<u>Tele/FAX</u>: 011-20862612/011-26112026

Email: dsod.navy@navy.gov.in

Integrated Headquarters of Ministry of Defence (Navy) Dte of Special Ops & Diving, Defense Office Complex, 'A' Block, Room No. 008 Africa Avenue New Delhi – 110 023

DD/1601/TWO MEN RCC

% Sep 22

To The Vendor

# REQUEST FOR INFORMATION (RFI) FOR PROCUREMENT OF TWO MEN RECOMPRESSION CHAMBER (RCC)

(16 PAGES INCLUDING ENCLOSURE)

- 1. The Ministry of Defence, Government of India intend to procure 10 (Ten) Portable Two Men Recompression Chamber (RCC), for providing of recompression facilities during diving operations.
- 2. Indian Vendors are requested to forward information sought at the above mentioned address, not later than 20 Oct 22. Any information seeking clarification on required QR's or for interaction purpose towards forwarding of your response may be sought from above mentioned address on Tele/Fax. The Project Officer is Captain Pankaj Kumar and may be contacted at above mentioned numbers.
- 3. <u>Procurement Manual</u>. The procurement process for this equipment will be as per Terms and conditions of Defense Acquisition Policy (DAP) 2020.
- 4. The RFI consists of three parts as indicated below:-
  - (a) Part I. This includes operational requirement, technical characteristics and features of Portable Two Men Recompression Chamber (RCC). The response column in the tabulated sheet may be filled in by the vendor whether complying or not with the explanation and returned. Amplifications as to changes suggested, if any, may also be made.
  - (b) Part II. The second part of RFI states the methodology of seeking response of the vendors. Submission of incomplete format will render the vendor liable for rejection
  - (c) Part III. Guidelines for framing criteria for vendor selection/ Pre qualification in Buy (Indian-IDDM), Buy (Indian) and Buy and Make (Indian) cases are as per promulgated in DAP 2020.

#### PART - I

- 5. Intended Use of Equipment (Operational Requirements). Portable Two men Recompression Chamber (RCC)) is envisaged to be used for providing recompression facilities during conduct of diving operations. Operational parameters as indicated along with the broad qualitative requirements placed at Appendix 'A'.
- 6. <u>Important Parameters</u>. The vendors have to provide details in respect of the following important parameters:-
  - (a) Equipment details including indicative operational/ technical parameters, dimensions and possible use of the equipment.
  - (b) Approximate Cost Estimate. The indicative cost inclusive of all taxes and duties for procurement of Portable Two Man RCC with associated equipment should take into account all aspects of Supply, Training, Field trials and Product support. Other aspects (if any), may be mentioned specifically. The indicative cost of the Product Support Package including spares, accessories, workshop test equipment, handling gear etc is to be indicated separately. Indicative cost of Transfer of Technology (if applicable) is also to be included. The taxes/ custom duties are to be indicated separately.
  - (c) Whether the equipment is in use by any other Navy/ offered for use by other Governmental/ Non-Governmental agencies within India and if so, unit price (with taxes/ custom duties indicated separately) and year in which it was supplied. The difference between these versions of equipment and the equipment presently being offered may also be highlighted.
  - (d) Feasibility/ willingness to conduct Field Evaluation Trials (FET). Modalities for conduct of FET to be included. Response to include suggested trial methodology and parameters for which evaluation can be done through simulation/certification/documentation/demonstration etc during the FET.
  - (e) Manpower required for operating and maintaining the equipment as well as modalities of imparting training to operators/ maintainers.
  - (f) Information pertaining to repair facility and presence of local service providers for undertaking post sales support and maintenance of equipment and sub-assemblies is to be provided.
  - (g) <u>Training</u>. The training requirement for operators, operators trainers and maintainers to undertake operation and maintenance of equipment, along with tools and specialized equipment are to be included. Details of the training aids (hardware & software), models, cutouts, etc which will be used during training is also to be indicated.

- (h) <u>Tentative Delivery Schedule</u>. The overall timeframe of production and delivery, with stage wise break-up of the entire project post signing of contract is to be submitted.
- (j) <u>Payment Terms</u>. Vendor is to indicate acceptability to the terms of payment as per DAP 2020.
- (k) Details regarding obsolescence clause, binding upon vendor to cater for support of such product which may become obsolete during the life cycle of the system may be included. Further provision of upgradation of items to avoid obsolescense also to be provided.
- (I) Clearly indicate the details of agency holding Intellectual Property Right (IPR) for various hardware and software components of equipment/associated accessories along with OEMs for manufacture of major assemblies, if any.
- (m) Percentage of Indigenous Content(IC) of the equipment is to be given.
- (n) If the proposed item is in development stage? If yes, all details of development activities completed and the future plans along with the timelines for trials and bulk production are to be indicated.
- (p) Details pertaining to Product support and Maintenance philosophy (Engineering Support Package, Annual Maintenance Contract/ Comprehensive AMC, Life Cycle Support or Performance Based Logistics) in respect of RCC and including its technical equipment is to be provided.
- (q) Details of MRLS (OBS and B & D spares) list to be provided.
- (r) The details of compliance or conformity of the equipment or its sub-assemblies to various Industry or Military standards related to operation and safety (ISI, CE, EN, MIL Specs, IT) to be provided. Further, confirmation on being compliant to environmental standards for marine environment viz. Weather, corrosion resistance to be provided.
- (s) Details of any alternative to the equipment fitment to achieve better performance may be provided.
- (t) The requisite clearances from Government including export clearances are to be obtained in time to ensure expeditious procurement.
- (u) Vendor may consider RFI as advance information to obtain requisite government clearances. The restrictions related to exports in country of origin, if any, and how long it will take to get clearance as applicable is to be indicated. Restrictions, if any, for end use, may also be included.
- (v) Whether the vendor would be able to comply with all provisions of Defence Acquisition Procedures (DAP) 2020 or not? If not, which Para / clause of DAP 2020 would not be agreed to with reasons.

- 7. Vendors should confirm that following conditions are acceptable:
  - a) The solicitation of offers will be as per 'Single Stage Two Bid System'. It would imply that a 'Request for Proposal' would be issued soliciting the technical and commercial offers together, but in two separate sealed envelopes. The validity of commercial offer would be at least 18 months from the date of submission of offers.
  - (b) The technical offers would be evaluated by a Technical Evaluation Committee (TEC) to check its compliance with RFP.
  - (c) The equipment of all TEC cleared vendors would be put through a 'Field Evaluation Trial' in India/abroad on a "No Cost No Commitment (NCNC)' basis. A staff evaluation would be carried out by Indian Service Head Quarter (SHQ) to analyse the result of field evaluation and shortlist the equipment for introduction into service.
  - (d) Amongst the vendors, cleared by Staff evaluation, a Commercial Negotiation Committee would decide the lowest acceptable offer (L1 vendor) and conclude the approved contract.
  - (e) Vendor would be bound to provide product support for time period specified in RFP, which includes spares and maintenance / product support.
  - (f) Vendor is to accept all general conditions of contract given in the standard contract document (including financial terms) at Chapter IV DAP 2020. If not, which Para/clause is not acceptable is to be indicated.
  - (g) <u>Performance / Warranty Bonds</u>. A Performance-cum-Warranty Bond equal to 5% of contract value inclusive of taxes and duties is required to be submitted after signing of the contract.
  - (h) <u>Transfer of Technology (ToT)</u>. Gol is desirous of license production of equipment after acquiring ToT in the case.
  - (j) <u>Earnest Money Deposit</u>. EMD is to be provided as bid security and applicability will be as follows:-

Estimated cost of Procurement Scheme (Rs Crs)		EMD Amount
Above ( not including)	To (including)	
-	100	Nil
100	150	30 Lacs
150	300	70 Lacs
300	1000	02 Crore ·
1000	2000	05 Crore
2000	3000	10 Crore
3000	5000	15 Crore
5000	-	25 Crore

- 8. Indigenous Material The overall emphasis should be on maximizing Indigenous content in the project. The use of indigenous material being manufactured in India is to be provided on the following aspects:-
  - Identification of main material and details of major input material in case (a) of equipment/ systems.
  - Availability in country and known sources with material designation, (b) standard/ code, grade, test standards including equivalent of standard/ codes.
  - (c) Likely plan for sourcing.
  - Likely cost of material if sourced from India as compared to import costs. (d)

#### PART- II

- 9. Procedure for Response:-
  - (a) Vendors must fill the form of response as per the enclosed format placed at Appendix 'B'. The information pertaining to being MSME/ Startup is to be provided. Apart from filling details about the company, details of the exact product meeting our generic technical specifications should also be carefully filled. Additional literature on the product may also be attached with the form.
  - The filled form of response should be dispatched to the address (b) mentioned below:-

Integrated Headquarters of Ministry of Defence (Navy) / Dte of Special Operations and Diving, Room no. 008, 'A' Block, Defense Offices Complex, Africa Avenue, New Delhi - 110 023 Fax: +91-11-26112026, Tel: +91-11-20862612

- Email: dsod.navy@navy.gov.in
- The Government of India invites responses to this request only from Original 10. equipment Manufacturers (OEM)/ Authorised Vendors/ Government Sponsored Export Agencies (applicable in the case of countries where domestic laws do not permit direct export by OEMs). The end user of the equipment is the Indian Navy.
- This information is being issued with no financial commitment and Ministry of Defence reserves the right to change or vary any part thereof at any stage. The Government of India also reserves the right to withdraw RFI or RFP, should it be so necessary, at any stage.
- The acquisition process would be carried out under the provisions of DAP 12. 2020.

13. The last date of acceptance of filled form is **20 Oct 22**. The Vendors shortlisted for issue of RFP would be intimated.

#### PART- III

14. The guidelines prescribed for short-listing/ pre-qualification of Indian vendors in Buy (Indian-IDDM), Buy (Indian) & Buy & Make (Indian) cases will be as per as per the details placed at **Appendix 'C'**. Paragraph 1 of Appendix 'C' deals with the parameters that may be considered for short-listing of vendors, whereas **Paragraph 2** amplifies the process for applying selected parameters to the process of Vendor Short listing.

(Rana V Singh)

Commodore

Cmde (Special Ops & Diving)

#### Appendix A

(Refers to Para 5)

# OPERATIONAL REQUIREMENTS

# TWO MEN RECOMPRESSION CHAMBER (RCC)

- 1. Nomenclature. Two Men Recompression Chamber (RCC)
- 2. Role. On-site recompression/ therapeutic treatment up to 75 M depth.
- 3. <u>Main Features</u>. Portable Two Men Recompression Chamber (RCC) with international mating clamp and integrated Control panel, High Pressure (HP) Air/ O<sub>2</sub> storage bottles, Medical Lock and trolley system for transportability. RCC design for occupancy by two person (Diver and Attendant) and access through a hatch. Complete system is to be certified by Indian register of Shipping (IRS) for PVHO and International Marine Contractors Association (IMCA) guidelines.
- 3. Principal Components. The RCC to have following standard fitments:-
  - (a) Number of compartments Single Lock
  - (b) Stretcher Mechanical sliding type.
  - (c) View ports Two Circular (NLT 6" diameter)
  - (d) International standard mating clamp (Class certified) for Transfer Under Pressure (TUP) of patient to Twin Lock Recompression Chambers.
  - (e) Two Air HP Cylinders (Nominal Capacity 10 Ltrs, Pressure 300 bars) and Two Oxygen Cylinders (Capacity -10 Ltrs, Pressure 200 bars).
  - (f) Three Build in Breathing System (BIBS) for  $O_2$  use with overboard dumping of exhaled gas and on demand supply valve with external manual flow regulation.
  - (g) Depth gauges (Caisson type) for internal depth.
  - (h) Temperature and humidity monitors.
  - (j) Digital Waterproof stop watch and Count down timer (Two each).
  - (k) Hyperbaric internal LED light with on/off and dimming controller switch.

- (I) Medical lock (Bayonet type) with internal and external door valve with safety interlocks to prevent opening of external door whilst under pressure.
- (m) Communication system.
- (n) Emergency sound powered telephone.
- (p) Air transportable facility including adjustable 3 point lifting slings.
- (q) 12 Volt emergency battery supply for light with 12 hours battery backup
- (r) Electrical operated CO<sub>2</sub> scrubber system.
- (s) Equalization facility between main chamber and medical lock.
- (t) Hyperbaric Extinguisher (5 Ltr capacity) mounted inside the chamber
- 4. General characteristics. The general characteristics should be as follows:-
  - (a) Type of RCC For use by two men
  - (b) Working pressure 8.5 bar
  - (c) Operating depth Up to 75 Mtr emergency decompression
  - (d) Pressurization system Dual system
- 5. <u>Command and Control.</u> Chamber mounted panel along with valves to facilitate the control of Air/ O<sub>2</sub> supply to the BIBS. Panel to have following:-
  - (a) Chamber communication panel.
  - (b) Lighting on/ off switch.
  - (c) Depth gauges for internal depth and Air supply pressure gauges to monitor Air and Oxygen pressure in the before entering chamber.
  - (d) Digital analyzers with CO<sub>2</sub> and O<sub>2</sub> sensors for controlling content with visual and acoustic alarm and provision of pressure relief valves.
- 6. **Features** It should include following:-
  - (a) Stretcher with mattress (Fire retardant) for patient with securing straps.
  - (b) Collapsible fire retardant seat (Fold down and backrest) for attendant

- (c) Medical lock with safety interlock device
- (d) Internal lighting system
- (e) Communication System (Primary Mode)
- (f) Sound Power Telephone (Secondary Mode)
- (g) Control Panel including gauge, communication, flow meter, regulator.
- (h) Transport wheels with locking device with sufficient shock absorber.
- (j) One each of HP Air connection and O<sub>2</sub> connection hose (length 05 M)
- (k) Silencer on each exhaust hose

#### 7. Standards/ Certification

Sr	Criteria	<u>Standard</u>
(a)	Certification	ASME VIII DIV. 1 and ASME PVHO-1 , 2019
(b)	Certification Authority	IRS/ Equivalent
(c)	Depth Rating	75 MSW
(d)	Relief Valve	Set at 80 MSW
(e)	Test Pressure	1.5 times of working pressure
(f)	Material of Construction	Duplex Stainless Steel/ PVHO compliant material grade
(g)	Design Temperature	Up to 50 <sup>o</sup> Celsius
(h)	View Ports	2x NLT 6" compliant to ASME PVHO-1, 2019
(j)	Lift Eye	Heavy duty 02 -corner top lifting lugs (ISO or EN 12079 lifting eye standards)
(k)	Flange Type	NATO STANAG rotating male connection.
(1)	Pressure gauges	EN 837-1 compliant
(m)	Chamber Finish	<ul><li>(i) As per PVHO guidelines, Non toxic</li><li>(ii) Milky white Fire retardant paint for inside and outside surface.</li><li>(ii) Static dissipative floor plate.</li></ul>
(n)	Tubing	SS and Tungam

## Appendix 'B' {Refers to Para 9(a)}

# VENDORS INFORMATION PROFORMA

1. <u>Name of the V</u> (Company profile	/endor/Company/Fir including share holdi	<u>rm</u> . ng pattern, in brief, to l	be attached.
2. Type (Tick th	e relevant category)	,	
Authorised Vendor of			cach details, if yes)
3. Contact Deta	ils.		
	/ Liaison Office in De		
Pin Code:	Tel: Fa	x: Ema	il:
	ails / (Large/Medium/Sma	,	
Name of Agency	Certification	Applicable from (Date & Year)	Valid till (Date & Year)
7 - D-4-11 4 D-			

#### Details of Registration.

Agency	Registration No.	Validity (Date)	Equipment
GeM			
DGQA/ DGAQA/ DGNAI		•	
OFB	,		
DRDO	,		
Any other Government			
Agency			

8.	Membership of FICCI/ASSOCHAM/CII or other industrial Associations
Nan Men	ne of Organisation: nbership Number :
	Equipment/ Product Profile (to be submitted for each product arately).
	(a) Name of Product:
	(b) Description (attach technical literature):
	(c) Whether OEM or Integrator
	(d) Name and address of Foreign collaborator (if any):
	(e) Industrial Licence Number:
	(f) Indigenous component of the product (in percentage):
	(g) Status (in service/design & development stage):
	(h) Production capacity per annum:
	(j) Countries/agencies where equipment supplied earlier (give details of quantity supplied):
	(k) Estimated price of the equipment:
10.	Alternatives for meeting the objectives of the equipment set forth in the RFI.
11.	Any other relevant information :

### Declaration.

- (a) It is certified that the above information is true and any changes will be intimated within five (05) working days of occurrence.
- (b) <u>Undertaking regarding Debarment</u>. Not been debarred /banned from doing business dealing with MoD/ GoI or any other Govt. organisation.

Note: Para 44 and Appendix F of Chapter II may be referred

Appendix 'C' {Refers Para 14}

# GUIDELINES FOR FRAMING CRITERIA FOR VENDOR SELECTION/ PREQUALIFICATION IN 'BUY (INDIAN-IDDM)' 'BUY (INDIAN)' AND 'BUY & MAKE (INDIAN)'CASES

#### Parameters.

#### (a) General Parameters.

- (i) Applicant Entity should be an Indian Vendor as defined at Paragraph 20 of Chapter I of DAP 2020.
- (ii) Business dealing with applicant Entity or any of its allied entities should not have been suspended or banned, by MoD/SHQ or any Government Department of organization (as defined in Guidelines for Penalties in Business Dealings with Entities issued vide Ministry of Defence, D(Vigilance) MoD ID No 31013/I/2006-D(Vig) Vol II dated 21 Nov 2016). None of the Promoters and Directors of applicant entity should be a wilful defaulter.
- (iii) "Entities" will include companies, with whom the Ministry of Defence has entered into, or intends to enter into, or could enter into contracts or agreements.
- (iv) "Applicant entity" may be a company, subsidiary, an associate company (as defined in the Companies Act, 2013), a consortium or a Joint Venture (JV).

#### (b) **Technical Parameters**.

- (i) Vendor shall be a manufacturing entity or a system integrator of defence equipment and not a trading company, except in cases where the OEM participates only through its authorized Vendors.
- (ii) Minimum two years experience in broad areas like manufacturing/ electronics/ explosives etc. as applicable in the instant procurement case. If not, then cumulative experience of at least three years in above areas, resulting in gaining of competence for manufacturing the proposed product..
- (iii) Where product involves integration, previous experience of not less than one year/ one project in integration of systems/ equipment shall be required.

#### (c) Financial Parameters.

- (i) <u>Average Annual Turnover</u>. Minimum average annual turnover for last three financial years, ending 31<sup>st</sup> March of the previous financial year, should not be less than 30% of estimated cost of the Buy (Indian-IDDM) and Buy (Indian) project and for Buy & Make (Indian) should not be less than 30% of estimated cost of the Make portion.
- (ii) <u>Net Worth</u>. Net worth of entities, ending 31<sup>st</sup> March of the previous financial year, should not be less than 5% of the estimated cost of the Buy (Indian-IDDM) and Buy (Indian) project and for Buy & Make (Indian) should not be less than 5% of estimated cost of the Make portion. For orders above Rs 5000 crores, the Networth of group companies can be considered on production of suitable documentary assurance.
- (iii) <u>Insolvency</u>. The entity should not be under insolvency resolution as per Indian Bankruptcy Code at any stage of procurement process from the issuing of RFP to the signing of contract.
- (iv) <u>Credit Rating (Desirable Financial Parameter).</u> Long term credit rating equivalent to CRISIL rating on Corporate Credit Scale as **CCR-BBB or better,** and **SME-04 or better of SMEs** issued by credit rating agencies recognized by SEBI. Credit rating should be as on 31<sup>st</sup> March of the previous financial year.
- (<u>Note 1</u>: All the above Financial Parameters, except Paragraph 2©(iii) above (Insolvency) will not be applicable for Capital Acquisition cases where estimated cost is Rs 150 crores and below. However, Net worth of entities should not be **negative**.
- (<u>Note 2</u>: The turnover and net worth of the vendor shall be rounded off to the nearest lower ten/ hundred crores so as to keep the estimated cost of procurement confidential).

#### (d) Other Parameters.

- (i) <u>Industrial License (IL).</u> Vendors should be either holding a valid defence industrial license or should have applied for the same before responding to RFP. In any case the vendor must confirm holding of IL before commencement of FET/ (Items requiring IL will be as per DIPP Press Note 3 of 2014 as amended from time to time).
- (ii) <u>Registration.</u> Registered for a minimum of two years (one year for SMEs). Minimum number of years not applicable for JVs constituted specifically for a project.

#### 3. Stipulations for Applying Parameters.

- (a) Areas like manufacturing/ electronics/ explosives etc. referred to at Paragraph 2 (b)(ii) should be defined in each case of procurement.
- (b) In case the Applicant Entity is unable to meet the Financial Parameters by itself, it may rely on its **Holding Company** (as defined in the Companies Act, 2013 and amendments thereof) ("Companies Act") for fulfilment of the Financial parameters, in which case reliance must be placed on the Holding Company towards fulfilment of **ALL** the Financial Parameters.
- (c) In case the Applicant Entity is unable to meet one or more of the Technical Parameters by itself, it may rely on a Group Company(ies) for fulfilment of the Technical Parameters. A Group Company in relation to the Applicant Entity may be:-
  - (i) A company of which the Applicant Entity it is an associate Company. Such company should have ownership, directly or indirectly, if at least 26% of the voting shares of the Applicant Entity.
  - (ii) A company which is an Associate Company of the Applicant Entity. The Applicant Entity should have ownership directly or indirectly, of at least **26%** of the voting shares of such Associate Company.
  - (iii) A Company with whom the Applicant Entity is commonly owned, directly or indirectly, for at least **26%** of the voting shares by another company. For Example: An Applicant Company A is an Associate Company of Company B, in which B holds at least 26%. Further, C is also an Associate Company of B, in which B holds at least 26%. In this case the Applicant Company may use the credentials of C as well.
  - (iv) The Holding Company and Subsidiary Companies (as defined under the Companies Act) of the Applicant Entity.
- (d) The Applicant entity may be a single entity or a group of entities (the "Consortium"), coming together to implement the project. In such case:-
  - (i) The credentials of only those members or their related entities may be counted, who have at least **26%** equity stake in the Consortium.
  - (ii) Each Consortium should have a designated **Lead Member**.
  - (iii) For Technical Parameters, any of the Consortium members or their Group Companies may meet the criteria.

- (iv) For Financial Parameters; the turnover and Net Worth of the Consortium Member shall be reckoned proportionate to Consortium Member's equity stake in the Consortium, and each Consortium member should meet the other criteria pertaining to Insolvency and Credit Rating. In case the Consortium Member relies on its Holding Company for any one of the above-mentioned Financial Parameters, then reliance must be placed on the Holding Company for meeting all the financial Parameters.
- (e) Vendors should provide all necessary self-authenticated documentation in support of their achievement of criteria. Such documentation should interalia include:-
  - (i) Details of projects/supply orders successfully executed in the last two years.
  - (ii) Annual reports for three years of applicant entity, parent and associate companies, consortium and JV partners.
  - (iii) Details of shareholders, promoters, associated, allied and JV companies.
  - (iv) Details of vigilance action, viz. ongoing investigation and suspension/ debarment/ blacklisting action against the applicant entity or any of its allied entities, parent company or consortium and JV partners, it any by any Department/agency of Central Government.
  - (v) A certificate from CA/CS indicating the financial parameters for the last three years as per Paragraph 2(c).
  - (Note: If a vendor is already a supplier to MoD and/ or has already provided the above documents in such cases, it should be necessary for the vendor to resubmit only such documentations as is necessary to update the above).
- (f) Any vendor furnishing false information will be liable for action as per existing guidelines.
- (g) Based on these generic parameters, more specific criteria should be evolved by SHQ with regard to Technical and Financial parameters {Paras 2(b) and 2(c) above} in each procurement case depending upon requirements peculiar to each case keeping in view the overall need to ensure wider vendor participation. The specific criteria evolved by the SHQ for each case, as per these guidelines, may be got approved by the competent authority before including the same in the RFPs.

- 5. <u>Start Ups/ MSMEs</u>. Startups would be defined as per G.S.R. 127 (E) dated 19 Feb 2019 (as amended from time to time). For procurement cases where the estimated cost in not exceeding Rs 100 crores/ year based on delivery schedule at the time of seeking AoN or Rs 150 crores, whichever is higher, to encourage the Start Ups/ MSMEs and build Industrial ecosystem, the recognized Start Ups/ MSMEs in the relevant fields may be considered for issue of RFP without any stipulation of Financial parameters, except Paragraph 2(c)(iii) above (Insolvency) any with General and Technical parameters to be decided on case to case basis. (Note: Startups should not be confused with new entrants who may be high/ midsized groups having financial support and manufacturing experiences and now venturing into Defence Production).
- 6. The criteria for vendor selection shall be clearly stipulated in RFPs so as to maintain transparency. Care shall be taken to ensure that the stipulated criteria are not open to subjectivity and arbitrary interpretation.