

GROWING OPPORTUNITIES IN INDIAN DEFENCE SECTOR

1. BACKGROUND

India has the third largest armed forces in the world. The allocation of Defence in the India's union budget is approx USD 34.53 billion and 31.1% of the defence budget is spent on capital acquisitions. 60% of defence related requirements are met by imports which offers a huge opportunity for import substitution. The allocation for Defence in the Union Budget 2016-17 is approximate USD 34.53 billion. The 'Make in India' initiative by the Government is focusing its efforts on increasing indigenous defence manufacturing and becoming self-reliant. The opening up of the defence sector for private sector participation is helping foreign original equipment manufacturers (OEMs) enter into strategic partnerships with Indian companies and leverage opportunities in the domestic market as well as global markets. India's focus on indigenous manufacturing in the defence space is paying off as the Ministry of Defence over the last two years unveiled several products manufactured in India like the HAL Tejas Light Combat Aircraft, the composites Sonar dome, a Portable Telemedicine System (PDF) for Armed Forces, Penetration-cum-Blast (PCB) and Thermobaric (TB) ammunition specifically designed for Arjun tanks, a heavyweight torpedo called Varunastra manufactured with 95% locally sourced parts and medium range surface to air missiles (MSRAM). The Defence Acquisition Council (DAC) under Ministry of Defence, cleared defence deals worth more than INR 82,000 crore under 'Buy and Make (Indian)' and 'Buy Indian' category. The deals include the procurement of Light Combat Aircraft (LCA), T-90 Tanks, Mini-Unmanned Aerial Vehicles (UAV) & light combat helicopters.

The production of major defence platforms and equipment such as aircraft, submarines, helicopters and armoured vehicles in India are currently carried out by Defence Public Sector Undertakings (DPSU) and the Ordnance Factory Board (OFB). Though defence manufacturing has been open to private sector participation for well over a decade, private companies have pointed to the lack of a level playing field compared to DPSUs and Ordnance Factories (OFs), which continue to enjoy a commanding role based on various forms of governmental support over the past decades, including long-term purchase arrangements. There is thus a need to institutionalise a transparent, objective and functional mechanism to encourage broader participation of the private sector, in addition to capacities of DPSUs/OFB, in manufacturing of major defence platforms.



Light Combat Aircraft



Portable Telemedicine System



Main Battle Tank



Light Weight Helicopter

2. REASONS TO INVEST IN THE DEFENCE SECTOR

- a. India's current requirements on defence are catered largely by imports. The opening of the defence sector for private sector participation will help foreign original equipment manufacturers to enter into strategic partnerships with Indian companies and leverage the domestic markets as well as aim at global markets. Besides helping in building domestic capabilities, this will also bolster exports in the long term.
- b. Contractual offset obligations worth approximately USD 4.53 billion in next 5-6 years
- c. The offset policy (which stipulates the mandatory offset requirement of a minimum 30% for procurement of defence equipment in excess of USD 306.69 million) introduced in the capital purchase agreements with foreign defence players. It would also ensure that an eco-system of suppliers is built domestically.
- d. Favorable government policy which promotes self-reliance, indigenisation, technology upgradation and achieving economies of scale including development of capabilities for exports in the defence sector.
- e. The country's extensive modernisation plans with an increased focus on homeland security and India's growing attractiveness as a defence sourcing hub.

3. DEFENCE PROCUREMENT PROCEDURE-2016

The Defence Procurement Procedure (DPP) of 2013 was amended w.e.f from April 2, 2016 to provide for the following changes:

- a) New category of capital procurement - Buy Indian —IDDM (Indigenously Designed, Developed and Manufactured) introduced to encourage indigenous design, development and manufacturing of defence equipment. This category refers to procurement from Indian vendors of products that are indigenously designed, developed and manufactured, and have at least 40% indigenous content (IC) for Indigenously Designed, Developed and Manufactured equipment on cost content. If the product is not designed and developed indigenously, it will have to have 60% indigenous content.
- b) Preference to 'Buy (Indian-IDDM)', 'Buy (Indian)' and 'Buy and Make (Indian)' over 'Buy (Global)' categories of capital acquisition. A new category has been defined in the present DPP which requires a minimum of 40% Indigenous Content basis of the total contract value. Otherwise the indigenous content requirement would be 60% on cost basis of the total contract value.
- c) Clear and unambiguous definition of indigenous content.
- d) Provision for Maintenance TOT (Transfer of Technology) to Indian Industry partners.
- e) Provisions to allow foreign OEM defined in the present DPP which requires a minimum of 40% Indigenous Content basis of the total contract value. Otherwise the indigenous content requirement would be 60% on cost basis of the total contract value.
- f) Requirement of minimum indigenous content has been enhanced/rationalised.
- g) 'Services' as an avenue for discharging offsets have been re-introduced.
 - Defence products list for industrial licensing, had been articulated in June 2014, wherein large numbers of parts/components, castings/ forgings etc. have been excluded from the

purview of industrial licensing.

- The defence security manual for the private sector defence manufacturing units has been finalised and put in public domain by the Department of Defence Production. The manual clarifies the security architecture required to be put in place by the industry while undertaking sensitive defence equipment.
- The MAKE rocedure, which aims to promote research & development in the industry with support from the government and the placement of orders, has been promulgated with provision for 90% funding by Government and preference to MSMEs (Ministry of Micro Small and Medium Enterprises) in certain category of projects¹.

4. CAPITAL ACQUISITION AND PROCUREMENT PROCEDURE UNDER 'BUY' AND 'BUY AND MAKE' SCHEMES

Except for medical equipment, the DPP will cover all Capital Acquisitions undertaken by the Ministry of Defence, Defence Services and Indian Coast Guard both from indigenous sources and ex-import. Defence Research and Development Organisation (DRDO), Ordnance Factory Board (OFB) and Defence Public Sector Undertakings (DPSUs) will, however, continue to follow their own procurement procedure.

Capital Acquisition schemes are broadly classified as "Buy", "Buy and Make" and "Make". Under the "Buy" scheme procurements are categorised as "Buy (Indian - IDDM)", "Buy (Indian)" and "Buy (Global)". The three categories under the "Buy" scheme refer to an outright purchase of equipment. Under the "Buy and Make" scheme, the procurements are categorised as "Buy and Make (Indian)" and "Buy and Make". The two categories under "Buy and Make" scheme refer to an initial procurement of equipment in Fully Formed (FF) state in quantities as considered necessary, from the appropriate source, followed by indigenous production in a phased manner through comprehensive Transfer of Technology (ToT), pertaining to critical technologies as per the specified range, depth and scope.

The main categories of procurement defined as per decreasing order of priority are:

- a) **Buy (Indian – IDDM)** - A **new** category has been defined in the present DPP which requires a minimum of 40% Indigenous Content (IC) for Indigenous Designed, Developed and Manufactured equipment on cost basis of the total contract value. Otherwise the indigenous content requirement would be 60% on cost basis of the total contract value. Apart from overall IC as detailed above, the same percentage of IC will also be required in (a) Basic Cost of Equipment; (b) Cost of Manufacturers Recommended List of Spares (MRLS); and (c) Cost of Special Maintenance Tools (SMT) and Special Test Equipment (STE), taken together at all stages, including FET stage.
- b) **Buy (Indian)** - The indigenous content requirement has been enhanced from the 30% (DPP 2013) to a minimum of 40% on cost basis of the total contract value. Apart from overall IC as detailed above, the same percentage of IC will also be required in (a) Basic Cost of Equipment; (b) Cost of Manufacturers Recommended List of Spares (MRLS); and (c) Cost of Special Maintenance Tools (SMT) and Special Test Equipment (STE), taken together at all stages, including FET stage.
- c) **Buy and Make (Indian)** - 50% indigenous content would be required on cost basis of the

¹ Make In India, Sector- Defence Manufacturing, Web Portal: <http://www.makeinindia.com/sector/defence-manufacturing>

'Make' portion of the contract. This implies that in the Make portion of the contract, minimum 50% IC will be required in the total of (a) Basic Cost of Equipment; (b) Cost of Manufacturers Recommended List of Spares (MRLS); and (c) Cost of special Maintenance Tools (SMT) and Special Test Equipment (STE). The proportion of MRLS to be made/assembled in India, if any should be specified at the time of AoN. Acquisition under this category can also be carried out without any initial procurement of equipment in Fully Formed (FF) state.

- d) **Buy and Make** - Initial procurement of equipment in Fully Formed (FF) state from a foreign vendor, followed by indigenous production through an Indian Production Agency (PA).
- e) **Buy (Global)** - Outright purchase of equipment from foreign or Indian vendors.

In addition to the above categorization, the 'Make' categorization is there for developing long-term indigenous defence capabilities. Acquisitions covered under the Make category refer to equipment/system/ sub-system/assembly/sub-assembly, major components, or upgrades thereof, to be designed, developed and manufactured by an Indian vendor, as per procedure and norms of this DPP.

Make Categories - This has been subdivided into following:

- a) **Make-I (Government Funded):** Government funding of 90%, released in a phased manner. If RFP (Request For Proposal) is not issued within 2 years of successful prototype development then remaining 10% cost will also be reimbursed. This category would generally involve a development period of not less than three years. These will be reserved exclusively for MSMEs where the prototype development cost does not exceed Rs 10 Crores.
- b) **Make-II (Industry Funded):** No Government funding will be provided for prototype development purposes. These will be reserved exclusively for MSMEs (Ministry of Micro, Small and Medium Enterprises) where the prototype development cost does not exceed Rs 3 Crores.

Procurement Planning Process: Proposals for acquisition of capital assets flow from the defence procurement planning process, which will cover the long-term, medium-term and short-term perspectives as under:-

15 Years Long Term
Integrated Perspective Plan
(LTIPP)

5 Years Services Capital
Acquisition Plan (SCAP)

Annual Acquisition Plan
(AAP)

Perspectives Plans

Based on the Defence Planning Guidelines, Headquarters Integrated Defence Staff (HQ IDS), in consultation with the Service Headquarters (SHQs), would formulate the 15 years LTIPP for the Armed Forces. The Five Year Defence Plans for the Services would also be formulated, by HQ IDS, which would include requirements for the next five years under the SCAP. The SCAP should indicate the list of equipment to be acquired, keeping in view operational exigencies and the likely availability of funds. The planning process would be under the overall guidance of the Defence Acquisition Council (DAC); its decisions, as approved by the Raksha Mantri, will flow down for implementation to the Defence Procurement Board (DPB). While LTIPP and SCAP would be approved by the DAC, the AAP, which is a subset of SCAP, would be approved by the DPB

Acquisition Process : The acquisition process for the five categories of procurement under the "Buy" and "Buy & Make", schemes will involve the following processes:-

- a) **Request for Information (RFI)**: The RFI would be published on MoD and SHQ websites for seeking relevant information, on specific procurement schemes. The issue of RFI is not a commitment for procurement.
- b) **Services Qualitative Requirements (SQRs)**.
- c) **Acceptance of Necessity (AoN)**: The period of AON validity has been reduced to encourage speedy processing of cases.
 - 'Buy' and 'Buy and Make' categorisation - Valid for six months
 - 'Buy and Make (Indian)' and all turnkey projects - Valid for one yearIf cases are delayed beyond the above periods then detailed justification for delay would be required at time of AoN revalidation.
- d) **Solicitation of offers**.
- e) Evaluation of Technical offers by **Technical Evaluation Committee (TEC)**.
- f) **Field Evaluation**: Provision included for reimbursement of FET costs to vendors qualifying FET for low value items being procured in large quantities.
- g) **Staff Evaluation**.
- h) **Technical Oversight Committee (TOC)**: TOC must provide expert oversight over the technical evaluation process.
- i) Commercial negotiations by **Contract Negotiation Committee (CNC)**.
- j) Approval of the **Competent Financial Authority (CFA)**.
- k) Award of contract/**Supply Order (SO)**.
- l) Contract Administration and Post-Contract Management.

5. PROCUREMENT PROCEDURE FOR DEFENCE SHIP BUILDING

A Naval/Coast Guard ship consists of an assortment of weapons, sensors and support systems, along with propulsion, power generation and auxiliary systems, facilities for crew, fuel and provisions. A ship construction programme necessarily involves feasibility studies on the basis of the staff requirements, concept design, model tests, preliminary design, specialist design studies, detailed design, system integration, construction, tests and trials. It also involves technology application and transfer, selection of various equipment, development of new equipment, identification and purchase of a large number of items, including weapons and sensors, from numerous indigenous and foreign suppliers.

Naval shipbuilding is a capital and technology intensive complex activity that requires a separate procedure for design/construction/acquisition of naval ships, submarines, yard crafts, auxiliary ships and Coast Guard vessels through design/construction. This is divided into two sections as follows: -

- a) Acquisition of Naval and Coast Guard Ships, submarines, yard crafts and auxiliary crafts etc by **nomination to DPSU**.
- b) Acquisition of Naval Ships, Coast Guard Ships, submarines, yard crafts and auxiliary crafts etc on **competitive basis**.

Procedure for Acquisition by Nomination to DPSU:-

- a) Outline Staff Requirements
- b) Acceptance of Necessity
- c) Nomination of Shipyards
- d) Preliminary Staff Requirements
- e) Preliminary Design
- f) Preliminary Build Specifications
- g) Build Strategy
- h) Budgetary and Estimated Costs
- i) Contract Negotiations
- j) Approval of CFA
- k) Conclusion of Contract
- l) Detailed Design
- m) Procurement of Ship-borne Equipment
- n) Monitoring of Projects
- o) Revision of Cost
- p) Closure of the Project
- q) Liquidated Damages, if applicable

Procedure for Acquisition by Competitive Basis:

The process of acquisition of ships under this Procedure would involve following steps:-

- a) Request for Information (RFI)
- b) Staff Requirements (SRs).
- c) Acceptance of Necessity (AoN).
- d) Solicitation of offers.
- e) Evaluation of Technical Offers by Technical Evaluation Committee (TEC).
- f) Commercial negotiations by Contract Negotiation Committee (CNC).
- g) Approval of Competent Financial Authority (CFA).
- h) Award of Contract.
- i) Contract administration and post Contract management².

6. PROCUREMENT PROCEDURE THROUGH STRATEGIC PARTNERSHIP

Defence procurement is entirely government led and functions in a monopsony. The current defence procurement procedures focus on short/medium term contracts. The emphasis on purchase of equipment alone does not promote the creation of a defence industrial eco system. Achieving self-reliance and self-sufficiency calls for assimilation of technology, extensive indigenisation, developing an ecosystem of Tier I, II & III partners and undertaking long term upgrades of the platforms through R&D. This will require the private sector partner selected through a laid down procedure by the government to make necessary long term investments in manufacturing infrastructure, an eco-system of suppliers, skilled human resources, R&D for modernization and upgrades as well as and other capabilities, besides production of equipment. Such a partnership between the Ministry of Defence and the Indian

² Ministry of Defence, Defence Procurement Procedure- 2016, signed on 29.07.2016, Web Portal, http://mod.nic.in/dod/sites/default/files/dppm.pdf_0.pdf

private entity will be known as Strategic Partnership. Expert Committees set up by Ministry of Defence (MOD) provided a detailed road map for development of defence industrial base through the 'Strategic Partnership' route. The overall aim will be to progressively build indigenous capabilities in the private sector to design, develop and manufacture complex weapon systems for the future needs of the Armed Forces. This will be an important step towards meeting broader national objectives, encouraging self-reliance and aligning the defence sector with the 'Make in India' initiative of the Government.

6.1 THE STRATEGIC PARTNERSHIP MODEL

The Strategic Partnership (SP) model is being implemented to enable participation of private Indian firms in Make in India in defence. The SP is expected to play the role of a System Integrator by building an extensive eco-system comprising development partners, specialized vendors and suppliers, in particular, those from the MSME sector.

The **selection criteria** for Strategic Partners (SP) will be based on the inherent capacity and ability of the vendor to emerge as a systems integrator and to set up a vendor network for sourcing. The criteria for selection should be fair, reasonable, non-arbitrary, transparent and rational, and based upon the broad parameters of financial strength, technical capability and capacity/infrastructure. It is acknowledged that in the Indian private sector currently there is limited experience in defence manufacturing and even lesser in respect of final integration of complex defence systems and sub-systems. Therefore, besides any experience in defence manufacturing, potential SPs will be identified primarily based on their experience and competence in integration of multi-disciplinary functional system of systems, engineering and manufacturing. Further, to ensure that the chosen platform for manufacturing meets all the operational requirements of the Armed Forces and to access advanced and appropriate technologies, the SP will need to enter into relevant tie-ups with foreign Original Equipment Manufacturers (OEM). Accordingly, MOD will shortlist, through an open process based on Staff Qualitative Requirements (SQRs), Technology Transfer needs and indigenisation roadmap, a list of potential OEMs. Government to government support for licensing and transfer of technology as well as provisions for IPR issues shall be worked out. At the same time, to introduce needed competition among potential private sector participants in the process and to ensure that the best interests of government are fully safeguarded, final selection of SPs will be guided by the price quoted by the potential SPs.

SEGMENTS FOR STRATEGIC PARTNERSHIP

In the initial phase, strategic partners will be selected in the following segments:

- a) Fighter Aircraft.
- b) Helicopters.
- c) Submarines.
- d) Armoured fighting vehicles (AFV)/Main Battle Tanks (MBT)



Cooperative arrangements including transfer of technology and teaming arrangements between DRDO/OFs/DPSUs with the SP could be envisaged to enable defence related capacities to be developed in the country or for other reasons as decided by MOD.

APPLICANT COMPANIES

As the Strategic Partnership model is designed to build indigenous manufacturing capacity in major defence platforms, the Applicant Company and subsequently the Strategic Partner when appointed should be an Indian company (as defined under the Companies Act, 2013), owned and controlled by resident Indian citizens. The management of the Applicant Company should be in Indian hands with majority representation on the board of directors. The chief executive(s) of the Applicant Company shall be resident Indians who are part of the Indian group owning and controlling the Applicant Company or the Strategic Partner. 'Control' shall include the right to appoint a majority of the directors or to control the management or policy decisions, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements.

Further, a company shall be considered as 'Owned' by resident Indian citizens if more than fifty percent (50%) of the capital in it is directly or beneficially owned by resident Indian citizens and/or Indian companies, which are ultimately owned and controlled by resident Indian citizens. This implies that the maximum permitted FDI shall be forty nine percent (49%). No pyramiding of FDI in Indian holding companies or in Indian entities subscribing to shares or securities of the Applicant Company or the Strategic Partner shall be permitted. Indirect foreign investment shall be accounted for in counting the forty-nine percent (49%) FDI. The consolidated characteristics of ownership and provisions governing Applicant Companies are explained below. Any subsequent change in shareholding pattern/ownership of the SP shall require prior approval of MOD.

ROLE OF ORIGINAL EQUIPMENT MANUFACTURER (OEM)

To manufacture major defence platforms, the SP will require tie-ups with foreign Original Equipment Manufacturers (OEM), to cover manufacturing, transfer of technology (ToT), assistance in training skilled human resources and other support. Such partnerships or tie-ups between SP and OEM may take the form of joint ventures (JV), equity partnerships, technology-sharing, royalty or any other mutually acceptable arrangement between the companies concerned. The limit for equity participation will not preclude other arrangements for sharing management rights in the JV mutually agreed between the SP and OEM. Changes in the ownership structure of JV/SPV shall require approval of MOD.

The OEM will be jointly responsible along with the SP for certification and quality assurance of the platforms supplied to MOD. Rights and obligations in this regard will be subject to detailed contracts to be developed subsequently. To facilitate selection of OEMs, MOD will implement a process of short-listing of OEMs for each segment simultaneously with the process of identifying SPs. This short-listing of eligible OEMs will be through an Expression of Interest (EOI). Technical Evaluation will also be carried out strictly adhering to specified timelines.

ORGANIZATIONAL STRUCTURE AT MOD

An appropriate institutional and administrative mechanism for effective implementation of the Strategic Partnerships will be set up within the MOD, with adequate expertise in relevant fields like procurement, contract law and TOT arrangements.

OWNERSHIP STRUCTURE

The applicant must be a public company as defined under the Companies Act, 2013 (“Applicant Company”). The objective of the Strategic Partnership model is to build capabilities in India to manufacture defence equipment. In certain extreme circumstances of conflict like war, the GoI would have the right to acquire control over the intellectual property used and facilities developed pursuant to the Strategic Partnership.

The Applicant Company and subsequently the Strategic Partner when appointed should be an Indian company owned and controlled by resident Indian citizens. The management of the Applicant Company should be in Indian hands with majority representation on the board of directors. The chief executive(s) of the Applicant Company shall be resident Indians who are part of the Indian group owning and controlling the Applicant Company or the Strategic Partner.

The calculation of foreign investment in the Applicant Company shall include:

- a) The paid up equity share capital held by the foreign company either by itself through its subsidiary companies or nominees in the Applicant Company;
- b) The paid up equity share capital held by other foreign investors in the Applicant Company; and
- c) The quantum represented by that proportion of the paid-up equity share capital to the total issued equity share capital held or controlled by persons mentioned in (a) or (b) above in an Indian company or a limited liability partnership which is a shareholder in the Applicant Company (“Indian Entity”).

Further, a company is considered as ‘Owned’ by resident Indian citizens if more than fifty percent (50%) of the capital in it is directly or beneficially owned by resident Indian citizens and / or Indian companies, which are ultimately owned and controlled by resident Indian citizens. This implies that the maximum permitted FDI shall be forty nine percent (49%). No pyramiding of FDI in Indian holding companies or in Indian entities subscribing to shares or securities of the Applicant Company or the Strategic Partner shall be permitted. Indirect foreign investment shall be accounted for in counting the forty-nine percent (49%) FDI.

MINIMUM QUALIFYING CRITERIA

- a) Technical Gate: Demonstrated capability of integration of “System of Systems”, which refers to any system with multiple technologies of major systems like aircrafts, ships, chemical plants, power plants, automobiles etc as specified in the EOI.
- b) Financial Gate: Following aspects inter-alia would be considered, as specified in the EOI/RFP.
 - (a) Consolidated Turnover. (b) Networth. (c) Rating.
- c) Other Conditions: Promoters and directors of the Applicant Company and the Segment Group Company should not be wilful defaulters to the banking system as on the date of this application.

PROCEDURE FOR SELECTION OF STRATEGIC PARTNERS

The selection process of SP will broadly have following procedure:

- a. Issue of Expression of Interest (EOI) to Indian private companies for selection of Strategic Partners in identified segments seeking details of Minimum Qualification Criteria.

- b. Submission of response to EOI by applicant companies, indicating inter alia choice for segments in which they wish to participate.
- c. Evaluation of the companies based on Minimum Qualification Criteria.
- d. Segment-wise verification of Segment Specific criteria.
- e. Short-listing of companies who meet the minimum qualification criteria, for issue of segment-wise RFP (Request For Proposal).
- f. Issue of segment-wise RFPs with DAC (Development Approval Commission) approval to short-listed companies based on their options of segment submitted in EOI response.
- g. Submission of techno-commercial offer in response to RFPs by companies, in collaboration with one of the short-listed OEMs or in exceptional cases with two OEMs in segments with diverse platforms.
- h. Opening and evaluation of technical offer of the companies.
- i. Conduct of Field Evaluation Trials (FET) and Staff Evaluation.
- j. Opening of commercial offers of companies that are technically compliant with the RFP, segment wise.
- k. Selection of SP having the lowest bid, segment-wise, with DAC approval.
- l. Commencement of contractual negotiations.
- m. Finalization and signing of contract.

EXPRESSION OF INTEREST (EOI)

MOD shall issue an EOI to seek applications from Indian private companies for selection of Strategic Partner in identified segments. EOI shall inter alia seek information related to Minimum Qualification Criteria comprising of financial, technical and segment-specific parameters. The EOI shall be given wide publicity both in print and electronic media. A suitable time period shall be given to the industry to respond. The Application should be accompanied by an Affidavit testifying to the truth and accuracy of the information supplied. The financial information shall be accompanied by unqualified report from the statutory auditor appointed under Section 139 of the Companies Act, 2013 or corresponding sections under the previous Companies Act, about the correctness and accuracy of the financial information submitted. For any materially false statement, the Applicant Company shall be disqualified. Evaluation of Response to EOI. Based on the response to EOI the companies would be evaluated for minimum qualifying criteria comprising technical, financial and segment specific aspects. Indicative qualifying criteria for various segments is placed at Appendix B. Evaluation may inter-alia include on-site verification. All companies compliant with minimum qualifying criteria shall be short-listed for issue of RFP in the relevant segment.

ISSUE OF RFP

Based on the AON (Acceptance of Necessity) approved by DAC, segment-wise RFPs shall be issued to the short-listed Indian companies. RFP shall broadly seek following details:

- a. Technical details of the equipment.
- b. Commercial offer for the identified platform and 10-years Performance Based Logistics (PBL)/other maintenance arrangements specified.
- c. Mandatory requirements related to indigenisation roadmap, Transfer of Technology, creation of R&D capabilities and skilling provisions etc.

The list of short-listed OEMs shall also be annexed to the RFP, so that the short-listed Indian companies can freely engage with such OEMs and finalise their techno-commercial offer in agreement with any of these OEMs. One Indian company can engage with any or all OEMs, but can finally submit only one offer in agreement with any one of the OEMs. As an exception, in segments with diverse platforms such as Helicopters, potential SPs may submit response with more than OEM to have best technology solution. A minimum number of platforms, not exceeding 10-15% of the number of units being procured, may be manufactured in the OEMs premises for the purposes of training and skill development of the SP's manpower.

RESPONSE TO RFP

Response to RFP shall be in two parts, a technical offer and a commercial offer. The technical offer shall include details of the equipment, company's willingness to meet mandatory requirements related to indigenisation roadmap, transfer of technology, creation of R&D capabilities and skilling provisions etc. The commercial offer shall include the price of the platform along with maintenance related costs as required in RFP.

EVALUATION OF RESPONSE TO RFP

Technical offer, which contains details of the equipment, company's adherence to certain mandatory requirements related to indigenisation, technology transfer, creation of R&D capabilities and skilling etc. shall be opened first. Field Evaluation Trials (FET) are to be conducted, except where the equipment has been evaluated earlier or where FET is not applicable (such as submarines), in which case the requirement of FET could be waived. Further, to expedite FET, evaluation trials could be carried out at the vendor premises as necessary.

Based on results of FET, Staff Evaluation will be carried out and platforms that meet minimum SQRs and ToT requirements will be shortlisted. After evaluation of the technical aspects, and completion of FET, the commercial offers of the companies that are compliant with the technical aspects shall be opened and the company having lowest bid shall be designated as SP in that segment. The order of selection of SPs, segment-wise, and implementation of Strategic Partnerships shall be decided by MOD.

CONTRACTUAL ASPECTS

MOD shall constitute a Contract Negotiation Committee to conduct negotiations with the selected SP and sign a contract for deliverables. OEM may participate in these negotiations if needed.

ROADMAP

The selected SP in each segment will be required to present a roadmap for future development including PBL, upgrades, etc. as indicated below:-

- a. Indigenisation Content Requirements: The SP shall commit to a plan to indigenise, in terms of value of production, manufacturing of the platform over a set period for each platform as defined in each RFP.
- b. Eco-system of Domestic Manufacturers: SP shall develop tiered industries in each segment by entering into teaming agreements and development partnerships with other industries, including micro, small and medium enterprises (MSMEs), DPSUs, OFs, other PSUs, DRDO and foreign companies that are part of the global supply chain in the relevant sector, so that an eco-system

of domestic manufacturers in the Indian defence sector is developed, including for spares and capacities for repair and maintenance of the platform. SP is required to submit an action plan to MOD in this regard, the implementation of which will be monitored by MOD.

- c. R & D Roadmap: The Strategic Partner shall formulate a research and development roadmap to achieve self-reliance within the country in respect of the Segment. The road-map is to be mutually finalised along with the MOD.

TERMINATION

MOD shall have the right to terminate the Acquisition Contract in the following cases:

- a. If there is material breach of the Acquisition Contract or an integrity related provision by the SP or the JV/SPV.
- b. If the SP or the JV/SPV loses 50% (fifty percent) of net worth as submitted in its application (for appointment as strategic partner) or is unable to pay its dues.
- c. If the SP or the JV/SPV is adjudged insolvent, commences a voluntary winding-up, is subject to the appointment of a receiver, administrative receiver, official liquidator, trustee or a similar person over its assets or undertaking or any part thereof.
- d. Any other contractually relevant issue.

7. CONCLUSION

Fostering a constructive partnership with Indian private defence industry is considered not just a sound economic option but a strategic imperative to minimise dependence on imports and infuse self-sufficiency in defence manufacturing. Larger and sustained production volumes of a system will lead to optimisation of cost, improved production efficiency and ability to absorb higher end technologies, besides creating an extensive eco-system of defence related industries in the country so that defence manufacturing emerges as a key driver in India's economic growth and development³.

8. FEEDBACK

Your feedback is appreciated by the Firm.

We are available for any Clarification/Information needed.

Dubey & Partners - Advocates

601, DLF Tower, Tower A, Plot No 10 –11
DDA Distt. Center, Jasola, New Delhi - 110044

Tel : +91-11-41072626

+91-11-41072630

Fax: +91-11-41072628

Email: newdelhi@dubeypartners.com

rkubey@dubeypartners.com

³ Ministry of Defence, Defence Procurement Procedure- 2016, Chapter VII: Revitalizing Defence Industrial Economy Through Strategic Partnership http://mod.nic.in/dod/sites/default/files/Chapterdppn_0.pdf