the cases falling within delegated financial power of Director / CFA at Lab level / DG (Cluster) / CCR&D /Secretary Defence (R&D), approval of next higher CFA with the concurrence of their financial advisor and for the cases beyond delegated power of Secretary Defence (R&D), approval of CFA with the concurrence of their financial advisor would be obtained on file with due justification.

10.5.3 Arising due to change in scope of work: The proposal with due justification for amending the SO/ Contract will be submitted on file to the CFA for approval. CFA may consider constituting a committee to consider changes in Scope of Work and resultant time & cost implications. Concurrence of financial advisor of CFA will be obtained as per the delegation of financial powers. For CCS approved cases, Hon'ble RM will approve the constitution of the said committee.

10.5.4 Acceptance of Excess or Short Deliveries: There may be occasions when excess or short supplies are made by the Sellers due to various reasons like, exact multiples of the standard units of measure, or where it is difficult to mention exact quantity (e.g. weight in the case of steel plates, raw materials, consumables etc.). Wherever such variation is anticipated, a provision should be made in the RFP for acceptance of the excess/ shortfall in supplies and a clause on it shall form a part of SO/ Contract. However, in the absence of such clauses in the SO/ Contract, the variations in supplies may be accepted with the approval of CFA subject to the value of such excess/short supplies up to 10% (ten percent) of the original value of the contract. CFA will be determined with reference to the value of the original order plus excess supply. There would not be any requirement of holding CNC to review such acceptance of excess/ short supply.

10.6 Denial Clause

Variations in the rates of statutory levies within the original delivery schedule will be allowed if taxes are explicitly mentioned in the contract/ supply order and delivery has not been made till the revision of the statutory levies. Buyer reserves the right not to reimburse the enhancement of cost due to increase in statutory levies beyond the original delivery period of the supply order/ contract even if such extension is granted without imposition of LD.

10.7 Delivery Period (DP)

Timely delivery as per the DP stipulated in the supply order/ contract is one of the most important procurement objectives. The stores/services are considered to have been delivered/ completed only when the contractual obligations of Seller as stated in the supply order/ contract, except the ones related to post acceptance, have been fully met.

10.7.1 Failure to deliver within the DP: When the supplies/ services do not materialize within the stipulated contract delivery date, the Buyer has the following options:

- a) Extension of DP: Extend DP, if need persists, with/without imposition of LD and denial clause in accordance with para 10.8 and 10.6 of this Manual respectively.
- b) Re-fixing of DP: DP may be re-fixed, in the under-mentioned circumstances, with the approval of CFA and the concurrence of financial advisor. Such re-fixation of DP will always be without imposition of LD.
 - (i) Cases where delay is attributable to the Lab/Estt for whatever reasons.
 - (ii) Where product realization is dependent on approval of advance samples and delay occurs in approving the samples even though submitted in time.
 - (iii) Cases where the entire production is controlled by the Government.
- c) Canceling the contract in accordance with para 10.15 of this Manual. Lab/Estt. may consider purchasing the non-supplied quantity afresh if need persists.

10.7.2 Guidelines for the Extension of DP: Amendments affecting delivery period will not be made as a matter of routine. In exceptional cases, where Seller has asked for revision of delivery period justifying with sufficient reasons, approval of appropriate authority for revision of DP will be obtained before communicating such extension to the Seller. Normally, all DP extensions will be accorded with the imposition of LD and denial of any enhancement in statutory levies that takes place beyond the original DP. However, the case may be examined on merit for limiting/ waiving off the LD in terms of para 10.8.2 of this Manual when due justification exists. While extending the DP, ruling on imposition of LD, interest on advances paid and admissibility or otherwise of enhancement of statutory levies during the extended period, will invariably be mentioned in the DP extension letter. Normally, the Seller shall formally apply for extension of delivery date prior to expiry of date stipulated in the supply order/ contract justifying the reasons for not adhering to the specified date of delivery. Action for extension of delivery date at the request of the Seller will be considered taking the following factors into account:

- a) Urgency of the requirement and whether delay involved has or will cause any loss or inconvenience to the Lab/Estt.
- b) It is to be ensured that all applicable BGs are revalidated to cover the proposed extension.
- c) Whether difficulties informed by the Seller are justifiable and the Seller has made all efforts to carry out their contractual obligation in time.
- d) In case of project requirements, the revised DP falls well within the PDC of the project.
- e) No delivery period extension is required to complete inspection if stores are delivered within stipulated DP and accepted without any quantity or quality claim.
- f) All DP extension should normally be approved before the expiry of stipulated delivery schedule, to obviate the need for ex-post-facto sanction.
- g) In case of DP extension due to default of the Seller, the interest-free advance paid would become interest-bearing as per para 6.44.2 (e) (iii) and 7.3.11 (c) of this Manual.
- h) Price increase due to revision of statutory levies, exchange rate variation, upward revision of price of Government controlled stores etc. will not be admissible during the extended delivery period except when delays are attributable to Labs/Estts to fulfill their contractual obligations or in case of force majeure or in cases where delay is beyond control of the Seller which is verifiable.
 - i) DP extension will be approved without prejudice to the right of the Lab/Estt to impose LD (para 10.8.2 of this Manual) depending upon the merit of the case.

10.7.3 Period of DP extension and Competent Authority: All cases of DP extensions, including ex-post-facto, would be analyzed afresh and to be approved by the Competent Authority. The Competent Authority for

DP extension would be determined as per para 10.5.2 of this Manual vis-à-vis limit on DP extension time frame given as under:

Sl. No.	Level of CFA /Competent Authority	Cap on period of DP extension
a)	CFA at Lab level	Up to 1 year beyond original DP
b)	DG (Cluster)/ CCR&D	Up to 3 years beyond original DP
c)	Secretary Defence (R&D)	Up to 5 years beyond original DP in consultation with Addl FA & JS and beyond it will be approved in consultation with Secretary (Defence Finance) / FA (DS).
d)	CFA (beyond Secretary Defence (R&D))	Full power in consultation with Secretary (Defence Finance) / FA (DS)

10.7.4: The letter of DP extension must cover the salient points as per the provisions of para 10.7.2 of this Manual.

10.8 Liquidated Damages (LD)

10.8.1 Quantum of LD: Depending on the merit of the case, quantum of LD to be charged shall be 0.5% per week or part thereof, of the basic cost (excluding taxes & duties on final product) of the delayed stores which the Seller has failed to deliver within the period agreed for delivery in the contract subject to maximum of 10% of the total order value (excluding taxes & duties on final product). In cases where partial delivery does not help in achieving the objective of the contract, LD shall also be levied on the total cost (excluding taxes & duties on final product) of the ordered quantity delivered by the vendor. This will also include the stores supplied within the delivery period.

10.8.2 Guide lines for imposing/ waiving off LD: Constructive assessment of reasons contributing to delayed delivery and assessment of maximum LD will be done in terms of preceding para. The following guidelines would be kept in mind while taking decision for imposition/ waiving off LD:

No.	Circumstances	Quantum of LD
1	When the delay in supplies is totally attributable to the Seller	Full LD may be imposed in accordance with para 10.8.1 of this Manual
2	When the delay in supplies is partly attributable to the Seller	LD for the period for which the Seller was responsible for the delay in accordance with para 10.8.1 of this Manual
3	The entire delay was attributed to the Lab/Estt or the delay was due to circumstances beyond the control of the Seller which is verifiable	LD may be waived in full

10.9 Option Clause

The purchaser retains the right to place orders for additional quantity up to a maximum of 50% of the originally contracted quantity at the same rate and terms of the contract. Such an option is available during the original period of contract provided this clause has been incorporated in the original contract with the supplier. Option quantity during extended DP is limited to 50% of balance quantity after original Delivery Period.

10.9.1 Conditions Governing Option Clause: The conditions governed by Option clause are as under:

- Option clause can be exercised with the approval of CFA under whose powers total value of supplies of original contract plus 50% option clause falls. This option is normally exercised only when there is no downward trend in prices as ascertained through market intelligence. CVC have also reiterated the need to look at the downward trend before exercising option clause.

- b) In case of single vendor OEM, option clause should be normally operated up to 50% subject to there being no downward trend. However, in multi vendor contracts, great care should be exercised before operating option clause up to 50%.
- c) In case provision of option clause has been opted up to a maximum of 50% of the originally contracted quantity, repeat order option will not be applicable.
- d) Option clause would not be invoked for the quantity where the total value of supplies of original ordered quantity plus option clause quantity requires convening of CNC in non- CNC cases.

10.9.2 CFA for Option Clause CFA for the sanction of placement of order under option clause would be decided by taking the values of original order & all subsequent orders under option clause into consideration. Concurrence of financial advisor would be obtained as per the delegation of financial powers.

10.10 Transit Insurance Coverage

10.10.1 Indigenous Procurement: Normally, all procurements from the indigenous sources are made on FOR (destination) basis and, therefore, do not require transit insurance. Procurements costing above Rs. 2.5 crore, with delivery term other than FOR (destination) will be insured. For procurements costing up to Rs. 2.5 crore, with delivery term other than FOR (destination), Director will use their discretion to decide whether the stores need to be insured or not. It is advised to invariably take insurance for the sensitive/ delicate/ fragile/ equipment/ machinery and scientific instruments where probability of loss or damage is considered high. Whenever it is decided to insure the stores, such insurance would be taken through a nationalized insurance agency or their subsidiaries against loss or damage in transit. Insurance cover will invariably be obtained from the insurance agency before dispatch of the consignment by the Seller.

10.10.2 Import In case of procurement from foreign sources all consignments, on Ex-Works/ FAS/ FCA/ FOB/ CPT/ CFR basis, shall invariably be insured.

10.11 Repeat Order (RO) Clause

10.11.1 Provision for repeat order clause should not be made as a matter of course in the RFPs as these clauses have an impact on price. RO clause may be provided in the RFP only in exceptional circumstances, where the consumption pattern is not predictable. Under this clause, the Buyer retains the right to place orders for additional quantity up to a maximum of 50%, including order placed under Option Clause, of the originally contracted quantity at the same rate and terms of the supply order/ contract.

10.11.2 Conditions Governing RO: If a demand is received for an item or items previously ordered by Labs/ Estts or other DRDO Labs/Estts or other Government scientific re-search institutions, the repeat order may be placed without fresh tendering/negotiations provided that :

- a) Items ordered have been delivered successfully.
- b) The original order was placed on the basis of lowest price negotiated by TPC/NC wherever applicable and technically acceptable offer and was not on delivery preferences.
- c) The repeat order is placed within six months from the date of supply and only once by the Lab/Estt, the total quantity to be ordered /purchased on repeat order does not exceed 50% of original order. However if the original order was for single quantity, repeat order can be made for the same.
- d) The requirement is for stores of identical description/specifications.
- e) The supplier's willingness to accept the repeat order on the same terms and conditions as per the original order is obtained. .
- f) The CFA is satisfied that there is no downward trend in the market price of the item and a clear certificate is appended to that effect if the enquiry is floated afresh, the expenditure is not likely to be less.
- g) The basic cost (excluding taxes & duties) of repeat order does not exceed the basic cost (excluding taxes & duties) of the original supply order.
- h) Quantity discount is sought from the vendor, if applicable.
- i) The taxes and duties as applicable on the date of placement of repeat order will be considered.
- j) RO clause would not be invoked for the quantity where the total value of supplies of original ordered quantity plus RO clause quantity requires convening of CNC in non- CNC cases.

10.11.3 CFA for the RO

- a) If proposal for RO emanates from the Lab/Estt which has placed the original order: CFA to be decided on cumulative basis (i.e. original cost, plus cost of ROs placed, if any, plus cost of the proposal).
- b) If proposal for RO emanates from the Lab/Estt. which has not placed the original order but both the Labs/ Estts. are in same cluster: CFA to be decided on cumulative basis or DG (Cluster), whichever authority is higher.
- c) If proposal for RO emanates from the Lab/Estt. which has not placed the original order and the Labs/ Estts. are placed in different cluster: CFA to be decided on cumulative basis or Secretary Defence (R&D) whichever authority is higher. Such cases will be forwarded to DMM/ DRDO HQrs for necessary action.

10.12 Service Contracts

Service contracts would be entered to hire external professionals/ service providers for specific jobs which are well defined in terms of content (scope) and time frame for its completion. These contracts would be regulated as per the procedures applicable for the procurement of stores in this Manual. Signing of contract should be ensured while hiring of services. The contract should have provision of performance evaluation at defined periodic interval with the condition that the contract would be terminated without cost in case of non-satisfactory performance.

10.12.1 Extension of Service Contracts Service contracts may be extended with the approval of appropriate CFA at same terms & conditions/ price (taxes/ statutory levies will be applicable as per the rate prevailing during the extended period), provided:

- a) The performance of the service provider is found satisfactory; and
- b) There is no downward trend in the prices; and
- c) It is administratively convenient to do so.
- d) In non-CNC original order cases, the cumulative value of original contract and all subsequent extensions including the proposed one does not require convening of CNC.

10.12.2 Period of Service Contracts: There will be no limitation on years for concluding/ extending AMC/ Service Contracts cases and CFA can approve such cases for any period provided the total value of cases for proposed period falls within their delegated powers. However, the time frame of the service contract would be decided on the merit of the case to attract competent service providers.

10.12.3 CFA for the Extension of Service Contract: The CFA for the sanction of the extension of the service contract would be decided by taking cumulative value of original contract and all subsequent extensions including the proposed one, i.e., original cost + cost of extended contract(s), if any, plus cost of the proposal.

10.13 Force Majeure

Neither party shall bear responsibility for the complete or partial non-performance of any of its obligations (except for failure to pay any sum which has become due on account of receipt of goods under the provisions of the supply order/ contract), if the non-performance results from such Force Majeure circumstances as Flood, Fire, Earthquake and other acts of God, as well as War, Military operations, blockade, Acts or Actions of State Authorities or any other circumstances beyond the control of the parties that might arise after the conclusion of the supply order/ contract.

10.13.1 Intimation regarding Force Majeure: The party for which it becomes impossible to meet obligations under this supply order/ contract due to Force Majeure conditions, is to notify in written form the other party of the beginning and cessation of the above circumstances immediately, but in any case not later than ten days from the moment of their beginning.

10.13.2 Certification of Force Majeure: Certificate of a Chamber of Commerce (Commerce and Industry) or other competent authority or organization of the respective country shall be a sufficient proof of commencement and cessation of the above circumstances.

10.13.3 Extension of Time In such circumstances, the time stipulated for the performance of an obligation under the contract is extended correspondingly for the period of time of action of these circumstances and their consequences.

10.13.4 Right to Terminate Supply Order/ Contract: If the impossibility to complete or partial performance of an obligation lasts for more than six months, either party to the supply order/ contract reserves the right to terminate the supply order/ contract totally or partially upon giving prior written notice of thirty days to the other party of the intention to terminate without any liability, other than reimbursement on the terms provided in the supply order/ contract for the goods received.

10.14 Disputes/ Arbitration

All the clauses, terms and conditions of the contract/ supply order will be explicit and unambiguous to avoid disputes. If case of dispute, the action will be taken in accordance with the dispute resolution or arbitration clause as incorporated in the supply order/ contract.

10.15 Termination of Supply Order/ Contract For Default

10.15.1 The Buyer may, without prejudice to any other remedy for breach of supply order/ contract, by written notice of default sent to the Seller, terminate the supply order/ contract in whole or in part if:

- a) The Seller fails to deliver any or all of the stores or perform any other obligation within the time period(s) specified in the supply order/ contract, or any extension thereof granted by the Lab/Estt.
- b) When the Seller is found to have made any false or fraudulent declaration or statement to get the supply order/ contract or he is found to be indulging in unethical or unfair trade practices.
- c) When the item offered by the Seller repeatedly fails in the inspection and/or the Seller is not in a position to either rectify the defects or offer items conforming to the contracted quality standards.
- d) When both parties mutually agree to terminate the supply order/ contract.
- e) Any special circumstances, which must be recorded to justify the termination of a supply order/ contract.
- f) In pursuance of an award given by a Court of Law.

10.15.2 If the supply order/ contract is terminated in whole or in part; the Lab/Estt may take any one or more of the following actions:

- a) Performance cum Warranty Bond will be forfeited and the amount will be remitted to Govt. by way of MRO through Public Fund Account in favour of concerned CDA (R&D);
 - b) Invoke the risk and expense clause if mentioned in the supply order/ contract.
 - c) The Seller shall continue to perform the supply order/ contract to the extent not terminated.
 - d) Any other action as deemed appropriate
- These provisions at preceding para may be included in all supply order/ contracts

10.16 Risk and Expense Purchase

10.16.1 Risk and expense purchase clause could be included in the RFP and the supply order/ contract, if considered necessary. Risk and expense purchase is undertaken by the Buyer in the event of the Seller failing to honour the contractual obligations within the stipulated DP and where extension of DP is not approved. While initiating risk purchase at the cost and expense of the Seller, the Buyer must satisfy himself that the Seller has failed to deliver and has been given adequate and proper notice to discharge his obligations. Whenever risk purchase is resorted to, the Seller is liable to pay the additional amount spent by the Buyer, if any, in procuring the said contracted goods/ services through a fresh supply order/ contract, i.e. the defaulting Seller has to bear the excess cost incurred as compared with the amount contracted with him. Factors like method of recovering such amount should also be considered while taking a decision to invoke the provision of risk purchase. It may be noted that procurement under Risk & Expense Clause must be completed within one year from the date of serving notice to the defaulting Seller.

10.16.2 Alternative remedies to Risk & Expense Purchase Clause: The other remedies available to the Buyer in the absence of the risk and expense clause are as follows:

- a) Deduct the quantitative cost of discrepancy from any of the outstanding payments of the Seller.
- b) Avoid issue of further RFP's to the firm till resolution of the discrepancy.
- c) Bring up the issue of discrepancy in all meetings with the representative of Seller.
- d) Provision for adequate BG to cover such risks.
- e) In case of foreign supply order/contract, approach the Government of the Seller's country through the Ministry of Defence, if needed.

CHAPTER 11

SPECIAL FEATURES IN PROCUREMENT FROM ABROAD

11.1 General

Although, proposals for procurement of goods/ services with likely participation of foreign bidders will continue to be processed as per the procedure laid down in the preceding chapters, Labs/Estts are advised to address some special features as explained in this chapter for such procurements.

11.2 Demand Processing, Bidding, Placement of Order & Monitoring

The procedure for demand initiation & approval, RFP & Bid processing, placement of SO/ Contract and monitoring will be as per the guidelines given in preceding chapters of this Manual. However, following additional aspects need to be considered where participation of foreign bidders is anticipated.

11.2.1 Foreign bidders will be asked to quote CIF/CIP cost up to a specified place of delivery in addition to the FOB/ FCA (gateway) cost. It would also be clarified that

- a) CIF/CIP cost is for the purpose of bid evaluation and the Buyer reserves the right to place order on either FOB/FCA (gateway) or CIF/CIP (destination) basis; and
- b) If the CIF/CIP cost is not indicated, their bid will be loaded by 10% of FOB/FCA cost to arrive at the price for the purpose of bid evaluation.

11.2.2 In case the legislation of a country does not permit the OEMs and/or other vendors/ bidders to respond directly, RFP may be issued to the designated agency in that country.

11.2.3 Copy of the RFP under open bidding mode may be forwarded to prospective Embassies/ High Commissions in India and Indian Embassies/ High Commissions abroad for wider publicity. The cost of RFP documents will not be insisted upon and left to the discretion of the respective Embassies/ High Commissions abroad.

11.2.4 Lab/Estt may seek clarifications, if any, on the bids through correspondence/ fax/ e-mail.

11.2.5 Generally, foreign bidders do not extend the validity of offer, the bid evaluation, etc. should be done promptly to avoid expiry of quotations and revision of prices.

11.2.6 Handling of Reps of Foreign Firm: In certain cases, bids are received directly from OEM and they authorize an individual or firm in India to represent them in TCEC or CNC. In such cases, authorization letter from OEM should be recorded in the minutes of TCEC or CNC meeting and participant should be referred to/ recorded only as rep authorised to attend the meeting on behalf of said OEM and not as Indian Agent. Care should be taken in all such cases that the person authorised to attend the meeting on behalf of OEM is expected to submit clarifications/ revised bid etc., as the case may be, only in the original letter head of the OEM. It is re-emphasized that only Indian Agent enlisted as per para 3.6 of this Manual or 100% subsidiary of OEM in India may submit offer on behalf of OEM if they have been authorised for the same by the OEM.

11.2.7 In respect of bids received from abroad, it may not be always possible for the foreign bidders to come for CNC meeting except for high value items. In such cases, CNC may invite revised best offer with all terms clarified from the lowest bidder through fax/e-mail before finalizing the price.

11.2.8 The term of delivery should preferably be decided on FCA/FOB (gateway) basis. However, the Buyer may finalize any other term of delivery on the merit of case as per the INCOTERMS 2010 issued by International Chamber of Commerce (ICC). Standard INCOTERMS 2010 in use are placed at Annexure 'I' of this Manual.

- 11.2.9** Confirmed LC as a condition of payment should be avoided as it undermines the credibility of our nationalized banks.
- 11.2.10** The nature of services to be rendered by Indian agent of OEM/ foreign Sellers, if any, and the commission payable to Indian agent shall be explicitly reflected in the supply order/contract. The commission shall be paid in accordance with para 11.3 of this Manual.
- 11.2.11** CFA will be determined on the basis of 110% of the negotiated cost to cater for basic customs duty, currency fluctuation, freight and bank charges as applicable. However, should the expenditure exceed this limit, approval of appropriate CFA will be taken at actual.
- 11.2.12** The letter conveying the expenditure sanction for the foreign procurement should invariably incorporate the total amount to be paid in foreign currency including insurance and freight charges as well as mode of payment (through LC or DBT).
- 11.2.13** Payments towards training, installation & commissioning and AMC of capital equipment should be explicitly mentioned in the contract/ SO.
- 11.2.14** Supply orders shall include special instructions, if any, governing packing/ forwarding, insurance, airfreight, transportation, etc.
- 11.2.15** Where Indian/ regional offices of foreign firms are to provide after sales services, such as installation & commissioning, execution of warranty operations and post-warranty maintenance etc., such stipulation will be explicitly mentioned in the terms and conditions of the supply order/ contract.

11.3 Handling of Indian Agents

Where Indian agents quote on behalf of their foreign bidder/ OEM as per their authorization, they would be required to enlist themselves as per para 3.6.1 of this Manual. In such cases conditions for appointment of agents by foreign vendors as mentioned at para 7.2.5 would also be applicable.

- 11.3.1** The amount of commission payable would be brought on record and made explicit so as to ensure compliance of tax laws and prevent leakage of foreign exchange.
- 11.3.2** Commission payable will preferably be paid in Indian rupees in compliance with the Foreign Exchange Management (Current Account Transactions) Rules, 2000 issued vide Notification No G.S.R. 381(E) dated 03 May 2000 and the directions issued by Reserve Bank of India under Foreign Exchange Management Act from time to time. Where the agency commission is payable directly by the foreign principals/ OEM, an undertaking would be obtained from the Indian agent to the effect that agency commission shall be received through inward FFE remittance through banking channels and will be accepted in Indian rupees only.
- 11.3.3** The negotiation on amount of commission shall be avoided as it leads to under reporting of the commission.
- 11.3.4** TDS, as per prevailing rules, will be deducted from the agency commission payable to the Indian Agent.
- 11.3.5** All particulars relating to agency commission will be reported by Lab/Estt to the Enforcement Directorate (www.enforcementdirectorate.gov.in).

11.4 Indian/ Regional Office of Foreign OEM

Where regional offices of foreign firms have been authorised and set up within the country, they will not be treated as agents of the foreign firms and financial dealings with such regional offices will be restricted to the norms stipulated by the RBI for each specific case. Such regional offices form integral part of the foreign vendors and their functions are totally controlled by their corporate office abroad and hence are not entitled to any agency commission.

11.5 Projection of FE Requirement

Labs/Estts are required to forward their consolidated requirement of foreign exchange (FE) to DMM/DRDO HQ in the month of February for the next Financial Year (FY) as per DRDO.FE.01.

11.6 FE Release & Noting

11.6.1 Bulk Release & Noting: Allocation of bulk FE and its noting will be made by DRDO HQ (DMM). This allocation will be made at the beginning of financial year and on as-required basis.

11.6.2 Item release by Labs/ Estts/ Program: No separate approval/ sanction for FE release would be required for import procurements. The release of FE will only be noted at the Budget Cell of the Labs/ Estts. after the expenditure sanction has been concurred by financial advisor and approved by CFA as per the delegation of financial power. Payment will be made to the beneficiary as per the terms and conditions of the SO/ Contract through CDA (R&D)/ Bank concerned.

11.6.3 FE release would be noted on the basis of CIF/CIP cost. It will, therefore, be ensured that amount paid towards customs, freight and insurance charges are noted against the foreign exchange allocation even if these are paid in Indian rupees.

11.6.4 FE release would not be noted in excess of bulk allocation in anticipation of additional release from DRDO HQ. Additional allocations will be sought for well in advance from DMM to obviate delay.

11.6.5 Lab will ensure availability of funds in rupee in the relevant budget head to cover FE released on cash outgo basis in the financial year.

11.7 Denoting/ Renoting of FE

Unutilized bulk FE allocated to the Lab/Estt by DRDO HQ on cash outgo basis for the financial year will lapse at the end of the financial year. Similarly, unutilized item-wise financial year release on cash outgo basis for all the cases lapses at the end of the financial year and needs to be denoted and renoted, if required, in the next FY.

- a) Bulk Denoting: Surplus FE available with Lab against bulk allocation may be denoted by sending a request to DMM as soon as it is noticed.
- b) Item Denoting/ Renoting: All Denoting/ Renoting of the item-wise FE released against item shall be done at Lab level only.

11.8 Reporting and Monitoring of FE

The status of FE release/ noting made at Lab/Estt level will be reported periodically to DMM, DRDO HQ.

11.9 End Use Certificates

In case, End Use Certificate (EUC) is demanded by the Seller for getting export clearance, Labs/Estts will provide the same as per the guidelines issued by Directorate of International Cooperation (DIC), DRDO HQ from time to time.

11.10 Import Certificates

For certain categories of stores, Import Certificate is required to facilitate export by the Seller from their country. Such certificates will be issued by DIC, DRDO HQ. Labs/Estts may approach DIC, DRDO HQ for the same.

11.11 Payment to Foreign Seller

Payment to foreign Seller is normally made through LC/ DBT as per following provisions:

11.11.1 The LC for the amount payable will be opened as per the milestone specified in the order/ contract through the paying authority. In the event of cancellation of a supply order/ contract due to reasons beyond control of the Lab/Estt, the banking charges already incurred for opening of LC will be regularized as cash loss as per the delegation of financial powers. Procedures for payment through LC and DBT are given in Annexure 'B' of this Manual. Availability of funds will be as per provisions of para 9.1.3 of this Manual.

11.11.2 Advance Payments: Advance payment to a foreign Seller, as per conditions specified in the order/ contract would be made against proforma invoice and BG/ Standby LC in favour of the Director of the Lab/Estt, for 110% of advance payment, from a first class bank. Before payment, Labs/Estts should refer the received BG/ Standby LC to the State Bank of India to authenticate the status of the bank from which it is given by the foreign Seller. Format of the BG is given at DRDO.BG.02.

- a) Advance payments to Govt. Dept., Govt. research institutions etc. of foreign countries would be governed as per the terms and conditions of umbrella agreement, if existing, between the two Governments.
- b) The advance payments to the foreign Sellers by Labs/Estts would be subject to the Rules of the RBI in force on the date of payment.

11.11.3 Payment of Training, Installation & Commissioning and AMC Charges: Payment for these services should be released after completion of service preferably through DBT.

11.12 Insurance Coverage

The transit insurance coverage will invariably be taken for all procurements on Ex-Works/ FCA/ FOB/ CPT/ CFR basis. Air Consolidation Agency (ACA) contract of DRDO has provision of mandatory insurance cover for all imports. For destinations not covered under ACA Contract or where Labs/Estts is not using the facility of ACA contract for whatever reasons, transit insurance coverage will be taken through a nationalized insurance agency or their subsidiaries for all imports.

11.13 Shipping and Air-Freighting

The consignment will be dispatched by the foreign Sellers as per the shipping instructions contained in the supply order/ contract.

11.13.1 Where the mode of transportation of shipment is by sea, the Lab/Estt will follow the shipping instructions issued by the Ministry of Shipping & Transport, Parivahan Bhawan, Sansad Marg, New Delhi – 110 001.

11.13.2 For dispatch of consignments by air, the Labs/Estts will follow the instructions given as in the ACA Contract concluded by DMM.

11.13.3 Cases of direct shipment are to be avoided. However in exceptional cases of direct shipment, the Labs/ Estts may make suitable arrangement for completing other formalities like customs clearance, etc. The services of ACA/ Embarkation HQ may be availed after finalizing the terms.

11.14 Customs Clearance

Government has exempted certain imports made by DRDO from payment of Customs Duty through notifications issued from time to time. These benefits will be availed by the Labs/Estts on imports by issuing necessary Custom Duty Exemption Certificates (CDEC) as per prescribed formats.

11.14.1 Direct Imports: Direct import implies that Lab/Estt is importing directly from foreign Seller. Every financial year, DRDO HQ authorizes Director (Lab/Estt) through a certificate signed by CC R&D (R) to issue CDECs for all direct imports under custom notification 51/96 as amended. In addition, direct import by DRDO Labs/ Estts./Programmes is also covered under custom notification 39/96 as amended. Govt. may impose custom duty which needs to be paid in spite of issuing CDEC. Lab/Estt would take suitable

action for the payment of customs duty directly or through clearing agent.

- a) Following documents will be required to clear the goods from customs:
 - (i) Original Bill of Lading duly endorsed by bank and consignee (for ship consignments),
Or
Original Air Way Bill (AWB) or Bank Release Order (BRO) (for air consignments),
 - (ii) Invoice,
 - (iii) Packing list,
 - (iv) Copy of supply order/ contract,
 - (v) Technical write-up and descriptive catalogue/literature,
 - (vi) CDEC if applicable, and
 - (vii) Any other relevant documents.
- b) On the arrival of cargo or based on the manifest filed by the carrier, the bill of entry is made by the clearing agency and submitted to the appraiser who will, in turn assess the Customs Duty, if leviable, or exempt the consignment from duty. To avail custom duty exemption, it is essential to ensure that the nomenclature/ description of stores and cost tally with that in invoice to obviate any doubt as discrepancy may lead to imposition of customs duty.

11.15 Demurrage/ Warehouse Charges

In respect of Demurrage/ Warehouse charges, payment will be made first by Lab/ Estt./ Embarkation HQ to the concerned appropriate authority without taking concurrence/ approval of financial advisor/ CFA. The payment will be regularized by sending the case to the appropriate financial advisor/ CFA on a monthly basis for obtaining ex-post-facto concurrence/ approval.

11.16 Refund Claims

If customs duty is paid for any consignment which is otherwise eligible for duty-free import, the refund claims will be filed with custom authority immediately. All relevant and supporting documents will be enclosed along with the claim for submission to Asst. Commissioner of Customs (Refunds) for claiming refunds.

11.16.1 Appeals: Refund claims are filed with the Asst. Commissioner of Customs (Refunds) with necessary documents. At times claims are rejected for reasons like:

- a) Relevant documents not produced by the consignee,
- b) Discrepancies exist in the documents produced,
- c) Customs Notification under which exemption is claimed is not mentioned or mentioned inaccurately, and
- d) Delay in filing refund claim, etc.

Adequate care should be taken to ensure that customs refund appeals are not rejected due to procedural lapses.

11.16.2 Appeal to Higher Authorities: If the appeal for claim has been rejected by Asst. Commissioner of Customs (Refunds), Lab/Estt will file the appeal with the Commissioner of Customs (Appeals) within mandatory period as decided by Customs to avoid rejection. If this appeal is also rejected, and Lab/Estt considers the refund claim should be processed further, an appeal can be filed with Customs Excise & Service Tax Appellate Tribunal (CESTAT), New Delhi within stipulated time, on payment of prescribed fees. Generally, the decisions of CESTAT are final and binding. The appeals can, however, be taken up further with higher authorities in accordance with procedures described in Customs Manual (<http://www.cbec.gov.in>).

11.16.3 Labs/Estts will maintain a register for 'Refund Claims for Customs Duty' which will be updated with the latest progress of each case. Director and Head, MMG of the Lab/Estt will periodically inspect this register.

11.16.4 Pay-back Demand Notice: All refund claims, which have been passed and refund issued, undergo scrutiny of Central Revenue Audit. If any discrepancy in the claim is found during such audit scrutiny, Custom authorities issue Pay Back Notice to the importer for returning the amount refunded forthwith,

along with the reasons for making such untenable refund claims. In such cases, Lab/Estt will react promptly to sort out problems. Inept handling of such cases will complicate the situation and may invite adverse criticism from the higher authorities.

11.17 Loss/ Damage/ Short-Landing

Defence consignments are not normally opened by the Customs. If loss/damages are suspected, a survey can, however, be conducted at the behest of the consignee/ clearing agent in order to ascertain the loss/damage through a Survey Board duly constituted by Director. Survey Board will have members from Lab/Estt, clearing agent, carriers and insurance company. The board will submit its report within 30 days to the Lab/Estt and clearing agent. Notice of liability for the loss/damage will be sent to the Seller/carrier as the case may be, within 14 days of the completion of survey and claim for the loss/damage/short-landing will be lodged within 120 days from the date of Airway Bill/ Bill of Lading.

11.18 Inland Transportation

For air consignments through ACA contract, the consolidation agent will arrange transportation to the Labs/Estts on prescribed rates as per the prevailing contract. In case of sea consignments, Lab/Estt may approach Embarkation HQ to arrange for transportation by rail/road and pay transport charges. Else Lab/Estt will depute a representative for collection of stores directly from airport/ Embarkation HQ/ port.

11.18.1 It is important that Lab/Estt must obtain Handling Instructions from the Seller, especially for the heavy/ delicate/ fragile consignments, and ensure its availability to the Consolidator/ Inland Transporter to ensure safe transportation/ loading–unloading.

11.19 Acceptance/ Accounting of Imported Stores

The procedure for inspection and acceptance of imported stores will be as per the terms of the supply order/ contract.

11.20 Documents Used In Import

Brief description of commonly used documents in import are given below for clear understanding:

11.20.1 Bill of Lading/ Airway Bill: These documents are evidence of the fact that the goods have been dispatched by the exporter by sea/air and authorises the consignee/ importer to claim the goods on arrival in India.

11.20.2 Invoice The commercial invoice describes the merchandise, indicates the price, identifies the Buyer and the Seller, vessel/name of the carrier, port of discharge, export and import permit numbers, etc.

11.20.3 Certificate of Origin: This is required by the Customs authorities for clearance and for assessment of duty, as duties on imports are country specific.

11.20.4 Weight Certificate: This certificate helps in organizing logistic arrangements for the carriers and freight forwarders and transporters.

11.20.5 Insurance Policy: It is a contract between the insurer and the insured. The insured pays a premium and the insurer agrees to indemnify against loss/ damage and other perils of sea/ air carriage.

11.20.6 Packing List: Packing list indicates the exact nature, quantity and quality of contents together with address, dimensions, weight, etc. of each package in a shipment and helps in clearance through Customs.

11.21 Export of Items Not Repairable in India

Occasions may arise when imported equipment/ defective parts needs to be sent to OEM/ authorized

agency for repairs/ replacement. Following documents would be required for booking the store for export:

- a) Export proforma,
- b) Requisition for carriage,
- c) Packing note-cum-invoice,
- d) Airworthy certificate,
- e) Airlift sanction,
- f) Firm's letter of acceptance,
- g) A copy of expenditure sanction accorded by CFA
- h) 'Not Repairable in India' certificate by the Director of Lab/Estt,
- i) Initial import details like Bill of Entry, Bill of Lading/ AWB, etc., and
- j) Appropriate safeguards to protect the Govt. property in the form of BG/ Insurance cover.

11.22 Special Provisions For Equipment Imported For Demonstration/ Trial/ Training

Special items imported by DRDO Labs/Estts for the purpose of trial or demonstration of defence equipment are exempted from payment of customs duty under S No. 8 of Customs Notification No. 39/96 (Goods imported for trial, demonstration or training before an authority under the Ministry of Defence in the Government of India) as amended. A certificate from the Under Secretary to the Government of India in the Ministry of Defence is to be produced to the Assistant/ Deputy Commissioner of Customs, in each case that the goods imported are for the purpose of trial, demonstration or training. The Lab/Estt will undertake, in each case, to pay the duty leviable on such goods (except those which are certified by the said Under Secretary as having been consumed in the process of trial, demonstration or training) which are not re-exported within a period of two years from the date of import or within such extended period that the said Assistant/ Deputy Commissioner may allow.

11.23 Drawback Claims

Sometimes goods imported after paying custom duty are to be exported back to the country of origin, on non-returnable basis. In such cases, a drawback claim can be preferred on the Customs. Procedure for such claims is laid down in Customs Act, 1962 as amended.

11.24 Small Value Imports Through TA (Defence) Abroad

For requirement of small value items where bidding process may not attract any response or is not considered worthwhile, the services of Technical Advisers (TAs) of High Commission of India (HCI), London/ Indian Embassy in USA and Russia, may be availed for import/ purchase of such items.

11.24.1 Labs/Estts intending to avail such services, will seek demand approval/ expenditure sanction from CFA/ noting of FE release and place funds at the disposal of High Commission/ Indian Embassies through DBFA, DRDO HQ to enable TAs to make payments for the purchases made through their liaison.

11.24.2 The normal procedure for freight forwarding and custom clearance, etc. will be applicable for such procurements.

11.25 Repeat Order and Option Clause

Provision for Repeat Order/ Option Clause will be governed as per provisions in the contract/ supply order as in the case of indigenous procurement.

11.26 Packaging and Dispatch

The stores are required to be packaged to withstand the conditions of shipment and short term storage in transit and in the country of destination. Following guidelines should be observed in this regard:

11.26.1 The Seller shall be responsible for any loss or damage or expenses incurred by the Buyer because of inappropriate packing.

11.26.2 Packages containing articles, classified as hazardous, should be packed and marked in accordance with the requirements of the appropriate regulations governing their dispatch by sea or air.

11.26.3 The Seller shall also comply with the detailed packaging and dispatch instructions as specified in the contract/ supply order.

CHAPTER 12

DESIGN, DEVELOPMENTAL AND FABRICATION CONTRACTS

12.1 General

With the growth of indigenous industry and concurrent growth of the magnitude of the tasks assigned to DRDO during last three decades, it has become necessary for the organization to depend on the industry for sub-system development/ fabrication for successful execution of the projects. It is obviously not possible to lay down rigid set of procedures/ rules covering all contingencies for development/ fabrication contracts. Therefore, flexibility has been built in to encourage potential firms/ partners to undertake design, development and fabrication of items, equipment, plant and machinery required by DRDO. Considering the industrial infrastructure and expertise now available in the country, it is appropriate that DRDO should explore assigning the tasks of development/ fabrication for the system/ equipment designed by them to the private industry.

12.1.1 Development contracts, unlike the normal contracts/ supply orders, involve development work against given design data/ technical specifications/drawings. Due to vagaries of the nature of work based on evolving design, the prospective firms may be reluctant to undertake such tasks owing to high level of risks expected during development/ engineering processes.

12.1.2 Fabrication contracts involve lower risks and lesser uncertainties but firms are hesitant to take up such contracts due to small quantitative requirements and relatively heavy investments. These contracts are generally entered into for specific items, which are not available off-the-shelf and are specifically fabricated to meet specific requirements.

12.1.3 The terms and conditions in respect of development/ fabrication contracts need to be negotiated on the case to case basis. The progressing of development/ fabrication contracts should be based on a collaborative approach between Lab/Esst and Development Partner with the understanding that both are equal partners aiming at optimum results.

12.1.4 Design, development and fabrication contracts undertaken by DRDO under 'Buy (Indian- IDDM)' category, relevant provisions of DPP-2016 as amended will be applicable.

12.2 Principles and Policy

Whilst it is not possible to lay down any rigid rules covering all the contingencies that may arise in the finalization of specific development contracts, the following guiding principles may, however, be followed:

- a) Exploration of sources in the public and private sector should be as wide as possible before placement of development order to encourage competition.
- b) Ability of the Development Partner to execute work of the desired quality in the required time schedule should be evaluated and verified by the Techno Commercial Evaluation Committee.
- c) Development contracts should preferably be concluded with two or more partners in parallel, subject to the other bidder(s) agreeing to match the negotiated price and conditions of L1, else, the full order may be placed on the L1 firm. Placement of parallel contracts on two parties is desirable to have more than one source of supply at bulk production stage. Besides, it also increases the probability of successful completion of the developmental work in time. The ratio of splitting of the proposed quantity between bidders and criteria thereof must be mentioned in the RFP. Ratio of splitting would be preferably in favour of L1.
- d) If requirement is meager or sources are limited or proposal is not considered cost effective, a single source having expertise in the requisite field may be considered with appropriate justification and approval of the CFA.
- e) The ability of the firm to take up bulk production should be borne in mind while exploring the sources

for contracts which are likely to lead to large scale production.

- f) For assigning development/fabrication task, the information available with DGQA, other DRDO Labs/ Estts and Scientific Depts. may also be utilized to select appropriate partner. The selected firm should have the capacity and capability to undertake development and bulk production, even if it entails setting up of a separate production line, provided their policies do not forbid them from such commitments. Where bulk production is envisaged after design and development by DRDO, association of a suitable production agency may be considered during design and pre-production phases.
- g) The RFP document would be issued free of cost. The facility to use testing/ infrastructure facilities available in DRDO Labs may be extended to development partner(s) as per mutually agreed terms on case to case basis. Labs would decide the same and it would be reflected in the RFP. However, the anticipated cost of such usage would be indicated in the proposal to CFA to determine the cost of development.
- h) Free Issue Material (FIM) to be used as raw material for use in developmental/fabrication contract, would be safeguarded as per the provisions of para 6.43.2 (b) and 7.3.153 of this Manual.

12.3 Intellectual Property Rights (IPR)

The IPR developed under a developmental contract, funded by DRDO, will be the property of Govt. of India. In such cases, the firm will provide technical know-how/ design data for production of the item to the designated production agency nominated by the DRDO. It will, however, be permitted to receive, upon demand, a royalty free license to use these intellectual properties for its own purposes, which specifically excludes sale or licensing to any third party.

12.3.1 Joint IP Rights: In case of design, development and fabrication of capital equipment of general nature where no design and development input is provided and only broad specifications are given by the DRDO Lab/Estt, and/or the developer is sharing the developmental cost, joint IP rights would be considered.

12.3.2 Even where joint IP rights are accepted, DRDO/ MOD/ GOI reserves the right to develop an alternate source. In such cases it would be mandatory for the developer to transfer the know-how of the product to the agency designated by DRDO. However, in such cases development partner would be entitled to receive license fee/ royalty as per mutually agreed terms.

12.4 Types of Contracts

- a) Developmental Contract
- b) Fabrication Contract

12.5 Developmental Contract

Developmental contract is concluded for the development of an item as per given design and specifications by DRDO for producing a specified quantity by the selected development partner. These contracts may subsequently lead to placement of fabrication/production contracts with unit production cost worked out based on successful completion of the contract.

12.5.1 Developmental contracts are concluded to cover the following contingencies

- a) Where the industrially engineered models are to be developed by the contractor based on the complete design data already evolved in the DRDO Lab/Estt during design and development of a laboratory prototype. In such contracts, the development would be based on the preliminary design/ technical specifications, drawings and other information provided by DRDO Lab/Estt. The contractor will, however, prepare production/working drawings, material specifications and other documents and develop an industrially engineered model. The development partner would guarantee the material, workmanship and performance of the equipment for a specific period.
- b) Where designing, developing and engineering are to be undertaken by the development partner as per given specifications under guidance of the DRDO Lab/Estt, the expertise available in the industry will be utilized for accomplishment of developmental task within stipulated time frame. Such contracts should envisage the development of an industrially engineered model/ equipment and supply of the same at

various stages of progress of trial with drawings and other related documents by the development partner as required. The development partner would also be required to submit technical document stipulating guarantee for the design, material, workmanship and performance of the equipment for a specific period.

12.6 Types of Developmental Contracts

Developmental contracts will normally be of the following types :

- a) Firm-Fixed-Price Contract.
- b) Fixed Price Contract with Price Variation Clause.
- c) Fixed Price Contract providing for Re-determination of Price.
- d) Fixed Price Incentive Contract.
- e) Cost Plus Contract.

Brief description/scope on each type of contract is given below:-

12.6.1 Firm-Fixed-Price Contract: Firm fixed price contract means a contract in which a lump sum amount is agreed upon for development/indigenization and supply of the equipment based on data/ specifications supplied and which is not subject to any adjustment during the performance of the contract due to any reasons whatsoever. The firm or the contractor assumes full financial responsibility in the form of profit or loss. This type of contract is best suited when reasonably definite design or performance specification is available and when Lab/Estt of DRDO can estimate reasonable price of development/ indigenization.

12.6.2 Fixed Price Contract with Price Variation Clause: This is the same as the firm-fixed-price contract, except that upward or downward revision of contracted price can be allowed on occurrence of certain contingencies beyond the control of the firm/contractor such as increase/ decrease in wages or cost of material. An escalation formula must be included in such contracts and a ceiling of escalation should also be fixed in the case of long term contracts. Price variation clause can be provided only in long term contracts where the original delivery period exceeds beyond 18 months.

12.6.3 Fixed Price Contract Providing for Re-determination of Price: This type of contract is intended to eliminate the impact of contingencies due to causes other than those foreseen in the case of fixed price contract with price variation. These contingencies may be due to the development partner's unfamiliarity with the raw materials or manufacturing processes, long term contracts, lack of specifications or the use of performance rather than product specifications. In such cases prospective re-determination of price could be done –

- a) On request by either party
- b) At stated intervals/ at a determinable time.

12.6.4 Fixed Price Incentive Contract : This type of contract is designed to provide a greater incentive to the development partner to reduce the contract costs by providing higher profits if costs are reduced and lower profits when costs rise. These costs, the ceilings on target cost, target profit, a price ceiling and the formula for arriving at final cost are all settled before the execution of the contract. This contract type will only be applicable for ab-initio developmental contracts.

12.6.5 Cost Plus Contract: In this type of contract, the development partner is reimbursed the costs incurred and also receives a negotiated profit for performing the contract, i.e., the profit of the development partner and not the cost of development is fixed. Development partner's responsibility towards cost of the item is minimum except that he has to use the same care and prudence as is expected under fixed price contracts. This type of contract should be encouraged and concluded with development partner only when the uncertainty which is involved in the contract performance is of such a magnitude that the cost of performance cannot be estimated with sufficient reasonableness to permit a type of fixed price contract. It is also necessary to ascertain that the development partner has cost accounting machinery and that the cost is clearly defined. A strict R&D surveillance has to be maintained by the Dept. to ensure that costs are allocated fairly and correctly by the development partner. The RFP should provide for the access to Development Partner's books of accounts for verification of the costs by inclusion of a book examination clause in the contract. Where supplies or works have to continue over a long duration, efforts

should be made to convert future contracts on a fixed price basis, after allowing a reasonable period to the development partner to stabilize their production methods.

12.7 Fabrication Contract

Fabrication contract means a one-time contract concluded with a contractor or a firm for fabrication and supply of components, sub-assemblies or an assembly, which are not commercially available, against design drawings/ specifications to be supplied by the Lab/Estt.

12.7.1: Fabrication contracts, which do not have elaborate system requirements, test procedures and activity monitoring, can be placed following the normal procedures for supply orders as given in the preceding chapters. Material Management Forms as applicable for supply orders may be used for fabrication contracts with suitable modification wherever required. Any other additional terms and conditions if applicable to the fabrication contract may be included wherever desired.

12.8 CFA for Various Contracts

Various types of contracts can be adopted depending upon the nature, complexity and time span of the developmental work/project. Firm-Fixed-Price contracts, Fixed Price Contracts with Price Variation Clause and Fabrication Contracts will be concluded by Lab/Estts as per the delegated financial powers vis-à-vis mode of bidding. Fixed-Price contracts providing for Re-determination of Price, Fixed Price Incentive contracts and Cost Plus contracts will be adopted only with the prior approval of Secretary Defence (R&D) or higher authorities through DMM. Concurrence of finance will be taken as per the delegation of financial powers.

12.9 Costing and Time Estimation

Cost of developmental/ fabrication contracts will be estimated considering all elements of cost, both Non-Recurring Expenditure (NRE) and prototype costs, systematically as per costing and industrial engineering methods. These methods mainly rely on the information furnished to the cost accountants by the engineers/scientists through their past experience of having performed similar (or same) task or by their precise estimation of various inputs required to complete the contract, based on the firmed up design drawing/data. The developmental contracts, which are being executed for the first time, may not be amenable to these cost accounting techniques, hence personal experience/ logical assessment/ experience of similar development by other Labs/Estts may be utilized for arriving at approximate cost & time estimate and in achieving optimum value for money when the contracts are concluded. Directors of Lab/Estt may hire services of professional engineering and costing consultants (if desired, whenever in-house costing is inadequate) for proper cost estimation in case of expected high value contracts.

12.9.1 In case the developmental contract leads to production, it is expected that per unit production cost should not be more than prototype cost (as per developmental contract) after offsetting inflation. Sometimes, it is seen that firms undercut/ offer discount to become L1 in the developmental phase and later jack up prices during the production phase. Care should be taken by the CFA on the merit of the case to safeguard Govt. interest.

12.10 Processing of Developmental Contract

Some of the important steps involved in the processing of developmental contract are as follows:

- a) Firming up of vendor qualification criteria
- b) Framing and Issue of RFP
- c) Techno-commercial Evaluation of bids and convening of CNC
- d) Placement of Contract/ Supply Order
- e) Post Contract Management

12.11 Initiation & Approval Of Demands

Procedure for initiation and approval of demands for developmental/ fabrication contracts will be as per Chapter 4 of this Manual.

12.12 Firming Up of Vendor Qualification Criteria

Identification of appropriate vendors is a vital step and must be well considered. Labs/Estts may use EOI route for firming up of vendor qualification criteria to find a suitable developmental partner(s) as per procedure mentioned hereunder.

12.12.1 A notice inviting Expression of Interest (EOI) may be placed on the internet and advertised in leading newspapers, in respect of different categories/ products/ components, for identifying firms willing to participate as developmental partner. A notice calling for EOI/RFI will be issued/ published with “in-principle” approval of CFA or CC R&D/ DG Cluster (whichever authority is lower). The minimum number of products/ components required to be submitted by the vendor for evaluation and likely demand for those products/ components for the next two to three years after development may be indicated, if feasible, in the advertisement. The attention of known prospective development partner(s) will also be drawn towards EOI/RFI.

12.12.2 The EOI will contain the broad specifications and desirous vendor qualification criteria, i.e., details of the resources desired with the firm in developing the product/component. The interested firms would be asked to submit the details of infrastructure and resources available with them.

12.12.3 Interested firms will be allowed to visit the Lab/Estt to see the product/ component required to be developed or to discuss the specifications of the proposed product. This would be indicated in the EOI.

12.12.4 The Director of the Lab/Estt would constitute a committee to study desirous resource details, the details submitted by the firms and discuss the same with firms to fine tune the broad specifications and firm up the vendor qualification criteria for the developmental of product/ component. The committee will also estimate cost and time required to realize the product. This committee will comprise of a Chairman, technical expert from a sister Lab/Estt or outside expert from other Govt. Dept./ academic institution, MMG rep. and member secretary from User group. Rep of Finance may be co-opted.

12.12.5 In addition to above, the other provisions prescribed in the chapter 4 of this Manual will be taken into account for processing of EOI.

12.13 Request for Proposal (RFP)

For developmental/ fabrication contracts, RFP should consist of general information regarding the manner and methodology of bid submission, standard terms and conditions, special terms and conditions for the contract being contemplated, vendor qualification criteria, details of product/component to be developed, evaluation criteria for the bids and template for price bid. The RFP (DRDO.BM.02) will be prepared and dispatched to all respondents of EOI as per the provisions given in Chapter 6 of this Manual. While framing the RFP for developmental contracts, vendor qualification criteria would be given special emphasis, as it is one of the important factors for successful completion of the contract and identification of potential bulk production partner. The bidders will invariably be asked to mention Non-recurring Cost (NRE) with appropriate break-up and cost of prototypes explicitly in all cases.

12.13.1 Acquiring Manufacturing Drawings and Associated Hardware : To develop an alternate source of supply of an item developed and productionised by the development partner, it is essential that the manufacturing drawings are available with Lab/Estt. Since manufacturing drawings are evolved and finalised, it is likely that the development partner would claim his rights on such drawings and may not agree to part with them. Therefore, suitable clause should be included in the RFP clarifying that manufacturing drawings prepared during the development phase shall be the property of the DRDO/

Ministry of Defence and will be handed over to DRDO whenever required. Further, these will also not be used by the development partner for any purpose other than stated in the contract, without the written consent of DRDO. All dies/ tools/die sets/ jigs/ fixtures/ moulds fabricated under the contract which are charged separately will be returned to the Lab/Estt unless specified otherwise in the contract.

12.13.2 Return of Documents: Documents, specifications, drawings issued to development partner(s) or prepared by them will be property of DRDO and the same will be returned to DRDO on demand. A provision to this effect shall be made in the RFP. A certificate to the effect that required documents have been received in the Lab/Estt would be furnished by the user. Any loss or damage to these documents shall be recovered from the development partner.

12.13.3 Apportionment of Quantity: In cases, where it is decided to award developmental contracts to more than one development partner, it should be explicitly specified in the RFP. The ratio of splitting of the quantity between various development partners including criteria thereof must be pre-disclosed in the RFP as per provisions of para 6.45.1 of this Manual. The apportionment of the quantity would be done subject to the other vendor(s) agreeing to match the negotiated price and terms & conditions of L1. In case of deviation, the full order may be placed on the L1 firm, else alternate source may be explored through separate bidding.

12.14 Pre-Bid Conference

In case of turnkey contracts or for development of sophisticated and complex equipment, a suitable provision is to be made in the bidding document for a pre-bid conference for clarifying issues and clearing doubts, if any, about the specification and other technical details projected in the bidding document. The date, time and place of the pre-bid conference must be indicated in the bidding document and should be sufficiently ahead of the bid opening date.

12.15 Requirement of Sample

Requirement of samples, if any, would be reflected in the RFP along with the manner of their submission. The samples would be taken on no cost no commitment basis. Clarifications where required, would be discussed in the pre-bid conference.

12.16 Bid Processing and Conduct of CNC

All other procedures e.g. bid opening, evaluation of techno-commercial bids, conducting of CNC etc., would be done as per the details given in Chapter 6 of this Manual.

12.16.1 Bid Evaluation: In cases where infrastructure requirement for the developmental contract has been specified, TCEC will evaluate the feasibility/ verify the infrastructure details submitted by the firms in order to assess their manufacturing capability and genuine potential for developing the product/ component.

12.17 Break Up of Quoted Price

The vendor should be asked to submit the detailed break-up of cost under the headings materials (indigenous/ imported, quantity, cost), labour (number of man hours, man hour rates, etc.), design and developmental, drawings and details of overheads which will be vetted by the user at the time of CNC. Where applicable, the last purchase price (LPP) of imported item or equivalent item may be taken as the base price to arrive at the reasonableness of the quoted rates. In case LPP is not available the base price will be arrived at by the process of benchmarking which will be done prior to opening of the commercial bid. L1 will be determined with reference to the developmental cost, including the cost of prototype and the total quantity for which the initial orders are to be placed.

12.18 Cost Estimation

For all developmental contracts costing above Rs. 5 crore, Director of the Lab/Estt will constitute a

separate Cost Estimation and Reasonability Committee (CERC) to estimate a reasonable cost of the proposed developmental/ fabrication work. Invariably user and finance reps would be members of this committee.

12.19 Pre-Requisites for Placing Developmental/ Fabrication Contracts

The following steps will invariably be followed while entering into a developmental contract:

- a) Publication of EOI, where required.
- b) Vendor qualification criteria will be part of RFP.
- c) Non-Disclosure Agreement (NDA) will be signed.
- d) Pre-bid conference will be held if required.
- e) Cost estimate by CERC, as per para 12.18 of this Manual, to arrive at benchmark price prior to conduct of CNC.
- f) The payment milestones/ stages will be defined unambiguously.
- g) Contract Monitoring Committee (CMC)/ Progress Review Committee (PRC) will be constituted as per the details given in succeeding para 12.22 of this Manual.

12.20 Signing of Contract

The contract will be prepared as per the guidelines given in Annexure 'C' of this Manual and signed by both the parties after approval of CFA as per the provisions of Chapter 9 of this Manual.

12.21 Contract Commencement and Completion Dates

Care should be taken to ensure that the date of contract commencement and the date of completion must be deterministic at any given point of time. Stages if any should have well defined time schedules and specific milestones.

12.22 Monitoring Progress and Management of Contracts/ Agreements

12.22.1 Responsibility to monitor the progress and operation of the Developmental/ Fabrication contract will rest with the Lab/Estt that has concluded such contract. The Lab/Estt will provide necessary guidance to the development partner as required from time to time and will maintain close liaison with them to clarify any doubts during course of its execution.

12.22.2 A Contract Monitoring Committee/ Progress Review Committee would be constituted by the Director of the Lab/Estt with a member from MMG & QAC and a senior member from other than user group. The committee would meet at least once in every quarter of the contract period to monitor the progress of development. In case the progress is not found satisfactory, committee would recommend suitable remedial measures. Where required, the committee may advise extension of contract period or short/ stage closure of the contract.

12.22.3 The recommendations of the committee on changes would be put up to to the CFA.

12.22.4 Any decision on dropping of contract, stage or short closure of the contract would be taken by the next higher CFA.

12.23 Access To Classified Documents/ Systems

The nature of activity for developmental task demands a comprehensive knowledge of the complete system/ documentation. Development partner will be allowed to access pertinent classified details/documentation in the interest of execution of task. Association of the development partner will be desirable for effective rectification of design defects, if any, during trials of systems/ sub-systems, being developed as part of the contract. In all such cases, the development partner and his employees, connected with the assigned task, will be subject to the provisions contained in the Indian Official Secrets Act and required to render certificate to that effect.

12.24 Approval of Milestones/ Activities

Contract having more than one process/ stage may require inspection/ approval of completion of each process/ stage. The contract should clearly address this issue.

12.24.1 It is recommended to specify that the development partner shall give notice in writing to the Lab/Estt for such inspections at least 10 days in advance. In the absence of such notice by the development partner, the development partner shall be held responsible for delay and in the event of any dispute in this respect; the decision of the Director shall be final and binding.

12.25 Amendments to Contract Terms and Conditions

Any amendment in the contract would be done as per the provision contained in Chapter 10 of this Manual.

12.26 Repeat Order

Placement of Repeat Order, if specified in the contract, would be governed as per provisions of para 10.11 of this Manual after offsetting the NRE cost.

12.27 Procurement of Developed Store from Agencies associated with Development

The Lab/Estt may place subsequent production order of the development item (e.g., for extended user trials or limited series production) on the development partner(s) as per the provisions of this Manual.

CHAPTER 13

PROCUREMENT OF TECHNICAL BOOKS AND JOURNALS

13.1 General

The major objective of DRDO Libraries/ Technical Information (Resource) Centres/ Knowledge Centres (KCs) is to provide relevant, required and current information at the right time to the scientists working on various projects in the DRDO Labs/Estts. These are not academic or general libraries but are special libraries and deal with publications in special and focused subject areas. Books, technical reports, standards, patents related information, databases, scientific journals and periodicals in print and digital form are some of the important types of documents required by DRDO libraries. Sometimes, journal articles, audio-visual, optical, multimedia and e-learning material as well as ephemeral material may also be required for procurement.

13.2 Demand Initiation

The demand for the technical books and journals would be raised by the Library in-charge of the Lab/Estt on the basis of requirements projected by the users of technical library. Library in-charge may also raise demand for the periodicals and journals to complete/ continue the collection in the Library.

13.3 Library Advisory Committee (LAC)

Director of the Lab/Estt may appoint a Library Advisory Committee consisting of Chairman of the rank of Scientist 'E' or above, three to five members representing various subject disciplines of the Lab/Estt and the Library In-Charge (Officer-In-Charge) who will also be the Member Secretary. The LAC is an essential body advising and guiding the library in its activities and services. The LAC also advises the Director of the Lab/Estt on the policy matters pertaining to administration of library.

13.3.1 Functions of LAC: The basic functions of the LAC are as under:

- a) To lay down the general library policy and rules,
- b) To scrutinize the demands for procurement of print and digital documents and make necessary recommendations for approval of the CFA for balanced growth of library resources,
- c) To lay down and review the procedures for the library to optimize efficiency and usage of the library services,
- d) To deal with any other matter concerning the library that may arise from time to time.

13.3.2 The LAC will be advisory in nature and not to perform any administrative functions. The decisions taken by the LAC will be subject to the approval of the Director of the Lab/Estt.

13.4 Procurement of Books/ Publications other than Periodicals

Bidding process will not be mandatory for procurement of books/ publications other than periodicals. The procurement procedure involves selection of books/ publications, placement of order, receiving, accessioning, bill processing etc. are governed as per the procedures outlined in "Procedures for Management of Libraries and Technical Information Centre" issued by DESIDOC. These functions are almost common for acquisitions of all kinds of library books/ publications except periodicals and scientific journals.

13.4.1 In view of high costs, no library can afford to purchase all the information, materials, documents needed or demanded by its readers even if they are relevant to the establishment. Library should procure documents by following the golden rule "the most relevant documents covering core and major subject interests of the establishment, for the largest number of users and at the least cost" within the resources available.

Therefore, selection and procurement are important functions of a library for balanced resources for current and potential use.

13.5 Procurement of Periodical Publications

Acquisition of periodical publications is different because generally advance payment is mandatory for subscription and renewal of periodicals. Either of the following methods of procurement may be followed for procurement of periodicals.

- a) Bidding process
- b) Direct ordering

LAC may scrutinize the procurement proposals of periodicals and recommend procurement through bidding or direct order placement to CFA on case to case basis. In the absence of specific recommendations, bidding process must be followed for procurement of periodicals. Direct ordering should be recommended only in exceptional cases where bidding process is not practical.

13.6 Guidelines for Procurement for Books/ Journals

DRDO has over 52 libraries/ Technical Information Centers/ Knowledge Centers functioning in its Labs/ Estt. Keeping in view the special needs of these libraries, newer edition of library procedure manual titled "Procedures for Management of Libraries & Technical Information Centers" will be issued by Defence Scientific Documentation and Information Centre (DESIDOC) after requisite approval of Secretary Defence (R&D) with the concurrence of Addl. FA (R&D) & JS. This manual will provide detailed guidelines for procurement of books, technical reports, standards, patents related information, databases, scientific journals and periodicals in print and digital form, journal articles, audio-visual/ optical/ multimedia and e-learning material.

CHAPTER 14

OUTSOURCING OF SERVICES

14.1 General

14.1.1 Rule No. 178 of GFR iterates that a Ministry or Department may outsource certain services in the interest of economy and efficiency and it may prescribe detailed instructions and procedures for this purpose without, however, contravening the guidelines given in succeeding paragraphs.

14.1.2 Out sourcing is the act of transferring some of an organization's non-core functions to service providers/ contractors.

14.2 Purpose of Outsourcing

Outsourcing is often used to acquire services for following reasons:

- a) Unavailability of service in-house
- b) Focusing on core services
- c) Reduction in cost
- d) IT support etc.

14.3 Types of Services that may be Outsourced

Types of services that are out-sourced by Lab/Estt may be classified in following categories:

- a) Services for which specific Government orders have been issued.
- b) Services for which requirements are well known and the skill-set of the service provider who can do the job is also well known, and there is no significant advantage to have a service provider having higher skill-set. Such services would be out-sourced as per the provisions given in earlier chapters.
- c) Services for which minimum skill-set of the service provider who can do the job is well known but service provider having higher skill-set would add significant value to the outcome because requirements cannot be expressed in quantifiable terms. This chapter specifically addresses out-sourcing of such services.

14.3.1 The following services have been covered under separate orders and, therefore, would continue to be outsourced as per those orders.

- a) Outsourcing of services pertaining to Basic Research Services e.g. Contract for Acquisition of Research Services (CARS), Contracts for Acquisition of Professional Services through IDST (CAPSI) will be governed as per the extant orders.
- b) All Security Contracts will be governed as per the guidelines issued by Directorate General of Resettlement (DGR)/ Ministry of Defence.

14.4 Identification of Likely Service Providers

Lab/Estt will prepare a list of likely and potential service providers/ contractors on the basis of formal or informal inquires from other Ministries or Departments or Organizations involved in similar activities, scrutiny of 'yellow pages', and trade journals, if available, website etc.

14.5 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) Quality and Cost Based Selection (QCBS): 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 L1 basis only as per the procedures described in preceding Chapters.

- b) Combined Quality Cum Cost Based System (CQCCBS): 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 weightages needs to be given to higher technical standards, while finalizing the prices. The service provider will be selected on L1-T1 basis as per para 14.8 of this Manual.

14.6 Demand Initiation & Approval Under QCBS

Demand will be initiated and approved as per the provisions given in Chapter 4 of this Manual. CFA will be determined as per the delegation of financial powers in vogue for selection of service provider.

14.7 Demand Initiation & Approval Under CQCCBS

Selection of service provider under CQCCBS 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 Lab/Estt.
 - (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 weightages 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:
 - Purpose/ objective of the assignment;
 - Detailed scope of work;
 - Expected input of key professionals (number of experts, kind of expertise required);
 - Proposed schedule for completing the assignment;
 - Reports/deliverables required from the service provider.
 - Background material, previous records etc. available and to be provided to the service provider.
 - Procedure for review of the work of service provider after award of contract.
 - (vii) Standard formats for technical proposal.
 - (viii) Standard formats for financial proposal.
- b) Pre-bid Meeting: A pre-bid meeting will invariably be prescribed in the RFP for selection of service provider under CQCCBS. The date and time for such a meeting should 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 should 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 Lab/Estt, 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. The submitted bids would be evaluated as per the provisions given for the two bid system in Chapter 6 of this Manual. CNC will be conducted for all cases under CQCCBS.
- d) CFA will be determined as per the delegation of financial powers in vogue for selection of service provider.

14.8 Evaluation under Combined Quality Cum Cost Based System (CQCCBS)

14.8.1 Under CQCCBS, the proposals will be allotted technical and financial weightage depending upon the nature of assignment.

14.8.2 Proposal with the lowest cost, evaluated as per the provision of Chapter 8 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. **14.8.3** The total score, both technical and financial, shall be obtained by weighing the quality and cost scores and adding them up. The proposed weightages for technical and financial shall be specified in the RFP.

14.8.3 The total score, both technical and financial, shall be obtained by weighing the quality and cost scores and adding them up. The proposed weightages for technical and financial shall be specified in the RFP.

14.8.4 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 weightages of the technical bids and financial bids was kept as 70 : 30. In response to the RFP, 3 proposals, A, B & C were received. The TCEC awarded them 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

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

In the combined 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	$(75 \times 0.70) + (83 \times 0.30) = 77.4$ pts
B	Rs. 100	100 points	$(80 \times 0.70) + (100 \times 0.30) = 86$ pts
C	Rs. 110	91 points	$(90 \times 0.70) + (91 \times 0.30) = 90.3$ pts

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 pts	77.4 pts	H3
B	Rs. 100	100 pts	86 pts	H2
C	Rs. 110	91 pts	90.3 pts	H1

Proposal C at the evaluated cost of Rs.110 was, therefore, declared as winner and recommended for negotiations/approval, to the competent authority.

14.8.5 Outsourcing by Choice: In exceptional situations should it become necessary to outsource a job by nomination to a specifically chosen service provider/ contractor, the CFA may do so in consultation with finance. In such cases the detailed justifications, the circumstances leading to the outsourcing by nomination and the special interest or purpose it shall serve shall form an integral part of the proposal.

14.8.6 Expenditure Sanction: The expenditure sanction would be obtained from the CFA and contract will be entered as per the provisions given in Chapter 9 of this Manual.

14.8.7 Contract Monitoring: Lab/Estt may constitute a committee of not less than 3 officers of appropriate level to continuously monitor the performance of service provider/ contractor. Payment as per the schedule would be released to the service provider after receipt of satisfactory service report and confirmation for ensuring compliance of contract obligations & statutory rules governing payment of wages to the employees of the service provider.

14.8.8 Extension of Contracts: Extension of the contracts for outsourcing the services shall be done in accordance with para 10.12 of this Manual.

CHAPTER 15

RATE CONTRACT/ PRICE AGREEMENT

15.1 Objective

The basic objective of a procuring entity is to provide store of right quality, in right quantity, at the right place, at the right time and right price to meet the requirement of the user. One of the ways of ensuring this is to conclude a “Standing Offer Agreement (SOA)” for all common use items which are regularly required and whose prices are likely to be stable and not subject to considerable market fluctuations. It requires Buyer to enter into an agreement with appropriate firms/ manufacturer to supply their product against requirement at a fixed price and as per the terms & condition of the agreement. Rate Contract (RC) and Price Agreement (PA) are types of SOA. These agreements enable procuring entity to procure indented items promptly and with economy by cutting down the order processing and inventory carrying costs.

15.2 Rate Contract (RC)/ Price Agreement (PA)

RC: It is a contract between the Buyer and the Seller wherein the Seller agrees to provide, on demand, specified goods or services under specified terms & condition during a set period at a definite price.

PA: It is a contract between the Buyer and the Seller wherein the Seller agrees to provide, on demand, specified goods or services under specified terms & condition during a set period at a definite discount structure.

15.3 Salient Features Of RC/PA

- a) Neither quantity is mentioned nor any minimum drawal guaranteed in the contract.
- b) It is in the nature of a standing offer from the firm.
- c) Seller is bound to accept any order placed on him during the validity of the RC period.

15.4 Types of Items Suitable for entering into RC/PA

Following types of common use items may be considered for entering into RC/PA:

- a) Items required by several users on recurring basis and having clear specifications.
- b) Fast moving items with short shelf life or storage constraints.
- c) Items with minimum anticipated price fluctuation during the currency of the contract. Items with high probability of considerable price fluctuation should not be considered to be covered except for short term contract.
- d) Items that take long gestation period to manufacture and for which there is only one source for manufacturing.

15.5 ADVANTAGES OF RC

15.5.1 To Buyers

- a) Facility of bulk rate at lowest competitive price.
- b) Saves time and effort in tedious and frequent bidding at multiple user locations.
- c) Enables buying as and when required.
- d) Just in time availability of supplies reduces inventory carrying cost.

15.5.2 To Sellers

- a) Access to large volume of purchase without going through bidding process and follow up at multiple user locations – saving in administrative and marketing efforts and overheads.
- b) Rate contract lends respectability and image enhancement.

15.6 Items already on DGS&D Rate Contract

As a Central Purchase Organisation (CPO) for the Govt. of India, DG S&D concludes the rate contracts for items of common use. These contracts are to be operated by the consuming departments of the Government. DG S&D has been identifying such items, whose anticipated annual purchase by Government Organizations is normally more than Rs. 25 lakhs a year, and bringing such items on rate contract. Lab/Estt may place their orders for the procurement of goods covered under DG S&D RC as per the details given in the Chapter 5 of this Manual. Labs/Estts will not conclude a separate RC for items covered under DGS&D RCs. However, in the exceptional circumstances, it may be done with the approval of CFA and by recording the reasons for the same.

15.7 Guidelines for entering into RC

Stores of standard types required in bulk quantity which are common and in regular demand, and for which the price is not subject to appreciable market fluctuations, shall be purchased against Rate Contract/ Price Agreement (RC/PA) based on as-sessed future consumption.

15.7.1 No Rate Contract/ Price Agreement should be entered by the Lab/Estt. for which DGS&D has already concluded rate contract for the said goods.

15.7.2 Rate contract/ Price Agreement (RC/PA) will normally be entered into, if the annual draws against the contracts are expected to exceed Rs.10 lakh.

15.7.3 Station-wise consolidation must be made for such contracts.

15.7.4 Normally the duration of a Rate Contract/ Price Agreement should be for a period not exceeding three years.

15.7.5 No new RC/PA should be placed with the firms having backlog against existing contracts and also if the backlog is likely to continue for the major portion of the new contract period.

15.7.6 RC/PA should be placed only on registered and/or reputed and established firms, which are capable of supplying the stores as required.

15.7.7 In cases where a firm already has a RC/PA with any other Government Department, Central/ State Public Undertaking, etc., it should be ensured that the contract is entered into on not less favourable terms and conditions than those agreed to by it with the other Departments, Undertakings, etc.

15.8 CFA Determination for entering into RC/ PA

CFA for entering into such contracts will be determined based on the anticipated value of annual drawal vis-à-vis mode of bidding. RC/PA with validity period of more than three years would be concluded with prior approval of Secretary Defence (R&D) with the concurrence of Addl. FA (R&D) & JS for all CFAs in DRDO.

15.9 Period of RC/PA

Normally the duration of such agreement should be for a period not exceeding three years. No extension to validity of the contract is required when deliveries against outstanding supply orders continue after expiry of the validity period.

15.10 Process of Concluding RC/PA

15.10.1 Finalization of scope: The scope of RC/PA will be finalized by MMG of Lab/Estt after consolidating the demand of other Labs/Estts in the station, if applicable. On specific request from Labs/Estts or wherever need is felt, DMM will identify the nodal Lab/Estt to finalize RC/PA against which Labs/Estts can procure the items covered under the agreement to meet their requirements.

15.10.2 Demand initiation and its approval: All RC to be entered will need 'in principle' approval from DMM in DRDO HQ. Lab/Estt will raise demand for rate contract as per the provisions of Chapter 4 of this Manual and submit the same with approval of Director to DMM. DMM will analyze the requirement of

store/ service in other Labs/Estts in the station/ region and identify the nodal Lab/Estt to finalize RC/PA. DMM will also process the case for the approval of CFA as per the delegation of financial powers where required.

15.10.3 Mode of Bidding: The default mode of bidding to finalize a RC will be on the basis of open bidding. PA will be concluded only with the manufacturers/exclusive dealers. Other mode of bidding may be adopted in exceptional cases with due justification.

15.10.4 Bidding Process: This will be done as per the provisions contained in Chapter 6 of this Manual. Format of RFP would be suitably modified for conclusion of RC/PA by inclusion of the special terms and conditions for such contracts. Some of these conditions are given in para 7.3 of this Manual. All the cases of RC/PA would be scrutinized by a CNC. DMM would constitute the CNC for the conclusion of RC/PA on case to case basis.

15.11 CFA Approval for Signing RC/PA

Approval of CFA for concluding RC/PA would be obtained as per the delegation of financial power, based on the recommendation of CNC. CFA would be determined on the cumulative anticipated annual withdrawal against such RC/PA even if parallel RCs are entered through separate bidding.

15.12 Scrutiny and Approval of RC/PA

A draft contract will be prepared by MMG as per the format DRDO.RC.01 and the same shall be scrutinized, by an officer specifically authorized by Director of RC/PA concluding Lab/Estt, for its correctness vis-a-vis rate and terms & conditions approved by CFA. The draft contract may also be referred to finance rep for scrutiny. Thereafter, the agreement should be signed and dispatched as per para 9.2.4 and 9.2.5 of this Manual. Copy of the contract will also be sent to all the Labs/Estts who may be using it.

15.13 Parallel RC

In cases it is observed that the rate contractor does not have capacity to cater for expected demand or where it is desired to have a wider vendor base for whatever reasons, RCs will be concluded with more than one firm for the same store/ service. Such contracts are known as parallel RCs. Parallel RCs will be concluded with other bidders at L1 rate and terms & conditions. For the sake of transparency and to avoid any criticism, all such RCs are to be issued simultaneously.

15.14 Special Conditions Applicable for RC/ PA

15.14.1 Earnest Money Deposit (EMD) is not applicable.

15.14.2 In the schedule of requirement, no quantity is mentioned; only the anticipated drawal may be mentioned without any commitment.

15.14.3 Performance cum Warranty Bond of reasonable amount from the RC/PA holders will be obtained prior to entering into such agreement.

15.14.4 Payment Terms Payment up to 100% may be released on receipt of stores at consignee's premises against Invoice, Inspection Note, and Certificate in respect of Fall Clause. The balance payment will be made after accounting of items by the consignee.

15.14.5 The Buyer reserves the right to conclude more than one RC for the same item.

15.14.6 The Buyer as well as the Seller may withdraw the RC/ PA by serving suitable notice to each other. The prescribed notice period is generally not less than thirty days. However, supply orders placed during the notice period will be honoured by the Seller.

15.14.7 In case of emergency, the Buyer may purchase the rate contracted item through ad-hoc contract with a new Seller.

15.14.8 Usually, the terms of delivery in RC/PA are FOR dispatching station. This is so, because such agreements

are to take care of the users spread all over the country. However, wherever it is decided to enter into RC/PA which is FOR destination, the cost of transportation should be separately asked for.

15.14.9 The Buyer and the authorized users of the RC/PA are entitled to place supply orders up to the last day of the validity of the agreement and, though supplies against such supply orders will be effected beyond the validity period of the agreement, all such supplies will be governed by the terms and conditions of the RC/PA.

15.14.10 Supply orders, incorporating definite quantity of goods to be supplied as per the terms and conditions of agreement, will be issued for obtaining supplies on need basis.

15.14.11 Fall Clause

All RC/ PA will be governed by “Fall Clause”. The following Fall Clause will invariably form part of the agreement:

- a) The prices charged for the stores supplied under the agreement by the Seller shall in no event exceed the lowest price at which the Seller sells the items of identical description to any other person/organization during the period till performance of all supply orders placed during the currency of the agreement is completed.
- b) If, at any time, during the said period, the Seller reduces the sale price of such stores or sells stores to any other person/organization at a price lower than the price chargeable under the agreement, he shall forthwith notify such reduction or sale to the authority which has concluded the RC/PA; and the price payable under the agreement for the stores supplied after the date of coming into force of such reduction or sale shall stand correspondingly reduced.
- c) However, the above stipulation will not apply to:
 - (i) Export by the Contractor.
 - (ii) Sale of stores as original equipment at prices lower than the prices charged for normal replacement.
 - (iii) Sale of stores such as drugs, perishable goods which have expiry dates.

15.14.12 Certificate in respect of Fall Clause

- a) While submitting his bills for the goods supplied against the Rate Contract/ Price Agreement, the Contractor shall give the following certificate also:

“I/We certify that the stores of description identical to the stores supplied to the Government under the contract herein have not been offered/sold by me/us to any other person/ organization up to the date of bill/the date of completion of supplies against supply orders placed during the currency of the RC/PA, at a price lower than the price charged to the Government under the contract.”
- b) If the Contractor sells any goods at lower than the contract price, except covered by any of the three exceptions indicated above as per para 15.14.11 (c) of this Manual, such sales have also to be disclosed in the aforesaid certificate to be given by the Contractor to the Government. The obligations of the Contractor in this regard will be limited with reference to the goods identical to the contracted goods sold or agreed to be sold during the currency of the contract.

15.14.13 The successful bidder shall maintain stocks at the station and shall make deliveries against supply orders from such stocks within the specified period.

15.15 Performance cum Warranty Bond

Depending on the anticipated overall drawal against a RC/PA and, also, anticipated number of parallel RCs to be issued for an item, the authority concluding such contract will obtain Performance cum Warranty Bond in the form of BG of reasonable amount from the RC/PA holders. A suitable clause to this effect is to be incorporated in the RFP. It shall, however, not be demanded in the supply orders issued against RC/PA.

15.16 Placement of SO against RC/PA

The demand for the procurement of items on RC/PA will be approved by CFA as per delegation of financial powers vis-à-vis mode of bidding on which the agreement has been concluded. Based on the approval

of such demand, MMG will place the SO on RC/PA holder as per the format DRDO.RC.02.

15.17 Renewal and Extension of RC/PA

It should be ensured that new RC/PA are made operative right after the expiry of the existing contract without any gap. In case, however, it is not possible to conclude new RC/PA due to some special reasons, timely steps are to be taken to extend the existing contracts with same terms, conditions etc. for a suitable period, with the consent of the Contract holders. Period of such extension should generally not be more than three months. While extending the existing contracts, it shall be ensured that the price trend is not lower. RC/ PA of the firms, which do not agree to such extension, is to be left out of consideration for renewal and extension. Any extension of the existing RC beyond a period of three years would need the approval of Secretary Defence (R&D) with the concurrence of Addl. FA (R&D) & JS.

15.18 TERMINATION AND REVOCATION OF RC/ PA

RC/PA is in the nature of standing offer and a legal contract comes into force only when a supply order is placed by the Buyer. Being just a standing offer, embodying various terms of the offer, the contract holder may revoke it at any time during its currency. However, reasonable opportunity i.e. not less than thirty days should be given to the contractor to represent against any revocation/cancellation of RC/PA.

CHAPTER 16

PAYMENT/ CLEARANCE OF BILLS

16.1 General

After the stores have been received in good condition, inspected to the satisfaction of the user and Brought on Charge (BOC), it becomes obligatory on the part of Lab/Estt to clear the Seller's bills promptly. It is the responsibility of the Lab/Estt to ensure that the Seller's bills are paid as per terms and conditions stipulated in the supply order/ contract. To prevent any misuse and to promote transparency, all payments to Sellers may be made through electronic mode of payment only. The supply orders/ contracts may include a clause asking the Sellers to provide details of their banker's name, branch, branch code, branch address, account (a/c) number, type of a/c, MICR number, IFS Code and PAN with their bills as a measure of safety so as to enable the paying authority to credit the payment into Sellers' a/c directly through electronic mode of payment. In situations where electronic mode of payment is not possible, Lab Director will authorize the payment by account payee cheque. The Seller will furnish bankers details such as banker's name, branch and a/c no. to the paying authority. Details of payments made by cheque will be intimated to the local audit authorities periodically.

16.1.1 Lab/Estt will communicate the specimen signatures of the officers authorized, to the paying authority, to sign contingent bills, CRVs and other financial documents.

16.2 Documents to be enclosed for Claiming Payment

The documents to be submitted for audit and payment depend upon the nature of procurement and the terms and conditions of a particular supply order/ contract. However, essential documents that are required for audit and payment are as follows:

16.2.1 Documents to be submitted to the audit authority along with advance copy of the Supply Order/ Contract:

- a) Ink signed copy of the Supply Order/ Contract and amendments thereon with authority.
- b) An ink-signed copy of Financial Sanction of the CFA and amendments.
- c) A copy of the techno-commercial evaluation report in case of two bid system.
- d) A copy of the Comparative Statement of Bids (CSB)/ CNC proceedings, as applicable.
- e) PAC/ Single Source Certificate/ any other certificate that may be peculiar to the procurement.

Note: In case documents listed above are not sent in advance to the audit authority, they may be called for by such authority at the time of payment of bills/ post audit, where applicable.

16.2.2 Documents to be submitted to paying authority for payment along with the Bill:

- a) For Indigenous Sellers:
 - (i) An ink-signed copy of the Contingent Bill/ Seller's Bill duly countersigned
 - (ii) An ink-signed copy of the Commercial Invoice
 - (iii) A copy of the Supply Order/ Contract and amendments (there will be no need for paying authority to ask for fresh sanction of the CFA if there are any changes in taxation structure / rates in those cases where it is clearly mentioned in the supply order / contract that applicable taxes and duties will be paid at actuals.)
 - (iv) An ink-signed copy of CRV
 - (v) Inspection Note/ Progress Report/ Job Completion Certificate/ Installation Report, as applicable
 - (vi) Bank Guarantee/ Indemnity Bond for advance, as applicable
 - (vii) Performance cum Warranty Bond, as applicable
 - (viii) DP extension and Imposition/ waiver of LD with authority
 - (ix) Self certification from the Seller that the CST/ VAT received under the contract would be deposited to the concerned taxation authority. In this regard, extant Government orders will be applicable as communicated by DRDO HQ.

- (x) Details for electronic payment
 - (xi) Certificate from user confirming receipt of required documents in case of Design, Developmental and Fabrication Contract
 - (xii) Any other document/certificate that may be provided for in the supply order/ contract
- b) For Foreign Sellers:
- (i) Clean on Board Airway Bill/Bill of Lading
 - (ii) Original Invoice
 - (iii) Packing List
 - (iv) Certificate of Origin from Seller's Chamber of Commerce, if any
 - (v) Certificate of Quality and year of manufacture from OEM
 - (vi) Dangerous Cargo Certificate, if applicable
 - (vii) Insurance Policy of 110% value in case of CIF/ CIP contract
 - (viii) Certificate of Conformity and Acceptance Test at PDI, if any
 - (ix) Phyto-sanitary/ Fumigation Certificate, if any
 - (x) Any other documents as provided for in the Contract
- Note: Depending upon the peculiarities of the procurement being undertaken, documents may be selected from the list given above and specified in the supply order/ contract.

16.3 Processing of Bills

All bills received will be registered centrally and processed for payment after ensuring the availability of funds under the relevant budget head. The following points will be ensured:

- a) Prompt action in case any discrepancy is detected in the contractor's bills.
- b) Bills prepared on prescribed form are pre-receipted bearing revenue stamps on bills as applicable.
- c) Amounts are shown both in words and figures and are rounded off to the nearest rupee.
- d) The nomenclature of the items and the quantities are in accordance with the supply order/ contract.
- e) The amounts claimed on account of incidental charges are admissible as per terms and conditions of the order/ contract.
- f) Cash receipts/ certificates are enclosed in support of packing and forwarding charges and original cash receipts for postage and insurance are enclosed, wherever applicable.
- g) VAT/ CST/ Service Tax Regd. No./ PAN is enclosed.
- h) Excise Duty (ED) wherever it is necessary to be paid should be supported by the ED invoice duly signed by the authorized signatory of the company in terms of ED notification.
- i) CRV/ Inspection Report (IR) is enclosed with the bill. Nomenclature of the items on CRV/ IR should exactly correspond to those shown in the supply order/ contract and the contractor's bill. Rates and total value of all items should be shown in the CRV/ IR.
- j) Receipted copy of the delivery challan is enclosed with the bill.
- k) In case of advance payments, Bank Guarantee/ Indemnity Bond or equivalent bond is enclosed.
- l) The arithmetical accuracy of the bills will be thoroughly checked before payment.
- m) Deductions will be made from the bills on account of demurrage/ wharfage paid by Lab/Estt on consignments due to late receipt of RR/ LR (Railway Receipt/ Lorry Receipt).
- n) Income tax will be deducted as applicable.

16.3.1 Time Schedule for Clearance of Bills: Expeditious processing of bills, after acceptance of stores, is essential to ensure the payment to the Seller within the prescribed time limit to avoid legal implication leading to payment of penal interest on delayed payments. For this purpose, Labs/Estts will issue local orders fixing time schedules for completion of inspection, accounting and submission of bills for release of payment to the paying authority.

16.3.2 The bills for accepted stores along with documents as prescribed in para 16.2.2 of this Manual will be forwarded by Lab/Estt (MMG) to Finance Section handling cash assignment or local CDA (R&D)/ paying authority for payment. Paying authority will not seek fresh sanction of the CFA if there are any changes in taxation structure / rates in those cases where supply order has specifically excluded applicable taxes and duties which are to be paid at actuals.) On the receipt of the cheque slip/ intimation from the paying

authority, ECS payment details or the cheque number, date and amount will be entered in the bill register and cheque slip inserted in the purchase file.

16.3.3 Balance Payment: In case of payments made from cash assignment, necessary entries in this regard will be made in the progress register. All payments (up to 90% or 95%) shall be entered in the progress register. The bills for the balance (10% or 5%) payments to the Seller shall be submitted with supporting documents as applicable to local CDA (R&D)/ paying authority for settlement.

16.3.4 Adjustment of Advances: All advances given to the Seller will be adjusted against the intermediate milestone payments or in any case against the final stage payment due to the Seller within six months from the date of receipt of stores/ completion of milestone/ service.

16.3.5 Advance payments made to the Seller, will be entered in the Advance Payment Register and submission of the adjustment/ final claims regulated with reference to this register.

16.3.6 Lab/Estt will maintain a Register of Bank Guarantees furnished by the Seller to them. The records should be maintained with a designated officer who will periodically check their validity during currency of the contract/ supply order and advise extension as required.

16.3.7 Payment against Time Barred Claims: Claims of Sellers preferred after 3 years are time barred by the Statute of Limitations. The time from which the limitations begin to run will generally be calculated from the date when the payment falls due/ from date of delivery and acceptance of goods, unless the payment claim has been under correspondence. Such time barred claims cannot be paid without the sanction of Govt. For claiming such an amount, the Seller has to make a request for special treatment to allow his payment and giving the justifications for such special treatment. The decision to accept or refuse such payments shall be taken by the Govt. on case to case basis. However, limitation is saved if the Seller has forwarded his initial claim within the time allowed and it had been under consideration with the Govt. during which time the claim may have been modified or corrected with the consent of the parties before it is admitted for payment. Such period of consideration will not be counted towards the period for limitations provided after such modifications or corrections the claim remains substantially the same. Time Barred claims will be sent to DMM, DRDO HQ for necessary approval along with confirmation from concerned CDA (R&D)/ paying authority that payment has not been made. Thereafter, Lab/Estt will send a copy of the approved time barred sanction to the paying authority along with the claim of the Seller for payment.

16.3.8 These provisions exclude the payment withheld due to non-compliance of terms and conditions of the contract by the Seller.

16.4 Lost/ Misplaced Cheques and Issue of Fresh Cheques

In the event of loss/ misplacement of cheque, the following procedure will be followed: (This procedure is not applicable in case of payment made through electronic mode.)

16.4.1 The beneficiary must lodge a written complaint to the Lab/Estt regarding loss/ misplacement of the cheque issued in his favour and non-realization of payment against a legitimate supply/ service rendered by him within the validity period of the cheque. After expiry of validity period, the Lab/Estt will obtain a Non-Payment Certificate (NPC) from the bank stating that the cheque has not been honoured and no payment released to the beneficiary.

16.4.2 The Seller will execute an indemnity bond, duly notarized on the appropriate non-judicial stamp paper stating the fact of loss/ misplacement of the cheque (No. _____ Date _____ Amount _____) and non-encashment during the period of validity.

16.4.3 The above mentioned document, in original, will be forwarded to the concerned paying authority with a request to issue a Non-Payment Certificate (NPC).

16.4.4 The CDA (R&D), after verification and confirmation that the cheque in question has not been encashed, will issue NPC for issue of a fresh cheque.

16.4.5 If, after verification, the CDA (R&D) finds that the cheque has been paid, they CDA (R&D) will send a photocopy of the cheque to the concerned Seller to take up the matter with the bank for reconciliation and settlement.

16.5 Preparation of CRV

Lab/Estt will prepare CRVs immediately after receipt of stores. After acceptance of stores, CRVs will be sent to paying authority for settlement of advance/payment. In cases where bill for balance payments are received later, CRV No. and CRV date should be mentioned while sending these bills for payment for linking by the paying authority.

16.6 Tax Deducted at Source (TDS)

Paying authority will ensure prompt filing of the details of TDS periodically, in respect of procurement cases, as per the instructions of tax authorities. Utmost care has to be exercised while preparing the data of TDS and ensure that all information filled under TDS is correct.

16.7 Monthly Expenditure Report (MER) to Paying Authority

The finance section of Lab/Estt handling the cash assignment will close the accounts on 25th of every month except the month of March and prepare the MER for the month. The accounts for the month of March will be closed on the last working day of the month. The MER in respect of Build-up and projects must be prepared separately. The Finance Section will forward the MER(s) to CDA (R&D) within 3 working days from the date of closing of accounts.

16.8 Expenditure Management Under Sanctioned Projects

Lab/Estt will entrust the responsibility of expenditure management of projects to an accounts officer or designated officer to assist the Programme/ Project Director. The accounts officer will receive a copy of MER and update the master register of the project. Prompt action must be ensured every month to reconcile any errors in booking of expenditure in respect of projects. It is the responsibility of the Programme/ Project Director to ensure periodic reconciliation of expenditure and rectification of all erroneous bookings before closure of a particular financial year.

16.9 Monthly Expenditure Report (MER) To DRDO Hq

At the end of every month, all Labs/Estts will prepare the MER for the month in respect of build-up and projects as per the format prescribe by DBFA and will ensure its submission to DBFA as per the timeline prescribed by DBFA.

CHAPTER 17

PERIODIC FEEDBACK TO DRDO HQ

17.1 General

Plant, equipment and material are the vital inputs for research and development activities of DRDO Laboratories/ Establishments and the cost of their procurement constitutes a significant portion of the R&D Budget. It is therefore, imperative that timely action is initiated and appropriate monitoring mechanism is put in place in each and every case of procurement, installation and commissioning of equipment/ machine. As such an Annual Action Plan for procurement, installation and commissioning of equipment/machine should be meticulously drawn well in advance. Annual Actions Plans must also be quarterly reviewed (as on June 30th, September 30th, December 31st and March 31st) by Lab/ Project Director with a view to ensuring that timely procurement of stores helps in completing the objectives of projects without any cost and time over runs.

17.2 Submission of Periodic Reports by Labs/Estts

Labs/Estts would forward various reports to DMM/DRDO HQ at the desired interval as mentioned below.

17.2.1 Quarterly Reports: These reports are required at the end of each quarter of the financial year covering instances of abnormal delay adversely affecting completion of R&D Projects. Such reports while covering the following instances or delay should also incorporate the reasons for delay and recommend reasons for minimizing adverse effects of delay on completion of R&D project.

- a) All cases, where internal lead-time is more than one year i.e. where more than one year is taken from demand initiation for procurement of stores and issue of supply order.
- b) Instances of abnormal delay of more than one year in installation after the receipt of machine/equipment in Lab/Estt.
- c) Any abnormal under utilization of equipment due to delay in repair/ servicing/ up-gradation etc.
- d) Any equipment lying unused for a period exceeding six months.
- e) All cases where machines/equipment costing more than Rs. 5 lakh are received after the closure of the project or at the fag end of the project i.e. 3 months ahead of PDC.
- f) Delay of more than six months in disposal of surplus/ obsolete equipment after being recommended for disposal.
- g) Quarterly reports on foreign exchange liabilities (as per proforma specified by DMM).
- h) Quarterly reports on stores purchased/contracts finalized costing more than Rs. 2 Crores (as per proforma specified by DMM).

17.2.2 Monthly Report: Monthly report on FE utilization (as per proforma specified by DMM).

17.2.3 Review of periodic reports by DRDO HQ: DRDO HQ will review the reports and submit the same to the Secretary Defence (R&D) where ever required. Recommendations and remedial measures suggested are to be scrupulously adhered to by the Laboratory Director/Project Directors.

CHAPTER 18

MAINTENANCE/ WEEDING OUT OF OLD RECORDS (CONTRACTS / SUPPLY ORDERS)

18.1 General

Constant review of old records/ files will help to distinguish between the documents essentially required to be maintained and those to be destroyed. Weeding out of unwanted old records/ files makes available valuable space and helps in prompt retrieval of the desired files.

18.1.1 While undertaking the weeding out of records/files, it will be ensured that the following types of files are not destroyed:

- a) Files containing Government sanctions, important policy decisions, precedents, audit rulings till they cease to have relevance.
- b) Files having historical value of information.
- c) Records pertaining to court cases and audit objections till their finalisation/ settlement.
- d) Registers for EMD/ Bank Guarantees, Indemnity Bonds, Insurance Policies etc.
- e) Contracts and supply orders files/ documents not completing the period as specified in para 2.6.2 of this Manual.

18.1.2 All old records/ files will be maintained in the Central Record Room by Labs/Estts and access facilitated by feeding their location details into Central Computerised Management Information System.

18.1.3 Destruction/ weeding out will be approved by the Director, based on the recommendation of a committee appointed for this purpose. Certification will be made by the head of the respective user group that the records intended for destruction are no longer required.

18.1.4 A list of all files weeded out will be retained for record for a further period of 5 years from the date of actual destruction.

18.1.5 All contracts/ supply orders files weeded out, will be destroyed by burning or shredding and will not be disposed off as waste paper to any private party.

1. LINKING OF PLANNING, BUDGETING AND PROCUREMENT

1.1 General

- 1.1.1* Budgeting is a system of financial control over receipts and expenditure. The fundamental rule on which the system of budgetary control rests is that no item of major public expenditure can be procured unless provision exists to buy the same in the approved budget estimates. Formulation, monitoring, coordination and reporting of all budget activities will be assigned to an identified group headed by a senior officer well conversant with the planning and resource management functions of the Lab/Estt.
- 1.1.2* Resource aware decisions for planning and procurement have greater likelihood of facilitating completion of projects within estimated cost and timelines. Therefore, it is important that all stakeholders are engaged appropriately in planning, budgeting and execution.
- 1.1.3* Budget formulation and prioritization will be the primary responsibility of the Lab/ Estt. IFA of the cluster and DRDO HQ would be involved with formulation and monitoring of budget. The financial advisors would thus become partners in prioritizing, planning and expenditure monitoring.

1.2 Budget Projection

- 1.2.1* The following aspects will be kept in mind while projecting budgetary requirements:
- a) Organizational goals
 - b) Urgency
 - c) Corporate decisions
 - d) Likely Cash outgo against commitments entered in previous years and new commitments likely to be entered during the year.
 - e) Maintenance of equipment, machinery, etc.
 - f) Fund requirements against basic research, build-up activities and procurement of books and journals.
- 1.2.2* While formulating forecast budget in respect of materials, the following priorities will be borne in mind:
- a) Obligatory expenditure on past contractual liabilities, essential maintenance requirements and minimum office contingencies including liveries and protective clothing and Proposed expenditure on procurement of materials for ongoing programs/ projects will be included as first priority.
 - b) Expenditure on fresh programs/ projects to be undertaken during the year; training/ seminars and the expenditure on materials procurement under build-up will be considered as second priority.
 - c) Expenditure on urgent, unforeseen, unplanned tasks/ activities will, however, be accommodated.
- 1.2.3* The Lab/Estts would classify their annual requirements of funds in Revenue & Capital Heads as per the guidelines issued by DBFA vide letter No. DRDO/DBFA/BE/82092/M/ 01 of 08.01.2002 as amended.
- 1.2.4* Labs/Estts will forward their budgetary requirements to the concerned DG (Cluster)/ CC R&D office based on expected cash out flow during the financial year as per prescribed formats to facilitate assessment of actual cash flow requirement of various activities in different areas. These budget proposals will be scrutinized and vetted by financial advisor of the concerned DG (Cluster)/ CCR&D. Thereafter, the vetted budget proposals will be submitted in time to DBF&A, DRDO HQ for consolidation, prioritization in consultation with IFA at DRDO HQ.
- 1.2.5* Based on the projection of funds made by the Labs/Estts, a consolidated financial profile will be projected by DRDO HQ to the Ministry of Defence (Finance) for appropriation, out of the Consolidated Fund of India. Predominantly, Budget for procurement of goods/ stores/ services within the scope of this document for DRDO will be made available in the Defence Services Estimates under the following Heads:

	Major Head	Sub Major Head	Minor Head
Revenue	2080	---	110
Capital	4076	05	052

1.2.6 Besides forecast budget estimates, following estimate reports are also submitted to MoD (Fin) during the financial year.

1. Preliminary Revised Estimates based upon 4 months actual
2. Revised Estimates based upon 6 months actual
3. Modified Appropriation based upon 10 months actual

1.2.7 Labs/Estts need to inform the DBF&A in case any deviations are noted subsequent to submission of the estimate for inclusion in subsequent budgetary estimates.

1.3 Budget Allocation

Funds are allotted to Labs/Estts by DBF&A, DRDO HQ under various Budget Heads against their projected requirements considering availability of funds, past commitments, priority of projects, utilization pattern of funds and rate of growth. Budget allocation would also be endorsed to IFA s for the respective clusters/ directorates/ Labs as the case may be.

1.3.1 Periodic allocations are made to Labs/Estts based on the actual expenditure vis-à-vis the anticipated expenditure as mentioned below:

- a) Vote on Account: This allotment is made at the beginning of the year to meet obligatory expenses till the approval of budget by the Parliament. On the first day of every financial year, DRDO HQ allocates vote on account. In case the allocation is inadequate, an ad-hoc additional allotment may be requested for “on requirement basis”.
- b) Initial Allotment: Based on the Forecast Budget, this allotment is made by the first week of June every year unless vote on account period has been extended by the Govt. This allotment is also called Budgetary Estimate (BE) and includes the provisional allotment in the form of vote on account previously made.
- c) Revised Allotment: This allotment is made towards the end of the calendar year and may increase or decrease the initial allotment based on utilization pattern.
- d) Final Allotment: This is based on modified appropriation towards the close of the financial year.

1.4 Budget Monitoring

Labs/Estts are expected to ensure uniform pace of expenditure during the financial year. The ceilings set, if any, on limiting expenditure in a given quarter or month need be adhered as per the prevailing orders of DBFA, DRDO HQ.

1.4.1 MoF has enforced Cash Management System which imposes ceilings on quarterly expenditure. The guidelines stipulate meticulous planning and submission of Quarterly Expenditure Plan (QEP) in the beginning of the financial year which needs to be diligently followed as savings in one quarter would not be available in the subsequent quarters automatically without approval from DBFA.

1.4.2 Labs/Estts are required to furnish various periodic reports to DBF&A, DRDO HQ as per prescribed format. These reports are regulatory in nature and form an essential part of budgetary and monitoring process. These reports constitute micro level database, which is used for linkage and correlation with macro level expenditure profile received from CGDA periodically under various Code Heads in which Budget Allocation has been made. Some of the reports in this category are annual action plan (cash out go plan), monthly expenditure returns, contractual payment details, etc. These reports need to be prepared with utmost care and scrutiny, to minimize deviation during the correlation stage and also to provide a benchmark for resource mobilization efforts. A copy of the periodic reports will also be sent to concerned DG/ CC R&D/ IFA for information.

1.5 Expenditure Consolidation

Consolidation of expenditure is done by the CGDA for all wings of MoD based on the expenditure returns furnished by respective CDA's. Therefore, to ensure correct compilation of expenditure to heads authorized to Dept of Defence R&D, Labs/Estts are required to clearly indicate Head in which expenditure has to be booked while submitting bills to the paying authority.

1.5.1 CGDA has issued "Classification Hand Book (CHB)" wherein details of classification of expenditure, in which expenditure has to be booked, have been given. Further, DBF&A allocates the unit code for each expenditure head, i.e., Lab general and projects. It is obligatory to indicate unit code allotted by DBF&A on all bills submitted to the paying authority indicating unit code of Labs/Estts in case of procurement made under Build-up and Maintenance and unit code of projects if, procurement is made against projects/ programs.

1.5.2 Therefore, to ensure correct compilation of expenditure to the relevant heads, Labs/Estts are required to clearly indicate Major Head, Minor Head, Code Number and Unit Code on all bills submitted to the paying authority.

1. BANKING INSTRUMENTS

1.1 General

Import is regulated by the Directorate General of Foreign Trade (DGFT) under Ministry of Commerce and Industry, Government of India. Authorized dealers, while undertaking import transactions, should ensure that the imports into India are in conformity with the Foreign Trade Policy in force (as framed by DGFT), Foreign Exchange Management (Current Account Transactions) Rules, 2000 framed by Government of India vide Notification No G.S.R. 381(E) dated 03 May 2000 as amended and the directions issued by Reserve Bank of India under Foreign Exchange Management Act from time to time.

1.1.1 Banking Instruments in International Trade: The Uniform Customs and Practices for Documentary Credit (UCPDC) are a set of internationally recognized definitions & rules for interpretation of documentary credits, issued by the International Chamber of Commerce, Paris. ICC Publication No. 600 have been in operation since Jan 2007 and covers all aspects of international trade payments against documentary proofs. Lab/Estt should follow normal banking procedures and adhere to the provisions of UCPDC for payment to foreign firms.

1.1.2 Banking Instruments for Foreign Payments: Banking instruments used for effecting payment in case of import are as under:

- a) Letter of Credit (LC)
- b) Direct Bank Transfer (DBT)

1.2 Letter of Credit (LC)

1.2.1 LC is a written undertaking given by a bank on behalf of the Buyer (applicant) of goods or services to pay the Seller (beneficiary) of goods or services, a certain sum of money, provided the Seller presents the documents stipulated in the credit within the validity period of the credit.

1.2.2 Reasons for using LC: In international trade, the Buyer and the Seller are located in different countries and may not know each other. Countries generally have different legal systems, currencies and trade and exchange regulations. So the Buyer/ Seller needs some security before releasing payment/ dispatching goods.

- a) A Seller would want:
 - (i) An assurance that he will be paid as per contractual terms.
 - (ii) Convenience of receiving payments in their own country.
- b) A Buyer would want:
 - (i) An assurance that the Seller will dispatch the goods within time.
 - (ii) To pay for the contracted goods only after they are dispatched by the Seller.

1.2.3 Advantages of LC:

- a) For the Seller:
 - (i) The bank honours the credit independent of the Buyer.
 - (ii) The Buyer cannot withhold the payment under any pretence.
 - (iii) Delays that can occur in transmitting bank funds are avoided to a large extent.
- b) For the Buyer:
 - (i) The goods will be delivered in accordance with the delivery conditions stated in the LC.
 - (ii) Buyer pays only when the documents comply with the credit terms in all respect.

1.2.4 Parties involved in opening of LC:

- | | | | |
|----|--------------|---|-----------------|
| 1) | Applicant | - | Buyer/ Importer |
| 2) | Issuing Bank | - | Buyer's bank |

- 3) Advising Bank - Bank in Seller/ Exporter's Country
- 4) Beneficiary - Seller/ Exporter
- 5) Negotiating Bank - Paying Bank, authorized/ nominated by the issuing bank, to pay the money to Seller/ Exporter on presentation of documents
- 6) Reimbursing Bank - Bank which reimburses the money to the negotiating bank

1.3 Types of LC

1.3.1 Following types of LC may be used by the Buyer for making payment to the Seller as per the contractual terms and conditions:

- a) Irrevocable LC
- b) Confirmed LC
- c) Revolving LC
- d) Divisible LC

1.3.2 *Irrevocable LC* : A credit in which the Issuing Bank gives a definite, absolute and irrevocable undertaking to honour Buyer's obligations, provided beneficiary complies with all terms and conditions, is known as an irrevocable letter of credit. It implies that LC cannot be amended, cancelled or revoked without the consent of all parties. All LCs are deemed to be irrevocable.

1.3.3 *Confirmed LC* : A confirmed LC is one in respect of which another Bank in the beneficiary's country adds its confirmation at the request of the Issuing Bank. This undertaking of the confirming Bank to pay/ negotiate/ accept is in addition to the undertaking of the issuing bank. This is an added protection to the beneficiary.

1.3.4 *Revolving LC* : In such LC, the amount of credit is restored, after it has been utilized, to the original amount thus obviating the necessity of opening a fresh LC for each dispatch/ shipment. Revolving LC is used when the Buyer is to receive partial shipment of goods at specific intervals over a long duration.

1.3.5 *Divisible LC* : A LC could be divisible or non-divisible. Divisible LC could be opened when more than one beneficiary is allowed and payment has to be made as per the consignment.

1.4 Essential Elements of LC

The LC shall be opened as per the proforma DRDO.LC.01 and essential elements as mentioned below are to be clearly stipulated while opening a LC:

- a) Type of LC
- b) Names & addresses of applicant and beneficiary
- c) Beneficiary's bank details
- d) Amount of credit and currency
- e) Validity of LC
- f) Latest shipment date (delivery date as per contract)
- g) Basis of delivery (FOB/FCA/CIP/CIF)
- h) Supply Order / Contract No. and date
- i) Shipment from _____ To _____
- j) Details of consignee and/or ultimate Consignee
- k) Acceptability of part shipment
- l) Acceptability of trans-shipment
- m) List of documents required from beneficiary for release of payment
- n) Applicability and conditions of LD Clause

1.5 Special Instructions/ Procedure for Opening of LC and Payment Mechanism

1.5.1 Process for opening of LC will be initiated by the Lab/Estt, as per the schedule of opening of LC in the contract, after receipt of the following documents:

- a) Performance security deposit;
- b) Export clearance, if applicable;
- c) Order acknowledgement;

1.5.2 Documents required for Opening of LC: Lab/Estt will process the case for the item-wise release of FE before opening of LC in the contract. The following documents are required by issuing bank through paying authority for opening of LC:

- a) Forwarding letter
- b) Request letter for opening of LC, as per DRDO.LC.01, with the condition that the Bank Release Order (BRO) will be issued by bank within 24 hrs.
- c) Form No. 2 - Application and guarantee, as per DRDO.LC.02 (contains the details of documentary evidences required)
- d) Declaration cum Undertaking (under section 10 (5), chapter III of the FEMA, 1999)
- e) Application for remittance in foreign currency (Form A-1/A-2 (Stores/ Services)), as per format DRDO.LC.03 and DRDO.LC.04
- f) Copy of Contract and amendments thereof

Five sets of above documents will be prepared by the Lab/Estt. Three sets will be forwarded to the issuing bank, one set will be forwarded to the paying authority and one will be retained by the Lab/Estt in the procurement file.

1.5.3 *Opening of LC:* Subsequently, the Issuing Bank establishes the LC with a unique LC number allotted to each payment case and intimates the paying authority and the Lab/Estt. about the opening of LC.

1.6 Release of Payment against LC

1.6.1 Paid shipping documents are required to be provided to Advising Bank/ nominated Negotiating Bank by the Seller, as proof of dispatch of goods as per contractual terms, to get his payment against the LC. The Negotiating Bank forwards one set each of these documents to the Issuing Bank and the Landing Officer/ rep. of Consignee, as specified in the Contract, for getting the goods/ stores released from the Port/ Airport. The documents, the details of which should be specified in the contract, include:

- a) Full set of clean on board Air Way Bill (AWB)/ Bill of Lading (B/L) in original
- b) Original invoice in triplicate (ink-signed)
- c) Item-wise packing list
- d) Certificate of country of origin of goods
- e) Certificate of quality and current manufacture from OEM
- f) Dangerous cargo certificate, if any.
- g) Insurance policy of 110% if CIF/CIP contract, wherever applicable.
- h) Certificate of conformity & acceptance test at PDI/FAT, signed by Buyer's and Seller's QA Dept., if provided in contract
- i) Phyto-sanitary/Fumigation certificate, if applicable
- j) Warranty certificate, if applicable
- k) Any other document as mentioned in LC

1.7 Amendment of LC

Any amendment to LC requires consent of both the parties. Director of Lab/Estt. is authorised to accord approval for processing the case for amendment of LC. However, in case, where amendment to LC requires amendment to the contract, prior approval of amending the contract shall be obtained by the Lab/Estt. from Competent Authority/ CFA, as applicable. The process for amendment of LC would be initiated after ensuring the followings:

- a) Request from the Seller for amendment of LC
- b) Re-confirmation regarding continuing availability of funds for releasing payment.
- c) Commensurate extension, if any, of PBG by the Seller.
- d) The onus of bearing charges for LC extension would be on the Seller or the Buyer depending upon the one who seeks/ is responsible for the extension.

1.7.1 Documents required for Amendment of LC

All cases for LC amendment would be routed through the paying authority to the issuing bank along with the following documents:

- a) Forwarding letter
- b) Vendor's request for LC amendment
- c) Amendment to contract indicating the required DP, LD applicability
- d) Certificate for onus of banking charges payable for LC amendment

1.8 Direct Bank Transfer

1.8.1 *Direct Bank Transfer (DBT)*: DBT mode of payment to a foreign Seller should be insisted upon in contracts up to a monetary value of US \$ 100,000. DBT payment may also be agreed to in case of contracts of higher monetary value, if acceptable to the Seller.

1.8.2 *Advantages of DBT*: Direct Bank Transfer shows a high degree of trust between the parties as the payment can be made by the Buyer after the receipt and inspection of goods at its premises. Payment through DBT is cost-effective as compared with LC.

1.8.3 *Processing of DBT payment*: The following steps are involved:

- a) Once the goods are ready and the Seller dispatches them by the agreed mode.
- b) The Seller sends one copy of the Bill of Lading/ Airway Bill along with the Invoice, in original (ink signed) to the Buyer directly confirming that one set of the documents has been sent to the port consignee for getting the goods/stores released from the Port/ Airport authorities.
- c) Following documents will be provided by the Lab/Estt to the bank through paying authority for processing the payment:
 - (i) Forwarding letter
 - (ii) Declaration cum Undertaking (under section 10 (5), chapter III of the FEMA, 1999)
 - (ii) Application for remittance in foreign currency (form A-1/A-2 (Stores/ Services)), as per format DRDO.LC.03 and DRDO.LC.04
 - (iii) Original Invoice (ink signed)
 - (iv) Copy of Contract and amendments thereof
 - (v) All other shipping documents as specified in the contract viz. Packing List, AWB/ BOL, Insurance Policy, Certificate of Quality, Warranty certificate, etc.

1.8.4 It may be noted that the payment should be made within stipulated period. In case of delay in payment is apprehended, a 'no-interest liability certificate' should be obtained from the Seller to obviate imposition of interest on the outstanding amount.

1.9 Bank Guarantee (BG)

1.9.1 *Definition*: BG is a written undertaking obtained from the Seller through his bank, as a guarantee that he would fulfill the promise/ terms and conditions of the contract and to ensure the discharge of liability of the Seller in case of his default. Three parties are involved in the agreement, namely the Applicant (Seller), the Beneficiary (Buyer) and the bank as the guarantor.

1.9.2 Essential Elements of BG

The essential elements of BG are as follows:

- a) The prescribed format in which BGs are to be accepted should be enclosed with the RFP and the language should be verified verbatim by the Buyer on receipt with the original BG format. The essential elements of BG indicated above should be cross-checked from the contract for correctness.
- b) While accepting BG's of foreign banks it should also be checked that the Applicable Law indicated in the Agreement is Indian and the date of validity has been specified.
- c) Sellers be told that BGs to be submitted by them should be sent directly by the Issuing Bank to the beneficiary by secured means.
- d) The validity period of BG be checked (60 days beyond completion of all contractual obligations, including warranty period if any)
- e) In exceptional cases, when BGs are received through the vendors/ Sellers etc., the issuing bank should be

requested to immediately send an unstamped duplicate copy of the Guarantee directly to the beneficiary with its covering letter to facilitate validation.

- f) As a measure of abundant caution, all BGs should be independently verified by the beneficiary when they are received from the Guarantor Bank. In case of BGs of foreign banks, assistance may be sought from SBI to check the authenticity of the BGs received. Such authentication would necessarily entail payment of service charges to SBI.

1.10 Acceptance of Bank Guarantees

1.10.1 Acceptance of various types of Guarantees

Acceptance of Bank Guarantee for indigenous and foreign vendors should be undertaken as follows:

- a) Indigenous Vendors: Bank guarantee issued by any of the Public Sector Banks or scheduled private sector commercial banks should be accepted.
- b) Foreign Vendors: The Seller will be required to furnish Bank Guarantee from a foreign bank of international repute (as per advice received from SBI, Foreign Division Branch regarding acceptability of the bank guarantee) drawn in favour of the Govt. of India/ Ministry of Defence.

1.10.2 Advisory Services of SBI: The Buyer may take the advisory services of SBI to authenticate the status of the bank from which the BG is being given by the foreign Seller. Under 'advisory' services to the Buyer e.g. with regard to acceptability of a BG furnished by a vendor from a foreign bank, the Bank only checks the risk status of the country and the credit rating of the bank in the international market. It, however, does not check the language or terms & conditions of agreement contained in the bank guarantee. Therefore, it is the responsibility of the Buyer to check the language given in the bank guarantee and verify whether it is as per the prescribed format, containing no ambiguity or conditions that are not verifiable by the banks. If the SBI advises that the guarantee is from a foreign bank of international repute and country-rating is satisfactory, the same will be accepted by the Buyer. In case the advice of SBI is that the guarantee is not from a bank of international repute with satisfactory country rating and/or a confirmation of a reputed Indian bank is required to be obtained, then the guarantee will be got confirmed by an Indian public sector bank or a scheduled commercial private sector bank. This confirmation would entail additional bank charges to be paid by the Buyer to the Confirming bank towards confirmation of the bank guarantee.

1.10.3 The following additional Services may be availed from SBI

- a) In case of Sellers from high risk country, BG may be got executed through the branch of SBI/ their Correspondent Banks located nearest to the Seller's country.
- b) List of countries where the SBI has a branch office or tie-ups with correspondent banks is available on the SBI Website circular.

1.11 Invocation of Bank Guarantee

Guarantees can only be invoked by the Buyer after fulfilling the following conditions:

- a) The claim/ intimation should reach the issuing Bank on or before the expiry of validity of date of the guarantee. The claim letter should be faxed immediately and then sent physically to be delivered to the bank concerned.
- b) The claim/ intimation should be in strict conformity with the terms of the Guarantee.
- c) Guarantor bank cannot enquire into the merits of the claim or take views on any dispute between the applicant and the beneficiary.
- d) On compliance of terms of the guarantee, payments are to be effected immediately and unconditionally by the bank.

1 CONTRACT OVERVIEW

1.1 Acts Governing Contracts

The following Acts contain the statutory provisions governing Contracts:

- a) Indian Contract Act, 1872.
- b) Sale of Goods Act, 1930.
- c) Arbitration & Conciliation Act, 1996
- d) Indian Stamp Act, 1899

1.2 Applicability to Defence Procurement

Government contracts, including those for defence procurement, are governed by the same laws which are applicable to contracts between private parties.

1.3 Contracting Stages

1.3.1 Proposal/ Offer : When one person (entity) signifies to another, his/her (their) willingness to do or to abstain from doing anything, with the view to obtaining the assent of the other to such an act or abstinence, he/she is said to make a proposal or offer. In procurement through bidding process, RFP is not a proposal/offer, however, the quotation/bid in response to the RFP is a proposal/offer.

1.3.2 Acceptance of the Proposal : When the entity to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal when accepted becomes a promise.

1.3.3 Agreement : Every set of promises forming the consideration for each other is an agreement. It is typically oral, though may be written, or simply understood as a part of an unspoken agreement by convention or through mutually beneficial etiquette. It relies on the honour of the parties for its fulfillment, rather than being in any way enforceable.

1.3.4 Consideration : Consideration is something of value by a promisor to a promisee in exchange of something of value given by a promisee to a promisor. Typically, the thing of value is a payment, although it may be an act or forbearance to act when one is privileged to do so.

1.3.5 Contract : An agreement, if made with the free consent of parties competent to contract, for lawful consideration and with a lawful object is a contract. Section 10 of Indian Contract Act, 1872 specifies that:

- a) There must be an offer from one party and its acceptance by another,
- b) Parties must be competent to contract,
- c) Consent of the parties must be free, i.e., no coercion or pressure from any side,
- d) There must be lawful consideration,
- e) There must be lawful object,
- f) There must be intent to create a legal relationship.

1.3.6 An agreement becomes a contract enforceable by law when the above conditions are satisfied. A defect affecting any of these renders a contract un-enforceable in law.

- a) **Parties Competent to Contract:** Under law any person who has attained majority and is of sound mind or not debarred by law to which he is subject, may enter into contracts. It, therefore, follows that minors and persons of unsound mind cannot enter into contracts nor can insolvent person do so.
- b) **Free Consent of the Parties:** The consent is said to be free when it is not caused by coercion, undue influence, fraud, misrepresentation or mistake. Consent is said to be so caused when it would not have been given but for the existence of coercion, undue influence, fraud, misrepresentation or mistake.
- c) **Lawfulness of Consideration/ Object:** The consideration or object of an agreement is lawful, unless it is

forbidden by law or is of such a nature that if permitted, it would defeat the provisions of any law, or is fraudulent or involves or implies injury to the fraudulent property of another or the court regards it as immoral or opposed to public policy. In each of these cases the consideration or object of an agreement is said to be unlawful.

- d) Intent to create a legal relationship: There should be an intention on part of parties to create a legal obligation for fulfillment of the contractual responsibilities which in case of default by either party can be legally enforced.

1.4 Parties to a Contract

Entities who can enter into a contract may be broadly sub-divided into following categories:

- a) Individuals/Sole Proprietorship Firms
- b) Partnerships Firms
- c) Limited Companies
- d) Corporations other than Limited Companies

1.4.1 Contracts with Individuals Individuals normally submit their bid either in their own name or in the name and style of their business. If the bid is signed by any person other than the concerned individual, the authority of the person signing the bid on behalf of another must be verified and a proper power of attorney authorizing such person should be insisted on. In case, a bid is submitted in a business name and if it is a concern of an individual, the constitution of the business and the capacity of the individual must appear on the face of the contract and the contract should be signed by the individual himself as proprietor or by his duly authorized attorney.

1.4.2 Contracts with Partnership Firms A partnership is an association of two or more individuals formed for the purpose of doing business jointly under a business name. It is also called a firm. It should be noted that a partnership is not a legal entity by itself, apart from the individuals constituting it. A partner is the implied authority to bind the firm in a contract within the purview of the usual business of the firm. The implied authority of a partner, however, does not extend to enter into arbitration agreement on behalf of the firm. While entering into a contract with partnership firm, care should be taken to verify the existence of consent of all the partners to the arbitration agreement.

1.4.3 Contracts with Limited Companies Companies are associations of individuals registered under Companies Act in which the liability of the members comprising the association is limited to the extent of the shares held by them in such companies. The company, after its incorporation or registration, is an artificial legal person, which has an existence quite distinct and separate from the members of shareholders comprising the same. A company is not empowered to enter into a contract for purposes not covered by its memorandum of association; any such agreement in excess of power given in the memorandum of association if entered into by the company is void and cannot be enforced. Therefore, in case of doubt, the company must be asked to produce its memorandum for verification or the position may be verified by an inspection of the memorandum from the office of the Registrar of Companies before entering into a contract. Normally, any one of the Directors of the company is empowered to represent the company. Where bids are signed by persons other than Directors, it may be necessary to examine if the person signing the bid is authorized by the company to enter into contracts on its behalf.

1.4.4 Corporations other than Limited Companies Associations of individuals incorporated under statutes such as Trade Union Act, Co-operative Societies Act and Societies Registration Act are also artificial persons in the eye of law and are entitled to enter into such contracts as are authorized by their memorandum of association. If any contract has to be entered into with any one of such corporations or associations, the capacity of such associations to enter into contract should be verified and also the authority of the person coming forward to represent the said associations.

1.4.5 Parties to Defence Contracts The parties to defence contracts are the President of India as the purchaser acting through the authority signing the Contract/Agreement/ Purchase Order etc. on his behalf, and the supplier named in the contract.

1.5 Communication of an Offer/ Proposal and Acceptance

- 1.5.1 Communication of an Offer or Proposal* The communication of a proposal is complete when it comes to the knowledge of the person to whom it is made. A time is generally provided in the RFP document for submission of the bid. Buyer is not bound to consider a bid, which is received beyond that time.
- 1.5.2 Time for Communication of Acceptance* A date is invariably fixed in bid up to which offers are open for acceptance. A proposal or offer stands revoked by the lapse of time prescribed in such offer for its acceptance. In case it is not possible to complete a bidding process within the period of validity of the offer as originally made, the consent of the bidder should be obtained to keep the offer open for further period or periods.
- 1.5.3 Completion of Communication of Acceptance* The communication of an acceptance is complete against the proposer or offerer when it is put in the course of transmission to him, so as to be out of the power of the acceptor, and it is complete as against the acceptor when it comes to the knowledge of the proposer or offerer. The medium of communication in government contracts is generally by post and the acceptance is, therefore, complete as soon as it is posted. So that there might be no possibility of a dispute regarding the date of communication of acceptance, it should be sent to the correct address by some authentic fool proof mode like registered post acknowledgement due, etc.
- 1.5.4 Acceptance to be Identical with Proposal* If the terms of the bid as revised, and modified, are not accepted or if the terms of the offer and the acceptance are not the same, the acceptance remains a mere counter offer and there is no concluded contract. It should, therefore, be ensured that the terms incorporated in the acceptance are not at variance with the offer or the bid and that none of the terms of the bid are left out. In case, uncertain terms are used by the bidders, clarifications should be obtained before such bids are considered for acceptance. If it is considered that a counter offer should be made, such counter offer should be carefully drafted, as a contract is to take effect on acceptance thereof. If the subject matter of the contract is impossible to fulfil or is in itself in violation of law such contract is void.

1.6 Structuring of Contracts

Government contracts are usually organized in accordance with the Uniform Contract Format, which specifies the distinct sections of a contract and the sequence in which they must be arranged. The contract may be structured as under:

- a) Cover Page & First Page
- b) Index
- c) Recitals/ Preamble/ Introduction
- d) Definitions
- e) Operating Clauses & Secondary Operating Clauses
- f) Warranties and Indemnities
- g) Boilerplate Clauses/ Miscellaneous Clauses
- h) Execution Clause/ Signature Clause
- i) Annexure/ Schedules

1.6.1 Cover Page & First Page Cover page of the contract usually contains Title and Number of the contract, Names of the Parties and the Date of the contract. The first page which immediately follows the cover page contains the Names and Addresses of the Parties. It is always advisable to give the address of the 'Registered Office' of the Parties.

1.6.2 Index: Index may be given in the beginning or in the end of the contract. It is suggested to have 'Index' in the beginning as contract documents are generally bulky and, therefore, reference of the articles/ clauses and related page numbers facilitate readers.

1.6.3 Recitals/ Preamble/ Introduction This section outlines the background of the contract and states the basic

reasons for entering into contract by Parties. It is not a binding part of the contract and is usually referred to by an arbitrator or judge to know the basic reason of the contract when it undergoes arbitration. It is also called the 'Whereas Clause' as all sentences start with 'Whereas' which implies 'Knowing that', 'Because the following clause is true'.

1.6.4 Definitions Definition part of the contract contains the implied meaning of the words and phrases used in the contract. It should contain only those words or phrases whose meaning is unclear and cannot be ascertained from the context. Definition declares what particular words or phrases are to be understood to mean in the context of the contract. Care should be exercised not to unnecessarily define words or phrases. It should be ensured while defining words that the definition does not contain any obligation. Defined words should always begin with a capital letter throughout the contract.

1.6.5 Operating Clauses & Secondary Operating Clauses These clauses define the essence of the contract and create the legal rights and obligations of the Parties. Scope of Work, Cost, Payment, Delivery, Warranty, Insurance, LD etc. are some examples of Operating Clauses. Secondary Operating Clauses are the ones which come next in priority.

1.6.6 Warranties and Indemnities

Here seller warrants and represents that the goods are sold with full title guarantee and that:

- a) They have authority to sell.
- b) They declare that minimum wages were paid to workers.
- c) No child labour was employed and that goods were produced by workers more than 18 years old.
- d) Sold goods are free of any encumbrance, i.e., Pledge; Lien; Mortgage.
- e) Seller indemnifies and holds buyer harmless, i.e., seller will pay damage claim from a third party up to a ceiling. The harmless part implies that after payment of damage, the paying party will not move the court to reclaim the paid amount.

1.6.7 Boilerplate Clauses/ Miscellaneous Clauses: These are routine general clauses in most commercial contracts, e.g., Severability Clause; Notices; Waivers; Arbitration; Force Majeure; Entire Agreement; Interpretation Clause; Amendment etc.

1.6.8 Execution Clause/ Signature Clause: This is signature clause of the contract and it is appropriate to mention authority authorized to enter into contract. All GoI contracts are to be signed "for and on behalf of President of India".

1.6.9 Annexure/ Schedules: Annexure or schedules are added to shorten the contract and make it better readable.

1.7 General Principles of Contracting

The following principles are laid down for the guidance of the authorities who have to enter into contracts or agreements involving expenditure from public funds:

1.7.1 The terms of contract must be precise and definite and without any ambiguities. The terms should not involve an uncertain or indefinite liability, except in the case of a cost plus contract or where there is a price variation clause in the Contract.

1.7.2 Standard forms of contracts should be adopted, wherever possible, and the terms of the contract should be subjected to close prior scrutiny.

1.7.3 As far as possible and where mandated, particularly if standard format of contract is not to be adopted, legal and financial advice should be taken in drafting of contracts and before they are finally entered into.

1.7.4 The terms of a contract, once the contract is concluded, should not be materially varied without the previous consent of the authorities competent to enter into the contract as so varied.

- 1.7.5 No contract involving any condition of an unusual character should be entered into without the previous consent of the competent financial authority.
- 1.7.6 Even in those rare cases where a formal written contract is not made, no order for supplies, etc., should be placed without at least a written agreement as to the price.
- 1.7.7 Adequate provision must be made in the contracts for safeguarding Government property entrusted to the service provider.
- 1.7.8 *Contract Effective Date (CED)*: The contract effective date is normally the date on which the contract is signed by both the parties unless otherwise mutually agreed to and clearly indicated in the contract as per agreed terms and conditions. CED must be indicated in all contracts in well defined terms.
- 1.7.9 With the fixation of CED, the date of completion/ discharge of contract should be automatically defined. Care should be taken to ensure that the contract completion date at any given point of time is deterministic.

1.8 Defining Important Common Terms in a Contract

- 1.8.1 *Exclusive Rights*: Business will be carried out ONLY by the firm whom the right has been conferred.
- 1.8.2 *Sole Agent*: Business will be carried out by the named agent only, however, OEM reserves the right to do the business directly.
- 1.8.3 *Best Endeavours*: Party is obliged to take all necessary steps to achieve the objectives even if it is costly or not cost efficient to that party.
- 1.8.4 *All Reasonable Endeavours*: Party is obliged to take all reasonable steps, taking into account all relevant circumstances including financial reasonableness.
- 1.8.5 *Reasonable Endeavours*: Party is obliged to take certain reasonable steps by balancing the duty and cost of compliance against its own commercial interest and finances.
- 1.8.6 *Encumbrances*: Encumbrances are floating charges and can be converted into fixed charges if case of default, insolvency or change of business. The common types of encumbrances are 'Pledge', 'Lien' and 'Mortgage'.

1.9 Contract on behalf of Central Government

- 1.9.1 Article 299 of the Constitution stipulates that all contracts made in the exercise of the executive power of the Union shall be expressed to be made by the President and all such contracts and assurances of property made in exercise of that power shall be executed on behalf of the President of India by such person and in such manner as he may direct or authorizes.
- 1.9.2 The contract on behalf of the President, should, therefore, state in express terms that they are made 'For and on behalf of the President of India' by officers authorised to enter into contract on behalf of the President of India.
- 1.9.3 These provisions are mandatory. If these are not complied with, the contract is not binding on or enforceable against the government. Such contract is also not enforceable by the government and the government cannot sue the other party on the basis of the defective contract.
- 1.9.4 By virtue of the provisions of Article 299 (2) of the Constitution, the officials making or executing such contracts on behalf of the President are exempted from personal liability for acts done or purported to be done in the exercise of their official duty. There cannot be an oral contract binding the government and all

contracts with government must be in writing and all terms must be specifically provided therein.

1.10 Acceptance & Stamping of Contracts

1.10.1 Acceptance of the Defence Contracts: Any contract, when not signed by both parties, namely the purchaser and the supplier, is deemed to come into force with the acceptance of the tender as per mutually agreed terms and conditions contained in the RFP and the firm's offer. However, in the case of supply orders, the firm should check the supply order and convey acceptance of the same within seven days of receipt of the supply order. If such an acceptance or communication conveying their objection to certain parts of the contract is not received within the stipulated period, the supply order is deemed to have been fully accepted by the firm. In case of foreign contract, normally both parties sign the document thus conveying their acceptance of the contract.

1.10.2 Stamping of Defence Contracts: Under entry 5 of Schedule I of the Indian Stamp Act, 1899 an agreement or memorandum of agreement for or relating to the sale of goods or merchandise exclusively is exempt from payment of stamp duty.

1.11 Advisory on Contract Drafting

- a) Do not use a complicated style of expression if there is a simple way to express the same information.
- b) Do not use Latin or French words in English documents unless it is very well understood by all the Parties.
- c) Do not use or cut down use of 'archaic' words like hereto, hereunder, thereto, there under etc.
- d) Do not use a long line of words (synonyms) that means the same thing.
- e) Do not use very long sentences. A sentence of 25 words is long enough. It is a good rule of thumb to have just one main idea per sentence.
- f) Do not use passive voice if it is possible to use the active.

1.12 Joint Ventures (JV)

A joint venture is a business agreement in which the parties agree to create, for a finite time, a new entity and new assets by contributing equity. They exercise control over the enterprise and consequently share revenues, expenses and assets. Though, the joint venture represents a newly created business enterprise, its participants continue to exist as separate firms. A joint venture can be organized as a partnership firm, a corporation or any other form of business organization which the participating firms choose to select. It generally has the following characteristics:

- a) Contribution by partners of money, property, effort, knowledge, skill or other assets to the common undertaking.
- b) Joint property interest in the subject matter of the venture.
- c) Right of mutual control or management of the enterprise.
- d) Right to share in the property.
- e) Each partner must have something unique and important to offer the venture and simultaneously provide a source of gain to the other participants.

1.12.1 Reasons of JVs: Joint ventures are formed with several motives:-

- a) Risk Sharing: Risk sharing is a common reason to form a JV, particularly, in highly capital intensive industries and in industries where the high costs of product development equal a high likelihood of failure of any particular product.
- b) Knowledge Acquisition: The expressed purpose of most of the joint ventures is knowledge acquisition. The complexity of the knowledge to be transferred is a key factor in determining the contractual relationship between the partners. One or more participants may seek to learn more about a relatively new product market activity. This might concern all aspects of the activity or a limited segment like R&D, production, marketing or product servicing.
- c) Economies of Scale: If an industry has high fixed costs, a JV with a larger company can provide the

economies of scale necessary to compete globally and can be an effective way by which two companies can pool resources and achieve critical mass.

- d) **Market Access:** For companies that lack a basic understanding of customers and the relationship/infrastructure to distribute their products to customers, forming a JV with the right partner can provide instant access to established, efficient and effective distribution channels and receptive customer bases. This is important to a company because creating new distribution channels and identifying new customer bases can be extremely difficult, time consuming and expensive activities.
- e) **Geographical Constraints:** When there is an attractive business opportunity in a foreign market, partnering with a local company is attractive to a foreign company because penetrating a foreign market can be difficult both because of a lack of experience in such market and local barriers to foreign-owned or foreign-controlled companies.
- f) **Funding Constraints:** When a company is confronted with high up-front development costs, finding the right JVP can provide necessary financing and credibility with third parties.
- g) **Acquisition Barriers; Prelude to Acquisition:** When a company wants to acquire another but cannot due to cost, size, or geographical restrictions or legal barriers, teaming up with a JVP is an attractive option. The JV is substantially less costly and thus less risky than complete acquisitions, and is sometimes used as a first step to a complete acquisition with the JVP. Such an arrangement allows the purchaser the flexibility to cut its losses if the investment proves less fruitful than anticipated or to acquire the remainder of the company under certain circumstances.

1.12.2 Dissolution of JV: The JV is not a permanent structure. It can be dissolved when:

- a) Aims of original venture met
- b) Aims of original venture not met
- c) Either or both parties develop new goals
- d) Either or both parties no longer agree with joint venture aims
- e) Time agreed for joint venture has expired
- f) Legal or financial issues
- g) Evolving market conditions mean that joint venture is no longer appropriate or relevant
- h) One party acquires the other.

1.13 Supply Order

When the terms of the RFP or the RFP, as revised, and modified, are accepted or if the terms of the offer and the acceptance are the same, Supply Order (SO) may be placed instead of signing of a contract. It is essential that the terms and conditions of RFP as revised and that of bid as revised must be identical to be able to unilaterally sign an order and send it. It should, therefore, be ensured that the terms incorporated in the acceptance are not at variance with the offer or the RFP and that none of the terms of the RFP are left out. In case, uncertain terms are used by the bidders, clarifications should be obtained before such offers are considered for acceptance. The SO has to be accepted by the Seller to be effective. It is for this reason that order acceptance form is sent along with the SO. After acceptance, the SO is equivalent to a contract and can be legally enforced.

1.14 Placement of Supply Order/ Signing of Contract

The decision to issue a supply order or sign a formal contract will be taken on the basis of the following broad guidelines:-

- a) A SO should be placed for all routine procurements where the terms and conditions of RFP as revised and that of bid as revised are identical otherwise a contract should be signed.
- b) A contract document should generally be executed for high value purchases valuing above Rs. 10 lakhs.
- c) However, Supply Orders should be placed in all cases when the purchase is made against Rate Contracts/ Price Agreements centrally concluded by the DG S&D/ Central Procurement Agency/ Departmental authorities who are empowered to do so.
- d) A contract document should invariably be executed in respect of all turnkey projects or agreements for maintenance of equipment and provision of services.

1.15 Amendment to a Concluded Contract

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.

1.16 Termination of Contract

A contract may be terminated in the following circumstances:

- a) When the Seller fails to honour any part of the contract including failure to deliver the contracted stores/ render services in time.
- b) When the Seller is found to have made any false or fraudulent declaration or statement to get the contract or he is found to be indulging in unethical or unfair trade practices.
- c) When both parties mutually agree to terminate the contract.
- d) When the item offered by the Seller repeatedly fails in the inspection and/or the Seller is not in a position to either rectify the defects or offer items conforming to the contracted quality standards.
- e) Any special circumstances, which must be recorded to justify the cancellation or termination of a contract.

1.17 Procedure for finalizing SO/ Contract/ JV

Labs/Estts will invariably follow the applicable procedure as given in this manual and obtain the financial sanction of the Competent Financial Authority/ Competent Authority as per the delegation of financial powers before finalizing or amending any Supply Order/ Contract or Joint Venture.

F.No.14/12/94-Welfare(Vol.II)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training
(Welfare Section)

Room No.361, 3rd floor,
Lok Nayak Bhavan,
New Delhi

Dated: 5.7.2007

OFFICE MEMORANDUM

Subject:- Local purchase of stationery and other articles from Kendriya Bhandar, NCCF and other Multi-State Co-operative Societies having majority shareholding by the Central Government.

In terms of Deptt. of Personnel & A.R's O.M. No. 14/14/80-Welfare dated 14.7.1981, it was made incumbent on all Central Government Departments, their attached and subordinate offices and other organizations financed and/or controlled by the Government located at Delhi/New Delhi to make all local purchases of stationery and other items required by them only from the Central Government Employees Consumer Cooperative Society Ltd. (Kendriya Bhandar) New Delhi. Only if the Society was not able to supply a particular item, was it permissible for them to make local purchase from other sources. Subsequently, instructions were issued in 1987 and 1994 bringing Super Bazar & NCCF (National Consumer Co-operative Federation) under the purview of DoPT O.M. dated 14.7.1981.

2. After the issuance of new General Financial Rules, 2005, the above dispensations stood withdrawn from 1.7.2005.

3. The matter has since been reviewed in consultation with the Department of Expenditure. The concept of providing an assured market to Kendriya Bhandar (KB), NCCF or any other MSCS is not in keeping with the concept of liberalization of the economy and making the Government organisations competitive and self supporting through open competition. However, keeping in view the avowed objectives of the co-operative movement to ensure supply of goods and services to the consumers at the most economical and competitive prices and taking note of the changed concepts of marketing, it has been decided to adopt the following dispensation in respect of all Central Government Departments, their attached and sub-ordinate offices and other organizations financed and/or controlled by them in making the local purchases of stationery and other items from KB/NCCF :-

- (a) Under Rule 145 of GFRs, 2005, Ministries/Departments can make purchases of goods up to Rs.15,000 without inviting quotations or bids. Further, under Rule 146 of GFRs, 2005, a Local Purchase Committee constituted by the concerned Ministry/Department can make purchases of goods up to Rs.1 lakh on the basis of a market survey to ascertain the reasonableness of rate, quality, etc. and the submission of a certificate to that effect. In partial modification of this Rule, Ministries/Departments are permitted to make purchases at their discretion of all items required for office consumption up to Rs.1 lakh on each occasion directly from Kendriya Bhandar/NCCF without calling for quotations. The responsibility for ensuring the reasonableness of rates, quality, specifications etc. will be equally that of the Purchasing Ministry/Department and KB/NCCF. Further, the reasonableness of rates, quality, specifications, etc. should be certified by the Local Purchase Committee as envisaged under Rule 146 of the GFRs, 2005. It shall be ensured that supply orders are not split under any circumstances with the objective of circumventing the limit of Rs.1 lakh.
- (b) For procurement of all items of office consumption beyond Rs.1 lakh to Rs. 25 lakh, where limited tenders are to be invited as per Rule 151 of the GFRs, 2005, KB and NCCF among others shall also be invited to participate in such limited tenders, in case these cooperatives are functioning at the station. Other things being equal, Purchase Preference will be granted to KB/NCCF, if the price quoted by the co-operatives is within 10% of the L1 price and if these cooperatives are willing to match the L1 price. No price preference over and above the L1 price shall be given to these co-operatives. However, KB/NCCF will be exempted from furnishing bid security (Earnest Money Deposit).
- (c) Supply orders up to Rs.25 lakh, in respect of office equipments covered under the DGS&D rate contract may also be procured from KB and NCCF provided KB/NCCF offer the items at DGS&D rate contracted prices as also fulfill all the contractual obligations which the manufacturers/suppliers of such products are required to meet under the DGS&D rate contract. The Ministries/Departments shall make their own arrangements for inspection and testing of such goods where required.
- (d) The above dispensation shall be applicable only up to 31-3-2010.
- (e) Other Multi-State Co-operative Societies registered prior to the issue of this Office Memorandum in which the majority of the shares are held by the Central Government, are also permitted to avail of the facility of Purchase Preference in respect of limited tender enquiries up to Rs.25 lakh.

.....3

4. It is requested that the instructions contained in this Office Memorandum may be noted carefully and complied with in respect of local purchase to be made by Government Departments etc. hereafter. Ministries/Departments are also requested to instruct their attached and subordinate offices as well as other organizations financed and/or controlled by them to follow the same procedure for obtaining their requirements of stationery and other items from the Multi-State Co-operative Societies.

5. This issues with the concurrence of the Ministry of Finance, Department of Expenditure vide their O.M. No. 1(12)/E.II(A)/94 dated 12th June, 2007.

(Hindi version will follow)



(R.P. Nath)
Director & Chief Welfare Officer
Tel No. 24625562

To

All Ministries/Departments of the Government of India, their
Attached and Sub-ordinate offices and other organizations
Financed and/or controlled by them

(As per standard list)

Copy for information to : Ministry of Finance, Deptt. of Expenditure (Ms. Rubina Ali,
Under Secretary), E. II (A) Branch, North Block, New Delhi
with reference to their O.M. No. 1(12)/EII(A)/94 dated
12.6.2007

Copy also for information and necessary action to:

1. Managing Director,
Central Govt. Employees Consumer Co-operative Society Ltd.
(Kendriya Bhandar), Pushpa Bhavan, 1st floor,
Madangir Road, New Delhi - 110 062.
2. Managing Director,
National Consumer Co-operative Federation,
5th floor, Deepali Building,
92, Nehru Place, New Delhi.

No.14/1/2009-Welfare
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training
(Welfare Section)

Lok Nayak Bhawan
New Delhi, the 19th February 2015

OFFICE MEMORANDUM

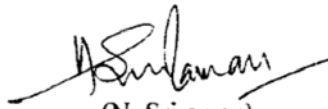
Subject: Local purchase of stationery and other articles from Kendriya Bhandar, NCCF and other Multi-State Cooperative Societies having majority shareholding by the Central Government.

Reference is invited to the Department of Personnel and Training's O.M. of even no. Dated 1st December, 2014 wherein the validity of the O.M. No. 14/12/94-Welfare (Vol.II) dated 5.7.2007 was extended upto 31st March, 2015.

2. It has been decided that special dispensation to Kendriya Bhandar, NCCF & other multistate co-operative societies having majority share holding by the Central Government, shall not be extended beyond 31.3.2015 i.e. there shall be no special dispensation to these organisations w.e.f. 1.4.2015.

3. This issues with the approval of the Department of Expenditure, Ministry of Finance vide their I.D No.26/2/2013-PPD dated 28.11.2014.

4. The contents of this Office Memorandum may be brought to the notice of all concerned.


(N. Sriraman)
Director (Welfare)
☎ 24624821

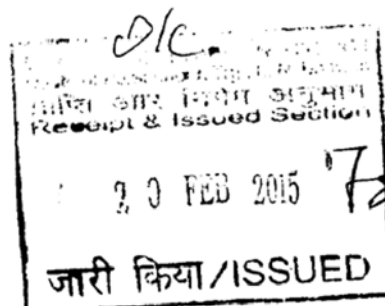
To

All Ministries/Departments of the Government of India, their Attached and Sub-ordinate offices and other organizations Financed and/or controlled by them (As per Standard list).

Copy for information to Ministry of Finance, Deptt. of Expenditure, Director (PPD) w.r.t. their I.D. No. 26/2/2013-PPD dated 28.11.2014.

Copy also for information and necessary action to:

1. The Managing Director,
Central Govt. Employees Consumer cooperative Society Ltd. (Kendriya Bhandar)
Pushpa Bhawan, Madangir. Road,
New Delhi-110062
2. The Managing Director,
National Consumer Co-operative Federation,
5th Floor, Deepali Building,
92 Nehru Place, New Delhi-110019



PRODUCT RESERVATION FOR KVIC / HANDLOOM SECTOR***LIST OF KHADHI ITEMS RESERVED FOR EXCLUSIVE PURCHASE FROM KVIC***

Sl No.	ITEMS
1	DOSUTI
2	PAGRI CLOTH
3	BUNTING CLOTH
4	DANGRI CLOTH
5	SHEETING CLOTH
6	BED SHEETS
7	DUSTERS
8	TOWELS
9	SAREES
10	DHOTIS (UNBLEACHED)
11	PILLOW CASES
12	READYMADE GARMENTS (SHORTS)
13	BLOUSES
14	SKIRTS

LIST OF ITEMS NOTIFIED FOR PURCHASES FROM HANDLOOM SECTOR

Sl No.	TITLE (COTTN – HANDLOOM)	IS: SPECIFICATION
1	Angavastram	7216-1974
2	Bandage Cloth	868-1969
3	Bed Durries	1557-1972
4	Bed Sheets	745-1975
5	Blankets, Grey or Coloured	746-1955
6	Bleeding, Madras, Coomstate	1937-1961
7	Buckram Cloth	1102-1968
8	Bunting Cloth, Dyed	747-1982
9	Calico, Bleached or Dyed	1241-1958
10	Cambrick Bleached	1098-1957
11	Celluler Shirting, Handloom Cotton	1101-1981
12	Cloth for Plaster or Paris Bandages & Cut Bandages	6237-1971
13	Coating, Handloom Cotton	1243-1981
14	Colour Fastness of Handloom Cotton Textile, Requirements	6906-1982
15	Crope	1100-1978
16	Dhoties	718-1974
17	Dostutie, Grey, Scoured Bleached or Dyed	756-1984
18	Dress Material, Bleached, Dyed, Printed, Striped; or checked	1095-1967
19	Drills	1451-1979
20	Dungri Cloth	749-1978
21	Dusters	859-1978
22	Floor Durries	1450-1972
23	Gada Cloth	1094-1976
24	Gauze, Absorbent, Non-sterilized Handloom Cotton	758-1975
25	Handkerchiefs	1989-1975
26	Holland Cloth, unscored	1096-1957
27	Honeycomb Towels and Toweling Cloth	855-1979
28	Huckback Towels	856-1971
29	Jaconet Cloth, Grey, Dressed	861-1982
30	Light Sheeting, Grey	864-1986
31	Lining Cloth, Dyed	1099-1957
32	Lint, Absorbent, Bleached	757-1971
33	Long Cloth, Bleached or Dyed	1244-1958
34	Lungies	750-1971
35	Long Cloth, Bleached or Dyed	1244-1959

**MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES OFFICE
OF DEVELOPMENT COMMISSIONER (MSME)**

**New Delhi,
The 23rd March, 2012**

ORDER

Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012

Whereas, the Central Government Ministries, Departments and Public Sector Undertakings shall procure minimum of 20 per cent of their annual value of goods or services from Micro and Small Enterprises;

And whereas, the Public Procurement Policy shall apply to Micro and Small Enterprises registered with District Industries Centers or Khadi and Village Industries Commission or Khadi and Village Industries Board or Coir Board or National Small Industries Corporation or Directorate of Handicrafts and Handloom or any other body specified by Ministry of Micro, Small and Medium Enterprises;

And whereas, the Public Procurement Policy rests upon core principles of competitiveness, adhering to sound procurement practices and execution of orders for supply of goods or services in accordance with a system which is fair, equitable, transparent, competitive and cost effective;

And whereas, for facilitating promotion and development of micro and small enterprises, the Central Government or the State Government, as the case may be, by Order notify from time to time, preference policies in respect of procurement of goods and services, produced and provided by micro and small enterprises, by its Ministries or Departments, as the case may be, or its aided institutions and public sector enterprises.

Now, therefore, in exercise of the powers conferred in section 11 of the Micro, Small and Medium Enterprises Development (MSMED) Act 2006, the Central Government, by Order, notifies the Public Procurement Policy (hereinafter referred to as the Policy) in respect of procurement of goods and services, produced and provided by micro and small enterprises, by its Ministries, Departments and Public Sector Undertakings.

2. Short Title and Commencement

(1) This Order is titled as 'Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012'.

(2) It shall come into force with effect from 1st April 2012.

3. Mandatory Procurement from Micro Small and Enterprises

(1) Every Central Ministry or Department or Public Sector Undertaking shall set an annual goal of procurement from Micro and Small Enterprises from the financial year 2012-13 and onwards, with the objective of achieving an overall procurement of minimum of 20 per cent, of total annual purchases of products produced and services rendered by Micro and Small Enterprises in a period of three years.

(2) Annual goal of procurement also include sub-contracts to Micro and Small Enterprises by large enterprises and consortia of Micro and Small Enterprises formed by National Small Industries Corporation.

(3) After a period of three years i.e. from 1st April 2015, overall procurement goal of minimum of 20 per cent shall be made mandatory.

(4) The Central Ministries, Departments and Public Sector Undertakings which fail to meet the annual goal shall substantiate with reasons to the Review Committee headed by Secretary (Micro, Small and Medium Enterprises), constituted in Ministry of Micro, Small and Medium Enterprises, under this Policy.

4. Special Provisions for Micro and Small Enterprises Owned By Scheduled Castes Or Scheduled Tribes

Out of 20 per cent target of annual procurement from Micro and Small Enterprises, a sub-target of 20 per cent (i.e., 4 per cent out of 20 per cent) shall be earmarked for procurement from Micro and Small Enterprises owned by the Scheduled Caste or the Scheduled Tribe entrepreneurs. Provided that, in event of failure of such Micro and Small Enterprises to participate in tender process or meet tender requirements and L1 price, 4 per cent sub-target for procurement earmarked for Micro and Small Enterprises owned by Scheduled Caste or Scheduled Tribe entrepreneurs shall be met from other Micro and Small Enterprises.

5. Reporting of Targets in Annual Report

(1) The data on Government procurements from Micro and Small Enterprises is vital for strengthening the Policy and for this purpose, every Central Ministry or Department or Public Sector Undertaking shall report goals set with respect to procurement to be met from Micro and Small Enterprises and achievement made thereto in their respective Annual Reports.

(2) The annual reporting shall facilitate in better understanding of support being provided by different Ministries or Departments or Public Sector Undertakings to Micro and Small Enterprises.

6. Price Quotation in Tenders

(1) In tender, participating Micro and Small Enterprises quoting price within price band of L1+15 per cent shall also be allowed to supply a portion of requirement by bringing down their price to L1 price in a situation where L1 price is from someone other than a Micro and Small Enterprise and such Micro and Small Enterprise shall be allowed to supply up to 20 per cent of total tendered value.

(2) In case of more than one such Micro and Small Enterprise, the supply shall be shared proportionately (to tendered quantity).

7. Developing Micro and Small Enterprise Vendors

The Central Ministries or Departments or Public Sector Undertakings shall take necessary steps to develop appropriate vendors by organizing Vendor Development Programmes or Buyer-Seller Meets and entering into Rate Contract with Micro and Small Enterprises for a specified period in respect of periodic requirements.

8. Annual Plan for Procurement from Micro and Small Enterprises on Websites

The Ministries or Departments or Public Sector Undertakings shall also prepare Annual Procurement Plan for purchases and upload the same on their official website so that Micro and Small Enterprises may get advance information about requirement of procurement agencies.

9. Enhancing participations of Micro and Small Enterprises including those owned by Scheduled Castes or Scheduled Tribes in Government Procurements

For enhancing participation of Scheduled Castes or Scheduled Tribes in Government procurement, the Central Government Ministries, Departments and Public Sector Undertakings shall take following steps, namely:-

- (a) Special Vendor Development Programmes or Buyer-Seller Meets shall be conducted by Departments/Public Sector Undertakings for Scheduled Castes or Scheduled Tribes;
- (b) Outreach programmes shall be conducted by National Small Industries Corporation to cover more and more Micro and Small Enterprises from Scheduled Castes or Scheduled Tribes under its schemes of consortia formation; and
- (c) National Small Industries Corporation shall open a special window for Scheduled Castes or Scheduled Tribes under its Single Point Registration Scheme (SPRS).

10. Reduction in Transaction Cost

To reduce transaction cost of doing business, Micro and Small Enterprises shall be facilitated by providing them tender sets free of cost, exempting Micro and Small Enterprises from payment of earnest money, adopting e-procurement to bring in transparency in tendering process and setting up a Grievance Cell in the Ministry of Micro, Small and Medium Enterprises.

11. Reservation of specific items for Procurement

To enable wider dispersal of enterprises in the country, particularly in rural areas, the Central Government Ministries or Departments or Public Sector Undertakings shall continue to procure 358 items (Appendix) from Micro and Small Enterprises, which have been reserved for exclusive purchase from them. This will help in promotion and growth of Micro and Small Enterprises, including Khadi and village industries, which play a critical role in fostering inclusive growth in the country.

12. Review Committee

(1) A Review Committee has been constituted under the Chairmanship of Secretary, Ministry of Micro, Small and Medium Enterprises, for monitoring and review of Public Procurement Policy for Micro and Small Enterprises vide Order No. 21(1)/2007-MA dated the 21st June 2010 (Annexure).

(2) This Committee shall, inter alia, review list of 358 items reserved for exclusive purchase from Micro and Small Enterprises on a continuous basis, consider requests of the Central Ministries or Departments or Public Sector Undertakings for exemption from 20 per cent target on a case to case basis and monitor achievements under the Policy.

13. Setting up of Grievance Cell

In addition, a 'Grievance Cell' will be set up in Ministry of Micro, Small and Medium Enterprises for redressing grievances of Micro and Small Enterprises in Government procurement. This cell shall take up issues related to Government procurement raised by Micro and Small Enterprises with Departments or agencies concerned, including imposition of unreasonable conditions in tenders floated by Government Departments or agencies that put Micro and Small Enterprises at a disadvantage.

14. Special Provisions for Defence Procurements

Given their unique nature, defence armament imports shall not be included in computing 20 per cent goal for Ministry of Defence. In addition, defence equipments like weapon systems, missiles, etc. shall remain out of purview of such Policy of reservation.

15. Monitoring of Goals

The monitoring of goals set under the Policy shall be done, in so far as they relate to the Defence sector, by Ministry of Defence itself in accordance with suitable procedures to be established by them.

16. Removal of Difficulty

Any difficulties experienced during the course of implementation of the above Policy shall be clarified by Ministry of Micro, Small and Medium Enterprises through suitable Press releases which would be kept on the public domain.

(AMARENDRA SINHA)
Additional Secretary and Development Commissioner (MSME)

No. 21(1)/2007-MA
Government of India
Ministry of Micro, Small and Medium Enterprises
Office of the Development Commissioner (MSME)

‘A’ Wing, 7th Floor, Nirman Bhavan,
 New Delhi-110108
 Dated: 21st June, 2010

ORDER

Subject: **Constitution of a Committee for monitoring and review of the Public Procurement Policy for Micro and Small Enterprises**

Pending approval of the new Public Procurement Policy for Micro and Small Enterprises (MSEs), a Committee is hereby constituted for looking into the applicability of some of the provisions of the proposed Policy in respect of select Central Ministries/Departments.. The Committee will be chaired by the Secretary, Ministry of Micro, Small and Medium Enterprises.

2. The composition of the Committee will be as follows:

- | | |
|---|--------------------|
| (i) Secretary,
Ministry of MSME | : Chairman |
| (ii) Secretary,
Planning Commission | : Member |
| (iv) Secretary,
Department of Public Enterprises | : Member |
| (v) Director General (Supplies and Disposals),
Department of Commerce, | : Member |
| (vii) Ministry of Commerce and Industry | |
| (viii) Additional Secretary and
Development Commissioner (MSME) | : Member Secretary |

3. The Committee will undertake the following functions:

- (i) Consider the requests of the Central Ministries/Departments/PSUs for exemption, on a case to case basis, from the 20% target;
- (ii) Review the list of 358 items (as per Appendix) reserved for exclusive purchase from the MSEs based on the feedback received from the Central Ministries/Departments/PSUs ;
- (iii) Review the grievances received from MSEs regarding Government procurement, including imposition of unreasonable conditions in the tenders floated by the Government Departments/PSUs; and
- (iv) Suggest special measures to be taken by the Central Ministries/Departments for enhancing their procurements from MSEs.

4. The Committee may co-opt any other Ministries/Departments of the Central Government as well as State Governments or invite any other expert/person associated/concerned with the MSMEs in its meetings, as and when required.

5. The Office of the Development Commissioner (MSME) will provide secretariat support to this Committee.

6. This issues with the approval of the Competent Authority.

Sd/-
(Praveen Mahto)
Additional Economic Adviser
 Ph: 23062230, Fax: 23061611

To,

All Members of the Committee

Copy to:

1. Cabinet Secretariat (Shri V.P.Arora, Under Secretary), w.r.t. their O.M.No. 601/2/1/2009-Cab.III dated 24.02.2010
2. PS to Minister (MSME)
3. Sr. PPS to Secretary (MSME)

**LIST OF ITEMS RESERVED FOR PURCHASE FROM SMALL SCALE
INDUSTRIAL UNITS INCLUDING HANDICRAFT SECTOR**

SI No. Item Description

1. AAC/and ACSR Conductor upto 19 strands
2. Agricultural Implements
 - (a) Hand Operated tools and implements
 - (b) Animal driven implements
3. Air/Room Coolers
4. Aluminum builder's hardware
5. Ambulance stretcher
6. Ammeters/ohm meter/Volt meter (Electro magnetic upto Class I accuracy)
7. Anklets Web Khaki
8. Augur (Carpenters)
9. Automobile Head lights Assembly
10. Badges cloth embroidered and metals
11. Bags of all types i.e. made of leather, cotton, canvas and jute etc. including kit bags, mail bags, sleeping bags and water-proof bag.
12. Bandage cloth
13. Barbed Wire
14. Basket cane (Procurement can also be made from State Forest Corpn. and State Handicrafts Corporation)
15. Bath tubs
16. Battery Charger
17. Battery Eliminator
18. Beam Scales (upto 1.5 tons)
19. Belt leather and straps
20. Bench Vices
21. Bituminous Paints
22. Blotting Paper
23. Bolts and Nuts
24. Bolts Sliding
25. Bone Meal
26. Boot Polish
27. Boots and Shoes of all types including canvas shoes
28. Bowls
29. Boxes Leather
30. Boxes made of metal
31. Braces
32. Brackets other than those used in Railways
33. Brass Wire
34. Brief Cases (other than moulded luggage)
35. Brooms
36. Brushes of all types
37. Buckets of all types
38. Button of all types
39. Candle Wax Carriage
40. Cane Valves/stock valves (for water fittings only)
41. Cans metallic (for milk and measuring)
42. Canvas Products :
 - (a) Water Proof Deliver, Bags to spec. No. IS - 1422/70

(b) Bonnet Covers and Radiators Muff. to spec. Drg. Lv 7/NSN/IA/130295

43. Capes Cotton and Woollen
44. Capes Waterproof
45. Castor Oil
46. Ceiling roses upto 15 amps
47. Centrifugal steel plate blowers
48. Centrifugal Pumps suction and delivery 150 mm. x 150 mm
49. Chaff Cutter Blade
50. Chains lashing
51. Chappals and sandals
52. Chamois Leather
53. Chokes for light fitting
54. Chrome Tanned leather (Semi-finished Buffalo and Cow)
55. Circlips
56. Claw Bars and Wires
57. Cleaning Powder
58. Clinical Thermometers
59. Cloth Covers
60. Cloth Jaconet
61. Cloth Sponge
62. Coir fibre and Coir yarn
63. Coir mattress cushions and matting
64. Coir Rope hawserlaid
65. Community Radio Receivers
66. Conduit pipes
67. Copper nail
68. Copper Napthenate
69. Copper sulphate
70. Cord Twine Maker
71. Cordage Others
72. Corrugated Paper Board and Boxes
73. Cotton Absorbent
74. Cotton Belts
75. Cotton Carriers
76. Cotton Cases
77. Cotton Cord Twine
78. Cotton Hosiery
79. Cotton Packs
80. Cotton Pouches
81. Cotton Ropes
82. Cotton Singlets
83. Cotton Sling
84. Cotton Straps
85. Cotton tapes and laces
86. Cotton Wool (Non absorbent)
87. Crates Wooden and plastic
88. (a) Crucibles upto No. 200 (b) Crucibles Graphite upto No. 500 (c) Other Crucibles upto 30 kgs.
89. Cumblies and blankets
90. Curtains mosquito
91. Cutters
92. Dibutyl phthalate
93. Diesel engines upto 15 H.P
94. Dimethyl Phthalate
95. Disinfectant Fluids

96. Distribution Board upto 15 amps
97. Domestic Electric appliances as per BIS Specifications:- -
Toaster Electric, Elect. Iron, Hot Plates, Elect. Mixer, Grinders, Room heaters and convectors and ovens
98. Domestic (House Wiring) P.V.C. Cables and Wires (Aluminum) Conforming to the prescribed BIS Specifications and upto 10.00 mm sq. nominal cross section
99. Drawing and Mathematical Instruments
100. Drums and Barrels
101. Dust Bins
102. Dust Shield leather
103. Dusters Cotton all types except the items required in Khadi
104. Dyes :
(a) Azo Dyes (Direct and Acid)
(b) Basic Dyes
105. Electric Call bells/buzzers/door bells
106. Electric Soldering Iron
107. Electric Transmission Line Hardware items like steel cross bars, cross arms clamps arching horn, brackets, etc
108. Electronic door bell
109. Emergency Light (Rechargeable type)
110. Enamel Wares and Enamel Utensils
111. Equipment camouflage Bamboo support
112. Exhaust Muffler
113. Expanded Metal
114. Eyelets
115. Film Polythene - including wide width film
116. Film spools and cans
117. Fire Extinguishers (wall type)
118. Foot Powder
119. French polish
120. Funnels
121. Fuse Cut outs
122. Fuse Unit
123. Garments (excluding supply from Indian Ordnance Factories)
124. Gas mantels
125. Gauze cloth
126. Gauze surgical all types
127. Ghamellas (Tasllas)
128. Glass Ampules
129. Glass and Pressed Wares
130. Glue
131. Grease Nipples and Grease guns
132. Gun cases
133. Gun Metal Bushes
134. Gumtape
135. Hand drawn carts of all types
136. Hand gloves of all types
137. Hand Lamps Railways
138. Hand numbering machine
139. Hand pounded Rice (polished and unpolished)
140. Hand presses
141. Hand Pump
142. Hand Tools of all types
143. Handles wooden and bamboo (Procurement can also be made from State Forest

Corpn. and State Handicrafts Corporation)

144. Harness Leather
145. Hasps and Staples
146. Haver Sacks
147. Helmet Non-Metallic
148. Hide and country leather of all types
149. Hinges
150. Hob nails
151. Holdall
152. Honey
153. Horse and Mule Shoes
154. Hydraulic Jacks below 30 ton capacity
155. Insecticides Dust and Sprayers (Manual only)
156. Invalid wheeled chairs.
157. Inverter domestic type upto 5 KVA
158. Iron (dhobi)
159. Key board wooden
160. Kit Boxes
161. Kodali
162. Lace leather
163. Lamp holders
164. Lamp signal
165. Lanterns Posts and bodies
166. Lanyard
167. Latex foam sponge
168. Lathies
169. Letter Boxes
170. Lighting Arresters - upto 22 kv
171. Link Clip
172. Linseed Oil
173. Lint Plain
174. Lockers
175. Lubricators
176. L.T. Porcelain KITKAT and Fuse Grips
177. Machine Screws
178. Magnesium Sulphate
179. Mallet Wooden
180. Manhole covers
181. Measuring Tapes and Sticks
182. Metal clad switches (upto 30 Amps)
183. Metal Polish
184. Metallic containers and drums other than N.E.C. (Not elsewhere classified)
185. Metric weights
186. Microscope for normal medical use
187. Miniature bulbs (for torches only)
188. M.S. Tie Bars
189. Nail Cutters
190. Naphthalene Balls
191. Newar
192. Nickel Sulphate
193. Nylon Stocking
194. Nylon Tapes and Laces
195. Oil Bound Distemper
196. Oil Stoves (Wick stoves only)

197. Pad locks of all types
198. Paint remover
199. Palma Rosa Oil
200. Palmgur
201. Pans Lavatory Flush
202. Paper conversion products- paper bags, envelops,
Ice-cream cup, paper cup and saucers and paper Plates
203. Paper Tapes (Gummed)
204. Pappads
205. Pickles and Chutney
206. Piles fabric
207. Pillows
208. Plaster of Paris
209. Plastic Blow Moulded Containers upto 20 litre excluding
Poly Ethylene Terphthalate (PET) Containers
210. Plastic cane
211. Playing Cards
212. Plugs and Sockets electric upto 15 Amp
213. Polythene bags
214. Polythene Pipes
215. Post Picket (Wooden)
216. Postal Lead seals
217. Potassium Nitrate
218. Pouches
219. Pressure Die Casting upto 0.75 kg
220. Privy Pans
221. Pulley Wire
222. PVC footwears
223. PVC pipes upto 110 mm
224. PVC Insulated Aluminium Cables (upto 120 sq. mm) (ISS:694)
225. Quilts, Razais
226. Rags
227. Railway Carriage light fittings
228. Rakes Ballast
229. Razors
230. RCC Pipes upto 1200 mm. dia
231. RCC Poles Prestressed
232. Rivets of all types
233. Rolling Shutters
234. Roof light Fittings
235. Rubber Balloons
236. Rubber Cord
237. Rubber Hoses (Unbranded)
238. Rubber Tubing (Excluding braided tubing)
239. Rubberised Garments Cap and Caps etc
240. Rust/Scale Removing composition
241. Safe meat and milk
242. Safety matches
243. Safety Pins (and other similar products like paper pins, staples pins etc.)
244. Sanitary Plumbing fittings
245. Sanitary Towels
246. Scientific Laboratory glass wares (Barring sophisticated items)
247. Scissors cutting (ordinary)
248. Screws of all types including High Tensile

249. Sheep skin all types
250. Shellac
251. Shoe laces
252. Shovels
253. Sign Boards painted
254. Silk ribbon
255. Silk Webbing
256. Skiboots and shoes
257. Sluice Valves
258. Snapfastner (Excluding 4 pcs. ones)
259. Soap Carbolic
260. Soap Curd
261. Soap Liquid
262. Soap Soft
263. Soap washing or laundry soap
264. Soap Yellow
265. Socket/pipes
266. Sodium Nitrate
267. Sodium Silicate
268. Sole leather
269. Spectacle frames
270. Spiked boot
271. Sports shoes made out of leather (for all Sports games)
272. Squirrel Cage Induction Motors upto and including 100 KW440 volts 3 phase
273. Stapling machine
274. Steel Almirah
275. Steel beds stead
276. Steel Chair
277. Steel desks
278. Steel racks/shelf
279. Steel stools
280. Steel trunks
281. Steel wool
282. Steel and aluminium windows and ventilators
283. Stockinet
284. Stone and stone quarry rollers
285. Stoneware jars
286. Stranded Wire
287. Street light fittings
288. Student Microscope
289. Studs (excluding high tensile)
290. Surgical Gloves (Except Plastic)
291. Table knives (Excluding Cutlery)
292. Tack Metallic
293. Taps
294. Tarpaulins
295. Teak fabricated round blocks
296. Tent Poles
297. Tentage Civil/Military and Salitah Jute for Tentage
298. Textiles manufactures other than N.E.C. (not elsewhere classified)
299. Tiles
300. Tin Boxes for postage stamp
301. Tin can unprinted upto 4 gallons capacity (other than can O.T.S.)
302. Tin Mess

303. Tip Boots
304. Toggle Switches
305. Toilet Rolls
306. Transformer type welding sets conforming to IS:1291/75 (upto 600 amps)
307. Transistor Radio upto 3 band
308. Transistorised Insulation - Testers
309. Trays
310. Trays for postal use
311. Trolley
312. Trollies - drinking water
313. Tubular Poles
314. Tyres and Tubes (Cycles)
315. Umbrellas
316. Utensils all types
317. Valves Metallic
318. Varnish Black Japan
319. Voltage Stablisers including C.V.T's
320. Washers all types
321. Water Proof Covers
322. Water Proof paper
323. Water tanks upto 15,000 litres capacity
324. Wax sealing
325. Waxed paper
326. Weighing Scale
327. Welded Wire mash
328. Wheel barrows
329. Whistle
330. Wicks cotton
331. Wing Shield Wipers (Arms and Blades only)
332. Wire brushes and Fibre Brushes
333. Wire Fencing and Fittings
334. Wire nails and Horse shoe nails
335. Wire nettings of gauze thicker than 100 mesh size
336. Wood Wool
337. Wooden ammunition boxes
338. Wooden Boards
339. Wooden Box for Stamps
340. Wooden Boxes and Cases N.E.C. (Not elsewhere classified)
341. Wooden Chairs
342. Wooden Flush Door Shutters
343. Wooden packing cases all sizes
344. Wooden pins
345. Wooden plugs
346. Wooden shelves
347. Wooden veneers
348. Woolen hosiery
349. Zinc Sulphate
350. Zip Fasteners

HANDICRAFT ITEMS

Sl.No.	Item Description	Source of Supply
351	Cane furniture North Eastern Handicrafts and Handlooms	

No.50(9)/2010-PI-IV
Government of India
Ministry of Chemicals & Fertilizers
Department of Pharmaceuticals

Shastri Bhawan, New Delhi
10th December, 2013

OFFICE MEMORANDUM

Sub: Pharmaceuticals Purchase Policy (PPP) for products of Pharma Central Public Sector Enterprises (CPSEs) and their subsidiaries.

The undersigned is directed to say that the Union Cabinet in its meeting held on 30.10.13 has approved the Pharmaceuticals Purchase Policy in respect of 103 medicines manufactured by Pharma CPSEs and their subsidiaries. The list of 103 medicines is enclosed. The salient features of PPP are as under:-

- i. Pharmaceuticals Purchase Policy in respect of 103 medicines would be valid for a period of five years from the date of issue of orders by Department of Pharmaceuticals.
- ii. Pharmaceuticals Purchase Policy will extend only to Pharma CPSEs under the administrative control of Department of Pharmaceuticals such as Indian Drugs and Pharmaceuticals Limited (IDPL), Hindustan Antibiotics Limited (HAL), Bengal Chemicals and Pharmaceuticals Limited (BCPL), Karnataka Antibiotics and Pharmaceuticals Limited (KAPL) and Rajasthan Drugs and Pharmaceuticals Limited (RDPL) and their subsidiaries where Government of India owns 51% or above shares.
- iii. This would be applicable to purchases by Central Government departments, their Public Sector Undertakings, and Autonomous Bodies, etc. This would also be applicable to purchase of medicines by State Governments under Health Programmes funded by Government of India such as National Rural Health Mission etc.
- iv. The pricing of the products would be done by National Pharmaceutical Pricing Authority (NPPA) using the cost based formula, as mentioned in the Drugs Price Control Order, 95. Uniform discount of 16% would be extended to all products. All the taxes, whatsoever, would have to be passed on to buyers.
- v. Annual revision of prices would be linked to Wholesale Price Index as per provisions contained in Drugs Prices Control Order, 2013.
- vi. The procuring entity would purchase from Pharma CPSEs and their subsidiaries subject to their meeting Good Manufacturing Practices (GMP) norms as per Schedule 'M' of the Drugs & Cosmetic Rules.

- vii. In case Pharma CPSEs and their subsidiaries fail to supply the medicines, the procuring entity would be at liberty to make purchases from other manufacturers. If the Pharma CPSEs or their subsidiaries fail to perform as per the purchase order, they would also be subject to payment of liquidated damages or any other penalty as per the terms of the contract.
- viii. The list of medicines may be reviewed and revised by the Department of Pharmaceuticals as per requirement.

2. All Ministries/Departments are requested to immediately bring the contents of this O.M. to the notice of all concerned officers in the Ministries/Departments, States, CPSEs, Autonomous bodies and other organizations under their administrative control for following the PPP in respect of products of Pharma CPSEs and their subsidiaries.


(Monika Verma)
Director
Tel: 23389866

1. All Secretaries of the Ministries/Departments in the Government of India
2. All Principal Secretaries/Secretaries, Health, State Governments.
3. All Financial Advisers of the Ministries/Departments, Government of India
4. Chairman, National Pharmaceuticals Pricing Authority
5. Managing Directors of Pharma CPSEs (IDPL, HAL, BCPL, KAPL, RDPL).
6. Chief Executives of Public Sector Undertakings / Autonomous Organizations / Bodies etc.

Copy to:

1. The Prime Minister's Office, South Block, New Delhi.
2. Cabinet Secretariat, New Delhi. This has reference to their O.M. No. 41/CM/2013(i) dated 5.11.2013.
3. Department of Public Enterprises (Shri O.P. Rawat, Secretary) It is requested that contents of this O.M. may specifically be brought to the notice of the Chief Executives of PSUs, Autonomous Bodies, etc.
4. PS to MoS (IC)(C&F)
5. PPS to Secretary (Pharmaceuticals)


(Monika Verma)
Director
Tel: 23389866

LIST OF 103 MEDICINES

CAPSULES	
1	AMOXYCILLIN IP
2	AMOXYCILLIN IP+ CLOXACILLIN IP
3	AMPICILIN IP
4	B-COMPLEX+VIT.-C & ZINC
5	CEPHALEXIN IP
6	DOXYCYCLINE IP
7	FLUCONAZOLE
8	OMEPRAZOLE IP
9	OMEPRAZOLE+DOMPERIDONE
10	CEFADROXIL
11	TETRACYCLINE
TABLETS	
12	ACECLOFENAC + PARACETAMOL
13	ACECLOFENAC 100MG
14	ALBENDAZOLE
15	AMLODEPIN
16	AMOXYCILLIN+CLAVULANIC ACID
17	ASCORBIC ACID IP
18	ATENOLOL
19	ATORVASTATIN
20	AZITHROMYCIN
21	CALCIUM + VITAMIN D3
22	CEFIXIME TABS./ CAPS
23	CEFPODOXIME PROXETIL
24	CEFUROXIME AXETIL
25	CETRIZINE HCL BP
26	CETRIZINE+PARACETAMOL+PHENYL EPHERIN
27	CHLOROQUINE PHOSPHATE IP
28	CIPROFLOXACIN + TINIDAZOLE
29	CIPROLOXACIN IP
30	CO-TRIMOXAZOLE IP
31	DICLOFENAC SODIUM
32	DICYCLOMINE + PARACETAMOL
33	DOMPERIDONE
34	ERYTHROMYCIN STERATE IP
35	IBUPROFEN IP
36	LEVOCETRIZINE
37	LEVOFLOXACIN

38	LOSARTAN
39	METRONIDAZOLE IP
40	NIMESULIDE
41	NORFLOXACIN + TINIDAZOLE
42	NORFLOXACIN IP
43	OFLOXACIN
44	OFLOXACIN + ORNIDAZOLE
45	ORAL CONTRACEPTIVE PILLS
46	PANTOPRAZOLE
47	PARACETAMOL
48	PARACETAMOL IP + DICLOFENAC SODIUM
49	PARACETAMOL+ IBUPROFEN
50	PENICILLIN V
51	POLYVITAMIN PROPHYLACTIC(NFI)
52	RANITIDINE HCL IP
53	ROXITHROMYCIN
54	METFORMIN
55	SPARFLOXACIN
56	TINIDAZOLE
57	VITAMIN B.COMPLEX (PROPHYLACTIC(NFI) SUSPENSION / SYRUP
58	ALBENDAZOLE SUSP.
59	AMOXYCILLIN DRY SYP.
60	CETRIZINE SYRUP
61	COTRIMOXAZOLE SUSP.
62	COUGH SYP. EACH 5 ML CONTAINS- CPM IP : 3MG +AMMONIUM CHLORIDE IP:110MG+SODIUM CITRATE IP :46MG+MENTHOL IP:.9MG
63	COUGH SYP. EACH 5 ML CONTAINS-- DYPHENHYDRAMINE HCL:14MG +AMMONIUM CHLORIDE IP:135MG+SODIUM CITRATE IP :57MG+MENTHOL IP:.9MG
64	DOMPERIDONE SUSP.
65	PARACETAMOL SYP.
66	VITAMIN A SOLUTION IP ORAL POWDER
67	ORAL REHYDRATION SALT (WHO FORMULA) EXTERNAL LOTION / SOLUTION
68	GLUTARALDEHYDE

69	CHLORHEXIDINE GLUCONATE SOLUTION OINTMENT
70	CLOTRIMAZOLE OINTMENT
71	DICLOFENAC GEL.
72	POVIDONE IODINE SOLUTION / OINTMENT)
73	SILVER SULPHADIAZINE I.V.FLUID(INFUSION)
74	CIPROFLOXACIN
75	LEVOFLOXACIN IV
76	MANNITOL.
77	METRONIDAZOLE
78	PLAZMA VOLUME EXPENDER
79	RINGER LACTATE I.V. DRY POWDER / LIQUID INJECTABLES
80	AMIKACIN
81	AMOXICILLIN SODIUM + CLAVULANATE POTASSIUM
82	AMPICILLIN IP
83	AVS LIQUID (LYFOLYSED)
84	BENZATHENE PENICILLIN
85	BENZYLE PENICILLIN IP
86	CEFEPIME
87	CEFOPERAZONE
88	CEFOPERAZONE + SULBACTAM
89	CEFOTAXIME SODIUM USP
90	CEFOTAXIME SODIUM+SULBACTAM
91	CEFTAZADIME
92	CEFTRIAZONE
93	CEFTRIAZONE+SULBACTAM
94	DICLOFENAC SODIUM
95	ETO-THEOPHYLLINE
96	ATROPIN INJ.
97	FRUSEMIDE
98	GENTAMYCIN IP
99	MEROPENEM INJ.
100	PENTAZOCIN
101	PIPERACILLIN+TAZOBACTAM
102	RANITIDINE IP TABLETS
103	GLIMEPIRIDE (1mg/2mg)

PRE-CONTRACT INTEGRITY PACT**General**

The pre-bid pre-contract Agreement (hereinafter called the Integrity Pact) is made on day of the month ofYear, between, on one hand, the President of India acting through Shri, Designation of the officer, Ministry/Department, Government of India (hereinafter called the 'BUYER', which expression shall mean and include, unless the context otherwise requires, his successors in office and assigns) of the First Part and M/s. Represented by Shri. Chief Executive Officer (hereinafter called the "BIDDER/Seller" which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns) of the Second Part.

WHEREAS the BUYER proposes to procure (Name of the Stores/Equipment/ Item) and the BIDDER/Seller is willing to offer/has offered the stores and

WHEREAS the BIDDER is a Private Company/Public Company/Government Undertaking/Partnership/Registered Export Agency, constituted in accordance with the relevant law in the matter and the BUYER is a Ministry/Department of the Government of India/PSU performing its functions on behalf of the President of India.

NOW THEREFORE,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-

Enabling the BUYER to obtain the desired said stores/equipment at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement, and

Enabling BIDDERS to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the BUYER will commit to prevent corruption, in any form, by its officials by following transparent procedures.

The parties hereto hereby agree to enter into this Integrity Pact and agree as follows:

Commitments of the BUYER

- 1.1:** 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.
- 1.2:** 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.
- 1.3:** 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.

2. In case 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

3. The BIDDER commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its 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 commit itself to the following:-
 - 3.1 The BIDDER will not 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.
 - 3.2 The BIDDER further undertakes that it 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.
 - 3.3* BIDDERS shall disclose the name and address of agents and representatives and Indian BIDDERS shall disclose their foreign principals or associates.
 - 3.4* BIDDERS shall disclose the payments to be made by them to agents/brokers or any other intermediary, in connection with this bid/contract.
 - 3.5* The BIDDER further confirms and declares to the BUYER that the BIDDER is the original manufacturer/integrator/authorized 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 in respect of any such intercession, facilitation or recommendation.
 - 3.6 The BIDDER, either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, 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 services agreed upon for such payments.
 - 3.7 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.
 - 3.8 The BIDDER will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
 - 3.9 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.

- 3.10 The BIDDER commits to refrain from giving any complaint directly or through any other manner without supporting it with full verifiable facts.
- 3.11 The BIDDER shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 3.12 If the BIDDER or any employee of the BIDDER or any person acting on behalf of the BIDDER, either directly or indirectly, is a relative of any of the officers of the BUYER, or alternatively, if any 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.

The term 'relative' for this purpose would be as defined in Section 6 of the Companies Act 1956.

- 3.13 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.

4. Previous Transgression

- 4.1 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 Enterprises in India or any Government Department in India that could justify BIDDER's exclusion from the tender process.
- 4.2 The BIDDER agrees that if it makes incorrect statement on this subject, BIDDER can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

5. Earnest Money (Security Deposit)

- 5.1 While submitting commercial bid, the BIDDER shall deposit an amount (to be specified in RFP) as Earnest Money/Security Deposit, with the BUYER through any of the following Instruments.

- i) Bank Draft or Pay Order in favour of
- ii) A confirmed guarantee by an Indian Nationalised Bank, promising payment of the guaranteed sum to the BUYER on demand within three 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 of payment.
- iii) Any other mode or through any other instrument (to be specified in the RFP).

- 5.2 The Earnest Money/Security Deposit shall be valid upto a period of five years or the complete conclusion of the contractual obligations to the complete satisfaction of both the BIDDER and the BUYER, including warranty period, whichever is later.

- 5.3 In case of the successful BIDDER a clause would also be incorporated in the Article pertaining to Performance Bond in the Purchase Contract that the provisions of Sanction for Violations shall be applicable for forfeiture of Performance Bond in case of decision by the BUYER to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.

- 5.4 No interest shall be payable by the BUYER to the BIDDER on Earnest Money/Security Deposit for the period of its currency.

6. Sanctions for Violations

6.1 Any breach of the aforesaid provisions by the BIDDER or any one employed by it or acting on its behalf (whether with or without the knowledge of the BIDDER) 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 Earnest Money Deposit (in pre-contract stage) and/or Security Deposit/Performance Bond (after the contract is signed) shall stand forfeited either fully or partially, as decided by the BUYER and the BUYER shall not be required to assign and reason therefore.

iii) To immediately cancel the contract, if already signed, without giving any compensation to the BIDDER.

iv) To recover all sums already paid by the BUYER, and in case of an Indian BIDDER with interest thereon at 2% higher than the prevailing Prime Lending Rate of State Bank of India, while 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 stores, such outstanding payment could also be utilized to recover the aforesaid sum and interest.

v) To encash the advance bank guarantee and performance bond/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. The BIDDER shall be liable to pay compensation for any loss or damage to the BUYER resulting from such cancellation/rescission and the BUYER shall be entitled to deduct the amount so payable from the money(s) due to the BIDDER.

vii) To debar the BIDDER from participating in future bidding processes of the Government of India for a minimum period of five years, which may be further extended at the discretion of the BUYER.

viii) To recover all sums paid in violation of this Pact by BIDDER(s) to any middleman or agent or broker with a view to securing the contract.

ix) 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.

x) 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.

6.2 The BUYER will be entitled to take all or any of the actions mentioned at para 6.1(i) to (x) of this Pact also on the Commission by the BIDDER or any one employed by it or acting on its behalf (whether with or without the knowledge of the BIDDER), of an offence as defined in Chapter IX of the Indian Penal Code, 1860 or Prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption.

6.3 The decision of the BUYER to the effect that a breach of the provisions of this Pact has been committed by the BIDDER shall be final and conclusive on the BIDDER. However, the BIDDER can approach the independent Monitor(s) appointed for the purposes of this Pact.

7. Fall Clause

7.1 The Bidder undertakes that it has not supplied/is not supplying similar product/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 or PSU and if it is found at any stage that similar product/systems or sub systems was supplied by the BIDDER to any other Ministry/Department of the Government of India or a PSU 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, if the contract has already been concluded.

8. Independent Monitors

8.1 The BUYER has appointed Independent Monitors (hereinafter referred to as Monitors) for this Pact in consultation with the Central Vigilance Commission (Names and Addresses of the Monitors to be given).

- 8.2 The task of the Monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this Pact.
- 8.3 The Monitors shall not be subject to instructions by the representatives of the parties and perform their functions neutrally and independently.
- 8.4 Both the parties accept that Monitors have the right to access all the documents relating to the project/ procurement, including minutes of meetings.
- 8.5 As soon as the Monitor notices, or has reason to believe, a violation of this Pact, he will so inform the Authority designated by the BUYER.
- 8.6 The BIDDER(s) accepts that the Monitor has the right to access without restriction to all Project documentation of the BUYER including that provided by the BIDDER. The BIDDER will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor shall be under contractual obligation to treat the information and documents of the BIDDER/Subcontractor(s) with confidentiality.
- 8.7 The BUYER will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the contractual relations between the parties. The parties will offer to the Monitor the option to participate in such meetings.
- 8.8. The Monitor will submit a written report to the designated Authority of BUYER/Secretary in the Department/within 8 to 10 weeks from the date of reference or intimation to him by the BUYER/BIDDER and should the occasion arise, submit proposal for correcting problematic situations.

9. Facilitation of Investigation

In case of any allegation of violation of any provisions of this Pact or payment of commission, the BUYER or its agencies shall be entitled to examine all the documents including the Books of Accounts of the BIDDER and the BIDDER shall provide necessary information and documents in English and shall extend all possible help for the purpose of such examination.

10. Law and Place of Jurisdiction

This pact is subject to Indian Law. The place of performance and jurisdiction is the seat of the BUYER.

11. Other Legal Action

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.

12. Validity

12.1 The validity of this Integrity Pact shall be from date of its signing and extend upto 5 years or the complete execution of the contract to the satisfaction of both the BUYER and the BIDDER/Seller, including warranty period, whichever is later. In case BIDDER is unsuccessful, this Integrity Pact shall expire after six months from the date of the signing of the contract.

12.2 Should one or several provisions of this Pact turnout to be invalid; the remainder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intentions.

13. The parties hereby sign this Integrity Pact at on

BUYER
Name of the Officer
Designation
Deptt./MINISTRY/PSU

BIDDER
CHIEF EXECUTIVE OFFICER

Witness

1.....

2.....

Witness

1.....

2.....

* Provisions of these clauses would need to be amended/ deleted in line with the policy of the BUYER in regard to involvement of Indian agents of foreign suppliers.

INCOTERMS - 2010

Standard Trade Definitions used in International Freight Transactions

1. The International Chamber of Commerce has released the table of contents to the Incoterms 2010. Incoterms 2010 consists of only 11 Incoterms, a reduction from the 13 Incoterms 2000. Broadly these can be grouped in four categories:

(a) "E"-Terms – Implies Ex-works, where under, the seller only makes the goods available to the buyer at the seller's own premises. The responsibility of providing the carrier is that of the buyer.

(b) "F"-Terms – FCA, FAS and FOB are various clauses of "F" terms under which the seller is called upon to deliver the goods to a carrier appointed by the buyer. The responsibility of providing the carrier is that of the buyer.

(c) "C"-Terms – CPT, CIF and CIP are various clauses of "C" terms under which the seller has to contract for carriage, but without assuming the risk of loss of or damage the goods or additional costs due to events occurring after shipment and dispatch.

(d) "D"-Terms – DAT, DAP and DDP are various clauses of "D" terms under which the seller has to bear costs and risks needed to bring the goods to the place of destination.

2. Depending upon the mode of transport the Incoterms 2010 are organized into two categories:

- a) Incoterms for any Mode or Modes of Transport :
- EXW - Ex Works
 - FCA - Free Carrier
 - CPT - Carriage Paid To
 - CIP - Carriage and Insurance Paid
 - DAT - Delivered At Terminal (new)
 - DAP - Delivered At Place (new)
 - DDP - Delivered Duty Paid

- b) Incoterms for Sea and Inland Waterway Transport only :
- FAS - Free Alongside Ship
 - FOB - Free On Board
 - CFR - Cost and Freight
 - CIF - Cost, Insurance and Freight

3. Ex-works (EXW) : It means that the buyer bears all costs and risks involved in taking the goods from the seller's premises to the desired destination. The seller's obligation is to make the goods available at his premises (works, factory, warehouse). This term represents minimum obligation for the seller. This term can be used across all modes of transport.

Critical Points :

- Carriage to be arranged by the buyer.
- Risk transfer from the seller to the buyer when the goods are at the disposal of the buyer.
- Cost transfer from the seller to the buyer when the goods are at the disposal of the buyer.

4. Free Carrier (FCA) : It means that the seller's obligation is to hand over the goods, cleared for export, into the charge of the carrier named by the buyer at the named place or point. If no precise point is indicated

by the buyer, the seller may choose within the place or range stipulated where the carrier shall take the goods into his charge. When the seller's assistance is required in making the contract with the carrier the seller may act at the buyers risk and expense. This term can be used across all modes of transport.

Critical Points :

- Carriage to be arranged by the buyer or by the seller on the buyer's behalf.
 - Risk transfer from the seller to the buyer when the goods have been delivered to the carrier at the named place.
 - Cost transfer from the seller to the buyer when the goods have been delivered to the carrier at the named place.
5. CPT (Carriage Paid To): It means that the seller pays the freight for the carriage of goods to the named destination. The risk of loss or damage to the goods occurring after the delivery has been made to the carrier is transferred from the seller to the buyer. This term requires the seller to clear the goods for export and can be used across all modes of transport.

Critical Points :

- Carriage to be arranged by the seller.
 - Risk transfer from the seller to the buyer when the goods have been delivered to the carrier.
 - Cost transfer at port of destination, buyer paying such costs as are not for the seller's account under the contract of carriage.
6. CIP (Carriage and Insurance Paid to) : It means that the seller has the same obligations as under CPT but has the responsibility of obtaining insurance against the buyer's risk of loss or damage of goods during the carriage. The seller is required to clear the goods for export however is only required to obtain insurance on minimum coverage. This term requires the seller to clear the goods for export and can be used across all modes of transport.

Critical Points :

- Carriage and Insurance to be arranged by the seller.
 - Risk transfer from the seller to the buyer when the goods have been delivered to the carrier.
 - Cost transfer at place of destination, buyer paying such costs as are not for the seller's account under the contract of carriage.
7. DAT (Delivered At Terminal) : New Term - May be used for all transport modes. It means that the Seller delivers when the goods, once unloaded from the arriving means of transport, are placed at the disposal of the buyer at a named terminal at the named port or place of destination. "Terminal" includes quay, warehouse, container yard or road, rail or air terminal. Both parties should agree the terminal and if possible a point within the terminal at which point the risks will transfer from the seller to the buyer of the goods. If it is intended that the seller is to bear all the costs and responsibilities from the terminal to another point, DAP or DDP may apply.

Responsibilities :

- Seller is responsible for the costs and risks to bring the goods to the point specified in the contract
- Seller should ensure that their forwarding contract mirrors the contract of sale
 - Seller is responsible for the export clearance procedures
 - Importer is responsible to clear the goods for import, arrange import customs formalities, and pay import duty
- If the parties intend the seller to bear the risks and costs of taking the goods from the terminal to another place then the DAP term may apply.

Critical Points :

- Seller is responsible for the costs and risks to bring the goods to the point specified in the contract
- Seller should ensure that their forwarding contract mirrors the contract of sale.

- Seller is responsible for the export clearance procedures.
- Importer is responsible to clear the goods for import, arrange import customs formalities and pay import duty.
- If the parties intend the seller to bear the risks and costs of taking the goods from the terminal to another place then the DAP term may apply.

8. DAP (Delivered At Place) : New Term - May be used for all transport modes. It means that the Seller delivers the goods when they are placed at the disposal of the buyer on the arriving means of transport ready for unloading at the named place of destination. Parties are advised to specify as clearly as possible the point within the agreed place of destination, because risks transfer at this point from seller to buyer. If the seller is responsible for clearing the goods, paying duties etc., consideration should be given to using the DDP term.

Responsibilities :

- Seller bears the responsibility and risks to deliver the goods to the named place
- Seller is advised to obtain contracts of carriage that match the contract of sale
- Seller is required to clear the goods for export
- If the seller incurs unloading costs at place of destination, unless previously agreed they are not entitled to recover any such costs

Importer is responsible for effecting customs clearance, and paying any customs duties.

Critical Points :

- Seller bears the responsibility ad risks to deliver the goods to the named place.
 - Seller is advised to obtain contracts of carriage that match the contract of sale.
 - Seller is required to clear the goods for export.
 - If the seller incurs unloading costs at place of destination, unless previously agreed they are not entitled to recover any such costs.
- ãImporter is responsible for effecting customs clearance, and paying any customs duties.

9. DDP (Delivered Duty Paid) : It means that the seller is responsible for delivering the goods to the named place in the country of importation, including all costs and risks in bringing the goods to import destination. This includes duties, taxes and customs formalities. This term may be used irrespective of the mode of transport.

Critical Points :

- Carriage to be arranged by the seller.
- Risk transfer from the seller to the buyer when the goods are placed at the disposal of the buyer.
- Cost transfer from the seller to the buyer when the goods are placed at the disposal of the buyer.

10. FAS (Free Alongside Ship) : It means that the seller has fulfilled his obligation when goods have been placed alongside the vessel at the port of shipment. The buyer is responsible for all costs and risks of loss or damage to the goods from that moment. The buyer is also required to clear the goods for export. This term should only be used for sea or inland waterway transport.

Critical Points :

- Carriage to be arranged by the buyer.
- Risk transfer from the seller to the buyer when the goods have been placed alongside the ship.
- Cost transfer from the seller to the buyer when the goods have been placed alongside the ship.

11. FOB (Free on Board) : It means that once the goods have passed over the ship's rail at the port of export the buyer is responsible for all costs and risks of loss or damage to the goods from that point. The seller is required to clear the goods for export. This term should only be used for sea or inland waterway transport.

Critical Points :

- Carriage to be arranged by the buyer.
- Risk transfer from the seller to the buyer when the goods pass the ship's rail.
- Cost transfer from the seller to the buyer when the goods pass the ship's rail.

- 12.** CFR (Cost and Freight) : It means that the seller must pay the costs and freight required in bringing the goods to the named port of destination. The risk of loss or damage is transferred from seller to buyer when the goods pass over the ship's rail in the port of shipment. The seller is required to clear the goods for export. This term should only be used for sea or inland waterway transport.

Critical Points :

- Carriage to be arranged by the seller.
- Risk transfer from the seller to the buyer when the goods pass the ship's rail.
- Cost transfer at port of destination, buyer paying such costs as are not for the seller's account under the contract of carriage.

- 13.** CIF (Cost Insurance Freight) : It means that the seller has the same obligations as under CFR however he is also required to provide insurance against the buyer's risk of loss or damage to the goods during transit. The seller is required to clear the goods for export. This term should only be used for sea or inland waterway transport.

Critical Points :

- Carriage and Insurance to be arranged by the buyer.
- Risk transfer from the seller to the buyer when the goods pass the ship's rail.
- Cost transfer at port of destination, buyer paying such costs as are not for the seller's account under the contract of carriage.

ABBREVIATIONS GLOSSARY

S.No.	Abbreviations	Full Form
1.	A/C	Account
2.	ACA	Air Consolidation Agent
3.	ACASH	Association of Corporations and Apex Societies of Hand-looms
4.	AD	Acknowledgement Due
5.	AFMSD	Armed Forces Medical Stores Depot
6.	AMC	Annual Maintenance Contract
7.	ASC	Army Supply Corps
8.	ATVP	Advance Technology Vessel Programme
9.	AWB	Air Way Bill
10.	B/L	Bill of Lading
11.	BC	Bill Collection
12.	BG	Bank Guaranty
13.	BIS	Bureau of Indian standards
14.	BOC	Brought on Charge
15.	BQ	Budgetary Quote
16.	CVC	Central Vigilance Commission
17.	CSB	Comparative Statement of Bid
18.	CFA	Competent Financial Authority
19.	CDA	Controller of Defence Accounts
20.	CGDA	Comptroller General of Defence Accounts
21.	CPSE	Central Public Sector Enterprises
22.	COTS	Commercially-Off-The-Shelf
23.	CPPP	Central Public Procurement Portal
24.	CCR&D	Chief Controller Research & Development
25.	CESTAT	Central Sales Tax Appellate Tribunal
26.	CNC	Commercial Negotiation Committee
27.	CRV	Certified Receipt Voucher
28.	CST	Central Sales Tax
29.	CIF	Cost, Insurance & Freight
30.	CIP	Carriage and Insurance Paid
31.	CCI	Competition Commission of India
32.	CCS	Cabinet Committee on Security
33.	CERC	Cost Estimation and Reasonability Committee
34.	CMC	Contract Monitoring Committee
35.	CDR	Critical Design Review
36.	CPT	Carriage Paid To
37.	CFR	Cost and Freight
38.	CARS	Contract for Acquisition of Research Services
39.	CAPSI	Contracts for Acquisition of Professional Services
40.	CENVAT	Central Value Added Tax
41.	CQCCBS	Combined Quality Cum Cost Based System
42.	CPO	Central Purchase Organisation

43.	CHB	Classification Hand Book
44.	CDEC	Custom Duty Exemption Certificate
45.	DAVP	Directorate of Advertising and Visual Publicity
46.	DBF&A	Directorate of Budget, Finance & Accounts
47.	DBT	Direct Bank Transfer
48.	DCF	Discounted Cash Flow Technique
49.	DCW&E	Directorate of Civil Works & Estates
50.	DD	Demand draft
51.	DDP	Design, Development and Production
52.	DDP	Delivered Duty Paid
53.	DESIDOC	Defence Scientific Information and Documentation Centre
54.	DRDO	Defence Research & Development Organisation
55.	DG	Director General
56.	DGS&D	Director General of Supply & Disposal
57.	DGADS	Director General Audit of Defence Services
58.	DGFT	Directorate General of Foreign Trade
59.	DGQA	Director General Quality Assurance
60.	DGR	Director General of Resettlement
61.	DIC	Directorate of International Corporation
62.	DMM	Directorate of Material Management
63.	DP	Development & Production
64.	DP	Delivery Period
65.	DPR	Detailed Project Report
66.	DPSU	Defence Public Sector Undertaking
67.	DRONA	DRDO Rapid Online Network Access
68.	DV&S	Directorate of Vigilance & Security
69.	D(VIGILANCE)	Directorate of Vigilance
70.	ECS	Electronic Clearance System
71.	EC/ PC	Executive Council/ Political Council
72.	ED	Excise Duty
73.	EDEC	Excise Duty Exemption Certificate
74.	EFT	Electronic Fund Transfer
75.	EMD	Earnest Money Deposit
76.	EOI	Expression of Interest
77.	ERV	Exchange Rate Variation
78.	EUC	End User Certificate
79.	FA (DS)	Financial Advisor to Defence Secretary
80.	FAS	Free Alongside Ship
81.	FAT	Factory Acceptance Test
82.	FBE	Forecast Budget Estimate
83.	FCA	Free up to Custom Area
84.	FE	Foreign Exchange
85.	FIM	Free Issue Material
86.	FMS	Factory Manufactured Stores

87.	FOB	Free on Board
88.	FOL	Fuel Oil & Lubricants
89.	FOR	Free on Rail
90.	FSS	Factory Stocked Stores
91.	FY	Financial Year
92.	GFR	General Financial Rule
93.	GOVT.	Government
94.	GOI	Government of India
95.	HAL	Hindustan Aeronautics Limited
96.	HCI	High Commission of India
97.	HQ	Headquarter
98.	ICC	International Chamber of Commerce
99.	IDST	Institute of Defence Scientists and Technologist
100.	IFS	Indian Financial System
101.	IIT	Indian Institute of Technology
102.	INCOTERM	International Commercial Terms
103.	INR	Indian Rupee
104.	IPR	Intellectual Property Rights
105.	IR	Inspection Report
106.	ITJ	Indian Trade Journal
107.	JSG	Joint Services Guide
108.	KB	Kendriya Bandar
109.	KC	Knowledge Centre
110.	KVIC	Khadi Village Industries Commission
111.	L1	Lowest Acceptable Bidder
112.	LAC	Library Advisory Council
113.	LBM	Limited Bidding Mode
114.	LC	Letter of Credit
115.	LCC	Life Cycle Cost
116.	LD	Liquidated Damages
117.	LIBOR	London Inter Bank Offered Rate
118.	LOI	Letter of Intent
119.	LPC	Local Purchase Committee
120.	LPP	Last Purchase Price
121.	LTVA	Long Term Business Agreements
122.	MER	Monthly Expenditure Report
123.	MES	Military Engineering Services
124.	MHR	Man Hour Rate
125.	MICR	Magnetic Ink Character Recognition
126.	MOD	Ministry of Defence
127.	MOF	Ministry of Finance
128.	MMG	Material Management Group
129.	MRO	Military Receipt Order
130.	MS	Market Survey
131.	MT	Mechanical Transport

132.	MSE	Micro and Small Enterprises
133.	MSME	Ministry of Micro, Small and Medium Enterprises
134.	N/A	Not Available
135.	NAC	Non Availability Certificate
136.	NCA	Nuclear Command Authority
137.	NCCF	National cooperative consumers' Federation
138.	NCNC	No Cost No Commitment
139.	NDA	National Defence Academy
140.	NIB	Notice Inviting Bid
141.	NPV	Net Present Value
142.	NSIC	National Small-Scale Industries Corporation
143.	OBM	Open Bidding Mode
144.	OEM	Original Equipment Manufacturer
145.	OF	Ordnance Factory
146.	OFB	Ordnance Factories Board
147.	OM	Office Memorandum
148.	PPP	Pharmaceuticals Purchase Policy
149.	PA	Price Agreement
150.	PAC	Proprietary Article Certificate
151.	PAN	Permanent Account Number
152.	PBM	Proprietary Bidding Mode
153.	PC	Personnel Computer
154.	PDC	Probable Date of Completion
155.	PCDA	Principal Controller of Defence Accounts
156.	PDI	Pre-Dispatch Inspection
157.	PDR	Preliminary Design Review
158.	PJB	Project Management Board
159.	PL	Price Level
160.	PMB	Programme Management Board
161.	POV	Professional Officers' Valuation
162.	PRC	Progress Review Committee
163.	PSU	Public Sector Undertaking
164.	PV	Price variation
165.	QA	Quality Assurance
166.	QAC	Quality Assurance Cell
167.	QCBS	Quality and Cost Based Selection
168.	QEP	Quarterly Expenditure Plan
169.	RBI	Reserve Bank of India
170.	RC	Rate Contract
171.	RFI	Request For Information
172.	RFP	Request for Proposal
173.	RR/LR	Railway Receipt/ Lorry Receipt
174.	RO	Repeat Order
175.	R&D	Research and Development
176.	R&M	Resource & Management

177.	SBI	State Bank of India
178.	SBM	Single Bidding Mode
179.	SHQ	Service Headquarter
180.	SMT	Special Maintenance Tools
181.	SO	Supply Order
182.	SOA	Standing Offer Agreement
183.	SOC	Statement of Case
184.	STE	Special Test Equipments
185.	SWOD	Syllabus Work Order Demand
186.	TA	Technical Advisor
187.	TCEC	Techno-Commercial Evaluation Committee
188.	TDS	Tax Deducted at Source
189.	TOR	Terms of Reference
190.	TOT	Transfer of Technology
191.	UCPDC	Uniform Customs and Practices for Documentary Credit
192.	USC	Unique Sanction Code
193.	VAT	Value Added Tax
194.	VQC	Vendor Qualification Criteria
195.	VRC	Vendor Registration Committee