



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

A] Submission of Offer

TENDERS

Sealed tenders super-scribed with Tender Number, Due Date, Item Name & Supplier's Name shall be addressed to Dy. Manager / Capital Purchase, 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 separate sealed covers as under:-

Sealed envelope super-scribed “Cover I - Techno-commercial bid”, with Tender Number, Item Name, Tender Due Date & Supplier's Name, containing:

- 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 machine is supplied in the past five years. The date of supply should also be indicated,
- Performance certificate** given by the end-user. Suppliers who have manufactured at least one equipment of similar or higher size for similar applications and such equipment(s) is (are) working satisfactorily for the last 2 years or as per Technical Specification should enclose at least two performance certificates – issued by two different end-users,
- 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
- BHEL Order Reference:** If same or similar or higher capacity machine/s has been supplied to any other Unit of BHEL, the Purchase Order details (reference number and date) should be enclosed.

Techno-Commercial and Unpriced Bid

- Complete technical Offer** with details, catalogues, drawings,
- Un-priced bid** (i.e. Price bid without Price),
- Filled-in BHEL's Technical Specification format** enclosed with the Tender document,
- Filled-in BHEL's Standard Terms & Conditions** for Procurement of Equipment enclosed with the Tender Document,
- All relevant enclosures** of above documents / formats.

Note

- The equipment offered, shall be strictly conforming to the specification and scope attached in each tender, for complete unit including accessories, called for, if any.
- 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.
- The un-priced bid is to be used to indicate relevant commercial implications without indicating price.
- Commercial terms including all applicable prevailing taxes and duties are to be indicated clearly in the offer.
- No changes shall be entertained once the bid is opened unless otherwise specifically agreed to by BHEL.



(vi) Money values shall not be indicated anywhere in the un-priced bid.

(vii) Time required for inspection (at Supplier's works), erection, commissioning and training the operators of BHEL, at BHEL, should be clearly given in terms of numbers of working days.

(viii) 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.

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

Note

(i) The price break-up should be in line with technical specification / scope of the tender. (Cost of basic machine, accessories, spares, packing charges, forwarding charges {FOB / FCA}, freight, insurance, training, installation, erection and commissioning charges shall be shown appropriately).

(ii) Additional Charges such as packing and forwarding (P&F) or FOB / FCA may be quoted either on lump sum basis or as a percentage of the basic cost of the machine.

(iii) (a) Charges for Erection & Commissioning (E&C) may preferably be given on lump-sum basis, clearly indicating the number of working / calendar days for which the charges are applicable. It should be noted by Supplier that Service Tax / Income Tax as levied by the Government of India is deductible from the E&C Charges.

(b) Where applicable, the charges for erection and commissioning, or for any such service, which involves deputation of experts / engineers from the Supplier, *per-diem* rates are also to be furnished.

(iv) No offer for individual accessories or part of equipment will be accepted.

(v) No Price Variation Clause will be entertained.

(vi) 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.

(vii) The quotation should be valid at least for a period of 180 days from the tender opening date.

(viii) Offers should be submitted in two sets, one original and one copy.

(ix) The offers should invariably contain Signature (ink-signed) & Office Stamp of the Supplier. Any corrections / erasures in the offers should be initialled and stamped.

(x) Indian bidders should submit the prices in Indian Rupees only.

(xi) 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.



(xii) Indian Suppliers shall quote on FOR Destination basis only. Destination is BHEL, Ranipet Stores or any other factory of BHEL in India. Foreign Suppliers shall quote on FOB Delivery. Delivery shall be on FOB Sea-Port basis or FCA Air-Port Basis. No other delivery terms shall be acceptable. The Port of delivery shall be a popular and commonly used international port. **Freight charges for carriage from port of dispatch to Chennai Sea / Airport shall also be separately indicated in the price bid. (C&F Charges)**

(xiii) For foreign suppliers, shipping arrangements including Insurance, from Port of Delivery to Port of Discharge (Chennai Port, India) and further carriage to BHEL factory at Ranipet would be to the account of BHEL. However stuffing charges for container shipment would be to the account of the supplier, where the containers are to be stuffed at the works of the supplier.

(xiv) 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 (P.M) on the said due date and be opened on the same day at 1430 Hours (P.M). Tenders received after 1400 Hours (P.M) would not be opened. The times indicated are Indian Standard Time (IST).

b) As per our purchase policy, any offer received after the appointed date and time specified in the tender document will be rejected. Such offers will not be taken up for consideration. Bids received late will be returned back to the bidder.

c) If a Supplier submits only one envelope / cover containing all the bids or combined bids e.g. 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.

d) 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 Tender opening.

e) 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.

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 "Product". Mere copying of the tender specifications by the Bidder into their offer document shall not make them eligible for consideration. Appropriate and sufficient evidence of conformity by way of drawings, data etc., shall be furnished. There should be an item-by-item commentary on the Specifications demonstrating responsiveness of the offered equipment to the specifications, 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 conduct a Reverse Auction (R/A) or bidding through the Internet for the price, instead of opening the Price-Bids.



C] Evaluation of Offers

- a) The price bids 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) All the bids, domestic and foreign as well, shall be evaluated based on the total landed price at BHEL Stores, Ranipet (FOR BHEL Stores, Ranipet) after taking into account the applicable loading factors for deviations, if any. (Please read the Standard Commercial Terms and conditions for the loading factors)
- d) Offer with any pre-conditions (like conditional discounts) for price are liable to be 'Not considered' / 'Rejected'.
- e) In the event of any change in scope arising out of the discussions, such offerors 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, over and above the original scope and price quoted. The original price quoted shall not be changed on account of the technical discussions.
- f) 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.
- g) BHEL reserves the right to reject an offer during tender finalisation / execution of a contract at any of BHEL projects / units due to unsatisfactory past performance.
- 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 offeror and
- j) If so required by BHEL, Supplier may have to share their cost data / costing sheet with BHEL.
- k) *Wherever deviations on the Standard Commercial Terms and Conditions of BHEL, are quoted by the supplier, such deviations would be loaded with "Load-Factors" by BHEL, to arrive at the landed price to BHEL. These load-factors are provided in the "Standard Terms and Conditions". However, BHEL reserves the right to apply, alter, modify, change, delete some or all the load-factors. The decision of BHEL would be final and binding on the tenderer in this regard. This decision would be communicated to the tenderers before the Price Bid Opening. The load-factors, as applicable then will be applied on the Prices, to arrive at the landed price to BHEL.*

D] Placement of Orders

- a) Orders would be placed on technically acceptable financially lowest offer, based on the evaluation of BHEL.
- b) For acceptable payment terms, guarantees and warranties, and other commercial terms and conditions, please see the detailed standard commercial terms of BHEL.
- c) Any free replacement due to short supply or guarantee replacement attracting customs duty and other statutory levies shall be to Suppliers' account. Else, the same shall be recovered from the Bank Guarantee, / balance payment, agency commission, etc.



E] Execution of the Order

- a) Within 15 days of the receipt of the Purchase Contract, the Supplier shall submit a detailed program for the manufacture and supply of the equipment.
- b) In the event the Purchase Specification calls for approvals of drawings / Bill of Materials, the same shall be got approved by the Supplier from BHEL before proceeding further.
- c) BHEL will have the option to pre-inspect the machine / equipment at Supplier's works by BHEL's own inspector or by third party agency appointed by BHEL **but this does not absolve the Supplier from giving the performance as agreed upon.**
- d) Inspection call for carrying out the inspection shall be given 15 days before the scheduled contract delivery date. BHEL requires clear 10 days notice to arrange for inspection. The Inspection date/s given by the Supplier shall be on firm basis.
- e) Deviations, if any pointed out by the visiting Inspection team of BHEL shall be corrected and the machine as per specification shall be dispatched on or before the contract delivery date.
- f) The final inspection for acceptance will, however, be carried out at BHEL's works at Ranipet.
- g) The contract delivery date is the date of ex-works dispatch of the equipment. As carriage from the FOB sea-port is arranged by BHEL, in case of non-availability / delay of vessel / containers, the date of intimation of full readiness for dispatch, to the BHEL nominated shipping agent, by the Supplier shall be reckoned as the date of dispatch.
- h) Travel & other local stay cost for the Engineers sent by BHEL will be to BHEL account.
- i) Any training charges, at Suppliers' works shall be borne by the Supplier.
- j) The supplier shall arrange for packing suitably in all respects considering the peculiarity of the material involved for normal transport by sea / air / rail / road and suitably protected against effect of tropical salt laden atmosphere in the event of shipment being delayed at ports / store yards.
- k) Foreign suppliers shall dispatch on FOB agreed Sea-Port / FCA agreed Air-Port basis. Indian suppliers shall dispatch on free delivery (door-delivery) at BHEL stores basis only
- l) On receipt of the consignment at BHEL, intimation would be given to the Supplier. It is the responsibility of the supplier (either by himself or through his authorized nominee) to carry out the verification of the goods jointly with the representative of BHEL. The materials received shall be tallied with the Packing List / Delivery Challan and got acknowledged from BHEL. The materials would be deemed to have been received (but not accepted) by BHEL based only on such joint inspection and a jointly signed protocol. Partial acknowledgment shall not be given by BHEL. Acknowledgement of receipt shall be given only on receipt of all items as per the Purchase Order / Specification.
- m) 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.
- n) Only those documents specified for payment shall be routed through bank for payment. All other documents specified in the Purchase Order shall be sent directly to BHEL, either with the consignment or separately.
- o) Equipment shall be dispatched only after getting the dispatch clearance of BHEL (Dispatch clearance would either be faxed / e-mailed as a scanned document / couriered.).



F] Erection and Commissioning (E&C)

- a) Erection and Commissioning and due testing of the equipment as per specifications, at BHEL's works shall be the responsibility of the Supplier. Job-Prove out as specified in the technical specification is a part of the commissioning.
- b) Training of BHEL personnel as per ordering specification, is in the scope of supplier.
- c) Electric Power, Material Handling like Cranes, Consumables like cleaning clothes, oil, small hand tools etc would be provided free-of-cost by BHEL subject to availability. Where BHEL is not able to provide, it shall be the supplier's responsibility to arrange for the same at their own cost.
- d) 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. Such taxes are presently applicable on E & C Charges / Services Charges / Technical Fees and are to be borne by and are to the account of the Supplier / Service Provider. If such taxes / duties / levies / imposts become applicable on any other component of the order the same shall be deducted by BHEL as per the rules and regulations prevailing.
- e) Wherever applicable, necessary Tax Deduction at Source (TDS) would be issued. Foreign Suppliers may check existence of any Double Taxation arrangement between the Government of India and their country.
- f) Suppliers shall make their own arrangements for the stay of their Engineers / Technicians deputed to BHEL for the erection, commissioning, demonstration, training and the trial run of the equipment.
- g) The equipment would be considered as commissioned only on issue of "Commissioning / Put-to-Use Certificate" by BHEL engineers which shall be jointly signed with the supplier. This certificate would be issued only after successful installation, erection, commissioning, testing, Job-Proving and demonstration and training of BHEL personnel. It shall be the responsibility of the Supplier to ensure satisfactory commissioning, demonstration and training of BHEL personnel and getting the "Commissioning Certificate". The equipment would be deemed to be accepted by BHEL, only on the issue of the "Commissioning Certificate" and
- h) The Guarantee period shall start from the "Date of the Commissioning" of the equipment.

G] Post Commissioning

- a) For claiming the balance payment (IInd Instalment – normally the balance 20%), and the Erection and Commissioning Charges, the Supplier has to submit a valid Performance Bank Guarantee (PBG). The format for the PBG is attached. The Guarantee shall be valid, covering the guarantee period (with a claim period of 3 months beyond the validity) and shall guarantee the performance of the equipment against all manufacturing defects. (Not withstanding the inspection and acceptance of the equipment by BHEL on commissioning.) The Bank Guarantee shall be for 10% of the value of the order (without the duties and taxes).
- b) *As an alternative option to PBG, BHEL will retain an amount equivalent to 10% of order value in lieu of Bank Guarantee which shall be released on expiry of the Guarantee period. Suppliers have to confirm in their offer explicitly as to whether they are accepting for submission of PBG or retention of equivalent amount by BHEL. No interest will be payable by BHEL on the retention amount. In case supplier fails to confirm either of the two options, then their offer may not be considered.*
- c) The Bank Guarantee (PBG) shall be released only on expiry of the claim period, provided there has been no claim by BHEL on the Supplier.



d) Supplier will have to ensure deputation of their Engineers for Erection & Commissioning or for attending to any complaint during guarantee period within 15 days' of intimation. In case of delay BHEL reserves the right to get the job completed at the risk and cost of the Supplier.

H] Termination of Inquiry / Orders:

- a) BHEL reserves the right to cancel any inquiry before opening of the tender, without assigning any reason.
- b) BHEL reserves the right to cancel any tender and refloat a fresh tender, at any time after opening of the tender, in case it finds the response to its tender as not meeting its requirement. This shall be at the sole discretion of BHEL.
- c) BHEL reserves the right to cancel the order for delay in supply beyond penalty period without any monetary or legal obligations and at the risk and cost of the Supplier. Any delay in getting the Export Licence cannot be quoted as an excuse for delayed delivery. BHEL reserves the right to cancel the order without any monetary or legal obligations, in case of delay in this regard and
- d) 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 clearance of the equipment for dispatch by BHEL, in the event of non-availability / delay in vessels. Supplier shall deduct the applicable LD from the first instalment payment when raising the claim for the same.

I) Miscellaneous

i) Role of Agents (For Foreign Vendors)

- 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 so as to consider the offer of Indian Agent for indigenous portion of the supply along with techno-commercial bid. For main equipment, the offer shall be from Principal / Original Equipment Manufacturer only.
- 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: In order to maintain sanctity of the tender system, it is mandatory that one Agent cannot represent two Suppliers or quote on their behalf in a particular tender enquiry i.e. an Indian Agent can represent only one Foreign Manufacturer against a particular Tender. If any Agent represents more than one Suppliers all such offers will be rejected. The FOB / FCA / CFR 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 commissioning & acceptance of the equipment. 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] Delivery period

The contractual delivery period will be reckoned from the date of LOI, which shall be binding on the contract. Suppliers shall quote their best delivery period. Delivery is the essence of all contracts for BHEL. Before opening the Price Bid, based on the commercial bids received, BHEL shall fix a reasonable delivery period.



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

- a) BHEL reserves the right to resort to Reverse Auction Procedure i.e. On-line bidding on Internet, instead of opening the submitted sealed bid. This will be decided after technical evaluation and
- b) In case BHEL decides not to go for Reverse Auction procedure for the 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.

J] 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.

K] 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 the Deputy Manager / Capital Purchase, Phone: 04172 – 284343 e-mail mkmoorthy@bhelrpt.co.in and at@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 2000 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 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 specifications 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 not be allowed to participate in future tenders of BHEL.