

Workshop on DPM – 2009  
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# Presentation Scheme

- Chapter 5: Approval Process and conclusion of Contract
- Chapter 6: Contract
- Chapter 12: Banking Instruments
- Chapter 14: Offloading of Refits / Repairs of Ships/Submarines/Crafts/Assets

# APPROVAL PROCESS

# Scope

- Procurement of goods
  - To make up for deficiency of scaled stores revealed as a result of provisioning reviews
  - To build up authorised stocks, or
  - Procurement of non-scaled and NIV items including equipment, spares and other medical/miscellaneous stores

# Scope

## Procurement of services

- Maintenance of equipment/assets
- Outsourcing of any task being performed in-house
- Engaging of consultants
- Any new function which can be performed economically by an outside agency

# Processing for CFA Approval

- All proposals should be initiated in the form of SOC (format at Appendix B) bringing out all aspects including justification for procurement, quantity, cost, likely sources of supply, mode of tendering, etc.
- Draft NIT/RFP to be submitted with the SOC

# Processing for CFA Approval

- Basis of costing must be placed on record (procedure in chapter 13)
- CFA to be determined w.r.t entire cost inclusive of all taxes, levies and other charges
- CFA approval subject to prior concurrence of Integrated Finance where required as per Delegation of Financial Powers

# Fund Availability

- Linkage with Annual Procurement Plan (wherever such Plans are being prepared)
- Fund availability to be determined taking into consideration cash outgo on account of committed liabilities



# When Funds Are Not Available

- Proposals can be processed without linking to availability of funds
- Subject to certification by the budget holder that there is reasonable certainty of funds becoming available by the stage of contracting/supply order

# Ex-Post Facto cases

- Ex-post facto financial concurrence
  - Case would be treated as breach of rules and regulations and referred to next higher CFA for regularisation with concurrence of his IFA
- Ex-post facto approval of CFA
  - Ex-post facto sanction may be accorded by the appropriate CFA with or without the concurrence of the IFA, as the case may be, as per delegation of powers

# Acceptance of Necessity

- Items included in PPs prepared with the concurrence of Integrated Finance
  - No separate AON necessary.
  - Integrated finance to be consulted for vetting quantity, mode of tendering, identification of vendors and vetting of draft RFP, where required as per delegation of financial powers
- Proviso
  - Observation regarding necessity may be made with the specific approval of IFA; further processing need not be deferred

# Acceptance of Necessity

## Non-Scaled/NIV Items

- On the basis of justification provided in SOC
- it is to be ensured that no new practice is introduced or an existing scale or policy is changed

# Quantity Vetting

- Scaled items

- Purchase in excess of requirement should be avoided
- IFA to vet the quantity indented/projected where powers are exercised in consultation with IF
- Calculation sheet showing authorised scales, dues-in, dues-out, reserves, etc to be made available to the IFA
- In case of IT based management system, IFA to undertake vetting of quantity on the system

# Quantity Vetting

- Non-scaled/NIV items
  - IFA to vet the quantity in respect of non-scaled and NIV items
  - In case of repeated requirement, central procurement agencies should be intimated

# Procurement / Acquisition

## Process

Formulation of QRs



AON



Vendor Selection/RFP



Issue of RFP →



TEC/Trials/Staff Evaluation



CNC



CFA Approval



SO / Contract



Contract Admn. And Post Contract Management

(DP, L/D, L/C, Payment Terms)

- **General Requirements**
- **Tech Requirement**
- **Commercial Terms**
- **Evaluation Criteria**
- **SCOC / SCC**

CONTRACT



# Contract

- Coverage

- Salient principles of contract law including legal provisions for redressal of disputes (Provisions based on MoF manual on Procurement of Goods)
- General Principles of Contracting
- Procedure for Amendments to contracts

# Contract

- Elementary legal practices
  - What is a contract?
  - Proposal or Offer
  - Acceptance of the proposal
- Which agreements are contracts?
  - Competency of the parties
  - Freedom of consent of both parties
  - Lawfulness of consideration
  - Lawfulness of object

# Contract

- Communication of an offer or proposal
- Communication of acceptance
- When is communication of acceptance complete?
- Acceptance to be identical with proposal

# Contract

- Withdrawal of an offer or proposal
  - No legal obligations where offer is without a consideration
  - Where tenderer agrees to keep offer open for a consideration (EMD), withdrawal before specified period would entail forfeiture of EMD
- Withdrawal of acceptance
  - Before such acceptance comes to the knowledge of tenderer

# Stamping of Defence Contracts

- Defence contracts exempt from payment of stamp duty under entry 5 of Schedule 1 of the Indian Stamp Act

# Amendments to a Contract

- No variation in the terms of a concluded contract, 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

# Enhancement in Rates

- Only when contract specifically provides for it
  - Price variation Clause
  - Changes in taxes/duties if,
    - Contract provides for payment at actuals
    - Supplies are made during the original DP
- Consultation with Integrated Finance
  - if the original contract concluded with IFA concurrence, or
  - after increase in value, contract falls within delegated powers of CFA exercisable with financial concurrence

# Extension of Delivery Period

- On application by the contractor
- Imposition of Liquidated Damages must be decided while granting extension; should be reflected in the extension letter
- Increase in taxes/duties not payable unless contract provides for it or it is expressly agreed to with the concurrence of IFA



# Consultation with IFA

- If original contract was concluded with concurrence of Integrated Finance, consultation with IFA mandatory for all amendments which have financial implication including
  - short closure and
  - DP extension with/without LD

# Amendments of Minor and Non-Financial Nature

- May be approved by an authority one step below the CFA
  - subject to specific authorisation by CFA
  - Example – changes in drawing No., Part No.

# Contract Effective Date

- Date on which contract is signed by both parties unless otherwise mutually agreed to and clearly indicated in the contract

# Banking Instruments

# Import Regulation

- Imports are to be in conformity with Foreign Trade Policy in force ( as framed by the DG FT) [*Export Import Policy in DPM 2006*]

# Letter of Credit

- While an LC can be established in any of the 27 public sector banks besides SBI, decision for the present that LCs may be opened only through the SBI, BoB, Syndicate Bank and Canara Bank
- Format of LC given in Form DPM - 12
- Validity period of LC – 90 days
  - In case spares under procurement are large in quantity or their technical production cycle is long, LC can be opened for more than one quarter as per the terms of contract (*DPM 2006: as agreed by the*

# Direct Bank Transfer

- For contracts below USD 100,000
- DBT payment terms should be insisted upon at the time of concluding the contract (*Ceiling in DPM 2006 was USD 50,000*)

# Bank Guarantees

- Guidelines and format of Performance Bank Guarantee given in Forms DPM -14 and DPM – 15
- BG issued by any Public Sector bank or a private bank duly authorised to conduct government transactions can be accepted
  - Authorised Private banks: ICICI Bank, Axis bank, HDFC Bank
  - IDBI bank has now majority shareholding by Government



# Offloading of Refits/Repairs of Ships/Submarines/Crafts/Assets

- LTE to shipyards in the immediate geographical vicinity of the ship's base and those shipyards willing to undertake refit in such vicinity
- Consolidated AON based on Offloading Plan which will include:
  - Cases approved for offloading grouped under different parts CFA-wise
  - Schedule of refits being offloaded
  - Rough indicative cost with break-up under major categories
- Financial concurrence for each part to be given by concerned IFA to respective CFA
- RFP as per standard format to be issued by the Service Repair Agency alongwith Scope of Work

Thanks