



Bharat Heavy Electricals Limited

ITX, HEEP, RANIPUR, HARIDWAR-249403 (Uttarakhand, India)

Phone: 01334-281118, FAX: 223948 E-mail: geeta@bhelhwr.co.in

HW/ITX/2/1315

1st Sep, 2015

Subject: Corrigendum for revised RFP document for the Open Tender "Procurement of Enterprise Mail Messaging Solution"

With reference to tender no. HW/ITX/2/1211 regarding "Procurement of Enterprise Mail Messaging Solution" published on 12th Sep, 2014, corrigendum in reference to RFP document, post pre-bid queries and clarifications is attached along with BHEL response to pre-bid queries. Revised Tender bid submission date is as follows:

Tender bid submission by 22nd Sep, 2015 before 13:45Hrs. IST.

(Geeta Singh)

DGM, ITX

BHEL Hardwar

TENDER INFORMATION		
A	Tender No.	HW/ITX/2/1211
B	Job	Implementation of Enterprise Mail Messaging Solution
C	Tender Document fee (Non-Refundable and Not Exempted)	INR 5,000/- (INR Five Thousand only) by DD in favour of Bharat Heavy Electricals Limited, payable at Haridwar. The DD must be submitted by the bidders during the pre-bid meeting.
D	Availability of Tender Documents in the Web site	Download from www.bhel.com , Start of display date: 12 th Sep, 2014
E	Pre-Bid Queries	The Bidder is requested to submit questions in writing or by email as per Annexure-A Template for Pre-Bid Queries. Last date for receiving pre-bid queries – 11th August, 2015, either in writing or via email to geeta@bhelhwr.co.in
F	Pre-bid Conference	On 23rd Jan 2015 from 09:00 Hrs. at BHEL office at BHEL Haridwar. No bidder can join in the pre-bid conference without submission of pre-bid query/interest and the DD as per 'C' above to join pre-bid conference by mail within stipulated date. Only authorized person from Bidder's organization will be permitted. However, BHEL reserves the right to accept or reject the request for attending pre-bid conference.
G	Tender Submission	22nd Sep 2015 by 13:45 Hrs IST
H	Place of Submission of Bid	Head of Material Management Heavy Electricals Equipment Plant Bharat Heavy Electricals Limited Ranipur Haridwar (Uttarakhand) PIN – 249403
I	Opening of Part-I Bid	22nd Sep 2015 by 14:00 Hrs IST
J	Contact Person	Geeta Singh, DGM, ITX, BHEL Haridwar Email id : geeta@bhelhwr.co.in
K	Time For Completion (Commissioning)	Details provided in the technical volume of the tender

Mail Messaging Solution

Corrigendum

S. No.	Page No. in RFP	Vol. No.	Section	Clause No.	Sub-Clause No.	Statement as per RFP	Modified Statement as per Corrigendum
1	100	Vol. V	Arbitration and Jurisdiction	1.12		All and any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration in accordance with the Arbitration and Conciliation Act, 1996 by a sole arbitrator appointed by the administrative head of HEEP, BHEL, Haridwar. At present the designation of the administrative head of BHEL, Haridwar is Executive Director. The seat/place of arbitration shall be New Delhi. The language of arbitration shall be English.	Any arbitration shall be under the 'Arbitration and Conciliation Act , 1996' and the rules thereunder as amended from time to time. Centre of arbitration shall be in New Delhi. The contract shall be governed by the Indian law. The suits/claims in respect of this contract shall be in the courts having jurisdiction at New Delhi.
2	26 & 27	Vol. II	Security Deposit (SD)	1.11	8 (d)	Non-availability of mail services at DC & DR simultaneously for more than 24 hours, for reasons not attributable either to BHEL or to Force Majeure as per VOL-V, section 1.15 of the Tender.	(Deleted)
3	101	Vol. V	Risk Purchase	1.14		In case the bidder withdraws the offer submitted by him/ her after it is accepted by the Owner and fails to supply the goods and services as per the Terms & Conditions of the Contract, or at any time during the Contract Period repudiates the Contract wholly or in part, the Owner shall be at liberty to cancel the Notification of Award (NOA) and to recover from the Bidder the extra cost and the other loss incidentals due to the breach of Contract on the part of the Bidder apart from forfeiture of SD(s). Prior to invoking Risk Purchase clause, notice period of Thirty (30) days and cure period of Thirty (30) days will be offered to the Bidder. Risk Purchase should be applicable up to completion of full contract period i.e. rollout plus rental period of 5 years from M5 completion.	In case the bidder withdraws the offer submitted by him/ her after it is accepted by the Owner and fails to supply the goods and services as per the Terms & Conditions of the Contract, or at any time during the Contract Period repudiates the Contract wholly or in part, the Owner shall be at liberty to cancel the Notification of Award (NOA) and to recover from the Bidder the extra cost and the other loss incidentals due to the breach of Contract on the part of the Bidder apart from forfeiture of SD(s). However, the cost of Risk Purchase shall be limited to value specified under Limitation of Liability clause. Prior to invoking Risk Purchase clause, notice period of Thirty (30) days and cure period of Thirty (30) days will be offered to the Bidder. Risk Purchase shall be applicable up to completion of full contract period i.e. rollout plus rental period of 5 years from M5 completion.

4	103	Vol. V	Suspension of the Work	1.19.1		The Owner may, by a written order, instruct the Bidder to suspend the Work or any part of the Work for the period and in the manner which the Owner considers necessary. The Bidder shall cease work on said part of the Work on the effective date of suspension, but shall continue to perform any unsuspended part of the Work. During the suspension the Bidder shall properly protect and secure the Work so far as is necessary in the opinion of Owner. The Owner shall not pay any costs incurred by the Bidder in giving effect to the suspension order, including under the following: - necessary because of Force Majeure; or - necessary for the proper execution of the Work, or any part thereof; or - necessary because of some negligence, error or other default on the part of the Bidder; or - necessary for the health or safety of Owner and/or Bidder Personnel, third parties or for the protection of the Work, Owner property or environment; or - otherwise provided for in the Contract. If the suspension of the Work is not attributable to any negligence, error or default of the Bidder, in the opinion of the Owner, and should be of such duration as to entitle the Bidder in the Owner's reasonable judgement to an extension of the Completion Date, the parties shall negotiate such extension. The Owner may, at any time, authorise resumption of the suspended part of the Work by notifying the Bidder of the part of the Work to be resumed and the effective date of withdrawal of the suspension. The Work shall be promptly resumed by the Bidder after receipt of such notification.	The Owner may, by a written order, instruct the Bidder to suspend the Work or any part of the Work for the period and in the manner which the Owner considers necessary. The Bidder shall cease work on said part of the Work on the effective date of suspension, but shall continue to perform any unsuspended part of the Work. During the suspension the Bidder shall properly protect and secure the Work so far as is necessary in the opinion of Owner. The Owner shall not pay any costs incurred by the Bidder in giving effect to the suspension order, including under the following: - necessary because of Force Majeure; or - necessary for the proper execution of the Work, or any part thereof; or - necessary because of some negligence, error or other default on the part of the Bidder; or - necessary for the health or safety of Owner and/or Bidder Personnel, third parties or for the protection of the Work, Owner property or environment; or - otherwise provided for in the Contract. If the suspension of the Work is not attributable to any negligence, error or default of the Bidder, in the opinion of the Owner, and should be of such duration as to entitle the Bidder in the Owner's reasonable judgement to an extension of the Completion Date, the parties shall negotiate such extension. The Owner may, at any time, authorise resumption of the suspended part of the Work by notifying the Bidder of the part of the Work to be resumed and the effective date of withdrawal of the suspension. The Work shall be promptly resumed by the Bidder after receipt of such notification. <i>Maximum period for suspension shall be 3 months and not more than once during the Delivery Period. Owner will issue a notice of suspension / resumption of suspended work by giving 15 days' notice to the Bidder.</i>
5	99	Vol. V	Confidentiality of Information	1.4		Annexure-M (Non-Disclosure Agreement) replaced.	New Annexure-M (Non-Disclosure Agreement) attached.
6	99	Vol. V	Taxes	1.6		Any change in service tax or introduction of any new applicable tax in future will be to BHEL's account.	Any change in service tax or introduction of any new applicable tax in future on Quarterly Rentals shall be to BHEL's account.
							Other than service tax, other taxes should be inclusive on costs mentioned in Annexure-I Price Bid Format point 1.

	Bharat Heavy Electricals Limited	ISMS –	
		Rev:	Date:

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

4.30.6 **Between**

XXXXXXXXXXXX

4.30.7 **And**

4.30.7.1.1.1 BHARAT HEAVY ELECTRICALS LIMITED

1. Introduction

1.1 ----- is a Company incorporated under the Companies Act 1956, having its registered office at ----- (Hereinafter referred to as “Bidder or Contractor”, which expression shall whenever the context so requires or admits, means and include their successors or permitted assigns).

1.2 **Bharat Heavy Electricals Limited** is a company incorporated under the Companies Act, 1956 and having its registered office at BHEL House, Siri Fort, New Delhi - 110049, India (Hereinafter referred to as “BHEL”, which expression shall whenever the context so requires or admits, mean and include their successors or permitted assigns).

1.3 “XXXXXXX” and “BHEL” are individually called as “Party” and collectively called as “Parties”.

Whereas BHEL has floated a Notice Inviting Tender bearing no. ----- dated -----for the following -----.

And Whereas, Bidder has also submitted its bid in response to the NIT vide its offer dated -----.

And Whereas, Bidder is aware that, should it be awarded the contract (Contract) by BHEL pursuant to the aforesaid NIT, then, during the course of the Contract, it will be provided and/or acquire or otherwise become aware of Information of or in connection with BHEL or its business operations and processes, business plans, strategies, list of clients, etc. from time to time which will be proprietary secret and confidential in nature (Confidential Information) and as such they wish to record the terms and conditions upon which the Confidential Information shall be disclosed to the Contractor, which terms and conditions shall constitute a binding and enforceable agreement between the Parties and their agents.

Now Therefore, the Parties agree, acknowledge and declare as under:

1.7 The Party disclosing the Confidential Information shall be known as the “Disclosing Party” and the Party receiving Confidential Information shall be known as the “Receiving Party”.

2. The Confidential Information

2.1 "Confidential Information" shall, for the purpose of this agreement include, without limitation, any technical, commercial, protocols, standard operating procedures, financial information, know-how, trade secrets, processes, machinery, designs, drawings, technical specifications, and data in whatever form, disclosed to or accessed by the Receiving Party pursuant to this Agreement and declared or marked as “Confidential”.

3. Disclosure of Confidential Information

- 3.1 The Disclosing Party shall disclose the Confidential Information to the Receiving Party only to the extent deemed necessary or desirable by the Disclosing Party in its discretion.
- 3.2 The Receiving Party acknowledges that the Confidential Information is a valuable, special and unique asset proprietary to the Disclosing Party.
- 3.3 The Receiving Party agrees that it will not, during or after the course of their relationship and/or the term of this agreement as described in Clause 9, disclose the Confidential Information to any third Party for any reason or purpose whatsoever without the prior written consent of the Disclosing Party, save in accordance with the provisions of this agreement. For avoidance of doubt, in this agreement “third Party” means any Party other than the Receiving and Disclosing Parties (their holding and subsidiary companies or agents who shall be deemed to be bound by the provisions of this agreement).
- 3.4 Notwithstanding anything to the contrary contained in this agreement the Parties agree that the Confidential Information may be disclosed by the Receiving Party to its employees or professional advisors on a need-to-know basis; provided that the Receiving Party takes whatever steps are necessary to ensure that such employees or professional advisors agree to abide by the terms of this agreement to prevent the unauthorised disclosure of the Confidential Information to third Parties. .
- 3.5 The Receiving Party agrees not to utilise, exploit or in any other manner whatsoever use the Confidential Information disclosed pursuant to the provisions of this agreement for any purpose whatsoever without the prior written consent of the other/the Disclosing Party.

4. Title

- 4.1 All Confidential Information disclosed by the Disclosing Party to the Receiving Party shall not to confer any ownership rights on the Receiving Party of whatever nature in the Confidential Information.

5. Restrictions on disclosure and use of the Confidential Information

The receiving Party undertakes not to use the Confidential Information for any purpose other than:

- 5.1 That for which it is disclosed as specifically directed by the Disclosing Party; and
- 5.2 In accordance with the provisions of this agreement.

6. Standard of care

- 6.1 Both Parties agree that they shall protect the Confidential Information disclosed pursuant to the provisions of this agreement using the same standard of care that each Party applies to safeguard its own proprietary, secret or Confidential Information and that the Confidential Information shall be stored and handled in such a way as to prevent any unauthorised disclosure thereof.

7. Return of material containing or pertaining to the Confidential Information

7.1 Either Party may, at any time, request the other to return any material and/or data in whatever form containing, pertaining to or relating to Confidential Information disclosed pursuant to the terms of this agreement and may, in addition request the other to furnish a written statement to the effect that, upon such return, the Receiving Party has not retained in its possession, or under its control, either directly or indirectly, any such material and/or data.

7.2 As an alternative to the return of the material and/or contemplated in 7.1 above, the Receiving Party shall, at the instance of the Disclosing Party, destroy such material and/or and furnish the Disclosing Party with a written statement to the effect that all such material has been destroyed.

7.3 The Receiving Party shall comply with any request by the Disclosing Party in terms of this clause, within 7 (seven) days of receipt of any such request.

8. Excluded Confidential Information

The obligations of the Receiving Party pursuant to the provisions of this agreement shall not apply to any Confidential Information that:

- 8.1 is known to, or in the possession of the Receiving Party prior to disclosure thereof by the disclosing Party;
- 8.2 is or become publicly known, otherwise than as a result of a breach of this agreement by the receiving Party.
- 8.3 is developed independently of the Disclosing Party by the Receiving Party in circumstances that do not amount to a breach of the provisions of this agreement;
- 8.4 is disclosed by the Receiving Party to satisfy an order of a court of competent jurisdiction statutory or administrative authority or to comply with the provisions of any law or regulation in force from time to time; provided that in these circumstances, the Receiving Party shall advise the Disclosing Party to take whatever steps it deems necessary to protect its interests in this regard and provided further that the Receiving Party will disclose only that portion of the Confidential Information which it is legally required to disclose and the Receiving Party will use its reasonable endeavours to protect the confidentiality of such Confidential Information to the greatest extent possible in the circumstances;
- 8.5 is received from a third Party in circumstances that do not result in a breach of the provisions of this agreement.

9. **Term**

- 9.1 This agreement shall commence upon the date of signature of the last signing Party hereto ("the effective date") whether or not the Parties continue to have any relationship subsequently.

10. **Breach**

- 10.1 In the event that the Receiving Party should breach the provisions of this agreement and fail to remedy such breach within seven (7) days from date of a written notice to do so, then the Disclosing Party shall be entitled to invoke all remedies available to it in law including, but not limited to, the institution of urgent interim proceedings and/or an action for damages.

11. **Amendments**

- 11.1 No amendment, interpretation or waiver of any of the provisions of this agreement shall be effective unless reduced in writing and signed by both Parties.

12. **Enforcement**

- 12.1 The failure by the disclosing Party to enforce or to require the performance at any time of any of the provisions of this agreement shall not be construed to be a waiver of such provision, and shall not affect either the validity of this agreement or any part hereof or the right of the Disclosing Party to enforce the provisions of this agreement.

13. **Headings**

- 13.1 The headings of the clauses of this agreement are used for convenience only and shall not effect the meaning or construction of the contents of this agreement.

14. **Representations & Warranties**

- 14.1 Each Party represents that it has authority to enter into this agreement and to do all things necessary to procure the fulfilment of its obligations in terms of this agreement.

15. **Entire agreement**

- 15.1 This agreement contains the entire agreement of the Parties with respect to the subject matter of this agreement and supersedes all prior agreements between the Parties, whether written or oral, with respect to the subject matter of this agreement.

16. **Non-Assignable**

- 16.1 This agreement shall be non-assignable by other Party unless prior written consent of the other Parties is received. If this agreement is assigned or otherwise transferred then it shall be binding on all successors and assigns.

17. Force Majeure

- 17.1 Neither Party shall be responsible or liable to the other Party for any failure to perform any of its covenant or obligations hereunder if such failure results from Force Majeure i.e. unforeseeable events or circumstances, any acts of God and beyond the reasonable control of such Party. The Party failing to perform as a result of an event of Force Majeure shall no later than Fifteen (15) days from the occurrence of Force Majeure notify in writing the other Party of such event of Force Majeure and shall take all action that is reasonably possible to remove such event of Force Majeure.

18. Governing law

This agreement and the relationship of the Parties in connection with the subject matter of this agreement and each other shall be governed and determined in accordance with the laws of the Republic of India. Subject to clause 18.2 hereinbelow the competent courts/authority in New Delhi alone to the exclusion of all other shall have jurisdiction to entertain any dispute arising out of or under this Agreement. The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity of enforceability of any other provision.

- 18.1 In the event of any disputes, disagreements or question arising out of or in connection with this agreement or relating to its construction or performance, the Parties shall endeavor to resolve such dispute or disagreement through mutual discussions conducted in good faith. If the Parties to the Agreement fail to arrive at a mutual settlement within thirty (30) days after receipt by a Party of written notice from the other Party that such dispute or disagreement exists shall be referred to arbitration by a Sole Arbitrator to be nominated by BHEL under the Arbitration & Conciliation Act, 1996. The seat of arbitration shall be Delhi and shall be conducted in the English language. The award of the arbitrators shall be final and binding and shall be enforceable in any court of competent jurisdiction.

19. Postal addresses

- 19.1 Any written notice in connection with this agreement shall be addressed:

- 19.1.1 In the case of XXXXXXXXX

Address : XXXXXXXXX

XXXXXXXXXXXXXX

and shall be marked for the attention of -----

- 19.1.2 In the case of BHEL

Address :

and shall be marked for the attention of -----

- 19.2 A Party may change that Party's address, 30 (thirty) days prior notice in writing to the other Party.

- 19.3 If any notice is to be sent by mail, it shall be sent by prepaid registered mail and shall then be deemed until and unless the contrary is proved, to have been received 20 (twenty) days after the date of posting.

19.4 If any notice is sent by telefax, it will be deemed, until and unless the contrary is proved, to have been received on the date recorded on the transmission slip.

19.5 If any notice is delivered by hand, it will be deemed to have been received on proof of the date of delivery.

20. Severability

20.1 In the event of any one or more of the provisions of this agreement being held for any reason to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this agreement, and this agreement shall be construed as if such invalid, illegal or unenforceable provision was not a part of this agreement, and the agreement shall be carried out as nearly as possible in accordance with its original terms and intent.

IN WITNESS HEREOF, the Parties have set their hands to it below effective from ____ day of _____

Signed By:

XXXXXXXX

By : _____

Name : _____

Title : _____

Date : _____

BHEL

By : _____

Name : _____

Title : _____

Date : _____

Name:

Name:

Title:

Title:

Organisation: **XXXXXXXX**

Organisation: **BHEL**

Date: -----

Date: -----