



ANNEXURE – B to OPEN TENDER: ENQ/3321370E/01/2013 Dt: 18.01.2013

DUE ON 11.02.2013

**STANDARD TERMS & CONDITIONS
(FOR GUIDANCE TO THE SUPPLIERS)**

A] Submission of Offer

Sealed tenders super-scribed with Tender Number, Due Date, Item Name & Supplier's Name and Validity of the Offer shall be addressed to Manager / Purchase (Steel), Bharat Heavy Electricals Limited, Ranipet – 632 406, Tamilnadu, INDIA, so as to reach him on or before the date and time specified in the tender. It shall contain two sealed covers in one envelope.

Sealed envelope super-scribed, with Tender Number, Item Name, Tender Due Date & Supplier's Name, Validity of the offer/s containing:

Cover I: Techno-Commercial and Unpriced Bid

Sealed Cover super-scribed "Cover I – Techno-Commercial and Unpriced Bid" containing:

- a) **Complete technical Offer** with details, catalogues, as applicable.
- b) **Un-priced bid** (i.e. Bid without the Price),
- c) **Filled-in BHEL's Standard Terms & Conditions** for Procurement of Steel Beams enclosed with the Tender Document,
- d) **All relevant enclosures** of above documents / formats, if any.
- e) **Deviation summary** submitted in two parts – giving the summary of technical deviations separately and the commercial deviations separately, if any and
- f) **Shipping weight and cubage** (length, width & height) size of packing, including special shipping arrangements that may be required. If containerization is planned details of requirements like flat bed containers, open top containers, Standard 20' / 40' containers - number of containers required etc. (Shipment preferably through ' Break Bulk mode)
- g) **Supporting documents** to substantiate equivalent material specifications / sections, where quoted for.
- h) **Clientele list** with their full address including detail of contact person with phone no., fax no. & e-mail ID (if any) to whom the same / similar items are supplied in the past two years. The date of supply may also be indicated, against each client.
- i) **Authorization Letter:** Such of those tenderers who wish to participate in the Tender Opening, should attach an authorization letter which shall be duly signed and stamped in original, identifying the representative to be deputed for tender opening and

Note

- (i) The materials offered, shall conform to the specification and scope attached in the tender.
- (ii) In case the offered materials are not conforming to the Enquiry material Specification or such that the offered sections do not match the enquiry, such offers would not be considered for evaluation and would be rejected. Where equivalent specifications and sections are offered considering such offers will be at the sole discretion of BHEL. Wherever alternative standards / specifications are offered by Bidder, the Bidder shall provide sufficient documentary evidence to ensure equivalence to the designated standards / specifications, failing which the offer would be considered as not technically acceptable and hence shall stand rejected.
- (iii) All taxes and duties payable as extra to the quoted price should be specifically stated in offers. Offer from within India shall be submitted along with CST & TIN No. / Tariff No. etc, failing which the purchaser will not



be liable for payment of such taxes and duties. Our TIN No. 33243560005, CST No. 239383/11.06.91, BHEL ECC No. AAACB4146PXM008.

- (iv) The un-priced bid is to be used to indicate relevant commercial implications without indicating price.
- (v) Commercial terms are to be indicated clearly in the offer.
- (vi) No changes shall be entertained once the bid is opened unless otherwise specifically agreed to in writing by BHEL.
- (vii) Money values shall not be indicated anywhere in the un-priced bid.
- (viii) Time required for inspection (at Supplier's works), should be clearly given in terms of numbers of working days
- (ix) It is advised that all the pages and annexure to the Techno-Commercial bid should be serially numbered, including indicating the total number of pages.

Sealed envelope super-scribed Cover – II (Price bid), with Tender Number, Item Name, Tender Due Date & Name of the Supplier and Validity, containing:

Sealed Cover super scribed "Cover II –Price Bid" containing:

Price Bid (i.e. Un-priced bid but with Price duly filled-in) in conformance with the commercial terms as per Cover- I.

The Prices shall be indicated in both figures and words, clearly specifying the currency used. Differential foreign currencies may not be used in a given offer.

Wherever there is a discrepancy between the figures and the words, the value as indicated by words shall be taken as the "Price" by the Purchaser. Similarly if there is a discrepancy between the Unit Price and the Value on account of arithmetical error in the computation of the Value (Price x Quantity), only the Unit Price would be taken by the Purchaser for consideration. No corrections would be permitted after the submission of the bids. Error statements should be completely erased / struck out and fresh values given in the offer, which should be initialled and attested by the tender submitting authority. Offers without the above may become liable for rejection.

Note

- (i) The price break-up should be in line with technical specification / scope of the tender. (Cost of material, packing charges, forwarding charges, freight, insurance charges shall be shown appropriately, as applicable).
- (ii) No Price Variation Clause will be entertained and No advance payment will be made by BHEL.
- (iii) In case, there is a discrepancy in the term quoted in techno-commercial bid and price bid, the term as per the techno-commercial bid (Cover I) shall hold good and the commercial term quoted in the Price Bid (Cover II) shall not be considered.
- (iv) In their own interest, all Tenderers are advised to double check their prices, applicable duties and taxes.
- (v) The quotation should be valid at least for a period of 90 days from the tender opening date.
- (vi) Offers should be submitted in two sets, one original and one copy.
- (vii) The offers should invariably contain Signature (ink-signed) & Office Stamp of the Supplier. Any corrections / erasures in the offers should be initialled and stamped.
- (viii) Indian bidders should submit the prices in Indian Rupees only.



(ix) Foreign bidders may submit their bid in their home currency. The currency should be clearly indicated in the un-priced commercial bid as well as in the price bid.

(x) Indian Suppliers shall quote on FOR Destination basis only. Destination is BHEL, Ranipet Stores. Foreign Suppliers shall quote on FOB Delivery. Delivery shall be on FOB Sea-Port basis and with the add-on freight charges to the FOB Price, to arrive at the C&F price/s. No other delivery terms shall be acceptable. The Port of delivery shall be a popular and commonly used international sea port. Freight charges for carriage from port of dispatch to Chennai Sea shall be separately indicated in the price bid. (C&F Charges). All home port charges like Quay Dues, Bill of Lading issue charges, ISPS, Loading permit charges, Handling Charges and all and any other charges shall be borne by the Seller only. In case the order/s are released on FOB basis, ocean transit would be arranged by the freight forwarder nominated by BHEL, details of whom would be included in the Purchase Contract. In the event that the order is released on C&F basis, shipment shall be arranged by the Seller. As per Government of India guidelines, BHEL Ranipet being a Government of India Undertaking the Bill of Lading shall be made with the Shipper as "Government of India". This shall be specifically confirmed by the Bidder.

(xi) Where the cargo is containerized, Container stuffing charges would be to the account of the supplier, where the containers are to be stuffed at the works of the supplier. In case of of FOB contract/s, containers would be arranged by the freight forwarder of BHEL.

(xii) Port to Port carriage would be arranged through shipping agent nominated by Government of India / BHEL in the case of Sea Shipments and

(xiii) List of shipping agents would be a part of the Purchase Contract.

B] Opening of Offers

a) **Tenders shall be received up to 1400 Hours on the said due date and be opened on the same day at 1430 Hours . Tenders received after 1400 Hours would not be opened. The times indicated are Indian Standard Time (IST). Tenders received after 14:00 Hrs would be designated as "Late Offer" and would be returned back to the Bidder unopened.**

b) Supplier shall submit two covers (Cover-I techno-commercial bid & Cover-II price bid) in one envelope only. If one cover containing all the bids techno-commercial bid & price bid together, the **bid is liable for rejection**. The decision to accept such bids shall be the sole discretion of BHEL, which may be done by BHEL after segregating the bids so received.

c) Such of those Tenderers who wish so, may participate in the Tender Opening by deputing their representatives. The representatives would be allowed to participate in the Tender opening only on submission of a signed and stamped authorization letter issued by the Supplier. Representatives without the Authorization Letter would not be allowed to participate in the Tender Opening. Representatives who turn up after the Tender opening time / start of the Tender opening would not be allowed to participate. After tender opening the details would not be given to such suppliers who choose to be absent at the time of Tender opening.

d) Details such as the Technical Specification, Delivery Terms, and Delivery Period and the Price details in the event of the sealed price bid opening, alone would be read out by the Tender Opening Officer. No other data will be read out.

e) In exceptional cases, at the discretion of BHEL, in the event of the named representative (named in the Tender Document) is unable to come due to unavoidable circumstances, then an alternative representative would be allowed, where the alternative representative should carry a revised original authorization certificate. Suppliers are advised to avoid such situations to avoid embarrassments on both sides and



f) If so required, BHEL reserves the right to open the Price-Bids, 'in-camera'. Intimation to this effect would be given to the Supplier by BHEL, before the opening of the Price-Bids.

g) Price Bid opening will be done through Reverse Auction method (English method). All tenderers would have to specifically give their acceptance for this in their bid/s.

Note

(i) Bids including all enclosures and supporting documents like catalogues, pamphlets, etc., shall be provided in ENGLISH language only.

(ii) At its option, BHEL may consider extending the due date/s for the tender openings. Sufficient notice would be given by BHEL for such extensions.

(iii) Specifications are the basic essence of the "Item". and all deviations shall be summarized and provided in a "Deviation Statement", listing the points and the deviation against each point, and

(iv) At its option BHEL may choose to resort to opening the Price-Bids instead of conducting the Reverse Auction (R/A). All suppliers shall give specific acceptance for this clause along with the Techno-Commercial offer. In such cases Bidders would be asked to give the "Negative impact" price arising out of BHEL's decision to move away from RA to Sealed Bid Opening. In such cases, both the original price bid and the negative impact price bid would be opened to arrive at the final prices in the event BHEL decides the mode of price bid opening as "Sealed Bid Opening".

(iv) BHEL reserves the right to increase or decrease the tendered quantity and would order on more than one vendor at the lowest acceptable price to BHEL. In ordering on more than one source, the ratio of quantity split will be 70:30. BHEL reserves the right to split the quantity of the enquiry on item level basis or on an overall basis. 70% qty will be ordered on the original lowest bidder (L1) and balance 30% on the next higher bidder who accepts the L1 price. However, final decision to split the order rest with BHEL only. In case BHEL decides not to split the order Bidders would be asked to give the "Negative impact" price arising out of BHEL's decision to move away from splitting the order. In such cases, both the original price bid and the negative impact price bid would be opened to arrive at the final prices, in the event BHEL decides the mode of price bid opening as "Sealed Bid Opening". In the event that the other than L1 suppliers do not accept the L1 price, then the balance 30% will be reverted back to the original L1 and the original L1 shall be bound to accept the balance 30% of the enquiry quantity kept reserved for order splitting. This decision would be given by BHEL within 60 days of the price bid opening.

(v) The decision of the type of price bidding and quantity split would be notified to all successful bidders before the Price Bidding stage, giving reasonable time for the Bidders to submit the "Negative Impact" price Bid.

(vi) Offers for part quantities on item level basis are not acceptable to BHEL. While tenderers can quote for some or all the tendered items, no supplier shall quote for partial quantity of any given enquiry item. Such partial offer would not be considered in the enquiry for that item.

C] Evaluation of Offers

a) The price bids including the negative impact price of the technically acceptable offers alone, contained in Cover II shall be opened.

b) All bidders shall submit their offers by filling-in the format of the BHEL tender documents. Offers received in any other format are liable to be rejected. Offers are asked in BHEL's format for purpose of standardisation - to help in the offer evaluation.



- c) Offer with any pre-conditions (like conditional discounts) for price are liable to be not considered / rejected. For evaluation the such conditions would be removed and only the base offer would be considered for evaluation and comparison.
- d) In the event of any change in scope / quantity arising out of the discussions, offerers would be given a chance to submit their revised offer. The revised offer shall contain only the price addition / deletion for such change in the scope / quantities, over and above the original scope and price quoted. The original price quoted shall not be changed on account of the technical discussions.
- e) BHEL reserves the right to reject without assigning any reasons / load any offer with factors other than already specified for such offers having deviations to BHEL Specifications, Standard Terms & Conditions at its discretion. The decision of BHEL in this regard shall be final.
- f) BHEL reserves the right to reject an offer due to unsatisfactory past performance during tender finalisation / execution of a contract at any of BHEL projects / units or if unsatisfactory performance report is received from the party/s referenced by the supplier at any time during tender finalisation.
- g) BHEL reserves the right to operate Purchase / Price preference to Government of India Undertakings, which shall be given as per the guide lines of Government of India given from time to time and / or relax the Terms and Conditions of the tender.
- h) For the purpose of comparing prices, tender prices shall be converted to Indian rupees and the conversion shall be made by using the Import Bills Rate (IMP Bills) (exchange) rate quoted by the State Bank of India (SBI) on the date of opening of price bids published in the same day newspapers. This exchange rate will be followed till placement of order.
- i) BHEL reserves the right to conduct negotiations on the "Price" and "Other Commercial Terms and Conditions" with the lowest ranked offerer at any time after the bid opening but before the release of the Purchase Order and
- j) If so required by BHEL, Supplier may have to share their cost data / costing sheet with BHEL.

D] Execution of the Order

- a) BHEL will have the option to pre-inspect the materials at Supplier's works by BHEL's own inspector or by third party agency appointed by BHEL or BHEL's end customer/s **but this does not absolve the Supplier from giving the specifications as agreed upon.**
- b) In the case of overseas suppliers Inspection call for carrying out the inspection shall be given 60 days before the scheduled contract delivery date. BHEL requires clear 30 days notice to arrange for inspection. The Inspection date/s given by the Supplier shall be on firm basis. For local Suppliers the Notice period of Inspection shall be 10 working days.
- c) Deviations, if any pointed out by the visiting Inspection team of BHEL shall be corrected and the items as per specification shall be dispatched on or before the contract delivery date.
- d) The final inspection for acceptance will, however, be carried out at BHEL's works at Ranipet.
- e) The contract delivery date is the date of ex-works dispatch of the item for suppliers in India and the date of dispatch clearance given by BHEL for overseas suppliers.
- f) Travel & other local stay cost for the Inspectors sent by BHEL will be to BHEL account, but other Inspection Charges, if any shall be to the account of the Seller only.
- g) The supplier shall arrange for packing suitably in all respects for normal transport by sea / rail / road and Materials shall be suitably protected against effect of tropical salt laden atmosphere in the event of shipment being delayed at ports / store yards.



- h) Foreign suppliers shall dispatch on FOB or C&F agreed Sea-Port basis, according to the contract conditions. Indian suppliers shall dispatch on free delivery (door-delivery) at BHEL stores basis only. Unloading the materials at BHEL Stores would be to the account of BHEL only.
- i) In the event of any short supply, it shall be the responsibility of the supplier to deliver such short supplied/missing items on Free-of-Cost basis at BHEL stores, including customs clearances at Indian Ports in the case of foreign suppliers.
- j) Materials shall be dispatched only after getting the dispatch clearance of BHEL (Dispatch clearance would either be faxed / e-mailed as a scanned document / couriered.) and
- k) Payment terms: The acceptable mode is "100% direct with in 60 days of receipt and acceptance of materials at BHEL for Indigenous Suppliers" and through "100% at Sight L/C", payable within 7 days after receipt of the documents at the opening bank", for foreign suppliers. Payment to Indian suppliers would be through Electronic Fund Transfer (EFT). The EFT form which is a part of the tender document has to be filled in and submitted by the Indian bidder along with the techno-commercial offer in Cover-I. No other payment terms are acceptable.
- l) Any incidence of tax like Income tax, Service Tax and any other similar tax / duties /levies imposed by the Government of India, or the State Government, where the BHEL Unit is located, deductible at Source, during the tenure of the Order shall be deducted by BHEL and necessary certification of the deduction (Tax deduction at Source) would be given.
- m) The Guarantee period shall start from the "Date of receipt and acceptance of the materials at BHEL Stores."

E] Liquidated Damages Clause:

BHEL will levy penalty as Liquidated Damages (LD), for delay in delivery. The damages shall be at the rate of ½% per week or part thereof subject to a maximum of **10%**. Delivery for purpose of L.D, will be reckoned as the date of the ex-works dispatch of the materials by the Supplier. Supplier shall deduct the applicable LD from the first payment when raising the claim for the same. The applicable LD if any would be communicated by BHEL along with the dispatch clearance. The LD would apply on the undelivered portion only. In case of reasons attributable to BHEL for the delay in delivery (for e.g. delay in arranging the pre-inspection) then the delivery time would be reset to the extent of the time delay attributable to BHEL, with waiver of the LD. Delivery being the essence of BHEL's contract requirements, In the event that a Supplier does not accept the LD condition above, the offer would be loaded to the extent of the shortfall with respect to upper limit specified above. Offers which do not accept for any LD would stand rejected.

The offer/s of such of those bidders who do not accept for levy of liquidated damages (LD) for delay in delivery is likely to be summarily rejected. No correspondence would be entertained by BHEL in this regard, on this subject. BHEL specifically draws the need of this mandatory requirement to the notice of all Bidders. The Price Bid of such of those offerers failing to meet this requirement, would not be considered for the Price-Bid Opening.

F) Miscellaneous

i) Role of Agents:

BHEL prefers to deal directly with the Main producers only.

BHEL strongly discourages the engagement of Agents in India by foreign principals, to deal with BHEL, in BHEL's tenders.

BHEL will not enter into any correspondence with an Indian Agent.

The Indian Agent will not be extended the privilege given to the principals, such as that of attending the tender openings, attending technical discussions, commercial discussions or price negotiations and such like.

In case, in spite of the above, a foreign principal insists on engaging an Indian Agent, It is made clear by BHEL that:



It is the sole responsibility of the foreign principal to ensure the Agent does not represent any other foreign principal in a given tender.

An undertaking to this effect shall be given by the foreign principal that his / her Agent does not represent any other foreign principal in the tender. This document shall form a part of the techno-commercial offer.

If at any stage of the tender, BHEL finds that an Indian Agent has represented more than one foreign principal, all such offers of and all the foreign principals would be disqualified summarily in the tender inquiry. BHEL will only give an intimation of notice of the disqualification. No correspondence would be entertained by BHEL, on their decision. Such decision of BHEL shall be irrevocable, firm and final and shall be binding on the tenderer.

BHEL, due to business reasons would ban, would have banned Indian agents from dealing with BHEL.

Any foreign principal who engages such a banned agent, or an employee of the banned agency, or any other person connected with the banned agency, at any time during the tender proceedings, would be disqualified from the tender proceedings. The decision of BHEL in this regard shall be final and be binding on the OEM.

Hence in their own interests, prospective tenderers may check with BHEL, the status of their proposed agent vis-à-vis BHEL.

In view of the requirement of BHEL, it is strongly suggested that in their own interest, foreign principals may desist from engaging any Indian agent and deal with BHEL directly and it is stressed that any Main producer proposing to deal with BHEL by engaging and through an Indian Agent does so at their own risk.

BHEL shall in no way be responsible for any consequences that may arise to the foreign principal on account of the antecedents / actions of their Indian Agent.

In the event of the foreign principal engaging an Indian Agent:

a) The Supplier shall furnish an authenticated copy of the Agency Agreement with his agent detailing the precise relationship between them and their mutual interest in the business along with techno-commercial bid.

b) The Supplier shall furnish original authorization letter for the Indian Agent. The letter shall contain name, contact person, complete postal address including phone, fax and e-mail ID. It shall also spell out the type of services to be rendered by Indian Agent.

c) Indian Agent & Agency commission: An Indian Agent can represent only one Foreign Manufacturer against a particular Tender. The FOB price quoted by the foreign bidder shall include the agency commission. However, the agency commission component payable to their Indian Agents shall be shown separately in the Offer, either as a lump-sum or as a percentage of the quoted price. This will be paid by BHEL in Indian Rupees, on satisfactory receipt & acceptance of the materials. For calculation of Rupee equivalent of Agency Commission, exchange rate as prevailing on the date of Purchase Order will be taken and

d) For all discussions, technical clarification and negotiations etc. only the principal would be authorized for interaction with BHEL. The Agent shall not be a party to the discussions / negotiations and would not be normally allowed to participate.

ii) Terms & Conditions of Letter of Credit (L/C) for overseas suppliers (indicated for acceptance).

a) Unconfirmed irrevocable Letter of Credit only will be opened by BHEL. Confirmation of L/C is not preferred by BHEL.

b) Bank charges out side India are to the Supplier's account.

c) L/c for shipment would be opened on receipt of Inspection call from Supplier or 2 months prior to the scheduled date of dispatch, whichever is later. The L/c would be valid for 75 days for shipment and for 15 days thereafter for negotiation. (Or if the supplier so requires: 69 + 21 days)

d) In case of L/C extension caused by delays attributable to the Supplier, the L/C extension / commitment charges are to be borne by the Supplier.

iii) Other terms & conditions for letter of credit: - Documents for negotiation

a) Signed Commercial invoice in quadruplicate, for a value not exceeding the draft amount, quoting the import Licence No and certifying goods evidencing shipment of the merchandise are as per Applicant's Purchase Order. The amount of invoice after deducting Indian Agent's commission, if any, should not exceed the Credit amount. (The Indian agent's commission, if any, is payable in India in Indian rupees only.)

b) Certificate of Country of Origin, from the country of manufacture, issued by the Chamber of Commerce.



c) One set of Original and two sets of Non-negotiable copies of 'signed', 'unmarked', 'clean on board' Ocean Bill of Lading, showing Shipper as "Government of India" Account M/s. Bharat Heavy Electrical Ltd, Unit: BHEL, Ranipet as consignee (The opening bank should not be notified as consignee), marked freight payable / prepaid at destination.

d) Packing list in 4 copies in English, indicating Size wise Number of bundles / pieces shipped and weight.

e) Certified copy of the fax / e-mail sent by the beneficiary to the applicant giving the following particulars of shipment, as the insurance is to be arranged by the Applicant in India: (a) Purchase Order Number & date; (b) Bill of Lading Number & date (c) Name of vessel; (d) Port of Loading; (e) Number of bundles / pieces and weight; (f) Invoice Number, date and value (g) Purchase Order item number's despatched. The cable / fax is to be sent within 2 working days of shipment.

f) Beneficiary's certificate showing the relevant airmail / courier reference no. and date that the following clauses have been complied with:

1] Beneficiary to forward by Registered Airmail / Courier one complete set of original documents and one set of non-negotiable documents within 3 working days of obtaining shipping documents to Regional Manager (ROD), Bharat Heavy Electricals Ltd, No. 165, Thambu Chetty Street, Chennai – 600 001. India. (Phone: +91-44-25341249, 25341240 / Fax - +91-44-25340787; e-mail: raja@rodchn.bhel.co.in)

2] Beneficiary to courier at his cost 3 copies of complete set of non-negotiable documents to the Officer who released the Purchase Order.

3] Declaration by the Supplier certifying that the contents in each case are not less than those entered in the invoices / packing list and that the invoicing for the supplies effected is strictly in accordance with agreed rates as stipulated in the Purchase Order.

4] Declaration to the effect that all other documents as per purchase order has been couriered to the Purchase order releasing authority

5) The carrying steamer should be seaworthy, less than 25 years of age and approved by Lloyds / Classification Societies / General Insurance Corporation of India from time to time and

6) Copy of Dispatch Clearance / Instruction issued by BHEL.

Note

i) A typical L/C is enclosed separately for reference purpose.

iv) Documents to be sent directly to the Purchaser prior to shipment

a) Manufacturer's Original Internal Inspection / Test certificate in triplicate.

b) Manufacturer's Original Guarantee certificate as per Purchase Order. The material shall be guaranteed for a period of 12 months from the date of acceptance of the materials at BHEL stores or 18 months from the date of dispatch whichever is earlier. The acceptance would be evidenced by the Stores Receipt Voucher (SRV) which will be raised by BHEL..

c) Inspection / Test Certificate issued by BHEL / Inspection agency specified in the Purchase Order. In the event that Inspection prior to dispatch is not carried out by the Engineers of BHEL, the Inspection certificate of the third party so authorized by BHEL and

d) Any other documentation as specified in the Purchase Order.

v) Conditions for transportation:

a) All shipping documents shall show the Purchase Order Number & Date, Import Licence Number & Date, and Letter of Credit Number & Date.



- b) Transshipment is to be avoided.
- c) Loading on deck is not permitted. The transport document must not contain a provision that goods may be carried on deck.
- d) A transport document which is produced or appearing to have been produced by reprographic, automated or computerized systems or as carbon copy will be accepted as an original document provided that it is marked as original and is ink-signed.
- e) The transport document must contain all the conditions of carriage on the original document.
- f) The transport document must not indicate the place of destination as being different from the port of discharge.
- g) The transport document must not contain the indication 'intended' or similar qualification in relation to the vessel or other means of transport or port of loading or port of discharge.
- h) The transport document must be issued by the carrier or his agent and not by any freight forwarder.
- i) Transport documents bearing reference by stamp or otherwise, to costs additional to the freight charges are not acceptable.
- j) The Bills of Exchange must be dated and presentation of documents for negotiation must not be later than 15 days after the date of shipment and in any case not later than the expiry date of the Credit.
- k) Material shall be dispatched through the agency nominated by BHEL.
- l) Indian suppliers shall dispatch the materials, freight prepaid, on door-delivery basis (FOR Destination – Destination: BHEL Stores) preferably through any one of the approved carriers of BHEL only and
- m) In the event there is a delay by the Supplier in negotiating / submitting the document, any demurrage / wharfage arising out of the same shall be to the account of the Supplier and shall be deducted from the final payment. Also, in such cases, the Supplier shall authorize the Steamer / Shipping agent / transporter to freely release the consignment to BHEL by providing a "Surrender Bill of Lading". Over-seas Suppliers have to give a No-Objection Certificate to BHEL, authorizing BHEL to get the Delivery Order from the Steamer Agent without producing the Original Bill of Lading. This is required to ensure avoidance of incidence of demurrage at Chennai Sea-port that may arise in case of delayed presentation of documents by the Seller.

G) Reverse auction (RA) / on-line bidding on internet:

- a) BHEL will finalize the tender through Reverse Auction Procedure i.e. On-line bidding on Internet.
- b) In case BHEL decides not to go for Reverse Auction procedure for the tender enquiry, the Price bids and negative price impacts, submitted and available with BHEL shall be opened as per BHEL's standard practice.

The General Terms & Conditions for RA are as below:

- i) For a proposed reverse auction, technically and commercially accepted bidders alone shall be eligible to participate.
- ii) BHEL will engage the services of a service provider who will provide all necessary training and assistance before commencement of on line bidding on internet.
- iii) BHEL will inform the Supplier in writing the details of Service Provider to enable them to contact the Service Provider & get trained.
- iv) Business rules like event date, time, start price, bid decrement, extensions etc. also will be communicated through the Service provider for compliance.
- v) Suppliers have to fax the Compliance form in the prescribed format (provided by Service provider) before start of Reverse auction. Without this, the vendor will not be eligible to participate in the event.



vi) BHEL will provide the calculation sheet (e.g., MS Excel sheet) which will help to arrive at 'Total landed cost to BHEL' like Packing & Forwarding charges, Taxes and Duties, Freight charges, Insurance, Service Tax for Services, loading factors (for non-compliance to BHEL Standard Terms & Conditions), etc. for each of the Supplier to enable them to fill-in the price and keep it ready for keying-in during the Auction.

vii) Reverse auction will be conducted on scheduled date & time.

viii) At the end of Reverse Auction event, the lowest bidder value will be known on the network and

ix) The lowest bidder has to Fax the duly signed filled-in prescribed format as provided on case-to-case basis to BHEL through Service provider within 24 hours of Auction without fail. Failure to do so or if there is any variation between the on-line bid value and the signed document the same will be considered as sabotaging the tender process and will invite disqualification of Supplier to conduct business with BHEL as per prevailing procedure.

H] Force Majeure

If at any time during the currency of this contract, the performance in whole or in part, by either party of any obligations under this contract shall be prevented or delayed by reason, of any war, hostilities, acts of the public enemy, civil commotion, sabotage, fires, explosions, epidemics, quarantine, restrictions or acts of GOD (hereinafter referred to as events), then provided notice of happening of any such events is given by either party to other within ten days from the date of occurrence thereof, neither party shall reason of such events be entitled to terminate this contract nor shall either party have any such non performance and delay is resumed as soon as practicable after such events has come to an end or ceased to exist. If the performance in whole or part of any obligation under this contract is prevented or delayed by reason or any such event claims for extension of time shall be granted for period considered reasonable by the purchaser subject to prompt notification by the seller to the purchaser of the particulars of the events and supply to the purchaser if required of any supporting evidence. Any waiver of time in respect of partial installment shall not be deemed to be a waiver of time in respect of remaining deliveries.

I] Cancellation of Order:

In the event of non-performance of the contract by the Supplier, BHEL reserves the right to cancel the order with issue of a written notice. BHEL would provide a curing period of 30 days, for the Supplier to rectify the situation. If the Supplier fails to rectify the reason/s that led to the issue of cancellation notice by BHEL, then the cancellation order would be issued automatically by BHEL, without further recourse to the Seller. BHEL will not pay any cancellation charges or any other charges / damages to the Supplier, arising out such cancellation. In the event of the non-performance of the supply contract, by the Supplier, the rights of BHEL include, in addition to canceling the order, to take alternate purchase action at the cost and risk of the supplier. The additional expenditure to be incurred by BHEL in such alternate purchase would be to the account of the supplier. (Risk Purchase). This remedy would be in addition to the invoking of the CEBG on grounds of failure of the Supplier in executing the Contract and any other legal remedies."

J] Contract Execution Bank Guarantee:

To demonstrate the fidelity of the successful bidder, in executing the Contract, on receipt of the Letter of Intent / Purchase Order, the Supplier shall arrange to provide a contract execution bank guarantee (CEBG). The format of the CEBG is a part of this enquiry. The format may be downloaded and necessary stamping may be obtained from the Banker towards submission of the CEBG. The indigenous suppliers have to provide the CEBG from any one of the Nationalized Banks, listed in the annexure to these terms. Overseas suppliers can submit the CEBG from any of the reputed International / National Bankers. However the CEBG is to be confirmed by any of the Bankers listed by us. In the event of failure by the Supplier to execute the contract either fully or partially, BHEL would encash the entire CEBG. The CEBG shall be valid for the period covering the agreed delivery date of the order with a further claim period of 3 months on the last specified



delivery date. In the event of the failure of delivery BHEL would proceed with encashing the CEBG without reference to the Supplier. In the event of BHEL granting extension of the delivery dates, then the CEBG validity shall also be got extended by the Supplier to the extent of the extended delivery times together with the claim period as specified elsewhere.

The CEBG shall be for a value of 2% of the Purchase order.

KJ Others

- a) In case of any contradiction in the terms and conditions given here and elsewhere in the other documents of the tender, it shall be the responsibility of the tenderer to get it clarified from BHEL. The officer authorized to provide such clarifications is Manager / Steel Purchase e-mail: pandian@bhelrpt.co.in
- b) Alterations to the conditions of the Tender can be done only by the authorized officer, at any time before the date and time of tender opening. Such changes, if any, would be communicated in writing and / or hosted in the web-page.
- c) If any Supplier attempts to bribe, or pay commission, gift or any advantage or bring in undue influence either by himself or on his behalf any one including a stranger to the tender, in addition to instituting legal proceedings as per the extant laws prevailing, will disqualify the supplier from this tender and all future tenders of BHEL. Decision of the Purchaser would be final in this matter.
- d) The laws governing this transaction shall be the laws in India.
- e) Wherever not specified, INCO Terms 2011 shall be used to interpret the Commercial terms and conditions and
- f) In the event of an order, Supplier shall agree to settlement of disputes or differences, if any, by way of arbitration, in accordance with the "Rule of Arbitration" of the Indian Council of Arbitration.

The language in the tender documents downloaded by the Bidders shall at no point of time be changed, altered or modified in any manner by the Tenderer. If such changes are made by any tenderer, it shall be considered as tampering with BHEL's terms and the offer shall be summarily rejected, whenever it is noticed by BHEL. Such Bidders would be disqualified from the Bidding Process and their offers would be forfeited / Bank Guarantees invoked. They would also not be allowed to participate in future tenders of BHEL.

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