



भारत हेवी इलेक्ट्रिकल्स लिमिटेड

(भारत सरकार का उपक्रम)

BHARAT HEAVY ELECTRICALS LIMITED

(A Govt. of India Undertaking)

TCN - 02

Ref: PSER: SCT: BNP-M1588: TCN-02

Date: 23-09-2014

Sub	Tender Change Notice (TCN) - 02.	
Job	Design, engineering, manufacturing, supply, erection, testing, commissioning, etc including O&M of Air Conditioning System for 2x660 MW units at IB TPS, Banharpalli, Orissa.	
Ref	1.0	Tender no PSER:SCT: BNP-M1588:14
	2.0	BHEL's NIT, vide reference no PSER:SCT:BNP-M1588:3909 Date: 27-08-2014
	3.0	BHEL's TCN-01, vide reference no PSER: SCT: BNP-M1588: TCN-01 Date: 15-09-2014
	4.0	Other References, if any.

With reference to above, following points, relevant to tender, may please be noted and complied with while submitting the offer.

1. Clarification is attached vide Annexure-I to TCN-02.
2. Due date of offer submission is extended from 23-09-2014 to **29-09-2014** (15=00 Hrs). Bidders are requested to submit their offer by extended due date positively.
3. Revised 'No deviation certificate' is attached. Bidder to submit 'No deviation certificate' as per attached format only.
4. All other terms & conditions shall remain unchanged.

Thanking you,

Yours faithfully,
for BHARAT HEAVY ELECTRICALS LTD

Sr. ENGINEER (SCT)

Encl:

1.0 As Above.

पावर सेक्टर पूर्वी क्षेत्र (मुख्यालय)

POWER SECTOR EASTERN REGION, DJ-9/1, SALT LAKE CITY, KOLKATA - 700 091

फैक्स/Fax : (033) 23211960

फोन/Phone : बोर्ड/EPABX : 23211798/ 1691

FORMAT FOR NO DEVIATION CERTIFICATE
(To be submitted in the bidder's letter head)

BHARAT HEAVY ELECTRICALS LIMITED,
Power Sector - Eastern Region,
Plot no 9/1, DJ Block, Sector – II, Salt Lake City,
Kolkata – 700 091

Sub	No Deviation Certificate.	
Job	Design, engineering, manufacturing, supply, erection, testing, commissioning, etc including O&M of Air Conditioning System for 2x660 MW units at IB TPS, Banharpalli, Orissa.	
Ref	01	Tender No. PSER:SCT:BNP-M1588:14
	02	BHEL's NIT, vide reference no PSER:SCT:BNP-M1588:3909 , Dated 27-08-2014.
	03	BHEL's TCN-01,vide reference no PSER: SCT: BNP-M1588: TCN-01 Date: 15-09-2014
	04	BHEL's TCN-02,vide reference no PSER: SCT: BNP-M1588: TCN-02 Date: 23-09-2014
	05	All other pertinent issues till date.

Dear Sirs,

With reference to above, this is to confirm that as per tender conditions, we have visited site before submission of our offer and noted the job content & site conditions etc. We also confirm that we have not changed/ modified the tender documents as appeared in the website/ issued by you and in case of such observance at any stage, it shall be treated as null and void.

We hereby confirm that we have not taken any deviation from tender clauses together with other references as enumerated in the above referred NIT. We hereby confirm our unqualified acceptance to all terms & conditions, unqualified compliance to technical specification, integrity pact (if applicable) and acceptance to reverse auctioning process.

In the event of observance of any deviation in any part of our offer at a later date whether implicit or explicit, the deviations shall stand null & void.

We confirm to have submitted offer in accordance with tender instructions and as per aforesaid references.

Thanking you,

Yours faithfully,

(Signature, date & seal of authorized
representative of the bidder)

JOB:DESIGN, ENGINEERING, MANUFACTURING, SUPPLY, ERECTION, TESTING, COMMISSIONING, ETC INCLUDING O&M OF AIR CONDITIONING SYSTEM FOR 2X660 MW UNITS AT IB TPS, BANHARPALLI, ORISSA

TENDER NO PSER:SCT: BNP-M1588:14

SL NO	Ref. Clause of Tender (Vol-IA)-GCC Supply	Tender Provision	Bidder's Query	BHEL's Clarification
1.0	Point No 4.2	The individual item rates or lump sum price as the case may be, in the schedule of this contract shall be deemed to be firm for the entire period of the Contract or extended period of contract and no escalation in the rates or price shall be permissible for any reason whatsoever unless otherwise specified.	To re narrate this clause as Price will be firm till agreed contractual period of time. Afterwards price escalation will be applicable as per market rate.	Shall be as per tender provision
2.0	Point No. 4.3	The contract price shall not be varied in respect of the fluctuations in rate of wages or allowances payable to the labour or in the cost of materials, consumables, water, fuel, power or for anticipated profit or alleged losses or for any reason whatsoever,	This clause is not acceptable. Any statutory variation will born by purchaser during contract period and afterword's.	Shall be as per tender provision.
3.0	Point No 5.1.11	No statutory variation during extended period shall be allowed.	This clause is not acceptable. Any statutory variation will born by purchaser during contract period and afterword's.	Shall be as per contract provision. Please refer clause no 29.7 & 29.8 of Vol-IC (SCC-Supply).
4.0	Point No 7.3	No variations on customs duty exchange rate minimum wages, prices of controlled commodities or any other input shall be payable by BHEL.	This clause is not acceptable. Any variation / Rate exchange variation will born by purchaser during contract period and afterword's.	Shall be as per tender provision
5.0	Point No 7.4	Notwithstanding the above, where the actual completion of the supply occurs beyond the period stipulated in the order/contract, variations above referred to will be limited to the rates prevailing on the dates of the stipulated completion period only and for variations after the agreed completion period the tenderer alone shall bear the impact if it is upward revision and if it is downward revision BHEL shall be given credit to the extent. This will be without prejudice to the levy of penalty for delay in completion.	We request to re narrate this clause as Price will be firm till agreed contractual period of time. Afterwards price escalation will be applicable with present market rate. Material will be dispatched to site as per actual site condition.	Shall be as per tender provision
6.0	Point No. 10.1	All bank charges for documents through bank shall be to the account of contractor.	We request you to kindly accept through cheque or EFT payment as Bank Through payment is complicated and often delays in getting the actual credit.	Shall be as per tender provision

SL NO	Ref. Clause of Tender (Vol-IA)-GCC Supply	Tender Provision	Bidder's Query	BHEL's Clarification
7.0	Point No. 11.1	The time and date of completion of the work as stipulated in the contract Documents shall be deemed to be the essence of the Contract. The contractor shall commence the works and shall proceed with the same with due expedition and without delay except as may be expressly sanctioned or ordered by the Engineer. If the contractor fails to commence the work within the stipulated time. BHEL at his sole discretion will have the right to cancel the contract. In such an event the contractor's security deposit with BHEL will stand forfeited without any further reference to the contractor, without prejudice to any and all of the BHEL's other rights and remedies in this regard. The Contractor shall so organise his resources and perform so as to complete the work not later than the aforesaid date of completion.	Omit this clause .	Shall be as per tender provision
8.0	Point No. 11.6.4	In the event of contractor's continued poor progress of work, BHEL shall at his option treat this as breach of the contract by the contractor. In such an event it shall be open to BHEL to have the work completed through any other agency or agencies and claim the difference in cost in addition to damages from the contractor without prejudice to any other right or remedy of BHEL under this contract.	Omit this clause	Shall be as per tender provision
9.0	Point No. 12.1	It should be clearly understood by the Contractor that time and the date of delivery of despatch stipulated in the order/contract is the essence of the contract, If the contractor fails to complete the order I contract within the time fixed in the order I contract, or within any extension of time granted by BHEL, it shall be lawful for BHEL to recover damages for breach or order I contract without prejudice to any other rights and I or remedies provided for, in the order I contract and hereunder. To be entitled to impose such damage, BHEL will not be required to prove that he has incurred such amount as actual damage.	We request you to omit this clause	Shall be as per tender provision
10.0	Point No. 12.2	DELAYED DELIVERY -	BHEL is requested to accept LD clause instead of penalty.	Shall be as per tender provision

SL NO	Ref. Clause of Tender (Vol-IA)-GCC Supply	Tender Provision	Bidder's Query	BHEL's Clarification
11.0	Point No. 13.2.9	BHEL reserve the right of forfeiture of security deposit in addition to other claims and penalties in the event of the contractor's failure to fulfil any of the contractual obligations (including liquidation or bankruptcy of the contractor, non- payment of money payable by means of arbitration award in favour of BHEL) or in the event of termination of contract as per terms and conditions of contract. BHEL reserve the right to set off these security deposit, against any claims of any other contract with BHEL.	BHEL is requested to omit this clause	Shall be as per tender provision
12.0	Point No. 27.1	BHEL without prejudice to his right to recover any expenses, losses or damages to which BHEL may be put to incur or sustain by reason of the contract shall be entitled to cancel the order/contract on whole or portion thereof without compensation to contractor and if so desires, he may procure upon such terms and in such manner as he deems appropriate items not so delivered or others of a similar description where items exactly complying with particulars are not, in the opinion of BHEL which shall be final, readily procurable, at the risk and cost of the contractor and the contractor shall be liable to BHEL for any excess costs provided that the contractor shall continue the performance of the order/contract to the extent not cancelled under the provisions of this clause. Provided also that the contractor shall not be entitled to any gain on repurchase etc.	BHEL to omit this clause	Shall be as per tender provision

SL NO	Ref. Clause of Tender (Vol-IA)-GCC Supply	Tender Provision	Bidder's Query	BHEL's Clarification
13.0	Point No. 28.	<p>FORECLOSURE OF CONTRACT:If at any time after acceptance of the Tender the owner/BHEL shall decide to abandon or reduce the scope of the work for any reason whatsoever and hence not require the whole or any part of the work to be carried out, BHEL shall give notice in writing to that effect to contract and the Contractor shall have no claim to any payment of compensation or otherwise, whatsoever, on account of any profit or advance which he might have derived from the execution of the works in full but which he could not derive in consequence of the foreclosure of the whole or part of the work. The contractor shall have no claim for compensation against certificate vouchers or explanations, to enable the contractor to properly identify such claims. Such claims shall be paid by the contractor within fifteen (15) days of the receipt of the corresponding bills and if not paid by the contractor within the said period. BHEL may then deducted the amount from any money due or becoming due by him to the contractor under the contract or may be recovered by actions of law or otherwise, if the contractor fails to satisfy BHEL of such claims.</p>	Need to discuss on above issue.	It is very much a standard provision looking in to the aspect of fore-closure. As such, tender provision shall prevail.
14.0	Point No. 34.4	<p>If after the Engineer has given written notice of this decision to the party, no claim to arbitration has been communicated to him by the party within 30 days from the receipt of such notice, the said decision shall become final and binding on the parties. In the event the contractor being dissatisfied with any such decision or if amicable settlement can not be reached then all such disputed issues shall be referred to the sole arbitration of the person appointed by the General Manager of BHEL.</p>	<p>BHEL is requested to accept the clause as mentioned below : Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning or operation or effect of this agreement shall, unless resolved amicably, be settled by Arbitration of three arbitrators, one to be appointed by each party and the third arbitrator (who shall act as the presiding arbitrator) to be appointed by the two arbitrators. All proceedings under such Arbitration shall be held in Mumbai and in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and any statutory modifications or reenactment thereof. It is agreed and understood that the court having jurisdiction over Mumbai alone shall be competent to entertain any application or petition pertaining to the Arbitration Agreement and/or arbitral proceedings pursuant to this clause. During settlement of disputes and arbitration proceedings, both the parties shall be obliged to carry out their respective obligations under the Contract.</p>	<p>This Arbitration provision is an approved procedure of BHEL and accepted as per Law. As such, cannot be altered including the jurisdiction provision. The Court of Kolkata shall have exclusive jurisdiction.</p>