

Terms & Conditions of Reverse Auction

Against this enquiry for the subject item/ system with detailed scope of supply as per enquiry specifications, BHEL may resort to “REVERSE AUCTION PROCEDURE” i.e., ON LINE BIDDING (THROUGH A SERVICE PROVIDER). The philosophy followed for reverse auction shall be English Reverse (No ties).

1. For the proposed reverse auction, technically and commercially acceptable bidders only shall be eligible to participate.
2. Those bidders who have given their acceptance for Reverse Auction (quoted against this tender enquiry) will have to necessarily submit ‘online sealed bid’ in the Reverse Auction. Non-submission of ‘online sealed bid’ by the bidder for any of the eligible items for which techno-commercially qualified, will be considered as tampering of the tender process and will invite action by BHEL as per extant guidelines in vogue.
3. 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.
4. In case of reverse auction, BHEL will inform the bidders the details of Service Provider to enable them to contact & get trained.
5. Business rules like event date, time, bid decrement, extension etc. also will be communicated through service provider for compliance.
6. Bidders have to fax the Compliance form (annexure IV) before start of Reverse auction. Without this, the bidder will not be eligible to participate in the event.
7. In line with the NIT terms, BHEL will provide the calculation sheet (e.g., EXCEL sheet) which will help to arrive at “Total Cost to BHEL” like Packing & forwarding charges, Taxes and Duties, Freight charges, Insurance, Service Tax for Services and loading factors (for non-compliance to BHEL standard Commercial terms & conditions) for each of the bidder to enable them to fill-in the price and keep it ready for keying in during the Auction.
8. Reverse auction will be conducted on scheduled date & time.
9. At the end of Reverse Auction event, the lowest bidder value will be known on auction portal.

10. The lowest bidder has to fax/e-mail the duly signed and filled-in prescribed format for price breakup including that of line items, if required, (Annexure VII) as provided on case-to-case basis to Service provider within two working days of Auction without fail.
11. In case BHEL decides not to go for Reverse Auction procedure for this tender enquiry, the Price bids and price impacts, if any, already submitted and available with BHEL shall be opened as per BHEL's standard practice.
12. Bidders shall be required to read the "Terms and Conditions" section of the auctions site of Service provider, using the Login IDs and passwords given to them by the service provider before reverse auction event. Bidders should acquaint themselves of the 'Business Rules of Reverse Auction', which will be communicated before the Reverse Auction.
13. If the Bidder or any of his representatives are found to be involved in Price manipulation/ cartel formation of any kind, directly or indirectly by communicating with other bidders, action *as per extant BHEL guidelines*, shall be initiated by BHEL and the results of the RA scrapped/ aborted.
14. The Bidder shall not divulge either his Bids or any other exclusive details of BHEL to any other party.
15. In case BHEL decides to go for reverse auction, the H1 bidder(s) (whose quote is highest in online sealed bid) may not be allowed to participate in further RA process.

Business Rules for Reverse Auction

This has reference to tender no **{tender number....date...}**. BHEL shall finalise the Rates for the supply of **{item name}** through Reverse Auction mode. BHEL has made arrangement with M/s. **{Service provider}**, who shall be BHEL's authorized service provider for the same. Bidders should please go through the guidelines given below and submit acceptance of the same.

The technical & commercial terms are as per (a) BHEL Tender Enq. No. {...} dated {...}, (b) Bidders' technical & commercial bid (in case of two part bid) and (c) subsequent correspondences between BHEL and the bidders, if any.

1. Schedule for reverse auction: The Reverse Auction is tentatively scheduled on **{date}**:

- **Online Sealed Bid:-**

- **{Start Time:**
- **Close Time: }**

- **Online Reverse Auction:-**

- **{Start Time:**
- **Close Time:}**

2. Auction extension time: If a bidder places a bid in the last {...} minutes of closing of the Reverse Auction and if that bid gets accepted, then the auction's duration shall get extended automatically for another {...} minutes, for the entire auction (i.e. for all the items in the auction), from the time that bid comes in. Please note that the auto-extension will take place only if a bid comes in those last {...} minutes and if that bid gets accepted as the lowest bid. If the bid does not get accepted as the lowest bid, the auto-extension will not take place even if that bid might have come in the last {...} minutes. In case, there is no bid in the last {...} minutes of closing of Reverse Auction, the auction shall get closed automatically without any extension. However, bidders are advised not to wait till the last minute or last few seconds to enter their bid during the auto-extension period to avoid complications related with internet connectivity, network problems, system crash down, power failure, etc.

The above process will continue till completion of Reverse Auction.

Complaints/ Grievances, if any, regarding denial of service or any related issue should be given in writing thru e-mail/ fax to M/s. **{Service provider}** with a copy to BHEL within 15 minutes from the initial closing time of Online Reverse Auction.

3. Bid price: The Bidder has to quote the F.O.R. destination Price inclusive of Packing & Forwarding charges, all the routine & type tests as per tender scope, ED + cess, CST against C-form, Freight (bidder to provide original Freight paid receipt), insurance charges, etc. including loading (if indicated by BHEL due to deviations in commercial terms) for the Items specified. Details are as shown in Excel Sheet for calculation of Landed cost.

Note: For the consideration of L1 bidder, the bid value shall be reduced by loading amount, if applicable.

- 4. Bidding currency and unit of measurement:** Bidding will be conducted in {*Indian Rupees per Unit*} of the material as per the specifications {...}

In case of foreign currency bids, exchange rate (TT selling rate of State Bank of India) as on scheduled date of tender opening (Part-I bid in case of two part bid) shall be considered for conversion in Indian Rupees.

- 5. Validity of bids:** Price shall be valid for {... *days*} from the date of reverse auction. These shall not be subjected to any change whatsoever.
- 6. Lowest bid of a bidder:** In case the bidder submits more than one bid, the lowest bid at the end of Online Reverse Auction will be considered as the bidder's final offer to execute the work.
- 7. Post auction procedure:** BHEL will proceed with the Lowest Bid in the Reverse Auction for further processing.

8. Procedure of Reverse Auctioning

- i. **Online Sealed Bid:** This duration of online sealed bid will be {...} minutes. All bidders to submit their online sealed bids during this period.
 - ii. **Online Reverse Auction:** The 'opening price' i.e. start price for RA and 'bid decrement' will be decided by BHEL.
 - iii. If BHEL decides the lowest online sealed bid as the starting price, then the lowest bidder in online sealed bid shall be shown as current L1 automatically by the system and no acceptance of that price is required. System shall have the provision to indicate this bid as current L1.
 - iv. Bidders by offering a minimum bid decrement or the multiples thereof can displace a standing lowest bid and become "L1" and this continues as an iterative process.
 - v. After the completion of the online reverse auction, the Closing Price (CP) shall be available for further processing.
- 9.** If no bid is received in the auction system/ website within the specified time duration of the online RA, then BHEL will scrap the online reverse auction process and proceed with the conventional mode of tendering (opening of the envelope sealed bids earlier submitted by the bidders).

In cases where no bidder accepts the start price, the RA may be treated as failed and sealed envelope price bids of all the techno-commercially qualified bidders shall be opened and the tender processed accordingly. Wherever the techno-commercially acceptable bidder(s) had agreed to participate in the RA and had failed to submit the online sealed bid, the envelope sealed bids of such bidder(s) shall not be entertained.

Wherever, the evaluation is done for individual items of the package, and no bid is received for some of the item(s), RA will be considered as failed for these item(s), re-reverse auction/ retendering will be conducted for these items.

10. Only those bidders who have submitted the 'online sealed bid' within the scheduled time shall be eligible to participate further in RA process. However, the H1 bidder(s) (whose quote is highest in online sealed bid) may not be allowed to participate in further RA process.
11. Any commercial/ technical loading shall be intimated to bidders prior to RA. The excel sheet provided in this regard shall cover all these aspects. Commercial/ technical loading if any, shall be added by the respective bidder in its price during online sealed bid & Online Reverse Auction. Modalities of loading & de-loading shall be separately intimated to the bidders.
12. Computerized reverse auction shall be conducted by BHEL (through M/s {Service Provider}), on pre-specified date, while the bidders shall be quoting from their own offices/ place of their choice. Internet connectivity shall have to be ensured by bidders themselves.

During the RA if a bidder is not able to bid and requests for extension of time by fax/ e-mail/ phone then time extension of additional 15 minutes will be given by the service provider provided such requests come before 5 minutes of auction closing time. However, only one such request per bidder can be entertained.

Despite this extension if bidder fails to upload his prices due to extreme case of failure of Internet connectivity, (due to any reason whatsoever may be) it is the bidders' responsibility/ decision to send fax communication immediately to M/s. {Service provider}, furnishing the price the bidder wants to bid online with a request to the service provider to upload the faxed price on line so that the service provider will up load that price on line on behalf of the Bidder. It shall be noted clearly that the concerned bidder communicating this price to service provider has to solely ensure that the fax message is received by the service provider in a readable/ legible form and also the Bidder should simultaneously check up with service provider about the clear receipt of the price faxed. It shall also be

clearly understood that the bidder shall be at liberty to send such fax communications of prices to be up loaded by the service provider only within the closure of Bid time and under no circumstance it shall be allowed beyond the closure of Bid time /reverse auction. It shall also be noted that the service provider should be given a reasonable required time by the bidders, to upload such prices online and if such required time is not available at the disposal of the Service provider at the time of receipt of the fax message from the bidders, the service provider will not be uploading the prices and either BHEL or the service provider are not responsible for this unforeseen circumstances. In order to ward-off such contingent situation bidders are requested to make all the necessary arrangements/ alternatives whatever required so that they are able to circumvent such situation and still be able to participate in the reverse auction successfully. Failure of power or loss of connectivity at the premises of bidders during the Reverse auction cannot be the cause for not participating in the reverse auction. On account of this, the time for the auction cannot be extended and neither BHEL nor M/s. {Service provider} is responsible for such eventualities.

- 13. Proxy bids:** Proxy bidding feature is a pro-bidder feature to safe guard the bidder's interest of any internet failure or to avoid last minute rush. The proxy feature allows bidders to place an automated bid in the system directly in an auction and bid without having to enter a new amount each time a competing bidder submits a new offer. The bid amount that a bidder enters is the minimum that the bidder is willing to offer. Here the software bids on behalf of the bidder. This obviates the need for the bidder participating in the bidding process until the proxy bid amount is decrementally reached by other bidders. When proxy bid amount is reached, the bidder (who has submitted the proxy bid) has an option to start participating in the bidding process.

The proxy amount is the minimum amount that the bidder is willing to offer. During the course of bidding, the bidder cannot delete or change the amount of a proxy bid.

Bids are submitted in decrements (decreasing bid amounts). The application automates proxy bidding by processing proxy bids automatically, according to the decrement that the auction originator originally established when creating the auction, submitting offers to the next bid decrement each time a competing bidder bids, regardless of the fact whether the competing bids are submitted as proxy or standard bids. However, it may please be noted that if a manual bid and proxy bid are submitted at the same instant manual bid will be recognized as the L1 at that instant.

In case of more than one proxy bid, the system shall bid till it crosses the threshold value of 'each lowest proxy bid' and thereafter allow the competition to decide the final L1 price.

Proxy bids are fed into the system directly by the respective bidders. As such this information is privy only to the respective bidder(s).

14. Bidders are advised to get fully trained and clear all their doubts such as refreshing of Screen, quantity being auctioned, tender value being auctioned etc.
15. M/s. {*Service provider*}, shall arrange to demonstrate/ train the bidder or bidder's nominated person(s), without any cost to bidders. M/s. {*Service provider*}, shall also explain the bidders, all the rules related to the Reverse Auction/ Business Rules Document to be adopted along with bid manual. Bidders are required to give their compliance on it before start of bid process.
16. Successful bidder shall be required to submit the final prices, quoted during the Online Reverse Auction in Annexure - VII after the completion of auction to M/s. *Service provider* besides BHEL, duly signed and stamped as token of acceptance without any new condition other than those already agreed to before start of auction.
17. Any variation between the final bid value and that in the confirmatory signed price breakup document will be considered as tampering the tender process and will invite action by BHEL as per extant guidelines in vogue.
18. Bidders' bid will be taken as an offer to execute the work/ supplies the item as per enquiry no. {...} dt. {...}. Bids once made by the bidder, cannot be cancelled/ withdrawn and bidder shall be bound to execute the work as mentioned above at bidder's final bid price. Should bidder back out and not execute the contract as per the rates quoted, BHEL shall take action as per extant guidelines in vogue.
19. Bidders shall be assigned a **Unique User Name & Password** by BHEL or M/s. {*Service provider*}. Bidders are advised to change the Password and edit the information in the Registration Page after the receipt of initial Password from BHEL/ M/s. {*Service provider*} to ensure confidentiality. All bids made from the Login ID given to the bidders will be deemed to have been made by the bidders/ bidders' company.
20. Bidders shall be able to view the following on their screen along with the necessary fields during Online Reverse Auction:

- a. Leading (Running Lowest) Bid in the Auction (only total price of package)
 - b. Bid Placed by the bidder
 - c. Start Price
 - d. Decrement value
- 21.**After receipt of the system report from the Service Provider after completion of the Online Reverse Auction, BHEL will decide upon the winner. BHEL's decision on award of contract shall be final and binding on all the Bidders.
- 22.**BHEL reserves the right to cancel the Reverse Auction process/ tender at any time, before ordering, without assigning any reason.
- 23.**BHEL shall not have any liability to bidders for any interruption or delay in access to the site irrespective of the cause. In such cases, the decision of BHEL shall be binding on the bidders.
- 24.**Other terms and conditions shall be as per bidder's techno-commercial offers and other correspondences, if any, till date.
- 25.**Bidders are required to submit their acceptance to the terms/ conditions/ modalities before participating in the Reverse Auction in the process compliance Form as per Annexure-IV.
- 26.**BHEL can decide to extend, reschedule or cancel any Auction with prior intimation to all bidders.
- 27.**If there is any clash between this business document and the FAQ available, if any, in the web site of M/s. {*Service provider*} the terms& conditions given in this business document will supercede the information contained in the FAQs. Any changes made by BHEL/ service provider (due to unforeseen contingencies) after the first posting shall be deemed to have been accepted if the bidder continues to access the portal after that time.

Mandate to Service Provider

Ref :

Date :

To,
M/s. {Service provider}

Sub: Providing of Services for Reverse Auction.

Ref: No {...} date {...}

Dear Sirs,

Please conduct Reverse Auction as per the following details:

- **Scope:** Auction event management with training of BHEL and its bidders.
- Price: Rs. {.....}/- . No other duties, Taxes, levies etc. except service tax @ {.....}% shall be payable for conducting reverse auction. This price is firm.
- Payment Terms: 100% payment after successful completion of Auction.
- Completion of Auction: The auction shall be deemed to have been successfully completed on receipt and acceptance of final report including hard copy of the final bid with price break up including that of line items, if any, duly signed by the successful bidder who has participated in the reverse auction. The bill shall be submitted along with the completion report to the undersigned.
- The General Terms & Conditions and customized Business Rules of the Reverse Auction are as per Annexure – I & II.
- The list of bidders with their contact details is given in Annexure - V and the details of the item (s) to be Reverse Auctioned are as per Annexure - VI.
- Please acknowledge receipt of this letter order and also confirm that final report (duly signed and stamped by M/s. {Service provider}) including hard copy of the final bid with breakup of prices including that of line items duly signed by the successful bidder (duly endorsed by M/s. {Service provider}) shall be submitted within **four** working days of conclusion of auction.

Yours sincerely,

(for and on behalf of BHEL)

Note:

- i) The case of rescheduled auction event will be considered separate event for the purpose of payment.
- ii) If the event has been conducted as per mandate, you shall be paid irrespective of RA outcome.

Buyer Name	<ul style="list-style-type: none"> - <i>Name of BHEL Unit</i> - <i>Full postal address</i> - <i>Fax:</i> - <i>Phone:</i> - <i>Email:</i> - <i>Contact person name:</i> - <i>Phone:</i> -
Auction to be conducted by	<ul style="list-style-type: none"> - <i>Name of Service provider</i> - <i>Full postal address</i> - <i>Fax:</i> - <i>Phone:</i> - <i>Email:</i> - <i>Contact person name:</i> - <i>Phone:</i> -
Date of Auction	<ul style="list-style-type: none"> - <i>Date of Auction</i> - <i>Online sealed bid auction time:</i> - <i>Online reverse auction time:</i> - <i>Online auction website:</i> -
Documents Attached: (To be sent to the bidders)	<ol style="list-style-type: none"> 1) Terms & Conditions of Reverse Auction (<u><i>Annexure-I</i></u>) 2) Business rules for Reverse Auction (<u><i>Annexure-II</i></u>) 3) Process Compliance Form (<u><i>Annexure-IV</i></u>) 4) Details of item (s) to be Reverse Auctioned (<u><i>Annexure-VI</i></u>) 5) Post RA Price confirmation by bidder (<u><i>Annexure-VII</i></u>)

Process Compliance Form

(The bidders are required to print this on their company's letterhead and sign, stamp before faxing)

To

- M/s. {Service provider}
- Postal address}

Sub: Agreement to the Process related Terms and Conditions

Dear Sir,

This has reference to the Terms & Conditions for the Reverse Auction mentioned in the RFQ document for {Items} against BHEL enquiry/ RFQ no.{.....} dt. {.....}

This letter is to confirm that:

- 1) The undersigned is authorized official/ representative of the company to participate in RA and to sign the related documents.
- 2) We have studied the Reverse Auction Terms & Conditions and the Business rules governing the Reverse Auction as mentioned in your letter and confirm our agreement to them.
- 3) We also confirm that we have taken the training on the auction tool and have understood the functionality of the same thoroughly.
- 4) We also confirm that, in case we become L1 bidder, we will email/ fax the price confirmation & break up of our quoted price (including that of line items) as per Annexure - VII within **two** working days (of BHEL) after completion of RA event, besides sending the same by registered post/ courier both to M/s. BHEL and M/s. {Service provider.}

We, hereby confirm that we will honor the Bids placed by us during the auction process.

With regards

Signature with company seal

Name –

Company / Organization

Designation within Company / Organization

Address of Company / Organization

- Sign this document and Fax it to M/s {Service provider} at {.....} prior to start of the Event.
- Attach a signed copy of the RFQ document along with the Agreement Form/ Process Compliance form and send to M/s. {Service provider}

List of bidders and their address/ contact person details

Sl. No.	Address	Contact Person
1	<ul style="list-style-type: none"> - <i>Name of bidder</i> - <i>Full postal address</i> - <i>Fax:</i> - <i>Phone:</i> - <i>Email:</i> - 	<ul style="list-style-type: none"> - <i>Contact person name:</i> - <i>Phone:</i> - <i>Email:</i> -
2		
3		
..		
..		

Details of item (s) to be Reverse Auctioned

1. {Details of items including quantity, specification, Enquiry no. & date

- 1.
- 2.
- ..
- ..
- ..
- ..
- }

The offers of all the bidders are technically & commercially frozen as submitted by the bidders and clarified in subsequent correspondence, if any, with the bidders.

RA price confirmation and breakup

To

- **M/s. Service provider**
- *Postal address*

CC: M/s BHEL

*{Unit-
Address-}*

Sub: **Final price quoted during Reverse Auction and price breakup**

Dear Sir,

We confirm that we have quoted.

Rs.{_____} for item covered under tender enquiry No. {...} dt.{...}

Total price of the items covered under above cited enquiries is inclusive of *{Packing & forwarding, E.D., C.S.T., freight and insurance charges upto {.....} District,{.....} State and Type Test Charges etc., (exclusive of service tax), other as per NIT}*

as our final landed prices as quoted during the Reverse Auction conducted today *{date}* which will be valid for a period of {_____} days.

The price break-up including that of line items is as given below.

Total	-	=====
		Rs.
		=====

Thanking you and looking forward to the valuable order from BHEL.

Yours sincerely,

For _____

Name:
Company:
Date:
Seal: