

Annexure – A

1. Material specification:

Offer should be in line with the specifications mentioned in the enquiry. If there is any deviation, the same should be mentioned clearly against that item in the e- procurement offer itself.

For clarifications if any may be sought through Email IDs: anoopss@bhel.in / nnithya@bhel.in

2. Offer submission:

Offer is to be submitted in TWO part bids system (**Technical bid + Price bid**) in the E-Procurement portal <https://eprocurebhel.co.in/> only, on or before the due date and time.

Sealed cover bids / e-Mails / FAX / Manual offer will NOT be accepted.

New bidder would be required to register on the e-procurement portal and submit their bid online. Existing bidders may use their existing login credential to login and participate.

Bidders are requested to visit <https://eprocurebhel.co.in/> & www.bhel.com for more details & corrigendum if any for the tender enquiry.

3. PQC (Pre-Qualification Criteria) Conditions:

- A. The BIDDER/VENDOR has to meet the following requirements to get qualified for consideration of the technical offer. If the vendor does not qualify as per PRE-QUALIFICATION CRITERIA, the technical offer of such BIDDER(s)/VENDOR(s) offer will not be evaluated.
- B. The BIDDER/VENDOR has to fill the Compliance Report & PQC (Pre-Qualification Criteria) format attached, sign, affix the stamp and upload in the NIC Portal along with supporting documents wherever applicable.

4.Tender opening:

On the due date of tender opening, only the technical bids will be opened. Technical bids will be evaluated by us and clarifications required, if any, will be called for from the bidders on technical and commercial points. Offers not meeting the required specification will be rejected. The price bids of techno-commercially suitable bidders only will be opened.

5. Validity of offer:

Offers should have a validity of minimum 120 days from the date of tender opening.

6. Delivery INCOTERMS:

Indigenous bidders: Should be quoted on F.O.R-Free on road BHEL Stores, Trichy basis only (inclusive of packing, forwarding, freight and transit insurance charges to seller account). Ex-works offer will be rejected. Supplier shall indicate applicable GST in percentage along with HSN code against each item.

7. Delivery period: Recommended delivery date is 90 days from date of purchase of order. Offer should clearly indicate the delivery period indicated in number of weeks from the date of purchase order.

8. Quantity tolerance: Not applicable in this tender.

9. Ranking of offers:

Individual item basis: In general ranking L-1, L-2 etc. shall be done for individual items for the techno-commercially acceptable offers on landed cost to BHEL, Trichy basis. Supplier should quote all charges (if any) per item wise only to evaluate offers per item wise.

In the course of evaluation, if more than one seller become L1 for a single item, effective L1 will be decided by soliciting discounts from the respective L1 bidders. In case more than one bidder become L1 even after soliciting discounts, the L1 bidder shall be decided by a toss / draw of lots, in the presence of the respective L1 bidder(s) or their representative(s).

Ranking will be done accordingly. BHEL's decision in such situation shall be final and binding.

After price bid opening if rate of any item/s found to be quoted zero "0" by bidder/s and subsequently bidder/s clarify that the item offered is not free of cost or the cost of that item/s is not included in any package then it will be considered as regretted for that item from that seller/s for further processing. Remaining seller/s offer will be considered for further processing and tender finalization.

10. Offer Evaluation Criteria:

The offers of indigenous vendors will be evaluated on total landed cost to BHEL, Trichy per item basis. The evaluation details with respect to the indigenous vendors is detailed below:

Indigenous Vendors:

Net Landed cost/rate for each item = F.O.R. Rate in INR (A) + Applicable Taxes (B)– Applicable input tax credit (C)

A-Indigenous vendors submit offers on F.O.R. - Free on Road, HPBP Stores, BHEL Trichy in INR.

B-Applicable GST and any other charges quoted by indigenous vendors will be added to the base price.

C-However input tax credit is availed for GST, hence the same is excluded for arriving at the landed cost.

The evaluation currency for this tender shall be INR.

11. BHEL reserves the right to negotiate with L1 vendor or re-float the tender for items where, L1 price is not the lowest acceptable price; increase or decrease the tender quantity.

12. TERMS OF PAYMENT:

Payment Term for Indigenous suppliers: Payment term is 100% direct EFT payment after 60 days from the date of receipt and acceptance of materials at Stores Ward -19, BHEL Trichy.

Any deviation in the above payment terms, any other conditions in payment terms or any other Payment terms will not be accepted.

(Payment for MSE Indigenous vendors will be as per MSMED Act, 2006)

13. LD clause & Risk purchase clause are applicable in this tender.

Liquidated Damages (LD): Liquidated damages shall be 0.5% of the total order value per week or part thereof subject to a maximum of 10% of the total order value.

Any deviation from the above LD clause, loading will be applied to the extent to which it is not agreed by the bidder (at offered value).

- INDIGENOUS: For "F.O.R. Delivery terms", Lorry way bill date / Invoice date whichever is later will be taken for LD calculation.

Supplier should accept LD clause without any deviation at the time of offer submission.

Risk Purchase: Alternatively, the purchaser at his option will be entitled to Terminate the Contract and to purchase elsewhere at the risk and cost of the seller either the whole of the goods or any part which the supplier has failed to deliver or dispatch within the time stipulated as aforesaid or if the same were not available, the best and the nearest available substitutes therefore. The supplier shall be liable for any loss, which the purchaser may sustain by reason of such risk purchases in addition to penalty at the rate mentioned in LD clause above.

a) In the event of any successful Tenderer's failure to fulfil any of the tender / Contract obligations as per Contract / Agreement, BHEL may purchase from the alternate vendor and get it completed to meet the BHEL requirement and additional expenditure, if any, including consequential cost viz., demurrage etc., will be fully recovered from the supplier who failed to supply the items with the due date.

b) The decision of BHEL with regard to the actual losses / consequential expenditure incurred by BHEL shall be final and binding on the supplier.

The value under Risk purchase clause shall be calculated as follows:

Risk & Cost Amount= [(A-B) + (A x H/100)]

Where,

A= Value of Balance scope of Work/ Supply (*) as per rates of new contract

B= Value of Balance scope of Work/ Supply (*) as per rates of old contract being paid to the contractor/ supplier at the time of termination of contract i.e. inclusive of PVC & ORC, if any.

H = Overhead Factor shall be taken as 5

In case (A-B) is less than 0 (zero), value of (A-B) shall be taken as 0 (zero).

*(Balance scope of work/ supply): Difference of Tendered/Contract Quantities and Executed Quantities as on the date of issue of Letter for 'Termination of PO/Contract', shall be taken as balance scope of Supply for calculating risk & cost amount.

In case vendor fails to fulfil any of the PO / Contract obligations as per PO/Contract, PO/contract shall be cancelled and appropriate cost shall be deducted from the vendor's pending bills in BHEL Trichy (or) across the BHEL units.

14. PACKING AND MARKING: The supplier shall arrange for securely protecting and packing the stores to avoid loss or damages during transit.

15. Special Provisions for Micro and Small Enterprises (MSE) bidders applicable on indigenous bidders only:

- At least 25% of the tendered quantity is earmarked for MSE suppliers in this tender. If L1 offer is from a Micro / Small enterprise, this provision is not applicable.
- Out of the 25% tendered quantity reserved for MSE suppliers, 6.25% shall be earmarked for procurement from MSE owned by SC / ST entrepreneurs. In the event of failure of such Micro and Small enterprises to participate in the tender process or meet the tender requirements and the L1 price, the 6.25% sub-target for procurement ear-marked MSE owned by SC / ST entrepreneurs shall be met with other MSE enterprise/s. Ministry of MSME has given following definition of MSE owned by SC/ ST:
 - In case of proprietary MSE, proprietor(s) shall be SC/ ST.
 - In case of partnership MSE, the SC/ ST partners shall be holding at least 51% shares in the unit.
 - In case of Private limited companies, at least 51% share shall be held by SC/ ST promoters.
- Minimum of 3% reservation for women owned MSEs within the above mentioned 25% reservation. In the event of failure of such Micro and Small enterprises to participate in the tender process or meet the tender requirements and the L1 price, the 3% sub-target for procurement ear-marked MSE owned by women entrepreneurs shall be met with other MSE enterprise/s. (The definition for MSEs owned by Women Entrepreneurs is clarified as:
 - i) In case of proprietary MSE, proprietor shall be woman.
 - ii) In case of partnership MSE, the women partners shall be holding at least 51% share in the unit.
 - iii) In case of private limited companies, at least 51% share shall be held by the women promoters.

- In case MSE vendor participating in the tender quotes within the price band of L1 + 15%, they will be allowed to supply the portion of the requirement subject to acceptance of L1 price by MSE vendor. In case of more than one such MSE, the supply shall be shared proportionately.
- **As per Gazette Notification No. S.O. 2119(E) dated 26.06.2020 issued by Ministry of MSME MSE suppliers can avail the intended benefits if they submit UDYAM CERTIFICATE along with the offer.**
- **As per Gazette Notification No. S.O 278 (E) dated 19.01.2022, the existing enterprises registered under EM-Part-II or UAM prior to 30th June, 2020, shall continue to be valid only for a period up to the 31st day of March, 2022**
- Non submission of supporting documents will lead to consideration of their bids at par with other bidders. SC/ST bidder should submit attested cast certificate from competent authority. No benefits shall be applicable for the enquiry if any deficiency in the above required documents is not submitted before the price bid opening. If the tender is to be submitted through e-procurement portal, then the above required documents are to be uploaded on the portal. This provision for MSE will apply subject to the condition that the participating MSE meets the tender requirements. However, credentials of all MSE supplier will be verified before considering the intended benefits for MSE suppliers at the time of tender evaluation.
- In case of any change in the MSE status of the bidder, it shall be the responsibility of the bidder to notify the change as a part of the bid document. If at a later date it comes to the knowledge of BHEL, that the change in the status has not been intimated by the bidder and the order is obtained under the premise of an MSE then BHEL would cancel the pending order against this tender and take necessary steps for suspension of the business dealing with the bidder as per the procurement policy of BHEL.
- In case after the bid opening it is seen that no MSE has become L1, then depending on the nature of the item, if it is not possible to split the tendered items / quantities on account of reasons like customer contract requirements of supplying one make for a given project or technical reasons like tendered items being a system, tendered quantity being low etc., and in case MSE quoting price within price band L1+15.00% may be awarded for full/complete supply of the item/s considering spirit of policy for enhancing the Govt. procurement from MSE seller subject to acceptance of L1 price by MSE vendor.
- If L1 is from a Micro/Small enterprise, the 25% earmarking provision is not applicable and 100% quantity will be ordered on respective L1 source.
- In the event of more than one vendor becoming L1 for any of the item, the enquiry quantity for the items will be shared equally among all the L1 vendors.
- **“As per MSME office memorandum F. No. 1(2)(1)/2016-MA dated 09.02.2017 Traders & Agents should not be allowed to avail the benefits extended under the PP Policy & F. No. 22(1)/2012-MA dated 24.10.2016 public procurement policy is meant for procurement of only goods produced and services rendered by MSEs. However, traders or agents are excluded from the purview of Public Procurement Policy.” Hence traders are not eligible to avail benefits reserved for MSE bidders (Manufacturer of goods) in this tender.**
- Payment for MSE indigenous bidders will be as per MSMED Act, 2006.

16. Conditional offers are likely to be rejected.

17. The correspondences between the bidder and BHEL through email are considered as valid document legally though not signed. It is treated as valid confirmations made on behalf of the respective company and comes under the legal ambit of the business transaction and hence binding on both the parties.

18. General notes:

- No revision of prices will be entertained after the tenders are opened.
- BHEL will consider the ranking after the loading is applied as referred above wherever deviations are observed.
- BHEL reserves the right to negotiate L1 rate or re-float the tender opened if L1 price is not the lowest acceptable price to them inter-alia other reasons.
- Offer will be evaluated on individual item basis.
- L1 will be arrived based on Net Landed cost to BHEL- Trichy.
- No payment will be made for the excess quantity supplied.
- The offers of the bidders who are on the banned list as also the offer of bidders who engage the services of the banned firms, shall be rejected. The list of banned firms is available on the BHEL website - www.bhel.com.
- No charges shall be indicated as "Lumpsum". All charges shall be in "percentage" of the quoted rates or per item wise of the quoted item.
- Indigenous supplier shall indicate applicable GST rate along with HSN code against each item.
- Indigenous supplier shall indicate GSTIN number & PAN number of the Business.
- Manufacturer's name trademark or patent no. if any should be specified. Illustrative leaflets giving technical particulars are required along with quotation wherever necessary.
- The bidder has to keep track of any changes by viewing the addendum / Corrigendum's issued by the Purchaser on time-to- time basis in the E-Procurement platform. The Company calling for tenders shall not be responsible for any claims/problems arising out of this.
- The user should complete all the processes and steps required for bid submission. The successful bid submission can be ascertained once acknowledgement is given by the system through bid submission number after completing all the processes and steps. BHEL and e-procurement service provider will not be responsible for incomplete bid submission by users. Users may also note that the incomplete bids will not be saved by the system and are not available for the Purchaser for processing.
- Before uploading scanned documents if any, the bidders shall sign on all the statements, documents, certificates uploaded by him, owning responsibility for their correctness / authenticity.
- Bidders have to confirm that whether they have been black-listed / kept on hold / given Business holiday for a specified period by any Public Sector Undertaking or Government Departments/any other units of BHEL.

19. Tender terms for GST in line with new GST Return System:

For supplies after implementation of New GST Return System i.e. from 01/10/2019, the following conditions will apply and supplier shall fully comply to the below points.

Indigenous suppliers:

- Response to Tenders for Indigenous supplier will be entertained only if the vendor has a valid GST registration No (GSTIN) which should be clearly mentioned in the offer. If the dealer is exempted from GST registration, a declaration with due supporting documents need to be furnished for considering the offer. Dealers under composition scheme should declare that he is a composition dealer supported by the screen shot taken from GST portal. The dealer has to submit necessary documents if there is any change in status under GST.
- Supplier shall mention their GSTIN in all their invoices (incl. credit Notes, Debit Notes) and invoices shall be in the format as specified/prescribed under GST laws. Invoices shall necessarily contain Invoice number (in case of multiple numbering system is being followed for billing like SAP invoice no, commercial invoice no etc., then the Invoice No. which is linked/uploaded in GSTN network shall be clearly indicated), Billed to party (with GSTIN) & Shipped to party details, item description as per PO,

Quantity, Rate, Value, applicable taxes with nomenclature (like IGST, SGST, CGST & UTGST) separately, HSN/ SAC Code, Place of Supply etc.

- All invoices shall bear the HSN Code for each item separately (Harmonized System of Nomenclature)/ SAC code (Services Accounting Code).
- Invoices will be processed only upon completion of statutory requirement and further subject to following:
 - Vendor declaring such invoice in Form GST ANX-1
 - Receipt of Goods or Services and Tax invoice by BHEL
- As the continuous uploading of tax invoices in GSTN portal (in GST ANX-1) is available for all (i.e. both Small & Large) tax payers under proposed new GST Return System, all invoices raised on BHEL may be uploaded immediately in GST portal on dispatch of material /rendering of services. The supplier shall ensure availability of Invoice in GST portal before submission of invoice to BHEL. Invoices will be admitted by BHEL only if the invoices are available in GSTN portal (in BHEL's GST ANX-2).
- In case of discrepancy in the data uploaded by the supplier in the GSTN portal or in case of any shortages or rejection in the supply, then BHEL will not be able to avail the tax credit and will notify the supplier of the same. Supplier has to rectify the data discrepancy in the GSTN portal or issue credit note or debit note (details also to be uploaded in GSTN portal) for the shortages or rejections in the supplies or additional claims, within the calendar month informed by BHEL.
- In cases where invoice details have been uploaded by the vendor but failed to remit the GST amount to GST Department (Form PMT-08 or Form GST RET-01 to be submitted) within stipulated time, then GST paid on the invoices pertaining to the month for which GST return not filed by the vendor will be recovered from the vendor along with the applicable interest (currently 24% p.a.) and all subsequent bills of the vendor will not be processed till filing of the GST return by the vendor
- In case GST credit is denied to BHEL due to non-receipt or delayed receipt of goods and/ or tax invoice or expiry of timeline prescribed in GST law for availing such ITC, or any other reasons not attributable to BHEL, GST amount claimed in the invoice shall be disallowed to the vendor.
- Where any GST liability arising on BHEL under Reverse Charge (RCM), the vendor has to submit the invoices to BHEL well within the timeline prescribed in GST Law, to enable BHEL to discharge the GST liability. If there is a delay in submission of invoice by the vendor resulting in delayed payment of GST by BHEL along with Interest, then such Interest payable or paid shall be recovered from the vendor.
- Under GST regime, BHEL has to discharge GST liability on LD recovered from suppliers/contracts. Hence applicable GST shall also be recoverable from suppliers/contractors on LD amount. For this Tax Invoice will be issued by BHEL indicating the respective supply invoice number.
- GST TDS will be deducted as per Section 51 of CGST Act 2017 and in line with Notification 50/2018 – Central Tax dated 13.09.2018. GST TDS certificate which will be generated in GST portal subsequent to vendor accepting the TDS deduction in the GST portal, will be issued to the vendor.

20. In the event of Force Majeure:

- Notwithstanding the provisions contained in other clauses, the supplier shall not be liable for imposition of any such sanction so long the delay and/or failure of the supplier in fulfilling its obligations under the contract is the result of an event of Force Majeure. For purposes of this clause, Force Majeure means an event beyond the control of the supplier and not involving the supplier's fault or negligence and which is not foreseeable and not brought about at the instance of the party claiming to be affected by such event and which has caused the non – performance or delay in performance. Such events may include, but are not restricted to, wars or revolutions, hostility, acts of public enemy, civil commotion, sabotage, fires, floods, explosions, epidemics, quarantine restrictions, strikes excluding by its employees, lockouts excluding by its management, freight embargoes and Acts of GOD.
- If a Force Majeure situation arises, the supplier shall promptly notify the Purchaser/Consignee in writing of such conditions and the cause thereof within twenty-one days of occurrence of such event. Unless

otherwise directed by the Purchaser/Consignee in writing, the supplier shall continue to perform its obligations under the contract as far as reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

- If the performance in whole or in part or any obligation under this contract is prevented or delayed by any reason of Force Majeure for a period exceeding sixty days, either party may at its option terminate the contract without any financial repercussion on either side.
- In case due to a Force Majeure event the Purchaser/Consignee is unable to fulfil its contractual commitment and responsibility, the Purchaser/Consignee will notify the supplier accordingly and subsequent actions taken on similar lines described in above sub-paragraphs

21. Disclaimer Clause: Neither the Organization Bharat Heavy Electricals Ltd. nor the eProcurement service provider is responsible for any failure of submission of bids due to failure of internet or other connectivity problems or reasons thereof.

22. Fraud Prevention Policy & Suspension of Business Dealings

“The bidder along with its associate/collaborators/sub-contractors /consultants/service providers shall strictly adhere to BHEL Fraud prevention policy displayed on BHEL website <http://www.bhel.com> and shall immediately bring to the notice of BHEL Management about fraud or suspected fraud as soon as it comes to their notice.”

Guidelines for suspension of business dealings is available in the webpage: http://www.bhel.com/vender_registration/vender.php which includes actions that would be taken against suppliers who do not execute the order placed on them.

23. Cartel Formation:

All the firms should desist from forming cartel as the practice is prohibited under Section 3(3) (a) & (d) of the competition Act 2002. If any such instance is observed during this tender will attract disciplinary action as per BHEL policies.

24. Arbitration and conciliation:

Except as provided elsewhere in this contract, in case amicable settlement is not reached between the parties, in respect of any dispute or difference; arising out of the formation, breach, termination, validity or execution of the contract; or, the respective rights and liabilities of the parties; or, in relation to interpretation of any provision of the contract; or, in any manner touching upon the contract, then, either party may, by a notice in writing to the other party refer such dispute or difference to the sole arbitration of an arbitrator appointed by head of BHEL Trichy – 620 012.

The arbitrator shall pass a reasoned award and the award of the arbitrator shall be final and binding upon the parties.

Subject as aforesaid, the provisions of arbitration and conciliation act 1996(India) or statutory modifications or re-enactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceedings under this clause. The seat of arbitration shall be Trichy, India.

The cost of arbitration shall be borne as per the award of the arbitrator.

Subject to the arbitration in terms of clause Arbitration and conciliation above, the courts at Trichy shall have exclusive jurisdiction over any matter arising out of or in connection with this contract.

Notwithstanding the existence or any dispute or differences and/or reference for the arbitration, the contractor shall proceed with and continue without hindrance the performance of its obligations under this contract with due diligence and expedition in a professional manner except where the contract has been terminated by either party in terms of this contract.

25. This tender is published to procure goods from manufacture or their dealers or their traders those who are eligible to participate as per latest General Financial Rules (GFRs) 2017 Office memorandum F. No. 6/18/2019-PPD dated 23rd July 2020 from Ministry of Finance, Department of Expenditure, Public Procurement Division.

26. As per GFR Rules:

- I. Any bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority. The Competent Authority for the purpose of registration under this order shall be the Registration Committee constituted by the DPIT.
- II. "Bidder" (including the term 'tenderer', 'consultant' or 'service provider' in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons, or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
- III. "Bidder from a country which shares a land border with India" for the purpose of this Order means:
 - a. An entity incorporated, established or registered in such a country; or
 - b. A subsidiary of an entity incorporated, established or registered in such a country; or
 - c. An entity substantially controlled through entities incorporated, established or registered in such country; or
 - d. An entity whose beneficial owner is situated in such a country; or
 - e. An India (or other) agent of such an entity; or
 - f. A natural person who is a citizen of such a country; or
 - g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above.
- IV. The beneficial owner for the purpose of (iii) above will be as under:
 1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.

Explanation:

 - a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five percent of shares or capital or profits of the company;
 - b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholder's agreements or voting agreements;
 2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
 3. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more

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juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals;

4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official;
 5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.
- V. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
- VI. The successful bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority.
- VII. Bidder participating in this tender should self-certify regarding their compliance with this order. If such certificate given by a bidder whose bid is accepted is found to be false, this would be a ground for immediate termination and further legal action in accordance with the law.

*** End of Annexure A ***