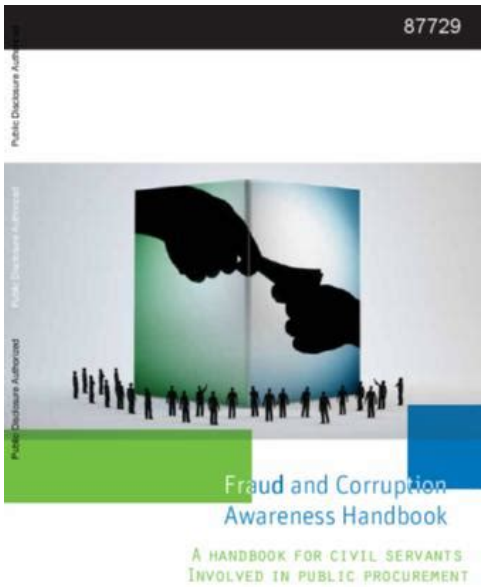
Defence Procurement Manual 2014



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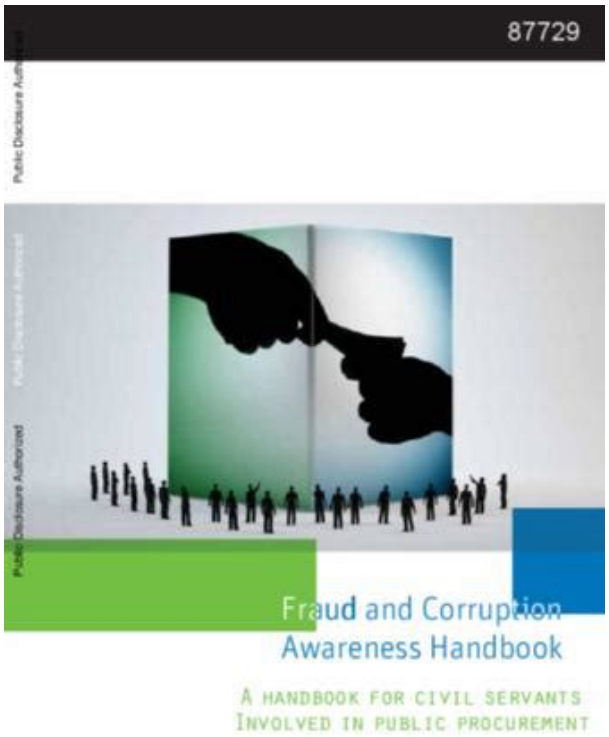

Consumer confidence up marginally in Sep Survey Updated Sep 15, 2020, 08.58 PM IST Consumer confidence index has shown a marginal uptick of 1.1 percentage points in September 2020, according to a monthly survey. The R. This happened in 1971. Still clearing the earlier mess Manohar Parrikar 11 Jul, 2018, 03.11 PM IST Defence Procurement Manual would soon be changed to address the concerns raised by private players, but added that even they should rope in Medium and Small scale industries while carrying out their work, he said. DAC clears procurement of engines worth Rs 2300 crore for T72 tanks 25 Sep, 2018, 10.46 PM IST The significant changes include limiting the time period for executing repeat order to five years after the date of completion of warranty of final delivery in the previous contract. Government mulls defence procurement policy for transparent and faster military procurements 27 Nov, 2014, 06.57 PM IST Government considers rolling out new defence procurement policy that will have norms for blacklisting firms and engagement of agents and attracting investments. Do proper homework while acquiring new technology Parliamentary committee to IAF, defence ministry 06 Feb, 2019, 07.52 PM IST The committee said this in relation to delays in implementing the Air Combat Maneuvering Instrumentation System. Domestic manufacturing in defence sector not likely in near term Report 22 Jan, 2016, 10.34 AM IST As per the report, limited areas such as radars and missiles, where the capability buildup process started taking shape long time back, would see indigenisation. Defence production in India heading towards private sector participation 11 Jul, 2018, 01.39 PM IST Private sector companies defence exports surged in 2015, rising threefold to Rs 441.06 crore in the first nine months itself from Rs 132.17 crore in the full year 2014. 15 steps government has taken to attract investment from domestic private sector in defence 11 Jul, 2018, 12.http://floentreprise.com/userfiles/creative-a120-manual.xml

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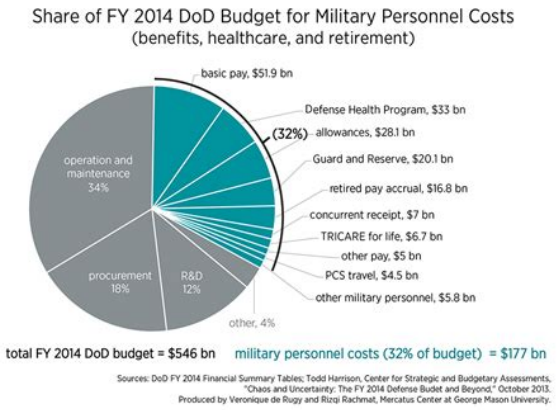
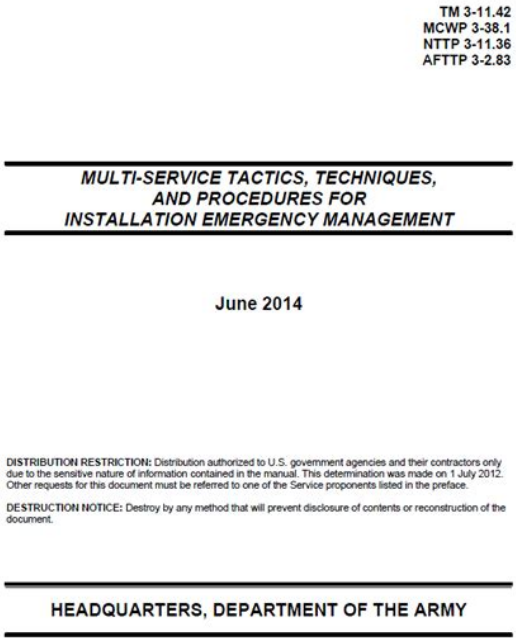


39 PM IST According to a Ministry of Defence release, since the opening of private sector participation in defence sector, a total of 287 industrial licenses have been issued till date. Much awaited Serif TV is finally here Sebi move triggers Lollapalooza Effect on DStreet What to buy now. How much money can HNIs make in Route Mobile, Happiest Minds IPOs. For reprint rights Times Syndication Service. European and domestic case law is also influential in interpreting the applicable laws. They are intended to ensure value for money is achieved even in the absence of competition. For example, there are specific provisions that are intended to protect sensitive information throughout the supply chain, to ensure security of supply and to give the courts flexibility to consider defence and security interests when considering remedies. Where the rules are triggered, a formal procurement process is initiated by the publication of a Contract Notice in the Official Journal of the European Union. The way that the procurement proceeds depends on whether the authority has chosen a procedure that permits them to discuss the contract and requirements with the bidders negotiated procedure with advert, the competitive dialogue procedure or, under the civil rules only, innovation partnership or not restricted procedure or, under the civil rules only, the open procedure. It is increasingly common for negotiations on a contract to be limited, with many of the contract terms being identified as nonnegotiable. Once the winning bidder is selected, there is relatively little scope for further negotiation although, in practice, some negotiation is common. However, it has indicated that it will take a stricter approach to enforcing compliance with the rules and, in particular, it feels that too many contracts are awarded without any competition.http://www.olikon.it/public/anutelNewsProdotti/creative-a250-manual.xml



TM 3-11.42
MCWP 3-38.1
NTTP 3-11.36
AFTTP 3-2.83

MULTI-SERVICE TACTICS, TECHNIQUES,
AND PROCEDURES FOR
INSTALLATION EMERGENCY MANAGEMENT

June 2014

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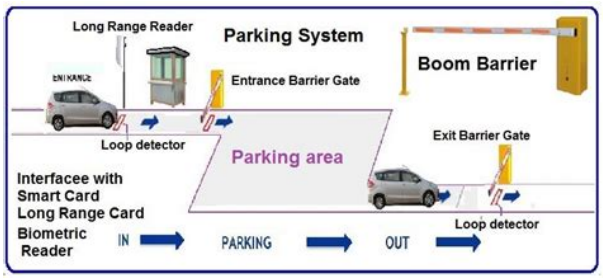
HEADQUARTERS, DEPARTMENT OF THE ARMY

Most IT procurement will be undertaken under the civil rules and, in many instances, this is done through centralised framework agreements awarded by the Crown Commercial Service. The MoD published a fiveyear review of the application of the DSPCR in December 2016. It shows that 25 per cent of its contracts were considered exempt from the normal requirement to compete openly, mostly in reliance on the national security exemption contained in article 346 of the Treaty on the Functioning of the European Union, but that there were also other exemptions, for example, an exemption relating to governmenttogovernment sales. It also shows that since the introduction of the DSPCR there has been a decline in reliance on these exemptions from 55 per cent to 25 per cent. It is common for a defence contract to incorporate DEFCON 530 DEFCONs are MoD defence conditions, which provides for disputes to be resolved by way of confidential arbitration in accordance with the Arbitration Act 1996. Where the DSPCR applies, there is a formal process under which suppliers may apply to the court to review the actions of the contracting authority during the procurement process, and the remedies available which differ depending on whether the contract has been entered into or not. This determination will take precedence over any contractual dispute resolution procedure. What is typical for this jurisdiction The most appropriate form of ADR depends on the size and nature of the dispute but the most common form remains mediation. ADR will remain available once the arbitration is under way. Under the DSPCR, before proceedings can be commenced, the challenger must provide the contracting authority with details of its claim and its intention to start proceedings, which provides an opportunity for the parties to try to resolve the dispute.

However, owing to the short time limits for pursuing a procurement claim typically 30 days from the date the supplier knew or ought to have known of the grounds giving rise to the breach, time is extremely limited for the parties to engage in any formal ADR process at this stage. ADR will be available to the parties as a parallel confidential process during any litigation. These limitations mainly stem from the Unfair Contract Terms Act 1977, which makes certain terms excluding or limiting liability ineffective or subject to reasonableness. There may also be public policy reasons for an indemnity not to be valid; for example, the government cannot indemnify a contractor for civil or criminal penalties incurred by the contractor if the contractor intentionally and knowingly committed the act giving rise to the penalty. The MoD says this policy can offer a limited range of

indemnities for specific risks, but that the MoD should not offer indemnities outside of this unless there are exceptional circumstances. Indemnities given by the contractor result from negotiation, although indemnities included in the initial draft contract issued by the government may not be negotiable depending on which contract award procedure is used. Are there limits to the contractor's potential recovery against the government for breach However, the MoD's policy is to not accept a limit unless it represents value for money. The contract award procedure used by the government will determine the extent to which this position is negotiable. This is unusual but would limit the contractor's potential to recover against the government for breach. However, the MoD's policy, even if the MoD procures under the DSPCR, is to comply with Regulation 113 of the Public Contracts Regulations 2015, which requires public sector buyers to pay prime contractors Tier 1 suppliers undisputed, valid invoices within 30 days.



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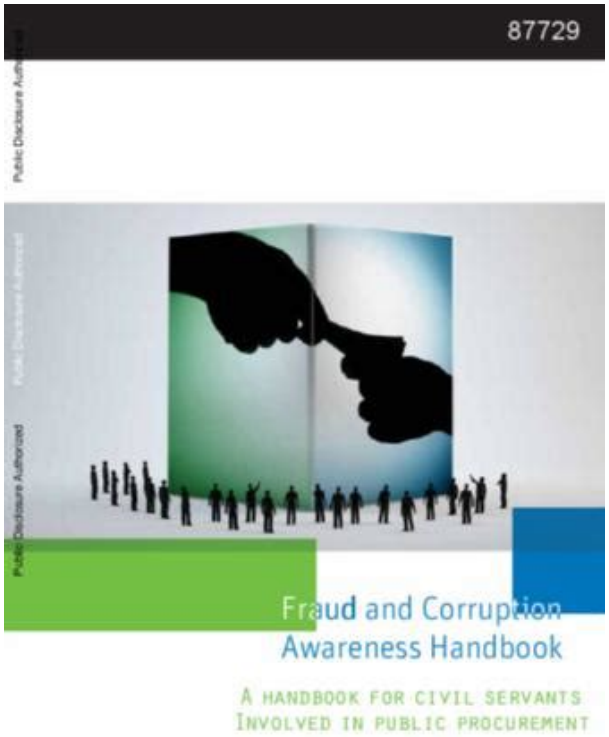
Generally, the risk of nonpayment for an undisputed, valid invoice by the MoD is perceived to be very low. If it is not specified in that documentation, the government should not, in theory, be able to ask for one later in the contractaward process. The government will assess a bidder's financial position during the qualification stage and determine whether it believes the company has the economic and financial capacity to deliver and perform the contract. If it does not believe that this is the case eg, if a bidder is a special purpose vehicle set up specifically for a contract then when the successful bidder is chosen, the government will determine whether a PCG is required. The MoD's standardform PCG is set out in DEFFORM 24. Primarily, these are the DEFCONs, although the MoD does use other standard forms of contract in certain circumstances. If a particular DEFCON is relevant to the subject matter of a contract, the MoD will typically seek to include that DEFCON. Gainshare, painshare or value for money reviews are common in longterm contracts to avoid excessive profits or losses occurring. These pricing methods are To be allowable, costs must be appropriate, attributable to the contract and reasonable. This will be assessed by reference to the statutory guidance on allowable costs published by the SSRO as regulator. The MoD will often negotiate openbook contractual obligations into its highervalue contracts. Other reports are also required to be delivered regularly throughout the term of the contract and at the end that provide information on the costs actually incurred as the contract progresses. What licences are typically given and how These DEFCONs are currently under review the MoD intends to replace them with a single IP DEFCON though this new DEFCON would still align with MoD's policy on IP ownership.

A corporate joint venture would involve the joint venture parties setting up a new legal entity likely, a limited company registered in England and Wales, which would be an independent legal entity able to contract in its own right, and which is liable for its own debts. It is relatively straightforward and inexpensive to establish a company; the parties must file Form IN01 and articles of association at Companies House and pay the applicable filing fee. The company is brought into existence when Companies House issues the certificate of incorporation. The shareholders joint venture parties would also likely agree in a shareholders' agreement the roles and responsibilities of each shareholder and their respective obligations to invest capital and resources into the company. How does it work Can one obtain versions of previous contracts As the MoD is a public body, on the face of it this right would extend to contracts and records held by the MoD allowing people to request these documents. Should the MoD decide to disclose information against the wishes of the company, it will notify the company of the decision prior to disclosure. They also give the authority discretion to exclude bidders on other grounds, such as insolvency or gross professional misconduct. The rules expressly permit authorities to consider the same exclusion grounds for subcontractors, as well as giving them broad rights, for example, to require a supplier to openly compete some of the subcontracts or to flow down obligations regarding information security. Detailed quality assurance requirements will also be included in a contract and will cover fraudulent and counterfeit material. Who administers them. The Common Position and Common Military List have been implemented by EU member states into their own national legislation. The Act provides authority for the UK government to extend the export controls set forth in the Act through secondary legislation.



The main piece of secondary legislation under the Act is Export Control Order 2008, which controls the trade and exports of listed military and dualuse items ie, goods, software and technology that can be used for both civilian and military applications. Licences are administered by the UK Export Control Joint Unit within the Department for International Trade. Her Majesty's Revenue and Customs is responsible for enforcing the legislation. Can a foreign contractor bid on a procurement directly However, where article 346 TFEU is relied upon to disapply the DSPCR, contracts are commonly awarded to national suppliers. All of these embargoes and sanctions are implemented through EU regulations, which have direct legal effect in each member state. The United Kingdom makes statutory instruments such as Orders to provide for the enforcement of, and penalties for, breaches of EU and UK embargoes and sanctions, and for the provision and use of information relating to the operation of those sanctions. Overall responsibility for the United Kingdom's sanctions and embargoes policy lies with the Foreign and Commonwealth Office. Financial sanctions are implemented by the Office of Financial Sanctions Implementation, which is part of the Treasury. How are they administered For most civil servants, the Rules are triggered in certain circumstances, for example, when an individual has been involved in developing a policy affecting their prospective employer, has had official dealings with their prospective employer or has had access to commercially sensitive information regarding competitors of their prospective employer. In these circumstances, the individual must apply for approval from the relevant department before accepting any new appointment for up to two years after the individual leaves the civil service. Approval can be given unconditionally, or can be subject to specific restrictions.

Similar provisions apply to members of the armed forces, intelligence agencies and the diplomatic service. They may, however, be subject to specific restrictions detailed in their employment contracts and should be mindful of any potential conflict of interest. It also provides for the corporate offence of failing to prevent bribery. The bribe may be anything of value, whether monetary or otherwise, provided it is intended to influence or reward improper behaviour where the recipient performs public or business functions and is subject to a duty of trust or good faith. When the recipient is a foreign public official, the impropriety requirement does not apply. This almost

invariably includes employees, agents, intermediaries and other service providers.Consultant lobbying includes any personal oral or written communication to a Minister of the Crown or permanent secretary relating to any contract or other agreement or the exercise of any other function of the government. Such a business must then record details of the company and its directors, of any code of conduct that it adopts and, on a quarterly basis, the names of any entities on whose behalf it has actually submitted any communications. As a result, it is uncommon to use successfeebased agents and intermediaries in the way that happens in certain other markets, although some suppliers do use external assistance to help them understand the procurement process. However, there is no general prohibition on the use of agents or on their levels of remuneration, although individual tenders may include specific disclosure requirements. Registration may be required where the agent's activity falls within the requirements described in question 29. Otherwise, the 1993 Regulations do not prescribe maximum or minimum levels of remuneration. Annex I permits member states to approve exmilitary aircraft unless EASA has adopted a design standard for the type in question.

Most military aircraft are designed in accordance with a certification basis that is very different from the civil requirements, so the process of civil certification is often prohibitive. Ordinarily, such aircraft are unable to conduct commercial air transport operations or to fly outside the United Kingdom. Details governing operations are contained in CAP 632 and maintenance standards in BCAR Chapters A823 and A825, all available from the Civil Aviation Authority. Since 2010, military processes have been more closely based on the civil airworthiness philosophy than previously, but this is documented and administered separately from the civil process. Accordingly, a similar process is necessary if someone wishes to convert a civilian aircraft for military purposes, whereby the original certification must be revalidated in accordance with military standards. The UAS sector is controlled by restrictions on operation, rather than manufacture. In Europe, EASA regulation over UAS has been limited to those over 150kg that may not be flown without a certificate of airworthiness. Those under 150kg have been subject to regulation by their respective member states. This confers powers on the European Commission to adopt implementing and delegated regulations, in accordance with the Essential Requirements at Annex IX to the Basic Regulation, for design, production, operation and maintenance of UAS. These regulations may provide that UAS are not subject to the normal provisions on conventional certification and the role of EASA. They concentrate on the details applicable to the open and specific categories. Existing manned aircraft standards will be amended for the certified category. The Implementing Regulation contains rules and procedures for the operation of unmanned aircraft, including an Annex on UAS operations in the open and specific categories.

The draft Delegated Regulation prescribes product criteria for UAS for open category use, limits marketing of UAS that do not meet these criteria and governs thirdcountry operators of UAS. Recent changes are designed to be compliant with the anticipated EU regulations. Likewise, a licence is required for export of dualuse UAS as defined in EU and UK regulations. Dualuse UAS include certain UAS designed for beyondlineofsight operations with high endurance, with a range over 300km or with autonomous flight control and navigation capability. The general export control regime is supplemented by countryspecific measures, such as those in force in relation to Iran. However, regardless of the parties' choice of governing law, certain mandatory laws will apply if the employee habitually works in England or Wales to the extent that they give greater protection than the governing law of the employment contract. These mandatory laws include but are not limited to Those requirements will typically be included in a security aspects letter that will bind the contractor upon contract award. Contractors could face regulations encompassing, inter alia, air

emissions, water discharges, water pollution, noise and waste disposal, and face responsibility for electrical waste and electronic equipment and restrictions on hazardous substances in such equipment. Applicable requirements may also incorporate energy efficiency, carbon emissions and energy consumption eg, the Energy Savings and Opportunity Scheme. Contractors involved with nuclear substances are subject to a separate or additional set of environmental obligations as well as strict nuclear waste disposal restrictions. Finally, in some circumstances, there are exemptions, derogations or disapplications from environmental legislation for defence and military operations.

What are these initiatives and what agency determines compliance First, general targets in legislation such as the Climate Change Act and Renewable and Energy Efficiency Directives will indirectly lead to targets for individual operators through more specific legislation and regulation. Next, for example, the Environment Agency leads on the integrated environmental permitting regime individual permits may impose targets and limits for air emissions, water discharges and so on. Also, for example, the EU Emissions Trading System managed by the Department for Business, Energy and Industrial Strategy requires participating companies with, for instance, larger generating capacity or heavy industrial operations to cover their greenhouse gas emissions by surrendering EU Emissions Trading System allowances. Finally, companies may face individual targets including reducing waste, chemical spills and water consumption through their own environmental management system or corporate reporting initiatives. The government buying standards mostly look to reduce energy, water use and waste when dealing with contracts for transport, textiles and electrical goods, among other things. Under the DSPCR, only environmental issues relevant to the contract itself can be taken into account not the supplier’s wider efforts. In our experience, green solutions do not tend to gain any significant advantage; they do not carry significant weight in evaluation methodologies. In the previous edition of SES, ELCINA has provided its delegates and members with an overview of the Strategic Electronics Sector in the country and a detailed policy analysis. This paper is intended to provide an update on the policies to keep our delegates and members update on the progress made in the Defence Sector. While on the one hand the GoI has addressed regulatory aspects from the DIPP side, on the other the MoD has taken concrete steps to enhance ease of doing Business in Defence Sector.

Presently, in the context of Defence Sector, only following items under the ITC HS classification are under compulsory licencing. Items not included in the list would not require IL for defence purposes. It has also been clarified by the MoD that Dual Use Items, having military as well as civilian applications, other than specifically mentioned in the list, would not require IL. This is a great boon for the domestic industry that has been hithertofore has been harassed for obtaining IL in the sector. The specific list requiring IL are as under these are various sections under the ITC HS CodeThe Defence Industry was till then subjected to a IL under the IDR Act 1951 and subjected to a 26% FDI cap under the government route and above 26% on a case to case basis the CCS was to be approached wherever it was likely to result in access to Modern and State of Art technology in the country, besides other conditions. Vide the above PN, in 2014, the GoI enhanced the FDI limit to 49% under the government route and beyond that ipso facto under the CCS. Reference FDI circular 2015. The Union Government has radically liberalised the FDI regime on 20 June 2016 with the objective of providing major impetus to employment and job creation in India. This is the second major reform after the previous one in Nov 2015. The GoI has opened up the Defence Sector under the Automatic route upto an investment of 49% and beyond 49% under the government approval route. While the consolidated FDI circular was effective from June 07 th 2016, on the 20 th of June the FDI policy was further liberalised by dropping the need of “Stateoftheart technology” for FDI above 49% under the government approval route. Under the present policy there is no necessity for approaching the CCS, since the government approval route by itself can approve FDI proposals upto 100%. In addition the GoI has also made applicable the instant FDI limit to manufacturing of Small Arms and Ammunitions under the Arms Act 1959.

This indeed is a significant step. Following are the major policy initiatives in the regards these are also elucidated in the update, separatelyThis is regarding export of Military stores and the restrictions associated with each of these. Thus the list of military stores that require NOC from DDP have been notified. The GoI, has taken a giant initiative in mandating the OFB and DPSUs to increase their outsourcing from domestic industry, the meagre 2 to 3% outsourcing has been flagged with concern. In this regards the web sites of OFB and DPSUs have included list of items for indigenisation, which by itself is a massive list. This provides an immense opportunity for the Indian industry for participation in defence contracts, especially the smaller industries.MoD has come out with regulations and procedure for registration by DGA, which was suspended a decade ago. This allows for a single point registration and enables expeditious procurement. This is a landmark DPP with many innovative and industry friendly provisions to align the defence procurement with the Make in India initiative. This is being analysed threadbare for its major provisions. This is work in progress and is in advanced stage of completion. Work in progress after intensive consultations with stake holders. Please upgrade your browser to improve your experience. Defence Procurement Procedures 2013 Posted By Admin January 27, 2014 Print Email EDITORIAL FOREWORD As part of implementation of report of Group of Ministers on reforming National Security System, new defence procurement management structures and systems were set up in the Ministry of Defence MoD in Oct 2001. DPP2005 It incorporated Direct Offsets and Integrity Pact for procurement over Rs 300 crores. DPP 2006 Fast Track Procedure and Procedure for Indigenous Warship Building of DPP 2001 were revised. Offsets were made mandatory for procurement over Rs 300 crores and integrity Pact was made compulsory for all procurement over Rs 100 crores.

It was also decided that DPP will be reviewed every two years. DPP 2008 Concept of issue of RFI was formalised so that vendors get advanced information of impending procurement. Trial procedures were streamlined. Offset banking was introduced. DPP2011 Shipbuilding guidelines underwent comprehensive review. Revised guidelines were meant to provide a level playing field between stateowned shipyards and private shipbuilders. In defence offsets new DPP expanded the list of eligible products and services to include products for Internal Security" and "Civil Aerospace Product". DPP2013 Most important change was to accord primacy to buying equipment from Indian sources. Another important change relates to indigenous content in equipment bought or manufactured within the country. DPP provisions relate to indigenization, such as its definition, reporting requirements, audit of selfcertification and costs associated with the indigenous content. Provision has been made for withholding payments and for imposition of penalties for not achieving the required level of indigenization. Defence Procurement Procedures provide comprehensive policy and Procedural guidelines for all Capital acquisitions for Armed Forces. Acquisition under Fast Track Procedures. Over the years MoD has made many important policy changes but procedural issues have not been adequately addressed. Primary objective of expeditious procurement is far from being achieved. It still takes years before a procurement concludes. Goal of achieving selfreliance in indigenous design, development and manufacture of defence equipment needs t guide us as we frame our DPP 2015. DPP is uploaded on Ministry of Defence website www.mod.nic.in for enabling ease of access and increased public awareness of defence procurement procedures and processes. For vendors desirous of successfully venturing into defence procurement process, thorough knowledge of DPP is absolutely essential.

Indian Army Alive to Chinese Plans; Taking Counter Meas. From Leapfrogging to Pole Vaulting Gen Bipin Rawat Wan. Popular Veteran Air Chief PV Naik's Open Letter to Raksha Man. Ambitious General Threatens to Derail Regional Balance. The Raging Debate Three Years Tour of Duty in Army HAL Entering Naval Utility Helicopters Competition Will. In 2009, he established www.BuyLawsIndia.com, a website dedicated to the advancement of public procurement law in India. The author has been a member of IDSA since 2011. In the case of technology acquisition by DRDO for discharge of offset obligations, the relevant guidelines 12 are once again silent on the

minimum governmentpurpose rights that need to be offered by the foreign vendor for claims with a multiplier of one. In the absence of clear language, RDO Guidelines could therefore lead to a situation where a foreign vendor could claim higher multipliers even while DRDO's ability to sublicense "acquired" technologies could remain restricted, curtailing the latter's ability to actually practice the technology under transfer. Similarly, in the case of ToT for Maintenance Infrastructure in "Buy Global" cases, while the DPP defines the scope of technologies as one for maintenance to an Indian entity which would be responsible for providing base repairs and spares for the entire life cycle of the equipment 16, the issue as to what IPRs need to vest with the IPA or with MoD is left largely unaddressed, just as "global rights" another phrase left undefined of an IPA 17 are left at the absolute discretion of the seller 18. What this implies is that a vendor is at complete liberty to deny requisite documentation for a very significant numbers of items in proportion to the contracted value of final products, given that most large foreign vendors are integrators rather than inhouse manufacturers.