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REVISED DEFENCE PROCUREMENT MANUAL – ALIGNING TO ‘ATMANIRBHARTA’



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The recent issue of the Defence Procurement Policy (DPP-2020) and the Defence Procurement Manual for DRDO (for Revenue Procurements) has raised expectations for substantive changes in the ‘soon-to-be-announced’ Revised Defence Procurement Manual (DPM) (for Revenue Procurements for the Armed Forces).

Backdrop

A comprehensive DPM applicable for central procurement as well as local purchases under delegated financial powers of authorities in the Ministry of Defence, Service Headquarters and all subordinate authorities in the Command Headquarters and lower formations, establishments and units were first issued in 2005. This covered procurements through the revenue route that included acquiring all types of goods (both scaled and non-scaled), such as equipment, stores, spares, technical literature, etc., as well as all types of services, including packing, unpacking, preservation, transportation, insurance, delivery, special services, leasing, technical

assessment, consultancy, systems study, software development, maintenance, updates, conservancy, etc.

Regarded at the time of its issue as a much-required step, DPM-2005 sought to provide transparency to RFPs, uniformity in interpretation of contracting clauses and procedures and set timelines for the various stages of the procurement process with the aim to cut down delays. It also sought to align the procedures to CVC guidelines and to (the then) banking procedures.

In July 2005, the Ministry of Finance brought into effect the GFR-2005. It was stipulated in Rule 135 thereof that *“the general rules applicable to all Ministries or Departments, regarding procurement of goods required for use in the public service”* and that *“detailed instructions relating to procurement of goods may be issued by the procuring departments broadly in conformity with the general rules contained in.. (these Rules).”*

Rule 91 of GFR-2005 stated that *“revenue should bear all subsequent charges for maintenance and all working expenses, including all expenditure on working and upkeep of the project 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 provisions of DPM-2005 were also required to be made compliant with Rules 151, 152 and 154 of GFR-2005 relating to Limited Tender Enquiries, Two-bid Systems and Single Tender Enquiry. This necessitated issue of DPM-2006 the very next year.

Defence Procurement Manual (DPM) -2006: Early Pragmatism

A duly ‘updated’ DPM-2006 was issued the following year which included the following major new / revised provisions:

- Apportioning quantity to L2 and L3 when L1 does not have capacity to supply to RFP requirements at L1 rates (in line with CVC guidelines).

- Re-floating tenders when the Tender Evaluation Committee (TEC) shortlisted only one vendor, after reformulating SQRs to ensure competitive bidding.
- Provide level playing field to indigenous vendors vis-à-vis foreign vendors by comparing CIF price with indigenous vendor's offer without Excise duty, Sales tax and other levies.
- Term for Rate Contract for common user items set for three years to ensure economy of scale (with some safeguard provisions like fall clause and short closure in the event of fall in prices).

Defence Procurement Manual (DPM) - 2009

DPM-2009 was necessitated to incorporate a number of significant policy and procedural changes introduced since issue of DPM-2006 and to remove certain bottlenecks in the exercise of delegated powers. There was also the requirement to extend DPM provisions to the area of ship repair.

Major changes / inclusions in the provisions of DPM-2009 are:

- **Responsibility Placed on CFAs**. Chapter Two of DPM-2009 states that *“every authority delegated with the financial powers of procuring goods in public interest shall have the responsibility and accountability to bring efficiency, economy, transparency in matters relating to public procurement and for fair and equitable treatment of suppliers and promotion of competition in public procurement”*.
- **‘Procedural Propriety’** defined as conformity to prescribed yardsticks such as the specifications in terms of quality, type etc., as also quantity of goods to be procured, should be clearly spelt out keeping in view the specific needs of the procuring organizations; offers to be invited following a fair, transparent and reasonable procedure; the procuring authority should be satisfied with the offer adequately meets the requirement in all respects and price being reasonable and consistent with the quality required and for **the Procurement Authority to place on record, at each stage of procurement, the considerations**

which weighed with it while taking the procurement decision.

Other Significant Aspects of DPM (2009)

The DPM-2009 provided for some procedural liberalisation in utilisation of financial powers. These included:-

- Decentralised decision-making and delegation of Financial Powers to various authorities in the defence establishments down to the unit commanders.
- Procurement from indigenous sources to achieve self-reliance by giving support to Indigenous firms to produce and supply quality goods conforming to specifications.
- Purchase of goods and services of value up to Rs 15,000/- without quotation.
- Purchase of goods costing above Rs. 15,000/- and up to Rs. 1,00,000/- on each occasion on recommendations of a Local Purchase Committee.
- Purchase of goods directly under Rate Contract.
- Cash and Carry Procurement:
- Product Reservation for Khadi Village Industries Commission (KVIC), etc.:
- Product Reservation and other facilities for MSMEs. (List of 358 items given in Appendix to DPM-2009.

The 2010 Supplement to DPM 2009

A Supplement was issued in August 2010 to facilitate effective utilisation of budgetary outlays and support the process of empowerment of CFAs. It also advised CFAs and IFAs on need to interpret the provisions of the DPM 'constructively' to achieve the objective of effective utilisation of budgets.

The 2015 Amendments to DPM-2009.

Significant improvements in procedure effected in 2015 which simplified issues of costing, the major changes being:-

- The bidders' responsibility to spell out the rates of custom duty, excise duty, VAT, Service tax etc in unambiguous terms and bear consequences for failure to do so removed.
- Bidders are now required to indicate relevant taxes duties etc. likely to be paid in connection with delivery of completed goods as specified in the RFP. Any changes in such taxes etc. on final product that results in a statutory variation within the contract period is allowed reimbursement by the buyer to the extent of Actual quantum of such duty / tax paid. Likewise, any reduction of taxes will be reimbursed to the buyer by the seller. Taxes etc. on final product will be paid by the buyer on actuals based on relevant documentary evidence. Bidders are required to include these separately in the pricing of their products.
- In cases where only Indian bidders are competing, L-1 Bidder would be determined by excluding these taxes etc evaluation and comparison of substantially responsive bids to be made on the basis of prices of goods offered, and other charges such as packing and forwarding, freight and Insurance, AMC but excluding levies, taxes and duties such as excise duty, VAT, Service Tax, etc on final product. (The responsibility of the CFA to base financial implications on an 'all-inclusive cost to the user on delivery to the designated consignee' was modified.

Pragmatic Provisions in the DRDO Procurement Manual -2020

DRDO Procurement Manual -2020 issued on 20 Oct 2020 places emphasis on refining procurement procedures as also to accord a degree of flexibility to CFAs. Some of the major improvements in the DRDO Procurement Manual that merit inclusion in the proposed DPM for the Armed Forces are as follows:-

- Placement of order on second lowest bidder (L2) in case lowest bidder (L1) is not able to fulfil the contract. This would curtail processing time and obviate re-tendering.

- Exemption of Bid and Performance security up to Rs. 10 lakhs.
- No negotiation for COTS items and services wherever price discovery is based on market forces.
- Free issue material safeguarded through insurance cover instead of bank guarantee.
- Increase in the quantum of advance payment from 15% to 40% which would be help MSMEs to sustain themselves.

Aligning the Revised DPM to 'Atmanirbhar Bharat'

The following aspects require consideration to further rationalise / refine procedures and importantly, to align the Revised DPM to the tenets and spirit of 'Atmanirbharta'.

- Revised DPM must detail eProcurement and Government e-Marketplace (GEM) procurement procedures. Relevant provisions of the Goods and Services Manual (2017) need also to be incorporated.
- Procurement Committee as mandated in the DFPDS -2016 has no mention in the DPM. The provision regarding these Committees must be in DPM with stipulation that they should complete their deliberations and submit recommendations to CFA within prescribed timelines.
- Timelines must also be set for completion of each stage of the procurement process including period after delivery of supply within which payment must be effected to the seller.
- Ambiguity / variation in regard to Resultant Single Tender situation in DPM and GFR needs resolution.
- CFA Powers for indigenous products could be enhanced by 25 – 30 % in DFPDS.
- CFA powers should not be curtailed in single vendor situations.
- In most of the Revenue Procurement, only indigenous vendors can participate. There are situations, such as in recent cases of BPJs and BPPs where the supplier is Indian but raw material for the product is sourced from abroad. In

such cases, supplier be liable to reveal the percentage of imported content as percentage of contract in terms of cost.

- **Priority be accorded to start-ups and MSMEs who have taken up the challenge of manufacturing hitherto imported items as included in the negative list for further imports. Such firms can be considered for further incentivisation by way of 10-15% price preference.**
- **Earnest Money / Security Deposit by such Indian Origin Companies be discontinued. This would provide some fiscal relief to prospective suppliers as also inculcate an ambience of trust.**
- **Quality control based on 'Self certification' be increasingly accepted with deterrent heavy penalties for default.**

Need for a Single 'All inclusive' Manual

There are multiple Manuals, Rules and Regulations incumbent for compliance by procurement agencies. Importantly, there are variations in interpretation of provisions of these manuals between the Procurement Officers and by Integrated Finance.

The endeavour and intent must be to make the Revised DPM an 'all inclusive' document encompassing all relevant provisions of the procurement process through a due collegiate mechanism. This single step of rationalisation itself would exponentially enhance 'ease of doing business' on both sides.

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