



Defense Procurement Issues

Australia: Gate Review Boards

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France: Cost Controls

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Israel: Procurement Procedures and the Iron Dome Case

•

Sweden: Pay Structure of the Acquisition Workforce

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Australia: Gate Review Boards

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SUMMARY Currently, the single overarching procurement policy framework for Australia's Department of Defence is managed by the Defence Materiel Organisation (DMO). Since 2008, as part of its assurance and accountability processes, the DMO has utilized Gate Reviews to examine acquisition projects at key milestones ("gates"). The reviews are conducted by boards made up of certain senior Defence staff and external members who are senior executives with experience in the management of large-scale projects or with similar expertise. Various reports have indicated that the DMO considers the Gate Review program to be successful in providing high-quality and reliable advice on risks at different stages of major acquisition projects.

On April 1, 2015, the Minister for Defence released a report on a first principles review of Defence. As a result of this review, the government will implement major changes to structures and accountability processes with regard to procurement. These include the disbanding of the DMO and transferal of its core functions to a new Capability Acquisition and Sustainment Group within Defence.

I. Regulatory Framework

The procurement system of Australia's Department of Defence is governed by the Public Governance, Performance and Accountability Act 2013 (Cth),¹ which applies to all federal entities.² Under this legislation, the 2014 Commonwealth Procurement Rules provide "the Government Policy Framework under which entities govern and undertake their own procurement."³ Other federal procurement-related policies and initiatives also impact Defence procurement processes.

Defence has its own internal mandatory procurement guidance, which is contained in the Defence Procurement Policy Manual⁴ and the Defence Procurement Policy Instructions,⁵

¹ Public Governance, Performance and Accountability Act 2013 (Cth), <http://www.comlaw.gov.au/Details/C2015C00187>.

² See generally *PGPA Act Legislation and Associated Instruments*, DEPARTMENT OF FINANCE, <http://www.finance.gov.au/resource-management/pgpa-legislation/> (last visited Apr. 27, 2015).

³ *Commonwealth Procurement Rules*, DEPARTMENT OF FINANCE, <http://www.finance.gov.au/procurement/procurement-policy-and-guidance/commonwealth-procurement-rules/> (last visited Apr. 27, 2015).

⁴ *Defence Procurement Policy Manual*, DEPARTMENT OF DEFENCE, DEFENCE MATERIEL ORGANISATION, <http://www.defence.gov.au/dmo/DoingBusiness/ProcurementDefence/Policies/DefencePolicyProcurementManual/> (last visited Apr. 27, 2015).

⁵ *Relevant Departmental Procurement Policy Instructions*, DEPARTMENT OF DEFENCE, DEFENCE MATERIEL ORGANISATION, <http://www.defence.gov.au/dmo/DoingBusiness/ProcurementDefence/Policies/DefenceProcurementPolicyInstructions/> (last visited Apr. 27, 2015).

supplemented and supported by other instructions,⁶ best practice guides,⁷ and templates. The single overarching policy framework is currently managed by the Defence Materiel Organisation (DMO).⁸

II. Defence Materiel Organisation

The DMO, which was established in 2000, “buys and maintains equipment for the Australian Defence Force (ADF).”⁹ It employs about 6,600 people in more than seventy locations across Australia and overseas¹⁰ and is organized into four business groups: Commercial; Joint, Systems and Air; Land and Maritime; and Submarines.¹¹ For the 2015–16 fiscal year (ending June 30, 2016), the DMO is managing a budget of AU\$12.6 billion (approximately US\$10 billion), equating to about 43% of the overall Defence budget.¹²

On April 1, 2015, the government released a report on a review aimed at enhancing the efficiency and effectiveness of Defence structures and processes. The Minister for Defence announced that the government had accepted nearly all of the recommendations in the report and that the implementation of various reforms across the organization would begin immediately.¹³ As part of these reforms, according to the Minister, “there will not be DMO in the future, there’ll be a new capability and sustainment group within Defence which will have a life of project orientation.”¹⁴ Further information on the review is provided in Part IV, below.

⁶ *Defence Materiel Instruction (Procurement) Known as DMI(PROC)*, DEPARTMENT OF DEFENCE, DEFENCE MATERIEL ORGANISATION, <http://www.defence.gov.au/dmo/DoingBusiness/ProcurementDefence/Policies/DefenceMaterielInstructionProcurement/> (last visited Apr. 25, 2015).

⁷ *Better Practice Guides*, DEPARTMENT OF DEFENCE, DEFENCE MATERIEL ORGANISATION, <http://www.defence.gov.au/dmo/DoingBusiness/ProcurementDefence/Policies/Betterpracticeguide/> (last visited Apr. 27, 2015).

⁸ *Procurement in Defence*, DEPARTMENT OF DEFENCE, DEFENCE MATERIEL ORGANISATION, <http://www.defence.gov.au/dmo/DoingBusiness/ProcurementDefence/> (last visited Apr. 27, 2015).

⁹ DEPARTMENT OF DEFENCE, DEFENCE MATERIEL ORGANISATION, INTRODUCING THE DEFENCE MATERIEL ORGANISATION (Apr. 2015), http://www.defence.gov.au/dmo/Multimedia/Introducing_the_DMO_-_APRIL_2015-9-4570.pdf.

¹⁰ *Id.*

¹¹ *Our Structure*, DEPARTMENT OF DEFENCE, DEFENCE MATERIEL ORGANISATION, <http://www.defence.gov.au/dmo/AboutDMO/OurStructure/> (last visited Apr. 27, 2015).

¹² INTRODUCING THE DEFENCE MATERIEL ORGANISATION, *supra* note 9.

¹³ Press Release, Minister for Defence, First Principles Review of Defence (Apr. 1, 2015), <http://www.minister.defence.gov.au/2015/04/01/first-principles-review-of-defence/>.

¹⁴ Transcript, Minister for Defence, The First Principles Review Announcement (Apr. 1, 2015), <http://www.minister.defence.gov.au/2015/04/01/minister-for-defence-transcript-the-first-principles-review-announcement-1-april-2014/>.

III. Gate Review Boards

The DMO uses Gate Reviews as part of its internal assurance processes for acquisition projects. Such reviews were first introduced in 2008. The 2007–8 *Defence Annual Report* stated that

[t]he DMO has implemented a program of Gate Reviews to examine projects at nine key milestones, or ‘gates’, across the life of a project. The review board for the DMO’s most complex high-value projects comprises its three General Managers, DMO executives and senior representatives from the Services and Capability Development Group. The projects selected for review at a particular gate will be based on a risk assessment.¹⁵

In September 2008, a report by David Mortimer on his review of Defence procurement and sustainment (Mortimer Review) suggested that such reviews be expanded.¹⁶ The 2008–9 *Defence Annual Report* stated that

[a]s a result of recommendations from the recent Mortimer Review and following an internal DMO review, the DMO has decided to incorporate the function of Domain Assurance Boards into strengthened Gate Reviews—to be known as Gate Review Assurance Boards (GRAB). These Boards, which will commence operation from 1 July 2009, will conduct formal project reviews before selected key project milestones. It is envisioned that reviewing projects at key points—or Gates—will enhance the management and assurance of DMO projects.¹⁷

The DMO started work on drafting a Defence Materiel Instruction (DMI) on Gate Reviews in May 2009. The draft DMI was subsequently approved in December 2009 and stated that every major capital project would undergo periodic Gate Reviews approximately annually.¹⁸

The 2010–11 *Defence Annual Report* stated that

[e]ach project’s performance is compared against defined project characteristics from the Government approved baselines at the key milestones of Project Initiation, First Pass and Second Pass. A project triggering a breach on mandated thresholds will immediately be

¹⁵ 2 DEPARTMENT OF DEFENCE, DEFENCE ANNUAL REPORT 2007–08 at 90 (2008), http://www.defence.gov.au/AnnualReports/07-08/vol2/ch6_02.htm.

¹⁶ GOING TO THE NEXT LEVEL: THE REPORT OF THE DEFENCE PROCUREMENT AND SUSTAINMENT REVIEW 35 (2008), <http://www.defence.gov.au/dmo/AboutDMO/CurrentReviews/MortimerReview/>.

¹⁷ 2 DEPARTMENT OF DEFENCE, DEFENCE ANNUAL REPORT 2008–09 (2009), http://www.defence.gov.au/AnnualReports/08-09/vol2/ch06_03.htm.

¹⁸ This and related policy documents are described in AUSTRALIAN NATIONAL AUDIT OFFICE, GATE REVIEWS FOR CAPITAL ACQUISITION PROJECTS (DEPARTMENT OF DEFENCE) (Audit Report No. 52, 2011-12), at 56–81 (2012), <http://www.anao.gov.au/~media/Uploads/Audit%20Reports/2011%2012/201112%20Audit%20Report%2052.pdf>. Current Defence Materiel Procurement Instructions are available on the DMO website at <http://www.defence.gov.au/dmo/DoingBusiness/ProcurementDefence/Policies/DefenceMaterielInstructionProcurement/> (last visited Apr. 27, 2015).

notified to line management to determine remedial actions which including notifying the Government and may then include a Gate Review.¹⁹

Regarding the Gate Review process, the report stated that

Gate Reviews are an important part of DMO's assurance process. Gate Reviews are designed to improve overall project outcomes and ensure DMO is able to provide high quality and reliable advice to Defence and Government regarding the health and outlook of major capital acquisition projects at key stages (or gates) or a project's development. A combination of senior DMO executives and external board members provide an assessment of project maturity, performance and plans against the Government approved business case, normally in the lead up to key project decision points. Based on the findings of the board, assistance and direction are provided to the project. The Chair of each Gate Review makes a recommendation to the CEO DMO regarding the readiness of the project to progress to the next stage of the project life cycle.

A new Independent Project Performance Office was established within the DMO during 2011, with one element of its role being to "further expand the Gate Review program to include at least one annual review of every DMO major capital acquisition project."²⁰

In June 2012, the Australian National Audit Office reported on its performance audit of Gate Reviews conducted for Defence capital acquisition projects.²¹ The report discussed the background to the establishment of Gate Reviews, the development of relevant administrative policies, and the number of reviews undertaken, in addition to analyzing the conduct of the reviews and whether they had met the essential characteristics established by the DMO. It also considered the monitoring and review processes of the DMO with respect to Gate Reviews and any follow-up actions that resulted from the reviews. The Audit Office made recommendations relating to monitoring the completion of such actions, systematically evaluating the Gate Review process and collecting and analyzing data from Gate Reviews.²² Its conclusions included the following:

DMO has declared the Gate Review program successful since its inception in mid-2008. The results for a program such as this are difficult to measure objectively given the qualitative nature of the effects of Gate Reviews on project outcomes and lengthy project lifecycles. . . .

While Gate Reviews are creating a large number of actions intended to reduce risk and improve project outcomes, DMO has not yet established a reliable monitoring system to ensure these actions are completed as planned. The absence of such a system diminishes the value of the program and further inhibits the ability to measure its effectiveness.

¹⁹ 2 DEPARTMENT OF DEFENCE, DEFENCE ANNUAL REPORT 2010–11 at 110 (2011), http://www.defence.gov.au/AnnualReports/10-11/dar_1011_v2_s2.pdf.

²⁰ *Id.*

²¹ AUSTRALIAN NATIONAL AUDIT OFFICE, *supra* note 18.

²² *Id.* at 17.

Maintaining the program within current resource levels presents a challenge for DMO. The program risks a reduction in rigour as the organization aspires to attain the rate of Gate Reviews suggested by the policy. . . . Further, it is necessary to ensure that regular project management and oversight processes continue to improve. Gate Reviews are a useful supplement, but no substitute, for effective day-to-day management of projects.²³

In a 2012 bulletin, the DMO provided a list of strengths of Gate Reviews, as well as ways to improve them, based on feedback from external “Gate Reviewers.” The strengths included the following: Gate Reviews are collegial and encourage full and frank discussion of problems; they enable a “project health check” and reduce the need for ad hoc peer reviews; they are able to highlight systemic issues and best practices; they enhance the DMO’s “awareness, responsibility and accountability”; and the review boards are independent of management and provide fresh perspectives.²⁴

Some more recent DMO-related materials also refer to Gate Review Boards. For example, the Audit Office’s *2013–14 Major Projects Report* states that “while the Gate Review process is continuing to evolve, the DMO intend to review their application within acquisition and expand into sustainment in future years.”²⁵ The DMO website states that external senior executives are currently being sought to join Gate Review Boards. Applicants should “have extensive experience and expertise in the management of large scale projects, complex commercial relationships and contracts, and/or management of complex technology and systems integration.”²⁶

IV. First Principles Review of Defence

In August 2014, the Minister of Defence commissioned a “first principles” review of Defence “to ensure that Defence is fit for purpose and is able to deliver against its strategy with the minimum resources necessary.”²⁷ The resulting report, which was released on April 1, 2015, made seventy-six specific recommendations aimed at creating a “more unified and integrated organisation that is more consistently linked to its strategy and clearly led by its centre.”²⁸ The reviewers called this a “One Defence” approach. The recommendations were accompanied by a

²³ *Id.* at 105–6.

²⁴ *On the Right Track*, DMO BULLETIN, Issue No. 6 (2012), <http://www.defence.gov.au/dmo/NewsMedia/DMOBulletin/archive/2012-issue-6/OnTheRightTrack>.

²⁵ AUSTRALIAN NATIONAL AUDIT OFFICE, 2013–14 MAJOR PROJECTS REPORT, DEFENCE MATERIEL ORGANISATION (ANAO Report No. 14, 2014–15), at 22 (2014), http://www.defence.gov.au/dmo/multimedia/anao-report_2013-2014.pdf.

²⁶ *DMO Is Seeking Senior Executives to Join Its Gate Review Boards*, DEPARTMENT OF DEFENCE, DEFENCE MATERIEL ORGANISATION, <http://www.defence.gov.au/dmo/AboutDMO/WhoWeAre/gatereview.aspx> (last visited Apr. 27, 2015).

²⁷ *First Principles Review: Home*, DEPARTMENT OF DEFENCE, <http://www.defence.gov.au/publications/reviews/firstprinciples/> (last visited Apr. 27, 2015).

²⁸ FIRST PRINCIPLES REVIEW: CREATING ONE DEFENCE 5 (Apr. 2015), <http://www.defence.gov.au/publications/reviews/firstprinciples/Docs/FirstPrinciplesReviewB.pdf>.

“high level implementation plan.”²⁹ With regard to the DMO and relevant accountability structures and processes, the recommendations included

- 2.1 disbanding the Capability Development Group and dispersing its functions to more appropriate areas
- 2.2 disbanding the Defence Materiel Organisation and transferring its core responsibilities in relation to capability delivery to a new Capability Acquisition and Sustainment Group
- 2.3 developing a new organisational design and structure as part of the implementation process for the Capability Acquisition and Sustainment Group with reduced management layers
- 2.4 examining each System Program Office to determine where each fits within the smart buyer function, the most appropriate procurement model and achieving value for money
- 2.5 the Capability Managers specify the Fundamental Inputs to Capability requirements with the Capability Acquisition and Sustainment Group having responsibility for developing and delivering an integrated project plan
- 2.6 the accountability for requirements setting and management be transferred to the Vice Chief of the Defence Force and the Service Chiefs with strategic, financial and technical contestability being located with Deputy Secretary Policy and Intelligence
- 2.7 that the Independent Project Performance Office and the Capability Investment and Resources Division be relocated to Deputy Secretary Policy and Intelligence, significantly enhanced and strengthened to provide such contest
- 2.8 revising the Defence investment approval process for all large or complex capability projects
- 2.9 introducing a new formal gate into the process at entry point - Gate Zero: Investment Portfolio entry
- 2.10 Government increase approval thresholds for capability development projects, with ministerial approval required only for projects above \$20 million [approximately US\$15.9 million], two ministers above \$100 million [approximately US\$79.4 million] and Cabinet above \$250 million [approximately US\$198.6 million]
- 2.11 significant investment to develop an operational framework which comprehensively explains how the organisation operates and the roles and responsibilities within it; detailing the life cycle management processes which provide project and engineering discipline to manage complex materiel procurement from initiation to disposal; and reviewing architecture to reinforce accountability at all levels and bringing together information upon which good management decisions can be made
- 2.12 the Deputy Secretary Capability Acquisition and Sustainment must sign off and assure the Secretary of the operational output of each of his/her divisions every quarter and on major contracts on a monthly basis³⁰

As noted above, the government has indicated that it will implement all but one of the recommendations in the report. It stated that it agreed “in principle” with some of the

²⁹ *Id.* at 6 & 75.

³⁰ *Id.* at 9.

recommendations listed above, specifically the recommendation related to increasing the approval thresholds for capability development projects and ceasing the use of net personnel operating costs. For these, the government “has placed reasonable caveats on how and when those recommendations will be implemented.”³¹

News reports following the release of the review report stated that the recommendations would lead to the “biggest shake-up yet” of Defence.³² The executive director of the Australian Strategic Policy Institute commented that he considered the decision to move the DMO into Defence a sensible one, stating that “[w]e’ll have a redesign of the Defence Materiel Organisation, the equipment purchases I think will have a more rational approach to how we take the idea of equipment purchasing from concept through to delivery,” and “I think partly what we’re talking about here is a cultural change. To bring the commercial purchases of equipment more closely into alignment with what the services want as the ultimate final uses of the equipment.”³³

It is unclear whether the use and role of Gate Reviews will change under the new structure and related reforms.

³¹ Press Release, Minister for Defence, *supra* note 13.

³² Kristin Shorten, *Australian Defence Force Jobs Could Be Axed After One Defence Review*, NEWS.COM.AU (Apr. 2, 2015), <http://www.news.com.au/national/politics/australian-defence-force-jobs-could-be-axed-after-one-defence-review/story-fns0jze1-1227288462562>.

³³ Andrew Greene, *About 1,650 Jobs to Go in Major Shake-up of Defence Bureaucracy*, ABC NEWS (Apr. 1, 2015), <http://www.abc.net.au/news/2015-04-01/military-equipment-agency-abolished/6364554>.

France: Cost Controls

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SUMMARY The French defense acquisitions system is highly centralized. The main agency in charge of military acquisitions is the Directorate General for Armament (DGA), which is involved throughout the acquisitions process. Its employees include highly qualified experts in engineering, finance, and accounting, which allows it to properly evaluate and monitor acquisition projects. Furthermore, the DGA mostly uses fixed cost contracts, which incentivize contractors to stay within agreed-upon budgets and time-frames. The DGA typically divides projects into subcontracts in order to promote competitive bidding on each component, and is often open to increasing competition by looking at potential contractors beyond French borders, particularly within the European Union. Finally, French law provides the DGA with a strong authority to monitor military procurement contracts.

I. Introduction

France maintained high levels of defense spending during the Cold War, but budgetary constraints increasingly became the norm after the fall of the Berlin Wall.¹ French military expenditures rose again from 2001 to 2009, though not quite back to pre-1990 levels.² Over the last few years, however, weak economic growth and increased budgetary pressures have caused them to fall again.³ As a result, the French government has had to take measures to optimize its resources over much of the last twenty-five years.

Some authors have argued that France has largely been successful in implementing effective cost control measures.⁴ This may be attributable to a combination of several factors, including the centralized nature of French military procurement, the expertise and authority of the agency in charge of military procurement, the widespread use of fixed-price contracts, access to a competitive pool of potential contractors, and strong monitoring.

¹ Brunot Rémond, *L'équilibre des ressources budgétaires et des besoins financiers* [*The Balancing of Budgetary Resources and Financial Needs*], in PEUT-ON PRÉSERVER LA PROGRAMMATION MILITAIRE ? [CAN WE SAVE MILITARY PROGRAMMING?] 38 (Jean-Michel Boucheron & Arthur Paecht eds., Jan. 1998).

² *Dépenses militaires* [*Military Spending*], LES ECHOS DATA, <http://data.lesechos.fr/pays-indicateur/france/depenses-militaires.html> (last visited Apr. 30, 2015).

³ Steven Erlanger, *Grim Economics Shape France's Military Spending*, N.Y. TIMES (Apr. 29, 2013), http://www.nytimes.com/2013/04/30/world/europe/grim-economics-shape-frances-military-spending.html?_r=0.

⁴ Ethan Kapstein & Jean-Michel Oudot, *Reforming Defense Procurement: Lessons from France*, 11(2) BUSINESS AND POLITICS Article 1 (2009), <http://www.degruyter.com/view/j/bap.2009.11.2/bap.2009.11.2.1264/bap.2009.11.2.1264.xml> (subscription required; click on “full text PDF”).

II. Highly Centralized Process

The French Constitution provides that Parliament should determine the government's budget and broad policy objectives, as well as the general organizational structure of national defense.⁵ Beyond such broad policy prescriptions, however, it is the executive branch that has authority over the military.⁶ As a result of this, the French military acquisition system is very centralized, and involves only limited legislative input.⁷

Within the French executive branch, responsibility for implementing defense policy, including military acquisition, falls principally upon the Defense Minister.⁸ In turn, within the Ministry of Defense, military acquisition and defense-related industrial policy fall within the purview of the Délégué général pour l'armement (General Delegate for Armament).⁹

III. Duties of the Directorate General for Armament

The General Delegate for Armament's responsibilities include counseling the Defense Minister on research policy, implementing decisions concerning equipping the armed forces, international relations and cooperation in matters of armament, supervising defense-related companies, and promoting the development of France's defense-related technological and industrial capabilities.¹⁰ In order to fulfill those responsibilities, the General Delegate for Armament has a large agency under his authority: the Direction générale de l'armement (DGA – Directorate General for Armament).¹¹ This agency has approximately 9,800 employees, including a significant number of engineers (over 51% of employees are either engineers or have a managerial role).¹² Its regulatory mandate includes the following duties:

⁵ CONSTITUTION art. 34, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000006071194>.

⁶ *Id.* arts. 15, 20 & 21.

⁷ Kapstein & Oudot, *supra* note 4, at 10 (“France’s legislative body, the National Assembly, has little ability to intervene in specific weapons programs, since it only votes up or down on a ‘global’ package of defense expenditures, as presented by the government in its multi annual “defense programming law” (‘loi de programmation militaire’).”).

⁸ *Organisation des pouvoirs en matière de défense et de sécurité* [Organization of Authorities in Matters of Defense and Security], MINISTÈRE DE LA DÉFENSE [DEFENSE MINISTRY], (May 21, 2012), <http://www.defense.gouv.fr/portail-defense/ministere/organisation/organisation-des-pouvoirs-en-matiere-de-defense-et-de-securite>.

⁹ *Organigramme simplifié du ministère de la défense* [Simplified Organizational Chart of the Ministry of Defense], MINISTÈRE DE LA DÉFENSE [DEFENSE MINISTRY], (Nov. 13, 2012), <http://www.defense.gouv.fr/portail-defense/ministere/organisation/organisation-du-ministere-de-la-defense/organigramme-simplifie-du-ministere-de-la-defense/organigramme>.

¹⁰ Décret n° 2009-1180 du 5 octobre 2009 fixant les attributions et l'organisation de la direction générale de l'armement [Decree No. 2009-1180 of October 5, 2009, Establishing the Attributions and the Organization of the General Directorate for Armament] art. 1 (Oct. 5, 2009), http://legifrance.gouv.fr/affichTexte.do?sessionId=09262DA36D28545BD05A2A9017569406.tpdila12v_1?cidTexte=JORFTEXT000021113897&dateTexte=20150429.

¹¹ *Id.* art. 2.

¹² *Présentation de la Direction générale de l'armement* [Presentation of the General Directorate for Armament], DIRECTION GÉNÉRALE DE L'ARMEMENT [GENERAL DIRECTORATE FOR ARMAMENT] (Feb. 23, 2015), <http://www.defense.gouv.fr/dga/la-dga2/missions/presentation-de-la-direction-generale-de-l-armement>.

- Conduct studies on weapons systems, defense equipment and materiel, software, and relevant installations
- Form an acquisition strategy for the above-mentioned materiel and systems
- Establish and implement its own policies with regard to procurement and cost controls
- Implement procurement operations within established costs and time frames, with an eye towards the rationality of these operations
- Formulate the Ministry of Defense's policies with regard to integrated logistical support, and define the methods to implement these policies
- Evaluate the armed forces' satisfaction in the operational use of the materiel and systems provided, and take corrective actions when necessary
- Form the Ministry of Defense's scientific, industrial, and technological strategies and ensure that the national and European industrial and technological sectors are able to fulfill the nation's armament and security requirements
- Establish financial procedures and accounting standards, and ensure financial and accounting control over procurement operations¹³

IV. Agency With A High Level of Expertise

One of the DGA's major assets is the fact that many of its employees are highly qualified engineers, who usually come from elite schools.¹⁴ This provides the agency with the technical knowledge necessary to properly evaluate projects, measure potential risks, and assess the performance of contractors.¹⁵ Furthermore, the leadership of many French aeronautical and defense companies graduated from the same elite engineering schools as these DGA employees, which some claim promotes a close level of cooperation and understanding between the agency and contractors.¹⁶

In addition to engineering expertise, the DGA emphasizes financial and accounting expertise, and has also increased efforts towards improving its links with the military officer corps.¹⁷ Its current practice appears to be based on the use of integrated teams involving military officers, engineers, and financial and accounting experts, especially in the early definitional phases of a project.¹⁸ Furthermore, the DGA appears to have become a more cohesive and efficient

¹³ Décret n° 2009-1180 du 5 octobre 2009, arts. 4–10.

¹⁴ Kapstein & Oudot, *supra* note 4, at 10; Catherine Hoeffler, *Les réformes des systèmes d'acquisition d'armement en France et en Allemagne : un retour paradoxal des militaires?* [Weapons Acquisition Systems Reform in France and in Germany: Towards a Paradoxal Return of the Military?], 15(1) REVUE INTERNATIONALE DE POLITIQUE COMPARÉE [INTERNATIONAL COMPARATIVE POLITICS REVIEW] 138 (2008), http://www.uclouvain.be/cps/ucl/doc/spri/documents/RIPC_2008_15-1_H.pdf.

¹⁵ Kapstein & Oudot, *supra* note 4, at 10-11.

¹⁶ *Id.* at 11.

¹⁷ Hoeffler, *supra* note 14, at 145.

¹⁸ *Id.*

organization in recent years. Whereas it used to be organized into three technical divisions (air, sea, and land), it is now organized in a more horizontal, functional manner that seeks to avoid the internal rivalries and the duplication of efforts that the former organization tended to foster.¹⁹

V. Flexible Fixed-Price Contracts

Some authors have also argued that France has been relatively successful in keeping military procurement costs down due to the DGA's preferred type of contractual arrangement. Indeed, in contrast with the "cost-plus" types of contracts that are usually used in the United States, where the contractor is usually paid for its expenses plus an agreed-upon profit, the DGA appears to favor fixed-price contracts.²⁰ The main objection that contractors often have towards fixed-price contracts is that they come with a high level of risk due to the unpredictable nature of technological research and development that underpins many military procurement deals. To help alleviate this, it appears that a strong effort is made to anticipate risks as much as possible. Since 2006, the initial financial framework of a project must be approved by a special cost-estimate committee of the DGA that focuses on the evaluation of risks and on the optimization of the project's specifications as compared to its cost.²¹ Furthermore, since it may be impossible to completely foresee potential pitfalls, the DGA appears to often build in a certain amount of flexibility into its procurement contracts that allow for frequent renegotiations and adjustments after the initial deal has been signed.²² Nonetheless, even with this type of flexibility, it appears that fixed-price contracts tend to provide a stronger incentive for the contractors to stay within agreed-upon budgets and time frames. Furthermore, it appears that many contract renegotiations end up in the government's favor.²³

VI. Taking Advantage of Competition

In addition to the above, the DGA appears to have a preference for separating competitions for systems integration from the major subcontracts. Thus, as two authors explain, "while there might be little or no competition when it comes to building a jet fighter—Dassault has a virtual monopoly which could only be broken via effective competition from non-French firms—there is a greater degree of competition at the level of most major components, such as avionics."²⁴ This competitiveness is also reinforced by the DGA's increasing reliance on cross-border

¹⁹ *Id.* at 146.

²⁰ Kapstein & Oudot, *supra* note 4, at 12.

²¹ COMMISSION DES AFFAIRES ÉTRANGÈRES, DE LA DÉFENSE ET DES FORCES ARMÉES [COMMISSION ON FOREIGN AFFAIRS, DEFENSE, AND THE ARMED FORCES], SÉNAT [SENATE], PROJET DE LOI DE FINANCES POUR 2014 : DÉFENSE : ÉQUIPEMENT DES FORCES ET EXCELLENCE TECHNOLOGIQUE DES INDUSTRIES DE DÉFENSE [DRAFT BUDGETARY LAW FOR 2014: DEFENSE: EQUIPMENT OF THE FORCES AND TECHNOLOGICAL ADVANCEMENT OF THE DEFENSE INDUSTRIES], Report No. 158 at 99 (Nov. 21, 2013), <http://www.senat.fr/rap/a13-158-8/a13-158-81.pdf>.

²² Kapstein & Oudot, *supra* note 4, at 13.

²³ *Id.* at 17.

²⁴ *Id.* at 12.

cooperation, particularly within the European Union, thus expanding the pool of potential suppliers that might bid on a contract.²⁵

VII. Strict Monitoring of Contractors

Finally, it is important to note that French law allows the DGA to impose intrusive monitoring conditions on the companies that are awarded defense procurement contracts. Indeed, the French Defense Code provides that government agencies that award contracts regarding war materiel may require the contractor company to submit to temporary or permanent monitoring from a government commissioner.²⁶ These commissioners, who are subject to an obligation of confidentiality,²⁷ gather any administrative, financial, or accounting-related information regarding the contractor that the government judges to be useful or necessary.²⁸ The contractor is under a legal obligation to provide all requested accounting and statistical documents, as well as supporting documentation, on the spot.²⁹ This, in conjunction with the DGA's high level of expertise, which would allow it to easily identify waste and fraud, likely helps minimize potential abuse and incompetence on the part of defense contractors.

²⁵ CARA BOULESTEIX, DEPARTMENT OF COMMERCE, U.S. COMMERCIAL SERVICE, FRANCE: 2012 DEFENSE BUSINESS OVERVIEW, U.S. COMMERCIAL SERVICE/OFFICE OF DEFENSE COOPERATION JOINT REPORT 3 (June 2012), http://www.buyusainfo.net/docs/x_2332740.pdf.

²⁶ CODE DE LA DÉFENSE [DEFENSE CODE] art. L2333-3, <http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006071307&dateTexte=20150430>.

²⁷ *Id.* art. L2333-5.

²⁸ *Id.* art. L2333-4.

²⁹ *Id.* art. L2333-6.

Israel: Procurement Procedures and the Iron Dome Case

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SUMMARY The procurement of goods and weapons systems for the Israeli military requires compliance with numerous detailed procedures. The process is intended to ensure an optimal response to the operational needs of the Israel Defense Forces (IDF) while addressing budgetary and timing considerations.

In general, once procurement needs are identified and examined by the IDF, they are submitted to the Ministry of Defense (MOD) for review, processing, and ordering from suppliers. The procurement of big-ticket defense systems, however, requires approval by the IDF Chief of Staff and top political (civilian) officials.

According to Israel's 2009 State Comptroller report, the activities undertaken by MOD officials in the predevelopment, development, and production stages of the Iron Dome air defense system, while they might have expedited the system's procurement, violated mandatory rules regarding the procurement of systems of its magnitude.

I. Introduction

The Israeli defense system is continuously engaged in the development and procurement of systems and goods for use by the Israel Defense Forces (IDF). The process of developing and acquiring goods and services for the IDF is very detailed and takes into consideration technical, logistical, and budgetary aspects of procurement.¹

Unlike regular types of goods and services acquired for the IDF, the procurement of expensive weapons systems requires governmental authorizations as early as in the predevelopment stage, as well as in the later stages of development and production.

This report provides a brief summary of the Israeli defense acquisition process and describes the Israeli State Comptroller's criticism of how the development and production of the Iron Dome air missile defense system were handled. The information provided is based exclusively on publicly available sources.

II. General Procurement Procedures

The procurement process generally starts with the identification of a need by an IDF unit or at the Ministry of Defense (MOD). The IDF has assigned special units for handling and submitting procurement requests to the MOD. Procurement requests are designed to provide a response to

¹ Defense Ministry Instruction No. 40.38 Requisition Bodies and Procurement Bodies – Contact with Suppliers Before Procurement and Request to Receive RFI, Jan. 25, 2000, *last amended* Sept. 4, 2006, available on the Ministry of Defense (MOD) website, at <http://www.mod.gov.il/Guidances/DocLib/H040380m.pdf>.

various needs of the IDF, and therefore include data on design, specifications, scope of work, testing standards, quantities, required or recommended delivery dates, budget, and other general information.²

Once submitted, procurement requests are processed by one of the appropriate procurement units at the MOD, which include the Department of Procurement and Production; the Department of Logistics and Assets; the Department of Research, Development, and Technological Infrastructure; and the Department of Engineering and Construction.³

III. Processing Defense Procurement Orders

The processing of defense procurement requests requires a definition of relevant operational needs and a budget estimate. According to MOD Instruction No. 40.38, obtaining information from suppliers through requests for information (RFI) in the preacquisition stage is generally required.⁴

The information received is used in preparing preliminary operational and technical definitions, analyzing technological and planning risks, setting the direction of the project, estimating the required budget and anticipated cost, and analyzing the relevant industry that produces the item to be procured.⁵

IV. Contracts with Suppliers

A procurement request becomes a purchase order after being approved, recorded in the MOD computer system, and designated a budget allocation. The execution of purchase orders generally requires the issuance of a public tender.⁶ As a general rule a supplier that wishes to participate in the tender must be included in an MOD list of recognized suppliers. After selecting the supplier, the MOD procurement unit issues a purchase order, which must be signed by the MOD and the supplier.⁷

The Public Tenders (Contracting with the Defense System) Regulations, 5753-1993 exempts certain transactions from the requirement of issuing a public tender. Among others, transactions under certain monetary amounts are exempted. Also exempted are transactions conducted with the sole supplier or with the sole person in Israel having the technological, scientific, or infrastructural ability to provide the service or the work.⁸

² *Procurement Procedures in Israel*, MOD, http://www.mod.gov.il/Service_Business/sapakim/purchasing_procedure/Pages/purchasing_procedure_il.aspx (in Hebrew; last visited Apr. 24, 2015).

³ *Id.*

⁴ Defense Ministry Instruction No. 40.38, § 3.

⁵ *Id.*

⁶ Public Tenders Law, 5752-1992, SEFER HAHUKIM [SH] (official gazette) No. 1387 p. 114, *as amended*, and regulations issued under this Law.

⁷ MOD, *supra* note 2.

⁸ Public Tenders Law § 3(1)–(2).

A similar exemption applies to any transaction involving the owner of a novel and unique idea in the defense area who has proposed an examination or first development of the idea, as long as the MOD committee that approves exemptions has determined that, for reasons that must be specified in writing, it is not appropriate to receive additional ideas from other sources. The committee's decision requires confirmation by the head of the Public Tenders Authority.⁹

V. Civilian Oversight of High Cost Weapons Development and Procurement

On the basis of Government Decision No. 637, rendered on July 28, 2013, a special ministerial committee was appointed to approve development and procurement requests of the defense system and intelligence bodies. According to the Decision, the purchase of any new weapons systems, combat support systems, etc., whose development or procurement costs exceed New Israeli Shekels (NIS) 500 million (about US\$127.5 million) in a multiannual budget, or NIS200 billion (about US\$51 billion) in an annual budget, and whose general cost-increase rate exceeds 30%, requires the approval of the ministerial committee.¹⁰

Under MOD Instruction No. 20.02,¹¹ referred to by Israel's State Comptroller in his 2009 annual report in connection with procedures undertaken for approval of the Iron Dome defense system,¹² authorization by the IDF Chief of Staff, the Minister of Defense, and the Israeli Government were required for the development and production of the Iron Dome system.¹³

VI. Iron Dome's Expedited Approval Process

Procedures associated with the development and production of the Iron Dome missile defense system were audited by the State Comptroller in 2009. In a comprehensive report titled *Preparedness for Periods of Emergency*, the State Comptroller criticized Brig. Gen. Daniel Gold, director of the MOD's Department of Weapons Systems Research and Development (DWSRD), for launching a billion-dollar project without the necessary approvals. The report concluded that the procurement procedures associated with development and production of the Iron Dome

⁹ *Id.* § 3(3).

¹⁰ *Approval of Development and Procurement by the Defense System and Intelligence Bodies*, PRIME MINISTER'S OFFICE, <http://www.pmo.gov.il/Secretary/ministersCommissions/Pages/ishurbitachon.aspx> (in Hebrew; last visited May 4, 2015).

¹¹ MOD Instruction No. 20.02, *cited in* STATE COMPTROLLER & OMBUDSMAN, STATE COMPTROLLER REPORT NO. 59A, PREPAREDNESS FOR PERIODS OF EMERGENCY 29 (Mar. 2, 2009), <http://old.mevaker.gov.il/serve/contentTree.asp?bookid=532&id=0&contentid=9887&parentcid=undefined&bctype=9887&sw=1280&hw=954> (in Hebrew). A search on the MOD website and in other publicly available sources has not located MOD Instruction No. 20.02.

¹² The Iron Dome is an Israeli-developed air defense and a short-range defense system designed to destroy enemy rockets, mortars, and artillery shells. In the 2014 conflict with Hamas, up to 90% of the rockets engaged by the Iron Dome were intercepted as they approached high-value Israeli targets. *See* Michaela Dodge, *Q & A: What Is This Iron Dome That Is Protecting Israel from Hamas Rockets?*, DAILY SIGNAL (July 14, 2014), <http://dailysignal.com/2014/07/14/q-iron-dome-protecting-israel-hamas-rockets/>.

¹³ STELA KORIN LIBER & YUVAL AZULAI, *This is How Lindenstrauss Killed Iron Dome in the State Comptroller's Report in 2009*, GLOBES (July 13, 2014), <http://www.globes.co.il/news/article.aspx?did=1000954182> (in Hebrew).

system violated MOD Instruction No. 20.02, as well as government decisions on civilian oversight of the defense system.¹⁴

The development of the system, which commenced in 2005, faced numerous obstacles, including then Prime Minister Ehud Olmert's refusal to divert government funds to the Iron Dome project. Development nevertheless continued owing to Gold's insistence and his disregard for what he termed "unnecessary bureaucracy."¹⁵

Gold's gamble reportedly paid off, however, when in early 2007 Israel's Minister of Defense at the time, Amir Peretz, announced his full support for the program, and committed an additional \$10 million in MOD funds to keep Iron Dome alive. By the end of 2007, Prime Minister Ehud Olmert and then Defense Minister Ehud Barak both supported the program and approved approximately \$200 million in additional funding.¹⁶

Despite the State Comptroller's criticism of the program's improper development and production procedures, news reports indicate that the Iron Dome project

was making lightning progress. An all-star team of engineers assembled from across Israeli defense companies worked around the clock. Pensioners were called out of retirement. The contest to design the warhead for the interceptor missile pitted a 25-year-old woman, fresh out of university, against a 30-year veteran of [RAFAEL, Advanced Defense Systems Ltd.].

And in 2009, during the first field test, an Iron Dome prototype successfully intercepted an incoming rocket.¹⁷

The system went operational in March 2011 and is credited with successfully intercepting thousands of rockets fired at Israel from Gaza.

A. Predevelopment Approval

According to MOD Instruction No. 20.02, the DWSRD is authorized to approve predevelopment activity related to weapons systems. During this predevelopment stage any proposed system whose development costs exceed NIS17 million or whose procurement costs exceed NIS90 million¹⁸ requires testing by the IDF authorizing body or relevant units in cooperation with the DWSRD. The DWSRD is also required to issue a testing document that compares possible solutions for the specified operational need and includes a weapon-procurement recommendation

¹⁴ STATE COMPTROLLER & OMBUDSMAN, *supra* note 11, at 29–37.

¹⁵ CHARLES LEVINSON & ADAM ENTOUS, *Israel's Iron Dome Defense Battled to Get Off Ground*, WALL ST. J. (Nov. 26, 2012), <http://www.wsj.com/articles/SB10001424127887324712504578136931078468210>.

¹⁶ *Id.*

¹⁷ *Id.* For information on RAFAEL, see *Welcome to RAFAEL*, RAFAEL: ADVANCED DEFENSE SYSTEMS LTD., <http://www.rafael.co.il/Marketing/197-en/Marketing.aspx> (last visited May 4, 2015).

¹⁸ Because the text of the Instruction could not be located, the relevant date for conversion into US dollars could not be verified.

accompanied by the weapon's specifications. Among other things, the document must include development cost estimates, time schedules, budget quotes, and necessary preparations for the system's introduction for IDF use.¹⁹

Having reviewed the predevelopment of Iron Dome, the State Comptroller, Micha Lindenstrauss, concluded that no testing had been conducted, nor had any testing document been filed.²⁰

B. Civilian Oversight of Expensive Systems

According to Lindenstrauss, Government Decision No. 87, issued on March 25, 2003, required that the development or procurement of weapons systems costing more than an amount specified in the Decision receive preapproval by the subcommittee of the Ministerial Committee for National Defense.²¹

Lindenstrauss found that the DWSRD had submitted the Iron Dome program for Government approval via the MOD in December 2007, after it had already been in development, and therefore the DWSRD was in violation of Government Decision No. 87.²²

C. Project Development

According to the State Comptroller's report, Gold issued instructions to DWSRD in August 2005 to fast-track Iron Dome's development and production, projecting eighteen months for the system's research and display, and three years for its full-scope development and procurement. He similarly authorized expediting the development "while overlapping the stages in order to achieve early operational ability."²³

According to the report, Gold issued further instructions for financing the project with defense, industry, and foreign funding, all while the IDF "[had] not yet determined what it needed from this system."²⁴

The report determined that Gold had acted without authority when, in August 2005, he directed the predevelopment planning for Iron Dome simultaneously with its full-scale development, prior to receiving approval from the IDF Chief of Staff, the Minister of Defense, and the Israeli Government.²⁵ Executing the project without IDF approval, according to Lindenstrauss, "might result in development of a system that would not fully respond to the operational needs, and which . . . might result in an increase in cost."²⁶

¹⁹ STATE COMPTROLLER & OMBUDSMAN, *supra* note 11, at 22.

²⁰ *Id.* at 23.

²¹ *Id.*

²² *Id.* at 24.

²³ *Id.* at 28 (all translations from State Comptroller's 2009 report by author, R.L.).

²⁴ *Id.*

²⁵ *Id.* at 29.

²⁶ *Id.*

According to the report, in November 2006 the DWSRD directed RAFAEL to begin full-scale development of Iron Dome despite the lack of a purchase order for the system and the approval of the IDF, the MOD, and the Government.²⁷ In mid-April 2007 the MOD signed an agreement with RAFAEL regarding general steps for the development and acquisition of Iron Dome, similarly in the absence of IDF and governmental approval. Following the conclusion of this agreement, the MOD issued a purchase order to RAFAEL at the end of April 2007 for a basic program, at a cost of tens of millions of new Israeli shekels, before obtaining approval for the project and its budget from the IDF.²⁸

Concluding the report, Lindenstrauss stated that

[i]t is appropriate that development and procurement projects for weapons systems in general, and especially projects with a significant impact on the IDF's budget and strength, be carried out after IDF operational needs and accomplishments have been properly defined and approved, as required and ahead of time, by the relevant IDF authorities.

It is appropriate that after completing [discussion] of the topic in the IDF, the top objectives of active defense systems and their utility in comparison to their cost be brought for [further] discussion before the [appropriate] political level [authorities] as an important step in the process of developing and activating the Magic Wand²⁹ and Iron Dome projects.³⁰

²⁷ *Id.* at 30.

²⁸ STATE COMPTROLLER & OMBUDSMAN, *supra* note 11, at 33–34.

²⁹ Magic Wand (*Sharvit Haksamim* in Hebrew) is an Israeli missile defense system against short- and mid-range ballistic missiles. Its procurement procedures were also reviewed in the State Comptroller's report. For additional information, see Gili Cohen, *Israel's 'David's Sling' Missile Defense System Passes Advanced Testing*, HAARETZ (Apr. 1, 2015), <http://www.haaretz.com/news/diplomacy-defense/premium-1.650099>; see also Gili Cohen & Reuters, *Israel: David's Sling Missile Interceptor Passes Important Test*, HAARETZ (Nov. 20, 2013), <http://www.haaretz.com/misc/iphone-article/premium-1.559159>.

³⁰ STATE COMPTROLLER & OMBUDSMAN, *supra* note 11, at 37.

Sweden: Pay Structure of the Acquisition Workforce

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SUMMARY Swedish government agencies, including defense procurer Försvarets materielverk (FMV), employ an individually based pay structure where employees performing the same job are not required to receive the same compensation. Individuals with skills that are in high demand but in short supply can receive extra compensation as an incentive to join or stay with the FMV. The FMV also uses nonsalary-based compensation to attract and retain personnel.

I. Introduction

Defense procurer Försvarets materielverk (FMV) is an independent Swedish government agency.¹ Its mission is to “maintain, destroy and discard goods and procure buildings, goods and services” for the Swedish armed forces.²

The procurement of defense and security materiel and services is regulated by the Procurement Act for Defense and Security.³ Procurement of all other goods and services is governed by the Public Procurement Act.⁴ The FMV’s operations are bound by both.

II. Government Employment and Pay Structure

Employment with the government or any of its agencies is regulated by the Public Employment Act.⁵ Termination of employment in Sweden is regulated by the Employment Protection Act, which also applies to employees of government agencies.⁶ Neither Act regulates pay structures or pay levels.

¹ Förordning (2007:854) med instruktion för Försvarets materielverk [Regulation with Instructions for FMV], http://www.riksdagen.se/sv/Dokument-Lagar/Lagar/Svenskforfattningssamling/Forordning-2007854-med-inst_sfs-2007-854/?bet=2007:854.

² *Id.* 1 § (translated by the author).

³ LAGEN OM UPPHANDLING PÅ FÖRSVAR OCH SÄKERHETSOMRÅDET [PROCUREMENT ACT FOR DEFENSE AND SECURITY] (Svensk författningssamling [SFS] 2011:1029), <http://www.notisum.se/rnp/sls/lag/20111029.htm>.

⁴ LAG OM OFFENTLIG UPPHANDLING [PUBLIC PROCUREMENT ACT] (SFS 2007:1091), <http://www.notisum.se/rnp/sls/lag/20071091.HTm>.

⁵ LAG OM OFFENTLIG ANSTÄLLNING [PUBLIC EMPLOYMENT ACT] (SFS 1994:260), <http://www.notisum.se/rnp/sls/lag/19940260.htm>.

⁶ LAGEN OM ANSTÄLLNINGSSKYDD [EMPLOYMENT PROTECTION ACT] (SFS 1982:80), <http://www.notisum.se/rnp/sls/lag/19820080.htm>; 32 § LAG OM OFFENTLIG ANSTÄLLNING (SFS 1994:260).

The pay structure for government employees is regulated by agreements between workers' unions and the state.⁷ In general, all state employees receive payment based on individual salary reviews.⁸ During these pay reviews both the skills and performance of the individual are discussed.⁹ In addition, market pressures may affect the salaries of certain positions, in that managers have the flexibility to offer higher salaries to individuals with skills and expertise that are in high demand but in short supply.¹⁰

Individual salaries are not public knowledge, but statistics generally support the hypothesis that salaries are market based.¹¹ For example, discrepancies between the salaries of civil engineers employed in the private and public sectors are small. In 2013 recent graduates on average received a starting monthly salary of Swedish krona (SEK) 29,528 (approximately US\$3,517) in the private sector and SEK26,815 (approximately US\$3,194) in the public sector. A civil engineer fourteen years after graduation made an average of SEK50,636 (approximately US\$6,030) in the private sector and SEK43,648 (approximately US\$5,197) in the public sector. The highest-paid civil engineers fourteen years after graduation were still in the private sector, earning average monthly salaries of SEK64,660 (approximately US\$7,700), while state employees earned an average of SEK52,300 (approximately US\$6,228).¹² Note that while these statistics are national averages, the state takes geographic considerations into account when setting salary guidelines—for example, engineers working in the capital, Stockholm, are paid more than engineers working in Linköping, a small city located about 200 km (124 mi) southwest of Stockholm.

III. Pay Structure at FMV

As a government agency the FMV is bound by the pay structure described in Part II, above. During the 1980s the FMV employed a rigid pay scale system similar to that of the General Schedule system in the United States. However, as discussed above, all government agencies have now adopted a more flexible pay scale system under which salaries paid are more market based. The current pay scale system at the FMV is flexible in that it allows managers to review their workforce and determine which employees are at the greatest risk of being recruited into the private sector.¹³ Once identified, these positions may receive extra attention during the salary

⁷ See, e.g., Ramavtal 2010–2012, mellan Arbetsgivarverket och OFR/S, P och O [Framework Agreement Between the Swedish Agency for Government Employers and OFR (Public Employees' Negotiation Council)], http://www.st.org/currentSite/public/files/4862/RALS_OF110426.pdf.

⁸ *Förmåner och villkor*, ARBETSGIVARVERKET, <http://www.arbetsgivarverket.se/jobba-statligt/formaner-och-villkor/> (last updated Aug. 7, 2013).

⁹ *Id.*

¹⁰ ARBETSGIVARVERKET, ATT ARBETA STATLIGT – VIKTIGA ARBETEN OCH MODERNA VILLKOR 14 (2011), <http://www.arbetsgivarverket.se/upload/Avtal-Skrifter/Skrifter/att-arbeta-statligt-2011.pdf>.

¹¹ See, e.g., *Lönestatistik för civilingenjörer i statlig sektor* [Statlig Sektor], INGENJÖRSKARRIÄR, <http://www.ingenjorskarriar.se/verktyg/statistik/article3451089.ece> (last visited Apr. 30, 2015); *Lönestatistik för civilingenjörer i privat sektor* [Privat Sektor], INGENJÖRSKARRIÄR, <http://www.ingenjorskarriar.se/verktyg/statistik/article3451092.ece> (last visited Apr. 30, 2015).

¹² *Statlig Sektor*, *supra* note 11; *Privat Sektor*, *supra* note 11.

¹³ FMV LÖNEPOLITIK, PA-HANDBOK 1–3 (Jan. 2, 2012) (on file with author).

review and, if needed, money can be allocated to pay these individuals a higher salary in an effort to retain their expertise.¹⁴ Recently, acquisitions personnel have not been in the targeted group; instead, Swedish Defense has focused on employment categories for which it has had problems recruiting personnel, for instance, soldiers and sailors.¹⁵

The FMV also tries to attract and retain its personnel by providing nonsalary benefits, such as the power to direct and influence assignments, increased maternity and paternity pay (the FMV pays the 20% difference between an employee's salary and what public insurance covers), requiring little or no overtime compared to the private sector, flex hours, more vacation days, and the right to exercise during working hours.¹⁶

The FMV estimates that in the future newly recruited employees will have higher salaries than retiring employees.¹⁷ This should be seen as the result of increased demands for more highly educated employees (i.e., those with greater skills and experience) and the adoption of market-based salaries for positions.

¹⁴ *Id.*

¹⁵ FÖRSVARSMAKTENS ÅRSREDOVISNING 2012 at 11 (2013), <http://www.forsvarsmakten.se/siteassets/4-om-myndigheten/dokumentfiler/arsredovisningar/arsredovisning-2012/hkv-2013-02-22-23-386-50878-fm-arsredovisning-2012-huvuddok.pdf>.

¹⁶ *Arbete och privatliv*, FMV, <http://www.fmv.se/sv/Jobba-hos-oss/Arbete-och-privatliv/> (last visited Apr. 30, 2015).

¹⁷ FMV, ÅRSREDOVISNING FÖR 2014 FÖR FÖRSVARETS MATERIELVERK 68 (Feb. 18, 2015), http://www.fmv.se/Global/Dokument/Om%20FMV/Informationsmaterial/%c3%85rsredovisningar/2014/%c3%85R2014_fastst%c3%a4lld%20av%20styrelsen%20150218.pdf.