



**Report of the
Comptroller and Auditor General of India
on
Acquisition of helicopters for VVIPs**

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Acquisition of helicopters for VVIPs

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Preface

The Report contains findings of the examination by Audit on the 'Acquisition of helicopters for VVIPs'. The Report emanates from the scrutiny of files and documents pertaining to the Ministry of Defence and the Indian Air Force (IAF) on the process of acquisition of VVIP helicopters. Compliance with the Defence Procurement Procedure (DPP) in the process of acquisition of VVIP helicopters was also examined. Audit is neither equipped nor empowered to investigate from a criminal or forensic point of view.

Necessity for acquisition of helicopters for the air transportation of the VVIPs was projected by Air Headquarters primarily in view of the operational limitations of the existing fleet, as also due to the impending expiry of their Total Technical Life (TTL). Compliance audit of the entire process of acquisition was conducted with the objective of examining the observance of and conformity with the prescribed procedures enunciated in the DPP, with due regard to adherence to the standards of transparency, probity and public accountability.

It was observed that the entire process of acquisition of VVIP helicopters right from framing of Services Qualitative Requirements (SQRs) to the conclusion of contract deviated from the laid down procedures. The process of framing and revision of SQRs not only limited the number of successful bidders but also resulted in operational disadvantage due to lowering of mandatory service ceiling. Even with the revision of the SQRs, the acquisition process again led to a resultant single vendor situation. The shortlisted helicopters were evaluated following different methodologies which did not give the desired assurance that equal opportunity was provided to the shortlisted vendors. Field Evaluation Trials (FET) were conducted abroad on representative helicopters and not on the actual helicopter (AW-101) of AgustaWestland. Even at the stage of the FET, the helicopter offered by the company was still in its developmental phase. Further, benchmarked cost was unrealistic and had no correlation with the estimated cost and the offered cost and thus could not provide a realistic basis for obtaining an assurance about the reasonableness of cost of procurement of AW-101 helicopters. It was also observed that the past trend of low utilization levels of the existing fleet over a period of 11 years did not lend credence to the Ministry's justification for additional procurement of four helicopters. Due to inordinate delay in finalizing the acquisition process, IAF continued to face operational disadvantage with the existing helicopters. In addition, it was observed that offsets were allowed in violation of the DPP. The entire process of acquisition thus poses serious questions on accountability and lack of transparency in the finalization of contract, which need to be addressed.

The Report has been prepared for submission to the President of India under Article 151 of the Constitution.

Acquisition of helicopters for VVIPs

Highlights

The Communication Squadron of the Indian Air Force (IAF) maintains a fleet of aircraft and helicopters for providing air transportation to VVIPs. IAF proposed (August 1999) to replace Mi-8 helicopters in this squadron with an advanced version of helicopters due to their ageing and operational limitations. Ministry of Defence (MoD) concluded a contract (February 2010) with M/s AgustaWestland International Ltd., UK for the procurement of 12 numbers of AW-101 helicopters at a total cost of ₹3726.96 crore (Euro 556,262,026). Compliance audit of acquisition of VVIP helicopters was conducted and the key findings of audit are highlighted below:

- The initial RFP issued in March 2002 for replacement of present Mi-8 helicopters stipulated a mandatory altitude requirement of 6000 metre. The EH-101 helicopter (later renamed as AW-101 of AgustaWestland) could not be field evaluated as it was certified to fly upto an altitude of 4572 metre only. The first RFP was subsequently cancelled due to emergence of a resultant single vendor situation. In the revised RFP issued in 2006 the mandatory SQR relating to altitude requirement of 6000 metre was reduced to 4500 metre and a cabin height of atleast 1.8 metre was introduced. While mandatory requirement of minimum cabin height of 1.8 metre reduced the competition, the lowering of altitude requirement was against the inescapable operational requirement of 6000 metre for transportation to many areas in North and North East. The purpose of reframing the SQRs *i.e.* avoidance of a resultant single vendor situation, could not be met because even with the revision of SQRs, the acquisition process again led to a resultant single vendor situation and AW-101 of AgustaWestland was selected.

(Paragraph 4 & 5)

- The initial RFP of March 2002 issued to eleven vendors was cancelled due to reservations of PMO as it resulted in a single vendor situation. In the revised RFP of 2006, instead of making the SQRs broad based to increase the competition, these were made more restrictive thereby

narrowing down the choices to a limited range of helicopters. The revised RFP was issued only to six vendors.

(Paragraph 7)

- The Field Evaluation Trial of AW-101 of AgustaWestland was conducted on representative helicopters Merlin MK-3A and Civ-01 and mock-up of the passenger cabin and not on the actual helicopter whereas actual S-92 helicopter of Sikorsky was evaluated. Even at the stage of the FET, the helicopter offered by AgustaWestland was still in its developmental phase. Evaluation of helicopters following different methodologies could not give the desired assurance that equal opportunity was provided to both the shortlisted vendors.

(Paragraph 8.2)

- Several instances have been observed where the Ministry had deviated from the provisions of the DPP-2006 and RFP issued in September 2006. While approval for deviation was required to be obtained with extreme caution and in exceptional circumstances, the frequent deviations made in this case are counter to the principal aim with which Paragraph 75 of the DPP-2006 has been incorporated.

(Paragraph 11)

- IAF continued to face operational disadvantage on the existing helicopters due to inordinate delay of more than 10 years in finalizing the acquisition process.

(Paragraph 13)

- Despite the emphasis laid in the DPP-2006 on determination of reasonableness of price for the purpose of benchmarking, the benchmarked cost (₹4871.5 crore) arrived at by CNC was unreasonably high and thus it had provided no realistic basis for comparison with the offered cost (₹3966 crore) of helicopters for price negotiations.

(Paragraph 9)

- Additional procurement of 4 helicopters at a cost of ₹1240 crore was avoidable as assessed requirement was not commensurate with the low

utilisation levels of existing helicopters providing transportation to VVIPs in the past.

(Paragraph 12)

- AgustaWestland had projected seven programmes which were to be completed as part of the offset contract. The allowed offsets were not compliant with the DPP, besides many Indian Offset Partners (IOPs) selected for discharge of offset obligations were not eligible.

(Paragraph 14)

- There was ambiguity in the offset contract regarding the type of services and export orders to be executed by IDS Infotech (Indian Offset Partner). AgustaWestland gave an year-wise break up of work from 2011 to 2014 to be executed by IDS Infotech under this offset programme even though the work had been completed well before the conclusion of the contract in 2010.

(Paragraph 14)

2 Introduction

The Communication Squadron of the Indian Air Force (IAF) is responsible for providing air transportation to VVIPs. The President, Vice President and Prime Minister are entitled to use VVIP aircraft. The *Raksha Mantri* (RM) and a few other dignitaries can use the VVIP aircraft, if it is essential to do so and if an aircraft is available. The Communication Squadron has a mix of fixed wing aircraft and helicopters for transportation of VVIPs. IAF had inducted (1988) six Mi-8 helicopters as an interim measure for VVIP heli-lift requirements. However, Ministry stated (April 2013) that Air HQ Communication Squadron was using eight Mi-8 helicopters.



Mi-8 Helicopter

Since the extended Total Technical Life (TTL) of Mi-8 helicopters was expiring in 2010¹ and also because of its operational limitations, Ministry of Defence (MoD) concluded (February 2010) a contract with M/s AgustaWestland International Limited, UK (AgustaWestland) for the purchase of 12 number of AW-101 VVIP/non-VIP helicopters along with Engineering Support Packages and accompanied accessories at the total contract price amounted to Euro 556,262,026 (₹3726.96 crore)². Along with the main contract, an offset contract was separately concluded (February 2010) for discharging the offset obligation valuing Euro 166,879,000 (₹1118.09 crore).

3 Scope of Audit

The Compliance Audit of the process of acquisition of the VVIP/non-VIP helicopters, was conducted with the objective of examining the observance of

¹ TTL was further extended upto 2014.

² 1 Euro= ₹67

and conformity with the prescribed procedures relating to procurement including those enunciated in the extant Defence Procurement Procedures (DPP). The acquisition process for the scheme categorized as 'BUY' involved the following functions:

- Framing of Services Qualitative Requirements (SQRs);
- Acceptance of Necessity (AoN);
- Solicitation of offers;
- Evaluation of Technical offers by Technical Evaluation Committee (TEC);
- Field Evaluation Trials (FET);
- Staff Evaluation;
- Oversight by Technical Oversight Committee (TOC) for Acquisitions above ₹300 crore;
- Commercial negotiations by Contract Negotiation Committee (CNC);
- Approval of Competent Financial Authority (CFA); and
- Award of contract / Supply Order (SO).

We scrutinized in audit, the papers relating to initiation of proposal for acquisition of VVIP helicopters, issue of Request for Proposal (RFP) in 2002 and its cancellation, re-framing of SQRs, re-issue of RFP in 2006 and subsequent conclusion of contract in 2010. We issued a Statement of Case along with a questionnaire on the acquisition of VIP helicopters to Air Headquarters (Air HQ) in July 2010. The reply thereto received from Air HQ in June 2012 was analyzed and the draft paragraph was referred to Ministry again in February 2013. Ministry's reply received in March 2013 and April 2013 has been duly considered and incorporated appropriately in this Report.

We also reviewed the compliance with the offset obligations prescribed in Paragraph 22 of DPP-2006 where indicative cost is above ₹300 crore and the scheme is categorized as 'BUY (Global)' involving outright purchase.

4 Background

Air HQ observed (January 1994) that the existing Mi-8 helicopters had the following restrictions/shortcomings:

- (i) Operations only during day light conditions;
- (ii) Operations only during good weather;
- (iii) Inability to operate safely at places elevated beyond 2000 metre; and
- (iv) Adverse comments on noise and vibration level (by VVIPs)

Viewed against the above limitations, Air HQ identified five different types of helicopters (January 1994) for air transportation of VVIPs. Mi-17 Deluxe and the Mi-172 were shortlisted on the basis of better engine performance, expected reduction in cabin noise and vibrations, improved avionics and helicopter systems for night and all weather operations. Air HQ proposed (January 1994) for the acquisition of two such helicopters after having conducted the flight and technical evaluations in Russia. However, the proposal was not pursued further by Air HQ. In August 1999, a revised proposal for replacement of existing Mi-8 helicopters was submitted to MoD. The revised proposal envisaged replacement of the existing fleet with helicopters possessing better capability in terms of Instrument Flight Rules (IFR)³, high altitude operations and better passenger comfort. After a lapse of two years, Air HQ firmed up (February 2002) the Operational Requirements (ORs) for the VVIP fleet in consultation with the Prime Minister's Office (PMO). Amongst other ORs, Air HQ prescribed a mandatory altitude requirement of 6000 metre. In March 2002, based on the ORs so firmed up, MoD issued an RFP to 11 Original Equipment Manufacturers (OEMs)/authorized vendors who were shortlisted by Air HQ/ MoD for procurement of eight helicopters. The list of prospective vendors had been compiled from Jane's Aviation. Only four vendors responded to the RFP and three helicopters, namely, Mi-172, EC-225 and EH-101⁴ were recommended by the TEC for flight evaluation. Of the three, only Mi-172 and EC-225 were flight evaluated as EH 101 (AW-101) could not be evaluated in view of the

³ Instrument Flight Rules are sets of regulations governing all aspects of civil aviation aircraft operations.

⁴ EH-101 was the earlier name of AW-101 which was finally accepted

vendor stating that the helicopter was certified to fly upto an altitude of 4572 metre (15000 feet) as against the mandatory OR of 6000 metre. Thereafter, Air HQ selected EC-225 helicopter after having conducted the flight evaluation (November-December 2002). The flight evaluation report was sent to MoD (May 2003) for approval.



EC-225 Helicopter

In June 2003, the Technical Manager (Air) in MoD asked Air HQ to reassess the EC-225 and also obtain the views of PMO with regard to the suitability of cabin height. In a meeting convened (19 November 2003) by the PMO, with representatives of MoD, Air HQ and Special Protection Group (SPG), PMO observed that framing of mandatory requirements had effectively led to a single vendor situation and this problem would not have arisen if the PMO had been consulted at the earlier stages. In the meeting, following options were also considered.

- while the mandatory requirement for operational altitude be 4500 metre, the higher flying ceiling limit of 6000 metre and a cabin height of 1.8 metre could be made desirable ORs; and
- the PMO/ SPG could be associated with the framing of parameters from the standpoint of VVIP convenience and security. The possibility of a team examining the existing shortlisted option could also be considered.

With these revisions, the PMO observed that several helicopters which otherwise met all requirements but had been rejected due to the altitude restrictions, would now come into the reckoning.

The PMO also in their communication to the Chief of the Air Staff expressed concern (22 December 2003) that the framing of the mandatory requirements for the new helicopters had effectively led to a single vendor situation and it

was unfortunate that neither PMO nor SPG were consulted while framing the mandatory requirements.

In order to remedy the situation, as also to avoid unnecessary delays, the PMO suggested that the Air Chief and the Defence Secretary may jointly review the matter to draw up realistic mandatory requirements satisfying operational, security and convenience requirements of VVIPs and also set in motion a fast track process for selection and acquisition of the replacement helicopters. PMO and SPG could be involved in the first stage, *i.e.*, at the stage of framing of the mandatory requirements.

Air HQ, in their reply (June 2012) to the Statement of Case (July 2010) on the issue of non-consultation with the PMO/SPG, however, stated that with regard to the framing of mandatory ORs, the PMO was approached for certain ORs regarding seating capacity in December 2001 and thereafter the ORs were revised after necessary tailoring to suit the requirements of the IAF and the PMO. Air HQ also stated that the PMO was aware that IAF was in the process of procuring new helicopters as a replacement for VVIP Mi-8 helicopters.

On 01 March 2005, National Security Advisor (NSA) directed MoD/Air HQ to revise the ORs in consultation with the PMO and to reissue the RFP. NSA also directed that ORs should broadly conform to the parameters of Mi-8 operational specifications and should be drawn by taking into account security, communication and cabin configuration to ensure comfort for VVIPs. A single vendor situation should be avoided. Procurement process was to be expedited.

Subsequently, Air HQ reframed the ORs stipulating, *inter alia*, a mandatory service ceiling of 4500 metre *vis-à-vis* the earlier ceiling requirement of 6000 metre. For the first time, a requirement of cabin height of at least 1.8 metre was introduced as a mandatory OR.

5 Revised Service Qualitative Requirements (SQRs) led to restricted competition

Resultant single vendor situation

Paragraph 13 of the DPP-2006, stipulates that all Capital Acquisition shall be based on SQRs drawn up in a comprehensive, structured and concrete manner. The SQRs must express the user's requirements in terms of functional characteristics and its formulation must not prejudice the technical choices by being narrow and tailor made. Our examination of the process of framing of SQRs revealed that SQRs so revised led to a resultant single vendor situation again, despite avoidance of such a situation having been consciously addressed by the PMO in the meeting held on 19 November 2003. It was also considered in the above meeting, besides lowering of altitude requirement, the SQR relating to the cabin height of 1.8 metre could be made a desirable operational requirement. Later on, this became an essential requirement and thereby eliminated many of the competing vendors as discussed below.

Air HQ had already briefed the Defence Secretary in January 2004 that requirement of service ceiling of 6000 metre was an inescapable operational necessity; many areas in north and north east would be accessible only with service ceiling of 6000 metre. Air HQ also pointed out that there had been occasions where request for travel by VVIP to these areas had to be turned down due to inability of the existing VVIP Mi-8 helicopters to undertake the task. Air HQ considered the height of the cabin even upto 1.45 metre, tapering to 1.39 metre at the rear as in the case of EC-225 acceptable in view of the fact that flights undertaken by VVIPs in helicopters are generally of short duration, rarely longer than 45 minutes. Air HQ, therefore, opined that making cabin height of 1.8 metre a mandatory OR would lead to a single vendor situation as in that case only EH-101 (AW-101) would comply with all the SQRs.

Discussion of revision in the ORs was held in a meeting chaired by Deputy Chief of Air Staff (DCAS) in Air HQ and attended by Joint Secretary & Acquisition Manager (Air), Director SPG and other officers from Air HQ (07 March 2005), wherein height altitude capability was reduced to 4500 metre. It was also recorded in the minutes of the meeting that cabin height of at least 1.8 metre was added as a mandatory OR, based on directions

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given by the NSA and accepted by all members. Subsequently, in a meeting convened by the Defence Secretary (9 May 2005) and attended by officers of Air HQ, including DCAS to firm up the SQRs, it was decided *inter alia* to lower the altitude requirement to 4500 metre and to make the cabin height of at least 1.8 metre, as a mandatory SQR.

Ministry in its reply in respect of lowering of altitude requirement stated (March 2013) that the PM and President rarely made visits to places involving flying at an altitude beyond 4500 metre. Thus, it was decided to consider the option to make the mandatory requirement for operational altitude 4500 metre. Ministry further stated (April 2013) that the OR for service ceiling was reduced to 4500 metre with the approval of Chief of the Air Staff (CAS) (14 March 2005) to bring it in conformity with the service ceiling of Mi-8 helicopter i.e. 4500 metre.

Ministry's reply is however not consistent with the assertion of Air HQ in their brief to the Defence Secretary (January 2004) that requirement of service ceiling of 6000 metre was an inescapable operational necessity for VVIP helicopters. Ministry's reply is also not consistent because with the service ceiling of the existing Mi-8 at 4500 metre, Air HQ had earlier observed (January 1994) its inability to operate safely at places elevated beyond 2000 metre. This reinforces Air HQ's assertion (January 2004) that service ceiling of 6000 metre was an inescapable requirement.



AW-101 Helicopter

Ministry further stated (April 2013) that all the six OEMs to whom the RFP was issued (September 2006) had the capability to provide helicopters having cabin height of 1.8 metre or above. Hence, selection of AW-101 cannot be attributed to the elimination of any competing OEM on account of not meeting SQR of cabin height. Ministry further stated that mandatory SQR of cabin height did not by itself lead to only one helicopter eventually emerging as technically qualified in terms of RFP.

Ministry's reply is not acceptable as at least one of the OEMs (European Aeronautic Defence Space Company) to whom the RFP was issued in 2006 did not have a helicopter with required cabin height of 1.8 metre. The fact remains that by making the cabin height 1.8 metre as a mandatory requirement, the competition was restricted which led to resultant single vendor situation again.

Thus, the purpose of reframing the SQRs *i.e.* avoidance of a resultant single vendor situation, could not be met because even with the revision of SQRs, the acquisition process again led to a resultant single vendor situation and AW-101 of AgustaWestland was selected.

6 Acceptance of Necessity⁵

Air HQ revised (October 2005) the requirement of helicopters from 8 to 12 because of the insistence of SPG for addition of four helicopters in non-VVIP configuration. Accordingly, a proposal for procurement of 12 helicopters at an estimated cost of ₹793 crore in the AoN was submitted (January 2006) to the RM. Quantity vetting was approved by the RM in March 2006.

Based on the revised SQRs, MoD issued (September 2006) a fresh RFP to six vendors.

⁵ In order to seek Acceptance of Necessity, the Service Headquarters would prepare a Statement of Case as per format at Appendix 'A' to the DPP -2006, justifying the procurement proposal.

7 Issue of revised RFP to limited vendors

The DPP stipulates that wherever possible, keeping the security and other relevant aspects in view, appropriate publicity may be given to the proposed procurement with a view to generate maximum competition.

Though the purpose of issue of fresh RFP based on revised SQR was to ensure that several helicopters which otherwise met all requirements earlier but had been rejected due to the altitude restriction would come into the reckoning, the revised RFP was issued only to six vendors as against 11 vendors to whom the RFP was issued in 2002.

In reply to the audit observation, Ministry stated (March 2013) that the instant proposal was for procurement of helicopters for a VVIP transportation role where security considerations were paramount and the operational capabilities and security features could not be put in the public domain. Further, OEMs for such helicopters that have military certifications are limited in number and thus RFPs for such equipment are generally issued to short-listed vendors who are also vetted from the intelligence angle. Ministry further added that Air HQ had sent letters to Air Attaches in France, Russia, UK and USA to ascertain the type of helicopters employed in different countries for flying VVIP communication tasks and Requests for Information (RFI) were also sent to known OEMs through the respective Air Attaches, to ascertain the helicopters that could be used for such role. Thereafter, six OEMs were identified which were considered capable of supplying helicopters for VVIP communication role and RFP was issued to all these six OEMs.

Ministry again stated (April 2013) that of the 11 OEMs to whom the RFP was issued earlier, five were not included in the list of capable OEMs for issue of RFP due to their non compliance of ORs in the earlier RFP. Ministry further stated that the revision of SQRs broadened the vendor base, hence the observation of audit is incorrect.

Ministry's reply is not acceptable as exclusion of five OEMs in the RFP of 2006 on the ground of non-compliance of ORs in the RFP 2002 denied a fair opportunity to these OEMs to participate in the RFP of 2006.

The fact remains that despite the directions of the PMO to make the SQRs broad based to increase competition, the SQRs were made more restrictive which narrowed down the choices to limited range of helicopters being capable of meeting the requirements of the VVIP fleet.

8 Evaluation

8.1 Evaluation of technical offers by TEC

A TEC constituted (February 2007) by Air HQ was required to evaluate the technical bids received in response to RFPs. Paragraph 34 of DPP-2006 states that a TEC will be constituted by the Service HQ (SHQ) for evaluation of the technical bids received in response to RFPs, with reference to the SQRs, under an officer from the SHQ. It would include, apart from the representatives of the user service and maintenance agency, representatives of Quality Assurance.

Based on the RFP issued, three bids, *viz.* Sikorsky (S-92) and AgustaWestland (AW-101) and Rosoboronexport, Russia (Mi-172) were received. The offer of Mi-172 helicopter was rejected on the grounds of non-submission of Earnest Money Deposit (EMD) and absence of the pre-contract Integrity Pact (IP) as required by the RFP.

Air HQ shortlisted the remaining two vendors. The TEC evaluated the technical proposals of vendors *i.e.* Sikorsky (S-92) and AgustaWestland (AW-101) and recommended the two for field evaluation. The report of the TEC was accepted by the Director General (Acquisitions) in December 2007. As per the DPP-2006, the time frame for technical evaluation and acceptance by DG (Acquisitions) was four months, against which it took 10 months. The delay of six months was on account of the fact that certain features such as sound proofing (non-VVIP helicopters), product support after expiration of warranty of the technical proposals in respect of Sikorsky, and provision of active Missile Approach Warning System (MAWS) proposals submitted by both the vendors did not conform to the RFP requirements and deviations for the same were submitted to the RM for approval in December 2007 by the DPB. Thereafter, it was sent to DG (Acquisitions) for acceptance of the TEC report, as required under Paragraph 36 of DPP-2006.

8.2 Field Evaluation Trials with deviations

Paragraph 38 of the DPP-2006 stipulates that field evaluation would normally be conducted on ‘**No Cost No Commitment**’ (NCNC) basis. There may be cases where trials are not visualised or trials need to be conducted abroad in vendor premises. Where field evaluation is not feasible, there may be possibility of conducting evaluation through computer simulation. In such cases the exact scope of the trials shall be included in the Statement of Case while seeking AoN.

Although, RFP of September 2006 had clearly stipulated the necessity of sending the desired units of equipment to India for Field Evaluation in varying climatic, altitude and terrain conditions on ‘**No Cost No Commitment**’ basis, we observed that both the shortlisted vendors did not send their helicopters to India. During technical discussions, both the vendors expressed difficulties in providing their helicopters in India for the field evaluation and suggested that the field evaluations be carried out abroad at the sites suggested by them. Accordingly, IAF projected this requirement for consideration by the Defence Procurement Board (DPB). Even though the DPB initially did not agree to the field evaluation to be done abroad, eventually it recommended that trials be carried out abroad which was approved by the RM in December 2007. However, the RM stipulated that the trial process should be credible, technically competent and above board for which trial directives were to be so framed to give equal opportunity to both the bidders.

Ministry in its reply stated (March 2013) that keeping in view the long processes and logistics involved in conducting field trials in India, it was decided to conduct these trials abroad in a short time frame of 2 to 3 months.

Ministry’s reply is not acceptable as even though both the vendors had cited difficulties, they were amenable to the proposal of bringing their helicopters in India for field trials between April - August 2008. Thus, the flight evaluation could have been carried out in actual ground and climatic conditions on the same helicopter offered by the vendors as per the terms of RFP.

Ministry further stated (April 2013) that Chief of the Air Staff (CAS) had written to Defence Secretary (11 October 2007) highlighting that the “flight evaluation of already certified helicopters is not carried out in all possible

terrain and environmental conditions. Certain sample test points are chosen from the certified flight operations manual of the helicopter and flown to ascertain the fidelity of the information in the performance charts. Carrying out flight evaluation at OEM's facilities offers many advantages in terms of availability of flight test expertise, flight test instrumentation and flight test data bank". Chief of the Air Staff had recommended that delay on account of field evaluation process to be undertaken in India, is not advisable. After deliberations, DPB recommended field evaluation trials in respect of both the helicopters at locations specified by the vendors. The recommendation of DPB was submitted to the RM for approval whereupon RM questioned the rationale for conducting field evaluation trials at vendor specified locations instead of in India. The extract of the relevant note is reproduced below:

“The reasons adduced for conducting field evaluation trials at vendor specified location instead of in India are not convincing enough. This is particularly so when viewed against the background of cases like the Eurocopter where the technical teams had certified the equipment but the credibility of the trial process itself was thrown into question later. What is the guarantee that fidelity and credibility of these trials will remain above board when they do not take place within the country?”

On further assurance of Air HQ that the trial team was fully competent to carry out the task assigned to it, the RM approved the recommendations of the DPB.

We observed that if the advantages of the requirements in carrying out FET as pointed out by CAS could be obtained only at the vendor's site then these requirements should have been firmed up at the SOC/RFP stage itself. We further observed that the vendor had clarified to the FET team (January 2008) that approved flight manual/graphs did not exist because the helicopter offered by the company for the FET was still in its developmental phase, and therefore the vendor could not offer the actual helicopter to the trial team. In view of this deficiency the reasons given by the CAS for conducting FET abroad lacked justification.

The FET of the helicopters were conducted in the UK (AW-101) and the USA (S-92). In the FET conducted in the USA during January-February 2008, M/s Sikorsky offered the same S-92 helicopter as mentioned in their technical

offer. Although AgustaWestland had initially offered (February 2007) to provide an AW-101 helicopter for FET, yet they finally offered only representative helicopters, Civ-01 and Merlin MK-3A and a mock up of the passenger cabin, stating that the helicopter offered by the vendor was still in its developmental phase. The Trial Team, therefore, evaluated the representative helicopters in the UK during January- February 2008.

Ministry stated (April 2013) that the contention of audit that AW-101 was in developmental phase is not correct. The AW-101 helicopter that was offered for field trials and thereafter contracted existed as a certified platform with over 1,15,000 fleet hours at the time of the field trials.

Audit is unable to agree with the Ministry's assertion as FET team in its inspection report had clearly mentioned (January 2008) that AW-101 as offered to the IAF was in a product developmental phase, therefore the FET was carried out on a Merlin MK-3A (primarily for evaluation of avionics, navigation systems and maintenance) and a company developmental helicopter called the Civ-01 (for other portions of the FET).

We also observed that even though a single trial directive was issued, Air HQ allowed different methodologies for the trial evaluation of S-92 and AW-101, in contravention of RM's directions. Evaluating different aspects of equipment on different platforms could not give the desired assurance that finally the configured helicopter would meet the requirements of SQRs in the RFP.

Ministry in its reply (March and April 2013) stated that the methodology of field evaluation that was common to both the vendors, involved assessing the helicopter performance through actual flight tests over selected terrain and environmental conditions abroad to validate the officially certified performance graphs and thereafter use these graphs to check compliance with the SQRs.

The fact remains that FET (a critical milestone in the acquisition process) was conducted on representative helicopters of AgustaWestland abroad; and not on the helicopter for which DPB approval had been specifically obtained. Audit does not have reasonable assurance, based on the records made available, whether the actual helicopter with its significant customization was certified before delivery in India and whether the parameters that remained untested at

the time of FET were subsequently found fully compliant post its delivery and acceptance in India.

8.3 Staff Evaluation with deviations from laid down procedure

Paragraph 43 of DPP-2006 stipulates that based on the field evaluation carried out by user services, the SHQ would carry out a staff evaluation and will analyse the field evaluation results and shortlist the equipment recommended for introduction into service. The staff evaluation report will be approved by SHQ and forwarded to the Acquisition Wing for acceptance. In case no vendor meets the SQRs in the field evaluation then the case would be foreclosed on approval of DG (Acquisitions) and a fresh RFP issued after reformulating the SQRs. However, waivers/ amendments to the SQRs can be sought only for 'Make' projects of Defence Research and Development Organisation / Ordnance Factory Board/ Defence Public Sector Undertakings/ private industry which were in the developmental stage. Also, in such cases approval of the RM would be taken prior to the acceptance of the staff evaluation report.

We observed that even though both the vendors were not found fully compliant with SQRs in the FET carried out in January - February 2008, the Staff Evaluation Report recommended the induction of the AW-101 helicopter of AgustaWestland.

Ministry in its reply (March and April 2013) stated that the observation of audit that both the vendors were not found compliant to ORs is not correct. Ministry further stated that AW-101 of AgustaWestland was fully compliant with the SQRs for VVIP version and its non-VVIP version was partially compliant with two SQRs due to shortfall in service ceiling and Hover Out of Ground Effect which could be operationally overcome. Therefore, the proposal offered by AgustaWestland as a package was considered suitable for induction and accepted by the RM as required under Paragraph 75 of DPP-2006.

However, the Ministry's reply is not convincing as non-VVIP version of AW-101 was non-compliant with two SQRs after the FET which required the approval of the RM. At the time of issuing RFP, there was no distinction in compliance requirements of SQRs between VVIP and non-VVIP helicopters.

As such partial compliance of SQRs in respect of non VVIP helicopters cannot be construed as having been fully compliant with the parameters in the RFP.

Ministry also stated that Paragraph 43 of DPP-2006 was not attracted in the instant case as it is applicable to situations where Staff Evaluation had concluded that no vendor meets the SQRs. Approval of the RM was obtained through DPB for partial compliance only in certain extreme atmospheric conditions with full load of the non-VVIP AW-101 with respect to two SQRs under Paragraph 75 of the DPP-2006.

Ministry's reply is not acceptable as both vendors were not fully compliant with the SQRs. Further, in the instant case in contravention of Paragraph 43 of DPP-2006 approval of the RM for waivers/amendments to the SQR was sought in the 'Buy' project while it was permissible in the 'Make' projects only.

The fact remains that partial compliance of SQRs in respect of Non-VVIP helicopter cannot be considered as fully compliant with parameters of RFP. The partial compliance in the instant case constitutes a deviation under Paragraph 43 of DPP-2006 for a 'buy' project.

9 Contract Negotiation Committee did not properly assess the reasonableness of price

Paragraph 47 of DPP-2006 prescribes the process of commercial negotiations, wherever necessary, after Staff Evaluation Report has been accepted by the DG (Acquisition) and the Technical Oversight Committee Report has been accepted by the Defence Secretary, as applicable. The standard composition of the CNC shall be as indicated at Appendix B of the DPP-2006. Any change in the composition of the CNC may be effected with the approval of DG (Acquisition). Where considered necessary, a Service officer or any officer other than from the Acquisition Wing of MoD may be nominated as Chairman of the CNC with the prior approval of the RM. The concerned organisations/agencies should ensure that their representatives in the CNC have adequate background and authority to take a decision without any need to refer back to their organisation/agency. The CNC would carry out all processes from opening of commercial bids till conclusion of contract. The sealed commercial offers of the technically accepted vendors shall be opened by the CNC at a

predetermined date and time under intimation to vendors, permitting such vendors or their authorised representatives to be present.

A CNC was constituted on 01 May 2008 with Joint Secretary and Acquisition Manager (Air) as Chairman and Joint Director Air Staff Requirement (JDASR) from Air HQ as Member Secretary with the representatives from MoD and Air HQ as Members. Paragraph 51 of the DPP-2006 provides that in case of procurement of new equipment on single vendor/resultant single vendor basis, CNC should establish a benchmark and reasonableness of price in an internal meeting before opening the commercial offer. Further, if the price of the vendor is found to be within the benchmark fixed, in the internal meeting, there should be no need to carry out any further price negotiations. For the purpose of establishing benchmark price, the CNC set up a Benchmarking Committee with Principal Director Air Staff Requirement as Chairman and Director General Aeronautical Quality Assurance representative, JD EngD, JD ASR as Members. The CNC held four internal meetings before opening of the commercial bid. In its first meeting on 12 May 2008, the modalities of the benchmarking process for determination of procurement were discussed. In the second meeting of 01 August 2008, the CNC discussed the benchmarking of procurement cost as being worked out by the Benchmarking Committee. In the third meeting of 01 September 2008, the CNC examined the draft Benchmarking Report. In the fourth and final internal meeting of CNC held on 02 September 2008, the Benchmarking Committee submitted their final report which was accepted after deliberations. Thereafter, the CNC also opened the commercial bid of the vendor on the same day.

Our scrutiny of the records revealed that benchmarking of price was not done on a realistic basis as can be seen from the ensuing paragraphs.

The Benchmarking Committee had determined the reasonableness of the quote by relying on the basic price of AW-101 helicopter as 27 Million USD (MUSD) per aircraft in the year 2000, as available on the internet. The committee had further given cost increments of 2 MUSD for the new engines. The committee also considered a figure of 15 *per cent* increment on the cost of basic helicopter towards the associated development and certification cost, which amounts to 4.4 MUSD. This brought the cost of the basic helicopter

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including the developmental/certification costs to 33.4 MUSD. The cost of 33.4 MUSD was adjusted for inflation @ 3.5 per cent per annum from the year 2000 to arrive at the basic cost of 47 MUSD to the base year of 2010 for delivery. Besides, an amount of 20.4 MUSD was added towards additional fitments/fixtures viz. Glass Cockpit and Self Protection Suite etc. which were not included in the cost of the basic helicopter offered. With this, the cost of the AW-101 helicopter (without the passenger cabin modification) was benchmarked at 67.4 MUSD.

We did not get any evidence in support of the reasonableness of base price of 27 MUSD adopted by the CNC for the year 2000. Since the RFP was issued in September 2006, there was no rationale for adopting the base price of 2000. In contrast, we noticed that the basic price of AW-101 VIP helicopter was 18.2 MUSD in the year 2010 as seen from the internet.

The benchmarked cost as worked out by the CNC was Euro 727⁶ million (₹4877.5 crore) as against the estimated total project cost of ₹793 crore approved by Ministry in January 2006. This was more than six times the estimated cost. Further, the offered cost of the vendor was Euro 592 million (₹3966 crore). This was much below the benchmarked cost of Euro 727 million (₹4877.5 crore). Thus, the benchmarked cost was higher by 22.80 per cent.



Ministry in respect of estimation of cost stated (March 2013) that the figure of ₹793 crore (inclusive of manpower cost worth ₹3 crore) was the 'Rough Order of Magnitude' (ROM) cost estimated for basic helicopter along with spares, GSE/GHE⁷ and the cost of infrastructure at the time of preparation of SoC in 2006. It further added that the cost of basic helicopter did not include other elements like development and certification cost, cost of fitments and fixtures

⁶ 1 Euro = ₹67

⁷ GSE/GHE – Ground Support Equipment/Ground Handling Equipment

for VVIP transportation, Self Protection Suites etc. nor did it factor in escalation taking into account the anticipated period of delivery.

Ministry's reply is not acceptable as the offered price was more than six times the estimated cost which indicates that Air HQ had not prepared proper estimates of the requirement while submitting the case for approval of AoN. Ministry of Finance (MoF) had also pointed out (July 2009) that the difference between the final negotiated price and estimated cost at the time of AoN appeared to be abnormally high.

We also observed that the benchmarked cost did not provide a realistic basis for comparison with the offered cost of AW-101 helicopter.

In response to the Statement of Case issued by Audit (July 2010), Air HQ stated (June 2012) that the benchmarking committee and the CNC took into consideration realistically all the requirements that are specific to the VVIP communication including VVIP furnishing, safety features and security installation. The information used for benchmarking had necessarily to be from open source as no western helicopter in the VVIP class had been contracted by the GoI or any of its agencies. It further stated that it would be erroneous and misleading to make comparison between helicopters without taking into account their different capabilities, specifications, features, operational roles and life cycle costs as well as the widely different design and pricing philosophies that may be involved.

Ministry replied (April 2013) that the procurement case lacked a clear reference base for comparison since there had been no previous procurement of such helicopters by the IAF. The benchmarking was done by the CNC using information from all available sources and the final benchmarked price was arrived at in a rational and considered manner. The figure of USD 27 million adopted by the Benchmarking Committee was taken from www.deagel.com. Ministry also stated that out of seven contracts concluded across the globe between 1991 and 2007, six contracts were signed between 1991 and 2001 while the seventh was signed in 2007. Hence, 2000 was adopted for purpose of benchmarking and thereafter escalated as per the approved rate in the Pricing Policy Review Committee.

The reply of Ministry is not acceptable as Paragraph 15 of DPP-2006 specifies that RFI should ask the vendor to provide all the elements which need to be structured into the costing of the weapon / equipment system (including that of a comprehensive maintenance / product support package) which will serve as a guideline to formulate an all encompassing Commercial Offer format at the stage of the RFP. We noticed that no such request has been made in compliance of the above provision. This assumes greater significance in view of the fact that the CNC has no clear reference base to arrive at a realistic cost.

Thus, despite the emphasis laid in Paragraph 51 of the DPP-2006 on determination of reasonable price by CNC, for the purpose of benchmarking, the same was not achieved.

10 Approval by Cabinet Committee on Security

Following the approval of CNC, the draft note to Cabinet Committee on Security (CCS) was submitted (February 2009) by Ministry of Defence (MoD) to Ministry of Finance (MoF) for comments/concurrence. MoF on 12 March 2009, sought clarifications which were responded to by MoD in March itself. MoF sought further clarifications on 19 May 2009 which were responded to by MoD in June 2009. On 20 July 2009, MoF stated that they were unable to support the proposal in light of certain concerns raised by MoF, which were to be addressed in the final Note to CCS.

We observed that the MoF should have either recommended, not recommended or recommended with conditions the proposal as MoF provides financial advice to CCS and Government.

MoD submitted (November 2009) their proposal to the CCS for obtaining sanction for the procurement of the helicopters and associated items at the negotiated cost of ₹3726.96 crore.

We observed that the CCS while according approval, had considered all the issues which had the benefit of advice of the representatives of MoD and MoF and had then taken a conscious decision (January 2010) which *inter alia* stated that while the RFP for the present procurement was issued on 27 September 2006 and it has taken more than three years for the tendering process and field evaluation to be completed, it would take another three years for the helicopter

to be made available by the manufacturer. Further, the CCS also stated that if the process of tender and field evaluation is to be repeated, the period involved would be very long and not acceptable from the point of view of the VVIP security.

11 Deviations from Defence Procurement Procedure

Paragraph 75 of DPP-2006 stipulates that any deviation from the prescribed procedure will be put up to the RM through DPB for approval.

As per the provisions of Paragraph 31 of DPP-2006, after the issue of RFP, a number of queries relating to the RFP may be raised by the vendors. It should be ensured that all the queries are answered in an acceptable time frame so that the vendors are able to submit their techno-commercial offers on due date. The clarifications should be given in writing to all the vendors by the technical managers. However, it should be ensured that the parameters of RFP (SQRs) should not be changed/ amended at this stage. Similarly, Paragraph 35 of DPP-2006 stipulates that a technical offer once submitted should not be materially changed subsequently.

Ministry of Finance amongst other observations on the process of procurement had also observed (July 2009) that during the procurement process MoD had sought approval for eight deviations from RFP/DPP under Paragraph 75 of the DPP by the RM as mentioned below.

- seeking additional commercial quotation from both vendors;
- acceptance of different warranty stipulation;
- acceptance of partial compliance of two ORs by AW-101 helicopter;
- completion of helicopter delivery in 39 months instead of 36 months;
- acceptance of option clause for three years instead of five years;
- incorporation of rear Airstairs in the four non-VIP helicopters;
- requirement of additional items such as TCAS-II, EGPWS and Lifeport Medevac system; and
- deletion of active MAWS.

We observed that:

- The RFP required a warranty of 3 years/900 hours “whichever is later”. The term “whichever is later” was not acceptable to both the shortlisted vendors. Hence, the term “whichever is later” was changed to “whichever is earlier”. Ministry stated in its reply (March 2013) that approval of the RM was obtained for this deviation on the ground that helicopters were practically not expected to fly more than 900 hours in the first three years. The deviation in the warranty claim is in contravention of the Policy Page of Communication Squadron of Air HQ which *inter alia* specifies that a helicopter is required to fly 540 hours per year and thus a total of 1620 flying hours in three years. We also observed that MoD had provided for purchase spares and associated equipment from the vendor in the contract on the basis of annual flying task of 540 hours per year. Thus by accepting warranty only for 900 flying hours/three years ‘whichever is earlier’, flying risk of 720 hours for spares was not covered under the warranty for each helicopter. By including the term “whichever is earlier” MoD has diluted the warranty clause to its disadvantage.

Ministry stated (April 2013) that change in requirement was accepted as the term “whichever is later” was open ended and the warranty limit of three years would occur first. It further stated that spares would be consumed as per the actual utilisation of the helicopters.

The reply is not acceptable as, if the term “whichever is later” was open ended, the same should not have been included in the RFP in the first place.

- The RFP stipulated that the buyer would have the option to place a separate order before 5 years from the contract effective date limited to 50 *per cent* of the helicopter and spares etc. as per the costs set out in the contract. Ministry stated in its reply (March 2013) that during the discussion with the CNC, the vendor stated that the AW-101 VVIP helicopter was a limited production version and it was not possible for them to have the option clause as required by the RFP. The vendor had insisted in view of the prevailing adverse world economic situation since mid 2008 and extension of their commercial quote for another

two years, applicability of option clause may be reduced to 3 years only. The requirement was accepted by the CNC. We observed that while the reduction in option period from 5 to 3 years was in favour of the vendor, the very inclusion of the clause in the RFP was avoidable since there was no requirement for additional helicopters for another five years. Further, MoF in response to MoD's reply had also observed (July 2009) that the financial load of option clause even for 3 years appeared to be infructuous.

Ministry stated (April 2013) that the option clause is a standard term of the contract under the DPP-2006 and hence was included. While procurement of additional helicopters was unlikely, there could be possibility of purchase of additional spares/equipment based on operating experience.

The reply is not acceptable as MoD had already provided for purchase of spares and associated equipment from the vendor in the contract on the basis of annual flying task of 540 hours per year. Besides, in view of Ministry's own admission of the fact that procurement of additional helicopters would be unlikely, the option clause in the contract was avoidable.

- The RFP included a SQR of a 'dual colour active Missile Approach Warning System, (MAWS). However, M/s AgustaWestland offered Passive MAWS for the helicopter in the technical bid later with the approval of DPB. The vendor submitted additional commercial quote of Euro 20.90 Million for Active MAWS for 12 helicopters which was negotiated to Euro 16.98 Million by the CNC. During the technical level discussion at Air HQ the vendor brought out that the Passive MAWS was essential equipment as the DIRCM⁸ can be integrated only with Passive MAWS and not with Active MAWS. Therefore, the Active MAWS may not be necessary. Consequently, CNC deleted the requirement from the proposal and deviation to this SQR was accorded by the RM. Ministry stated (March 2013) that the deviation did not affect the basic character/profile of the proposal or disturb the level playing field and ultimate result was a procurement that complied with the stipulation of the RFP. We observed that technical suitability of

⁸ DIRCM – Directed Infra Red Counter Measures

Active MAWS and consequently its integration with other Electronic Warfare equipment was not adequately addressed by the IAF while finalising the SQRs for the helicopter which had prolonged the negotiation period, first in deliberation for inclusion and later due to deletion of Active MAWS requirement.

The intention of Paragraph 75 appears that it is to be invoked in exceptional circumstances for certain contingencies or exigencies which may have arisen subsequent to the issue of the RFP. In this case, the frequent exercise of this procedure are counter to the principal aim with which the paragraph has been incorporated in the DPP-2006. These deviations obtained in the procurement process were also commented upon (July 2009) by MoF.

12 Excess procurement of helicopters

In August 1999, IAF had proposed for acquisition of eight helicopters (five in VIP configuration and three in Non-VIP configuration) with a view to maintain six serviceable helicopters. This was followed up by the issue of a RFP in March 2002. IAF/MoD was of the view that eight helicopters would meet the requirement if Mi-8 type helicopters were used for the VVIP movement. Subsequently, at the insistence of SPG, the requirement was increased (October 2005) to 12 helicopters (eight in VIP configuration and four in Non-VIP configuration) and AoN for procurement of 12 helicopters was accorded in January 2006. This resulted in increase in contract cost which was concluded in February 2010 by ₹1240 crore.

Ministry stated (March 2013) that in order to meet the operational and security requirements projected by SPG, the quantity of helicopters was increased from 8 to 12. The requirement projected by SPG specified that 'X' number of similar type helicopters were deployed for a particular movement of VVIP. Ministry also emphasized that the number of helicopters that can be used for carrying VVIPs has remained eight in number.

We observed that the past trend of low utilisation levels (29 *per cent* approx) over a period of 11 years (1999-2010) of the existing fleet of eight helicopters by VVIPs and rest of the flying for the training and use by the OEPs⁹ does not

⁹ OEPs – Other Entitled Persons

lend credence to Ministry's justification for additional procurement of helicopters. This apprehension was also expressed by the RM.

Ministry further stated (April 2013) that the reasons for adding four helicopters for non-VVIP version cannot be linked to the utilisation level of the helicopters in the Communication Squadron.

The reply of Ministry is not acceptable as the Communication Squadron was managing the service of air transportation for VVIPs with the fleet of eight Mi-8 helicopters till present. As such, additional procurement of four helicopters costing ₹1240 crore was avoidable.

13 Delay in procurement

The DPP-2006 has indicated the time frame for each activity at Paragraph 74 Chapter- I, Appendix C to avoid delays in procurement. We observed delay in some of the activities with reference to the prescribed time schedule as given in Annexure-I.

We also observed that there were significant delays in finalization of procurement even though it was directed by the PMO to process the acquisition on fast track. Even the CCS observed that IAF/MoD had taken more than three years for the tendering process and field evaluation since the issue of revised RFP (September 2006). Such delays, despite the fact that the procurement process had been initiated in 1999, lacked justification.

Accepting the facts, Ministry stated in its reply (March 2013) that there was a delay as total time taken was 10 years and six months upto finalisation of the contract. It also stated that the TTL of the helicopter has now been extended upto 2014.

14 Non-compliance with Offset Provisions

Paragraph 22 of DPP-2006, *inter alia*, makes it obligatory for inclusion of an offset clause in all contracts where indicative cost is above ₹300 crore and the schemes are categorized as 'Buy (Global)' involving outright purchase from foreign / Indian vendors. The DPP prescribes a minimum of 30 *per cent* of the indicative cost of acquisition as offset obligation.

For the purpose of defence purchases made under the DPP-2006, offset obligations shall be discharged directly by any combination of the following methods:

- (a) Direct purchase of, or executing export orders for, defence products and components manufactured by, or services provided by, Indian defence industries, i.e., Defence Public Sector Undertakings, the Ordnance Factory Board, and any private defence industry manufacturing these products or components under an industrial licence granted for such manufacture. For the purpose of defence offset, “services” will mean maintenance, overhaul, upgradation, life extension, engineering, design, testing, defence related software or quality assurance services.
- (b) Direct foreign investment in Indian defence industries for industrial infrastructure for services, co-development, joint ventures and co-production of defence products.
- (c) Direct foreign investment in Indian organisations engaged in research in defence R&D as certified by Defence Offset Facilitation Agency (DOFA).

Paragraph 22 ‘Appendix D’ of DPP-2006 states *inter alia* that the offset obligations are to be fulfilled coterminous within the period of the main contract. The vendor has to submit the year-wise break up in offset programme regarding fulfillment of the offset obligation.

AgustaWestland had identified seven programmes which were to be completed as part of the offset contract. During scrutiny of the offset contract of AgustaWestland, we observed that offsets were allowed which were not compliant with the DPP provisions as discussed below:

(i) *Ineligible offset – Creation of civil infrastructure*

As per programme Sl.No.1 of the offset contract, AgustaWestland has to establish a VVIP support centre to support the IAF for VVIP operation in Delhi through Taneja Aerospace and Aviation Company, an Indian Offset

Partner (IOP) as a direct foreign investment. This package *inter alia* included, build or refurbishment of hangars, stores and office areas as a Direct Foreign Investment (DFI) in infrastructure. As per DPP-2006, construction of civil infrastructure was not a valid offset for discharge of offset obligation. In reply to an audit query (October 2011), Air HQ stated (December 2011) that if the vendor claims offset credit for civil infrastructure, this would not be allowed during vetting of quarterly reports. The reply does not address the issue as to how in the absence of an amendment to the contract, the deficit in discharge of offsets would be met, if the claim is disallowed. The acceptance of an inadmissible item for fulfillment of offset obligation and its inclusion in the contract was in deviation of the DPP-2006.

Ministry stated (April 2013) that vendor has submitted (September 2012) a proposal seeking contract amendment that deletes the construction of civil infrastructure and has included only defence related activities.

However, Ministry's reply is silent whether the proposal of the vendor has been accepted and any amendment to the contract is issued. The fact remains that an inadmissible item was included in the offset contract.

(ii) Inclusion of already completed work in the offset contract

Programme Sl. No. 3 of the offset contract catered for Engineering Design services to be provided through an IOP, IDS Infotech. As per original TEC report of March 2008, DOFA opined that this did not constitute an offset programme under the offset policy unless the same is treated as export orders. Therefore, DOFA had sought necessary clarification on this issue. It was clarified by AgustaWestland that the current package of work with the IDS Infotech was a discrete package of work involving the translation of current drawings into a CATIA format associated with the AW-129 helicopter. To that extent AgustaWestland proposed that this current programme of work with IDS Infotech be considered as qualifying as an offset credit against the engineering design service project. The proposal was accepted by Air HQ, which limited the offset credit to the direct purchase/executing export orders for services. However, in the Technical Offset Evaluation Committee (TOEC) report of August 2008, the offset obligation requirement included only the size

of initial work package of 10,000 man-hours. We observed that the details regarding type of services and export orders to be executed by IDS Infotech was not clearly indicated in the offset contract.

As per Quarterly Progress Report (QPR) for August 2012, the work identified under this project with IDS Infotech had been placed and completed prior to award (February 2010) of the contract. Since offset credit was not admissible for the same, AgustaWestland requested (August 2012) an amendment in the contract to delete IDS Infotech as IOP and requested for adding a new IOP. Till August 2012, the progress of offset under this project was Nil.

AgustaWestland also gave an year-wise break up of work for the offset programme from 2011 to 2014 even though the work had been completed well before the conclusion of the contract. Thus, the inclusion of this offset programme in the contract was inadmissible and was against the provisions of the DPP-2006.

Ministry stated (April 2013) that effective date of the main supply contract was 08 February 2010 and offset credit would be admissible only for purchases done after this date. Ministry also stated that the vendor had sought (September 2012) contract amendment to combine offset programmes at Sl. No.2 and 3 and to suitably amend the work package.

However, Ministry's reply is silent as to why already completed works were accepted and included in the contract. Also, Ministry has not offered its comments on the issue of ambiguity in the type of services and type of export orders to be executed by M/s IDS Infotech (IOP).

(iii) Inclusion of project unlikely to be completed within the contract period

As per programme Sl. No. 7 of the offset contract, there is a provision for manufacture and repair of helicopter sub-assemblies and components through IOPs viz. Hindustan Aeronautics Limited, Taneja Aerospace and Aviation Company, Dynamatic Technologies Ltd., Pranita Engineering Solutions and Sanghvi Aerospace (Private) Ltd at a cost of 22.28 million Euro which pertain to future Lynx helicopter packages of AgustaWestland. Lynx helicopter is

neither available with IAF nor with the Indian civil aviation. Since this is a futuristic project, the possibility of discharge of offset obligations within the period of contract is doubtful. Besides, of the five IOPs, four¹⁰ did not have industrial license for the manufacture of defence products at the time of contract. In reply to an audit observation (October 2011) Air HQ stated (December 2011) that IAF had no plan to induct Lynx helicopter in future. The project was not linked to indigenous demand and would result in true capability building. Air HQ also stated that companies were requested to apply for appropriate licenses.

The reply is not acceptable because till August 2012 the progress in discharge of offset obligation was Nil and therefore, the possibility of completion of project within the period of main contract is unlikely. This is even more so because AgustaWestland had also requested (August 2012) through a contract amendment to add one more company Merlinhawk as additional IOP against this project after deleting Sanghvi Aerospace (Private) Ltd. Further, without an industrial license for manufacture of defence products, these offset partners should not have been selected.

Ministry stated (April 2013) that TOEC was aware that these IOPs were not having industrial license for manufacture of defence products. Ministry also stated that the vendor has confirmed (March 2012) that out of five IOPs, four have obtained the requisite production licence and the Sanghvi Aerospace Pvt. Ltd, which did not have the requisite licence, has been deleted from IOP. It further added that the responsibility to complete the project in time lies with the vendor and in case he failed to do so, the penalties would be imposed as per the provisions of the offset contract.

The reply is not acceptable as these IOPs did not have the requisite license at the time of acceptance of offset contract. Besides, offset obligations have remained unfulfilled upto August 2012, Ministry in its reply has also not indicated whether the process of imposition of penalty on the vendor has been initiated.

¹⁰ Taneja Aerospace and Aviation Company, Dynamatic Technologies Ltd., Pranita Engineering solutions and Sanghvi Aerospace (Private) Ltd

15 Conclusion

The acquisition process for the VVIP helicopters had to resort to several deviations from the laid down procedures. The EH-101 helicopter (later renamed as AW-101 of AgustaWestland) could not be field evaluated in 2002 as it was certified to fly upto an altitude of 4572 metre only as against the mandatory altitude requirement of 6000 metre stipulated in the RFP. The procurement process was closed in 2003 by the MoD since the PMO had observed that the SQRs so framed had resulted in a single vendor situation. Subsequently, the SQRs were reframed in 2006 with an objective to broad base the competition and to avoid a resultant single vendor situation. In the revised RFP of 2006, the mandatory SQR of altitude requirement was reduced to 4500 metre and a cabin height of at least 1.8 metre was introduced. While the mandatory requirement of minimum cabin height reduced the competition, the lowering of altitude requirement was against the inescapable operational requirement of 6000 metre. Even with the revision of the SQRs, the acquisition process again led to a resultant single vendor situation in 2010 and AW-101 AgustaWestland was selected.

As the acquisition process was inordinately delayed, IAF continued to face operational disadvantage on account of use of ageing helicopters. A critical requirement of replacement of ageing fleet of Mi-8 helicopters could not be fulfilled even after thirteen years of initiation of the acquisition process, due to failure of MoD/IAF to devise realistic SQRs.

Evaluation of helicopters following different methodologies could not give the desired assurance, especially in the light of the RM's directives to provide equal opportunity to shortlisted vendors for field trials. Field Evaluation Trial (FET) was conducted abroad on the representative helicopters of AgustaWestland and not on the actual helicopter (AW-101) contracted. The contracted helicopter was still in its developmental phase, as stated by the vendor. Thus, the recommendation and assurance given by Chief of the Air Staff (October 2007) to conduct FET abroad lacked justification.

While the intention of Paragraph 75 appears that it is to be invoked in exceptional circumstances for certain contingencies or exigencies which may have arisen subsequent to the issue of the RFP, in this case the frequent exercise of this procedure are counter to the principal aim with which the paragraph has been incorporated in the DPP-2006.

The benchmarked cost adopted by CNC was unreasonably high compared to the offered cost. Hence it provided no realistic basis for obtaining an assurance about the reasonableness of cost of procurement of AW-101 helicopters. There were also violations of DPP in respect of fulfillment of offset obligations.

New Delhi
Dated:

(RAJIV KUMAR PANDEY)
Principal Director of Audit
Air Force

Countersigned

New Delhi
Dated:

(VINOD RAI)
Comptroller and Auditor General of India

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ANNEXURE -I

TIME TAKEN FOR PROCUREMENT ACTIVITIES

Sl. No.	Activity	Prescribed Time as per DPP-2006		Actual Time Taken	
		Time (months)	Cumulative	Time (months)	Cumulative
1.	Acceptance of Necessity (AoN)	1	1	1	1
2.	Request for Proposals (RFP)	4	5	13	14
3.	Technical Evaluation up to acceptance by DG (Acquisition).	4	9	10	24
4.	<u>Trials.</u> Field trials /DGQA/ Maintainability trials including receipt of trial report, preparation and approval of Staff evaluation at Service HQ.	6-12	15-21	2	26
5.	<u>Staff Evaluations.</u> Examination by Technical Manager and acceptance of Staff Evaluation by DG (Acq).	1	16-22	2	28
6.	Technical Oversight Committee (For cases over ₹300 crore).	1	17-23	1	29
7	Commercial Negotiation Committee (CNC) up to signing of contract.	6-11	23-34	20	49
8	Total maximum time permitted/ taken.		34	49	49

Chronology of Events

Sl No.	Date	Event
1	August 1999	Air HQ proposed the replacement of six authorized VIP helicopters (Total Technical Life 'TTL' of 20 years for VIP flying of these helicopters was to expire in year 2008) by eight helicopters on grounds of maintenance requirement and technical inadequacy of helicopters for VIP flying.
2	August 2000	In principle approval for replacement (cost above ₹50 crore) was accorded by the Raksha Mantri (RM).
3	April 2001	The flight evaluation of Mi-172 helicopter in Russia and EC-225 helicopter in France was carried out by IAF vis-à-vis tentative ORs.
4	August 2001	Tentative ORs revised.
5	January/February 2002	ORs finalized before issue of RFP.
6	20 March 2002	A global request for proposal (RFP) issued to eleven vendors.
7	10 June 2002	Technical proposal opened of four vendors who had responded to the RFP.
8	July 2002	The Technical Evaluation Committee (TEC) short listed three helicopters i.e. Mi-172 (M/s Kazan, Russia), EC-225 (M/s Eurocopter, France) & EH-101 (AW-101)
9	November - December 2002	The flight evaluation of Mi-172 & EC-225 was carried out. The flight evaluation of EH-101 (AW-101) could not be done because the helicopter was not certified for an altitude of 6000 metre, a mandatory operational requirement (OR).

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10	May 2003	The flight evaluation report was submitted. EC-225 was found worthy of acquisition.
11	November 2003	Prime Minister Office (PMO)'s comments were received on the adequacy of cabin height of EC-225 ranging between 1.39 & 1.45 metre.
12	December 2003	The PMO observed that framing of mandatory ORs have effectively led the acquisition into a single vendor situation.
13	March 2005	National Security Advisor (NSA) directed MoD/Air HQ to revise the ORs in consultation with PMO & re-issue the RFP. It was also decided that ORs should broadly conform to the parametres of Mi-8 Operational specifications and to be drawn by taking into account the security, communication, & cabin configuration to ensure comfort for VIPs and a single vendor situation be avoided.
14	07 March 2005	Revised ORs stipulated, <i>inter alia</i> , a mandatory altitude ceiling of 4500 metre and cabin height of 1.8 metre.
15	January 2006	Acceptance of Necessity (AoN) for replacement of the existing fleet by twelve helicopters (8 in VIP & 4 in non-VIP configuration) at ₹793 crore was granted by the Defence Acquisition Council (DAC) on the ground that hitherto additional helicopters from IAF were possible as VIP helicopter used to be Mi-8.
16	March 2006	The quantity of helicopters proposed for procurement was vetted by the RM.
17	27 September 2006	RFP was issued to six vendors.
18	12 February 2007	Technical proposal of received three bids opened.

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19	12 February 2007	The technical proposal opened. Out of the three vendors, the proposal of M/s Rosoboronexport was rejected by MoD for non-submission of Earnest Money Deposit (EMD) and Integrity Pact required in terms of the RFP. Technical Evaluation Committee (TEC) convened.
20	16 August 2007	TEC recommended the remaining two vendors M/s Sikorsky (S-92) & M/s AW (AW-101) for Field Evaluation Trials (FET).
21	16 January 2008 to 07 February 2008	The FET of the helicopters was carried out in UK & USA.
22	April 2008	The Staff Evaluation based on the FET Report recommended induction of AW-101 helicopter.
23	01 May 2008	The CNC was constituted.
24	02 September 2008	The commercial offer of M/s AW was opened (offer cost Euro 592.032 million).
25	04 February 2009	The CNC recommended conclusion of the contract at negotiated price of Euro 556.262 million (₹3726.96 crore @ ₹67 per Euro) inclusive of a cost of Euro 10.21 million for the additional equipment of TCAS-II (Traffic Collision & Avoidance System), EGPWS (Enhanced Ground Proximity Warning System) & Lifeport.
26	27 January 2010	The CCS approved the proposal with observations.
27	08 February 2010	Ministry of Defence (MoD) concluded a contract with M/s AW for the supply of 12 AW-101 VIP/Non-VIP helicopters at an aggregated price of Euro 556.262 million (₹3726.96 crore @ ₹67 per Euro).
28	November 2012 - February 2013	Delivery of three helicopters.