



Ref No. : EPD:CSR:IA:2020

Date: 20.03.2020

1. Introduction

Subject: Impact Assessment of Corporate Social Responsibility project of BHEL, EPD

Bharat Heavy Electricals Limited (BHEL), India's largest Engineering and manufacturing Company is engaged in the design, engineering, manufacture, construction, testing, commissioning and servicing of wide range of products, systems and services for the core sectors of the economy viz Power, Transmission, Industry, Transportation, Renewable energy, Oil and gas and Defense.

Electric & Photovoltaic Division, Bengaluru unit of BHEL intends to conduct the third party impact assessment study of Corporate Social Responsibility initiative undertaken as listed in Annexure-3 under the guidelines issued by Department of Public Enterprises, Government of India.

Sealed tenders are invited for Impact Assessment of Corporate Social Responsibility Project of "Construction of Concrete Cement Road at three villages viz. Musturu, Siddihally and Moodala Machikere under Jagaluru Taluk at Davanegere District, Karnataka".

- Location of Tender Room : Tender Box at BHEL-EPD
(near Tender Room, Main Gate),
IISc Post, Prof CNR Rao Circle,
Malleswaram, Bengaluru – 560012
- Last date for submission of Tender : Date 11.04.2020 Time 2.00 pm
- Opening of Techno Commercial Bid : Date 11.04.2020 Time 2.30 pm

Tenderer should submit the offer in two parts: Part-1 : Technical bid (Annexure-1&2)
Part-2 : Price bid (Annexure-3)

Price bid will be opened only after technical bid is finalized & frozen. Validity of tender should be at least for 3 months. BHEL, EPD does not bind itself to accept the lowest or any other tender or to give reasons to their decision. BHEL, EPD reserve the right to accept the whole or any part of tender and tenderer shall be bound to perform the same at their quoted rates. Bidders may inspect the site before participation in the Tender Process.

2. How to Apply:

- a) Interested and eligible agencies are invited to submit Technical & Price bids in sealed covers as per Annexure-1, 2 & 3 and submit the same by 11.04.2020 (2.00 pm) by putting the sealed covers in one sealed cover by dropping at **TENDER BOX kept in the Tender Room at BHEL, Electric & Photovoltaic Division, IISc Post, Prof CNR Rao Circle, Malleswaram, Bengaluru- 560 012**. All documents submitted shall be signed on each page by the competent



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authority of tenderer. The tenderer has to clearly mention the ' Technical bid' or 'Price bid' in the respective envelopes containing the bid documents along with the following information on the main envelope containing the tender documents alongwith the "Name of Contractor" & "Name of work: Impact Assessment of Corporate Social Responsibility project of BHEL, EPD".

b) Selection Process:

Price bid is opened for only those parties who fulfill the requirements of Annexure-1 & 2. The lowest price bidder meeting the requirements of Annexure-1 & 2 will be awarded the work.

c) Time Frame:

The total work of Impact Assessment has to be completed within a period of 45 days from the date of placing the order.

d) Penalty Clause:

Yes. In case of delay @ 0.5% of Contract Value per week subject to maximum of 10%.

e) Earnest Money deposit:

Earnest Money Deposit (EMD) amounting to **Rs. 4450/-** is to be paid by tenderers for securing fulfillment of any obligations in terms of the NIT through E-Mode (NEFT/RTGS/Net-banking/POS/SB COLLECT, etc.) in favour of BHEL, alongwith tender documents. EMD given by all unsuccessful tenderers shall be refunded normally within fifteen days of award of work. EMD of successful tenderer will be retained as part of Security Deposit.

f) Security Deposit:

The Security Deposit (SD) has to be submitted by the successful bidder before the start of work. The rate of S.D. as per BHEL terms shall be 5% of contract value. Payment of SD can be made through E-Mode (NEFT/RTGS/Net-banking/POS/SB COLLECT etc.) in favour of BHEL.

g) Payment Terms:

The payment shall be made to the selected agency through EFT, as per the following norms:

S No	Milestone	% of fund to be released
1	Submission of impact assessment methodology and acceptance of the same by BHEL	10%
2	Submission and acceptance of 1st Draft report by BHEL	40%
3	Submission and acceptance of final reports by BHEL	50%



h) Reverse Auction:

BHEL reserves the right to go for Reverse Auction (RA) (Guidelines as available on www.bhel.com) instead of opening the sealed envelope price bid, submitted by the bidder. This will be decided after techno-commercial evaluation. Bidders to give their acceptance with the offer for participation in RA. Non-acceptance to participate in RA may result in non-consideration of their bids, in case BHEL decides to go for RA. Those bidders who have given their acceptance to participate in Reverse Auction will have to necessarily submit 'Process compliance form' (to the designated service provider) as well as 'Online sealed bid' in the Reverse Auction. Non-submission of 'Process compliance form' or 'Online sealed bid' by the agreed bidder(s) will be considered as tampering of the tender process and will invite action by BHEL as per extant guidelines for suspension of business dealings with suppliers/ contractors (as available on www.bhel.com).

The bidders have to necessarily submit online sealed bid less than or equal to their envelope sealed price bid already submitted to BHEL along with the offer. The envelope sealed price bid of successful L1 bidder in RA, if conducted, shall also be opened after RA and the order will be placed on lower of the two bids (RA closing price & envelope sealed price) thus obtained. The bidder having submitted this offer specifically agrees to this condition and undertakes to execute the contract on thus awarded rates.

If it is found that L1 bidder has quoted higher in online sealed bid in comparison to envelope sealed bid for any item(s), the bidder will be issued a warning letter to this effect. However, if the same bidder again defaults on this count in any subsequent tender in the unit, it will be considered as fraud and will invite action by BHEL as per extant guidelines for suspension of business dealings with suppliers/ contractors (as available on www.bhel.com). As a reminder to the bidders, system will flash following message (in RED Color) during the course of 'online sealed bid': "Bidders to submit online sealed bid less than or equal to their envelope sealed bid already submitted to BHEL".

BHEL will decide on the starting bid/price in the REVERSE AUCTION. Business rule and event of auction will be furnished by our service provider. The terms and conditions specified herein are to be strictly adhered to for all the activities. In case of option of reverse auction is not exercised by BHEL, then Part 'B' Price Bid will be opened only in respect of those tenderers who are qualified in Techno- Commercial Bid.

i) ARBITRATION & CONCILIATION:

The Parties agree that if at any time (whether before, during or after the arbitral or judicial proceedings), any Disputes (which term shall mean and include any dispute, difference, question or disagreement arising in connection with construction, meaning, operation, effect, interpretation or breach of the agreement, contract, which the Parties are unable to settle



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mutually), arise inter-se the Parties, the same may, be referred by either party to Conciliation to be conducted through Independent Experts Committee to be appointed by competent authority of BHEL from the BHEL Panel of Conciliators.

Notes:

1. No serving or a retired employee of BHEL/Administrative Ministry of BHEL shall be included in the BHEL Panel of Conciliators.
2. Any other person(s) can be appointed as Conciliator(s) who is/are mutually agreeable to both the parties from outside the BHEL Panel of Conciliators.

The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided in Annexure A to this GCC.

The Annexure A together with it's appendices will be treated as if the same is part and parcel hereof and shall be as effectual as if set out herein in these GCC.



Annexure-1

3. Objective of the Impact Assessment Study: -

Assessment Criteria	Assessment Questions
Relevance	<ol style="list-style-type: none">1. Did the overall goal match needs of the project area?2. Did the project's baseline data correctly address needs of the area?
Efficiency	<ol style="list-style-type: none">1. What outputs were achieved and whether they were according to the plan?2. Was the implementation schedule as planned?3. Was the project cost within planned limit?4. Was the fund utilization prudent?
Effectiveness& Uniqueness	<ol style="list-style-type: none">1. Did the outputs help achieve the goal?2. The project has any feature?3. Comparing the inputs to the extent of goals achieved, can project implementation be considered to be effective?4. Can the project be replicated?
Impact	<ol style="list-style-type: none">1. What were the various tangible and intangible positive and negative impacts (Socio-economic, Environment, Policy, Technology, Awareness) on different stakeholders of the project?
Sustainability	<ol style="list-style-type: none">1. Would the impact created by the project sustain?2. Considering the present course of project, is the project sustainable?3. If not, what modifications and corrections need to be done with project execution methodology?

4. Impact Assessment report may cover the following: -

- i) Objective of the Project.
- ii) Whether objective met. If yes, then to what extent
- iii) Outcome of the project are based on the conclusion of Baseline Indicators
- iv) Expected impacts in the long run
- v) Coverage of other points as mentioned in the objectives tabulated at point (a) above.
- vi) Intangible benefits derived from completed project.



5. Methodology, Coverage and Sampling Plan: -

- i) The selected agency has to visit the project site(s) and interact with various stakeholders (beneficiaries, project implementation agency and their representatives, BHEL's CSR coordinators, public authorities, beneficiaries etc.) for the purpose of study. The Agency would design actual sampling plan, as per demand / nature of the Project.
- ii) Agency has to submit a brief research proposal and questionnaire, describing the proposed research methodology to be adopted including methods and tools to be used for data collection, manpower requirements defined for the study, keeping in view geographical distribution of samples.
- iii) Sample Size: at least 10% of the total beneficiaries of each chapter/centre covered in CSR project

6. Who can apply:

The Agency applying to carry out Impact Assessment must fulfil the following conditions:-

- a. The Agency shall be a Government Undertaking / Registered Company / Registered Consultancy Firm / Registered Non-Government Organisation / Academic Institution, specializing in conducting Impact Assessment.
- b. The Agency must have a minimum of 3 years of experience (during last 7 years ending last day of month previous to one in which applications are invited) in carrying out Impact Assessment / Baseline Survey / Monitoring & Evaluation Work in domain of Corporate Social Responsibility Projects / Sustainability Services / Community Development Projects financed by Central Ministry / World Bank / NABARD and / or other international donor institution (e.g., ADB, EU etc) or Central / State Public Enterprise).
- c. Experience of having successfully completed works of Impact Assessment / Baseline Survey/ Monitoring & Evaluation Work in domain of Corporate Social Responsibility Projects / Sustainability Services / Community Development Projects financed by Central Ministry /

World Bank / NABARD and / or other international donor institution (e.g., ADB, EU etc) or Central / State Public Enterprise) during last 7 years ending last day of month previous to one in which applications are invited should be either of the following:-

- a) 03 similar completed works costing not less than the amount equal to Rs. 0.89 lakhs or
- b) 02 similar completed works costing not less than the amount equal to Rs. 1.12 lakhs or
- c) 01 similar completed work costing not less than the amount equal to Rs. 1.78 lakhs.

d. The tenderer shall submit relevant documents such as copies of work order and work completion / experience certificate etc. in support of his experience along with the Technical Bid.



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- e. Bidder must possess PAN & GST Registration No (as applicable). Copy of PAN card and GST Registration certificate must be enclosed along with the offer.
- f. Average Annual financial turnover during the last 3 years, ending 31st March of 2019, should be at least Rs. 0.67 lakhs.

7. GST Terms:

- 1. HSN Code/ SAC, rate of tax under GST and applicable GST (IGST, CGST/SGST/UTGST) and GSTIN shall be clearly mentioned by the Bidder.
- 2. GST portion of the invoice shall be released upon:
 - (i) All invoices raised by contractors/vendors must be GST compliant Tax invoices as per GST invoice rules.
 - (ii) Contractor declaring such invoice in his OSTR-1 or any modified return as notified by government
 - (iii) Receipt of goods/services and Tax Invoice by BHEL and
 - (iv) Confirmation of payment of GST thereon by contractor on GSTN portal
 - (v) Alternatively, Contractor has to submit BO of appropriate value which shall be valid at least one month after the confirmation of date of payment of GST by contractor on GSTN portal and receipt of Tax invoice and receipt of services, whichever is later. Contractor has to give an undertaking in this regard.
 - (vi) Contractor has to give an undertaking to BHEL that they have declared invoice in his return and paying GST within timeline prescribed for availing ITC by BHEL.
 - (vii) Payment to Contractor for GST portion will be released only after completion of above activity and on availment of ITC by BHEL.
 - (viii) In case GST credit is delayed/denied to BHEL due to non/delayed receipt of services/goods and /or tax invoice or expiry of the timeline prescribed in GST Law for availing such ITC, or any other reasons not attributable to BHEL, GST amount shall be recoverable from the contractor along with interest levied/ leviable on BHEL.

8. Reverse Charge under GST:

8A. In respect of services, reverse charge liability shall arise at the earliest of date of payment to service provider or 60 days from the date of issue of invoice by service provider. Contractor has to submit bill for payment within 30days from the date of invoice. Any interest or penalty implications attributable to the contractor shall be recovered from them.

8B. Any GST liability arising on BHEL under reverse charge before actual receipt of goods and/or invoice thereof would be subject to recovery of interest leviable for the period between the date of such liability and actual date of eligibility of ITC based on receipt of goods, receipt of invoices and other condition specified in GST Law.

9.Tax Deduction at source:

TDS as per extent provisions of the GST Law/Income tax law shall be deducted from supplier/contractor bill.



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ANNEXURE-2 (Sheet 1 of 2)

(To be placed in a separate envelope superscripting “Details of agency for BHEL-CSR Impact Assessment Study; and Name of the Agency” on the left hand corner of the envelope)

Details to be furnished by agency applying for Impact Assessment

A. General Information:

1. Name of the Agency;
2. Registration number and Date of Registration (copy / proof to be attached);
3. Income tax PAN, GST Reg. No. (copy to be attached);
4. Name of the Contact Person with designation, Address for Communication with telephone number, Fax & Email;
5. Geographical Area / span of operation (mention districts in which projects undertaken);
6. Brief introduction about agency and the services offered; and
7. **Details of the Manpower proposed to be deployed for the assignment:**

SI No	Name of the Expert(s)	Qualification/ Specialization	Experience in years	Major Tasks performed	CV/Profile attached (Y/N)

8. **Details of experience of the Agency:**

SI No	Name of the assignment (Impact Assessment)	Name of the client	Start Date	End Date	Major Tasks Performed	Location of the project	Details attached (at page no.)

9. Financial statements consisting of audited Balance Sheet and Profit & Loss Account of last 3 years, ending 31st March of 2019.
10. Executive Summary of all the Impact Assessments/Monitoring & Evaluation work completed by the agency in the domain of Corporate Social Responsibility/ Sustainability Services/ Community Development Projects financed by any Central Ministry/ World Bank/ NABARD and/or other international donor institution (e.g., ADB, EU etc) or Central / State PSE.
11. Declaration signed by agency (Refer sample declaration form) placed at Sheet 2.



ANNEXURE-2 (Sheet 2 of 2)

B. Research Proposal:

Agency has to submit a brief research proposal, describing the proposed research methodology to be adopted including methods and tools to be used for data collection and interpretation. The proposal must have the timelines and the manpower requirements defined for the study, keeping in view geographical distribution of samples.

DECLARATION

It is certified that:

- ❖ The information given above / in the proposal No. _____ dated _____ for _____, submitted to BHEL, is TRUE to the best of my knowledge. The organization shall stand liable for any information given herewith which is later found to be false/incorrect.
- ❖ Our agency/organization/institution is interested to undertake the proposed evaluation/study.
- ❖ We have gone through the terms and conditions and agree to abide by the same.
- ❖ I am competent / authorized to sign this Declaration.
- ❖ No deviation w.r.t. terms & conditions of the tender are acceptable.

Date:

Authorized Signatory

Place:

Name:

Seal of the Organization:

Designation:

ANNEXURE-3**Date:****Price Bid for “BHEL-CSR Impact Assessment”**

SN	Project Name	Work Done	Amount for Conducting Impact Assessment (In Rs.)
1	Construction of Concrete Cement roads in three villages viz. Musturu, Siddihally, Moodala Machikere in Jagaluru Taluk at Davenegere District with a budget of Rs. 2.87 Crores	Length of road constructed: (i) Musturu Village (Approx. Population:2914) , Total Roads Length : 1786.15 Mtr (ii) Siddihally Village (Approx. population: 910), Total Roads Length : 1701.55 Mtr (iii) Mudalamachikere Village (Approx. population: 661), Total Roads Length: 702.20 Mtr	
		TOTAL	

Amount in words (GST shall be extra):**(Proprietor's Signature alongwith Rubber Stamp)**



10. Reverse Auction Terms & Conditions-Activities related to Contract

1. **LOG IN NAME & PASSWORD:** Each Bidder is assigned a Unique User Name & Password by Service Provider The Bidders are requested to change the Password and edit the information in the Registration Page after the receipt of initial Password from Service Provider All bids made from the Login ID given to the bidder will be deemed to have been made by the bidder.
2. **BIDS PLACED BY BIDDER:** The bid of the bidder will be taken to be an offer to sell. Bids once made by the bidder cannot be cancelled. The bidder is bound to sell the material as mentioned above at the price that they bid. Should any bidder back out and not make the supplies as per the rates quoted, BHEL and / or Service Provider shall take action as appropriate.
3. **Auction Start price & Decremental Value:** The start price & Decremental value applicable in the on line reverse auction will be decided by BHEL after evaluating the bids received from the vendors in the on line initial sealed bid auction and will be available to the vendors on the bidding screen of the online reverse auction.
4. **LOWEST BID OF A BIDDER:** In case the bidder submits more than one bid, the lowest bid will be considered as the bidder's final offer to sell. The bidders to note that the first appreciable bid that comes in the system must be equal to or less than the auction start price which the bidder can view at the start of reverse auction and subsequent bids shall conform to minimum decremented value or multiples of the decremented value.
5. **AUCTION TYPE:** English No Ties Reverse (Refer Bidder Manual)
6. **VISIBILITY TO BIDDER:** The Bidder shall be able to view the following on his screen along with the necessary fields:
 - Rank of the bidder
 - Lowest bid in the reverse auction
 - Bid Placed by him
7. **AUCTION WINNER:** At the end of the Reverse Auction, BHEL will evaluate all the bids submitted and will decide upon the winner.
8. **GENERAL TERMS & CONDITIONS:** Bidders are required to read the "Terms and Conditions" section of the auctions site ----- using the Login ID and passwords given to them.
9. **OTHER TERMS & CONDITIONS:**
 - The Supplier / Bidder shall not involve himself or any of his representatives in Price manipulation of any kind directly or indirectly by communicating with other suppliers / bidders.



- The Bidder shall not divulge either his Bids or any other exclusive details of BHEL to any other party.
- BHEL's decision on award of Contract shall be final and binding on all the Bidders.
- BHEL along with Service Provider can decide to extend, reschedule or cancel any Auction. Any changes made by BHEL and / or Service Provider after the first posting will have to be accepted if the Bidder continues to access the site after that time.
- BHEL/Service Provider shall not have any liability to Bidders for any interruption or delay in access to the site for the reasons which include Power supply interruption, System failure, non availability of WEB/Screen etc.
- BHEL/Service Provider is not responsible for any damages, including damages that result from, but are not limited to negligence. BHEL / Service Provider will not be held responsible for consequential damages, including but not limited to systems problems, inability to use the system, loss of electronic information etc.

NB: All the Bidders are required to submit the Agreement Form duly signed to Service Provider. After the receipt of the Agreement Form, Log in ID & Password shall be allotted to the suppliers (bidders).

- After the completion of the Auction event, all the Bidders have to submit the Price Breakup immediately to Service Provider for further proceedings.

9.1 Event Information

The "BHEL" has contracted to conduct this online bidding event. Service Provider shall answer all questions relating to the bidding process and conduct of the Reverse Auction Event.

1. Scheduled Date & Time of the event:

WILL BE INTIMATED BY

Any change in the scheduled time will be duly informed to you in advance.

2. Contact Information

"BHEL-EPD"

A. General Contract related Queries	
Name:	
Designation:	
Tel Nos.	
E-mail ID:	
Mobile No:	



“Service Provider”

Software Related Queries/ Process related Queries	
Name:	
Designation:	TO BE INTIMATED LATER
Tel Nos.	
E-mail ID:	

Process Compliance Form

To
Service Provider,

-----.

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 bid document for ----- (Items) against BHEL Tender No. dated

This letter is to confirm that:

- 1) The undersigned is authorized official of the company.
- 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.

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 –



11. THIRD PARTY NON-DISCLOSURE AGREEMENT

I, _____ on behalf of the _____ (Name of Company),

acknowledge that the information received or generated, directly or indirectly, while working with BHEL on contract is confidential and that the nature of the business of the BHEL is such that the following conditions are reasonable, and therefore:

I warrant and agree as follows:

I, or any other personnel employed or engaged by our company, agree not to disclose, directly or indirectly, any information related to the BHEL. Without restricting the generality of the foregoing, it is agreed that we will not disclose such information consisting but not necessarily limited to:

- **Technical information:** Methods, drawings, processes, formulae, compositions, systems, techniques, inventions, computer programs/data/configuration and research projects.
- **Business information:** Customer lists, project schedules, pricing data, estimates, financial or marketing data,

On conclusion of contract, I, or any other personnel employed or engaged by our company shall return to BHEL all documents and property of BHEL, including but not necessarily limited to: drawings, blueprints, reports, manuals, computer programs/data/configuration, and all other materials and all copies thereof relating in any way to BHEL's business, or in any way obtained by me during the course of contract. I further agree that I, or any others employed or engaged by our company shall not retain copies, notes or abstracts of the foregoing.

This obligation of confidence shall continue after the conclusion of the contract also.

I acknowledge that the aforesaid restrictions are necessary and fundamental to the business of the BHEL, and are reasonable given the nature of the business carried on by the BHEL. I agree that this agreement shall be governed by and construed in accordance with the laws of country.

I enter into this agreement totally voluntarily, with full knowledge of its meaning, and without duress.

Dated at....., this.....day of20 ..

Name

Company

Signature



**ANNEXURE TO MODEL CONCILIATION CLAUSE FOR CONDUCT OF CONCILIATION UNDER THE
BHEL CONCILIATION SCHEME, 2018**

BRIEF PROCEDURE FOR CONDUCT OF CONCILIATION PROCEEDINGS

1. The proceedings of Conciliation shall broadly be governed by Part-III of the Arbitration and Conciliation Act 1996 or any statutory modification thereof and as provided herein:
2. The party desirous of resorting to Conciliation shall send an invitation/notice in writing to the other party to conciliate specifying all points of Disputes with details of the amount claimed. The party concerned shall not raise any new issue thereafter. Parties shall also not claim any interest on claims/counter- claims from the date of notice invoking Conciliation till the conclusion of the Conciliation proceedings. If BHEL is to initiate Conciliation, then, the invitation to Conciliate shall be extended to the concerned Stakeholder in **Format 7** hereto. Where the stakeholder is to initiate the Conciliation, the notice for initiation of Conciliation shall be sent in **Format-8** hereto.
3. The party receiving the invitation/notice for Conciliation shall within 30 days of receipt of the notice of Conciliation intimate its consent for Conciliation along with its counter-claims, if any.
4. The Conciliation in a matter involving claim or counter-claim (whichever is higher) up to Rs 5 crores shall be carried out by sole Conciliator nominated by BHEL while in a matter involving claim or counter-claim (whichever is higher) of more than Rs 5 crores Conciliation shall be carried out by 3 Conciliators nominated by BHEL. The appointment of Conciliator(s) shall be completed and communicated by the concerned Department/Group of BHEL Unit/Division/Region/Business Group to the other party and the Conciliator(s) within 30 days from the date of acceptance of the invitation to conciliate by the concerned party in the **Format-9**. The details of the Claim, and counter-claim, if any, shall be intimated to the Conciliator(s) simultaneously in **Format-5**.
5. The Parties shall be represented by only their duly authorized in-house executives/officers and neither Party shall be represented by a Lawyer.
6. The first meeting of the IEC shall be convened by the IEC by sending appropriate communication/notice to both the parties as soon as possible but not later than 30



days from the date of his/their appointment. The hearings in the Conciliation proceeding shall ordinarily be concluded within two (2) months and, in exceptional cases where parties have expressed willingness to settle the matter or there exists possibility of settlement in the matter, the proceedings may be extended by the IEC by a maximum of further 2 months with the consent of the Parties subject to cogent reasons being recorded in writing.

7. The IEC shall thereafter formulate recommendations for settlement of the Disputes supported by reasons at the earliest but in any case within 15 days from the date of conclusion of the last hearing. The recommendations so formulated along with the reasons shall be furnished by the IEC to both the Parties at the earliest but in any case within 1 month from the date of conclusion of the last hearing.
8. Response/modifications/suggestions of the Parties on the recommendations of the IEC are to be submitted to the IEC within time limit stipulated by the IEC but not more than 15 days from the date of receipt of the recommendations from the IEC.
9. In the event, upon consideration, further review of the recommendations is considered necessary, whether by BHEL or by the other Party, then, the matter can be remitted back to the IEC with request to reconsider the same in light of the issues projected by either/both the Parties and to submit its recommendations thereon within the following 15 days from the date of remitting of the case by either of the Parties.
10. Upon the recommendations by the Parties, with or without modifications, as considered necessary, the IEC shall be called upon to draw up the Draft Settlement Agreement in terms of the recommendations.
11. When a consensus can be arrived at between the parties only in regard to any one or some of the issues referred for Conciliation the draft Settlement Agreement shall be accordingly formulated in regard to the said Issue(s), and the said Settlement Agreement, if signed, by the parties, shall be valid only for the said issues. As regards the balance issues not settled, the parties may seek to resolve them further as per terms and conditions provided in the contract.
12. In case no settlement can be reached between the parties, the IEC shall by a written



declaration, pronounce that the Conciliation between the parties has failed and is accordingly terminated.

13. Unless the Conciliation proceedings are terminated in terms of para 22 (b), (c) & (d) herein below, the IEC shall forward his/its recommendations as to possible terms of settlement within one (1) month from the date of last hearing. The date of first hearing of Conciliation shall be the starting date for calculating the period of 2 months.
14. In case of 3 members IEC, 2 members of IEC present will constitute a valid quorum for IEC and meeting can take place to proceed in the matter after seeking consent from the member who is not available. If necessary, videoconferencing may be arranged for facilitating participation of the members. However, the IEC recommendations will be signed by all members. Where there is more than one (1) Conciliator, as a general rule they shall act jointly. In the event of differences between the Members of IEC, the decision/recommendations of the majority of the Members of IEC shall prevail and be construed as the recommendation of the IEC.
15. The Draft Settlement Agreement prepared by the IEC in terms of the consensus arrived at during the Conciliation proceedings between the Parties shall be given by the IEC to both the parties for putting up for approval of their respective Competent Authority.
16. Before submitting the draft settlement agreement to BHEL's Competent Authority viz. the Board Level Committee on Alternative Dispute Resolution (BLCADR) for approval, concurrence of the other party's Competent Authority to the draft settlement agreement shall be obtained by the other party and informed to BHEL within 15 days of receipt of the final draft settlement agreement by it. Upon approval by the Competent Authority, the Settlement Agreement would thereafter be signed by the authorized representatives of both the Parties and authenticated by the members of the IEC.
17. In case the Draft Settlement Agreement is rejected by the Competent Authority of BHEL or the other Party, the Conciliation proceedings would stand terminated.
18. A Settlement Agreement shall contain a statement to the effect that each of the person(s) signing thereto (i) is fully authorized by the respective Party(ies) he/she represents, (ii) has fully understood the contents of the same and (iii) is signing on the same out of complete freewill and consent, without any pressure, undue influence.



19. The Settlement Agreement shall thereafter have the same legal status and effect as an arbitration award on agreed terms on the substance of the dispute rendered by an arbitral tribunal passed under section 30 of the Arbitration and Conciliation Act, 1996.
20. Acceptance of the Draft Settlement Agreement/recommendations of the Conciliator and/or signing of the Settlement Agreement by BHEL shall however, be subject to withdrawal/closure of any arbitral and/or judicial proceedings initiated by the concerned Party in regard to such settled issues.
21. Unless otherwise provided for in the agreement, contract or the Memorandum of Understanding, as the case may be, in the event of likelihood of prolonged absence of the Conciliator or any member of IEC, for any reason/incapacity, the Competent Authority/Head of Unit/Division/Region/Business Group of BHEL may substitute the Conciliator or such member at any stage of the proceedings. Upon appointment of the substitute Conciliator(s), such reconstituted IEC may, with the consent of the Parties, proceed with further Conciliation into the matter either de-novo or from the stage already reached by the previous IEC before the substitution.
22. The proceedings of Conciliation under this Scheme may be terminated as follows:
 - a. On the date of signing of the Settlement agreement by the Parties; or,
 - b. By a written declaration of the IEC, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration; or,
 - c. By a written declaration of the Parties addressed to the IEC to the effect that the Conciliation proceedings are terminated, on the date of the declaration; or,
 - d. By a written declaration of a Party to the other Party and the IEC, if appointed, to the effect that the Conciliation proceedings are terminated, on the date of the declaration; or,
 - e. On rejection of the Draft Settlement Agreement by the Competent Authority of BHEL or the other Party.
23. The Conciliator(s) shall be entitled to following fees and facilities:



Sl No	Particulars	Amount
1	Sitting fees	Each Member shall be paid a Lump Sum fee of Rs 75,000/- for the whole case payable in terms of paragraph No.27 herein below.
2	Towards drafting of settlement agreement	In cases involving claim and/or counter-claim of up to Rs 5 crores. - Rs 50,000/- (Sole Conciliator) In cases involving claim and/or counter-claim of exceeding Rs 5 crores but less than Rs 10 crores.- Rs 75,000 (per Conciliator)
		In cases involving claim and/or counter-claim of more than Rs 10 crores.Rs 1,00,000/- (per Conciliator), Note: The aforesaid fees for the drafting of the Settlement Agreement shall be paid on the, Signing of the Settlement Agreement after approval of the Competent Authority or Rejection of the proposed Settlement Agreement by the Competent Authority of BHEL.
3	Secretarial expenses	Rs 10,000/- (one time) for the whole case for Conciliation by a Sole Member IEC., Where Conciliation is by multi member Conciliators -Rs 30,000/- (one time)- to be paid to the IEC
4	Travel and Transportation and stay at outstation Retired Senior Officials of other Public Sector Undertakings (pay scale wise equivalent to or more than E-8 level of BHEL)	As per entitlement of the equivalent officer (pay scale wise) in BHEL.
	Others	As per the extant entitlement of whole time Functional Directors in BHEL. Ordinarily, the IEC Member(s) would be entitled to travel by air Economy Class.



SI No	Particulars	Amount
5	Venue for meeting	Unless otherwise agreed in the agreement, contract or the Memorandum of Understanding, as the case may be, the venue/seat of proceedings shall be the location of the concerned Unit / Division / Region / Business Group of BHEL. Without prejudice to the seat/venue of the Conciliation being at the location of concerned BHEL Unit / Division / Region / Business Group, the IEC after consulting the Parties may decide to hold the proceedings at any other place/venue to facilitate the proceedings. Unless, Parties agree to conduct Conciliation at BHEL premises, the venue is to be arranged by either Party alternately.

24. The parties will bear their own costs including cost of presenting their cases/evidence/witness(es)/expert(s) on their behalf. The parties agree to rely upon documentary evidence in support of their claims and not to bring any oral evidence in IEC proceedings.
25. If any witness(es) or expert(s) is/are, with the consent of the parties, called upon to appear at the instance of the IEC in connection with the matter, then, the costs towards such witness(es)/expert(s) shall be determined by the IEC with the consent of the Parties and the cost so determined shall be borne equally by the Parties.
26. The other expenditures/costs in connection with the Conciliation proceedings as well as the IEC's fees and expenses shall be shared by the Parties equally.
27. Out of the lump sum fees of Rs 75,000/- for Sitting Fees, 50% shall be payable after the first meeting of the IEC and the remaining 50% of the Sitting Fees shall be payable only after termination of the conciliation proceedings in terms of para 22 hereinabove.
28. The travelling, transportation and stay at outstation shall be arranged by concerned Unit as per entitlements as per Serial No. 4 of the Table at para 23 above, and in case such arrangements are not made by the BHEL Unit, the same shall be reimbursed to the IEC on actuals limited to their entitlement as per Serial No. 4 of the Table at Para 23 above against supporting documents. The IEC Member(s) shall submit necessary invoice for claiming the fees/reimbursements.
29. The Parties shall keep confidential all matters relating to the conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its



disclosure is necessary for purposes of its implementation and enforcement or as required by or under a law or as per directions of a Court/Governmental authority/regulatory body, as the case may be.

30. The Parties shall not rely upon or introduce as evidence in any further arbitral or judicial proceedings, whether or not such proceedings relate to the Disputes that is the subject of the Conciliation proceedings:
 - a. Views expressed or suggestions made by the other party in respect of a possible settlement of the Disputes;
 - b. admissions made by the other party in the course of the Conciliator proceedings;
 - c. proposals made by the Conciliator;
 - d. The fact that the other Party had indicated his willingness to accept a proposal for settlement made by the Conciliator.
31. The Parties shall not present the Conciliator(s) as witness in any Alternative Dispute Resolution or Judicial proceedings in respect of a Disputes that is/was the subject of that particular Conciliation proceeding.
32. None of the Conciliators shall act as an arbitrator or as a representative or counsel of a Party in any arbitral or judicial proceeding in respect of a Disputes that is/was the subject of that particular Conciliation proceeding.
33. The Parties shall not initiate, during the Conciliation proceedings, any arbitral or judicial proceedings in respect of a Disputes that is the subject matter of the Conciliation proceedings except that a Party may initiate arbitral or judicial proceedings where, in his opinion, such proceedings are necessary for preserving his rights including for preventing expiry of period of limitation. Unless terminated as per the provisions of this Scheme, the Conciliation proceedings shall continue notwithstanding the commencement of the arbitral or judicial proceedings and the arbitral or judicial proceedings shall be primarily for the purpose of preserving rights including preventing expiry of period of limitation.
34. The official language of conciliation proceedings under this Scheme shall be English unless the Parties agree to some other language.



Format 5 to BHEL Conciliation Scheme, 2018

**STATEMENT OF CLAIMS/COUNTER CLAIMS TO BE SUBMITTED TO THE
IEC BY BOTH THE PARTIES**

1. Chronology of the Disputes
2. Brief of the Contract/MoU/Agreement/LOI/LOA
3. Brief history of the Disputes:
4. Issues:
5. Details of Claim(s)/Counter Claim(s):

Sl. No.	Description of claim(s)/Counter Claim	Amount (in INR)Or currency applicable in the contract	Relevant contract clause

6. Basis/Ground of claim(s)/counter claim(s) (along with relevant clause of contract)

Note – The Statement of Claims/Counter Claims may ideally be restricted to maximum limit of 20 pages. Relevant documents may be compiled and submitted along with the statement of Claims/Counter Claims. The statement of Claims/Counter Claims is to be submitted to all IEC members and to the other party by post as well as by email.



FORMAT-7

FORMAT FOR NOTICE INVOKING CONCILIATION CLAUSE BY BHEL FOR REFERRING THE DISPUTES TO CONCILIATION THROUGH IEC

To,

M/s. (Stakeholder's name)

Subject: NOTICE FOR INVOCATION OF THE CONCILIATION CLAUSE OF THE CONTRACT BY BHEL

Ref: Contract No/MoU/Agreement/LOI/LOA & date _____.

Dear Sir/Madam,

As you are aware, with reference to the above referred Contract/MoU/Agreement/LOI/LOA, certain disputes have arisen, which, in spite of several rounds of mutual discussions and various correspondences have remained unresolved. The brief particulars of our claims which arise out of the above-referred Contract/MoU/Agreement/LOI/LOA are reproduced hereunder:

Sl. No.	Claim description	Amount involved

As you are aware, there is a provision in the captioned Contract/MoU/Agreement/LOI/LOA for referring disputes to conciliation.

In terms of Clause ----- of Procedure i.e., Annexure ----- to the Contract/MoU/Agreement / LOI / LOA, we hereby seek your consent to refer the matter to Conciliation by Independent Experts Committee to be appointed by BHEL. You are invited to provide your consent in writing to proceed with conciliation into the above mentioned disputes within a period of 30 days from the date of this letter along with details of counter-claims, if any, which you might have with regard to the subject Contract/ MoU/ Agreement/ LOI/ LOA.

Please note that upon receipt of your consent in writing within 30 days of the date of receipt of this letter by you, BHEL shall appoint suitable person(s) from the BHEL Panel of Conciliators.

This letter is being issued without prejudice to our rights and contentions available under the contract and law.

Thanking you

Yours faithfully

Representative of BHEL

Note: The Format may be suitably modified, as required, based on facts and circumstances of the case.



FORMAT-8

**FORMAT FOR NOTICE INVOKING CONCILIATION CLAUSE BY A STAKEHOLDER FOR REFERRING THE
DISPUTES TO CONCILIATION THROUGH IEC**

To,
BHEL (Head of the Unit/Division/Region/Business Group)

Subject: NOTICE FOR INVOCATION OF THE CONCILIATION CLAUSE OF THE CONTRACT BY A
STAKEHOLDER

Ref: Contract No/MoU/Agreement/LOI/LOA & date _____.

Dear Sir/Madam,

As you are aware, with reference to the above referred Contract/MoU/Agreement/LOI/LOA, certain disputes have arisen, which, in spite of several rounds of mutual discussions and various correspondences have remained unresolved. The brief particulars of our claims which have arisen out of the above-referred Contract/MoU/Agreement/LOI/LOA are enumerated hereunder:

Sl. No.	Claim description	Amount involved

As you are aware, there is a provision in the captioned Contract/MoU/Agreement/LOI/LOA for referring inter-se disputes of the Parties to conciliation.

We wish to refer the above-said disputes to Conciliation as per the said Clause of the captioned Contract/MoU/Agreement/LOI/LOA. In terms of Clause ----- of Procedure i.e., Annexure ----- to the Contract/MoU/Agreement/LOI/LOA, we hereby invite BHEL to provide its consent in writing to proceed with conciliation into the above mentioned disputes within a period of 30 days from the date of this letter along with details of counter-claims, if any, which it might have with regard to the subject Contract/ MoU/ Agreement/ LOI/ LOA and to appoint suitable person(s) as Conciliator(s) from the BHEL Panel of Conciliators.

This letter is being issued without prejudice to our rights and contentions available under the contract and law.

Thanking you

Yours faithfully

Representative of the Stakeholder

Note: The Format may be suitably modified, as required, based on facts and circumstances of the case.



FORMAT-9

FORMAT FOR INTIMATION TO THE STAKEHOLDER ABOUT APPOINTMENT OF CONCILIATOR/IEC

To,

M/s. (Stakeholder's name)

Subject: INTIMATION BY BHEL TO THE STAKEHOLDER AND CONCILIATOR(S) ABOUT APPOINTMENT OF CONCILIATOR/IEC

Ref: Contract No/MoU/Agreement/LOI/LOA & date _____.

Sir,

This is with reference to letter dated ----- regarding reference of the disputes arising in connection with the subject Contract No /MoU/Agreement/LOI/LOA to conciliation and appointment of Conciliator(s).

In pursuance of the said letter, the said disputes are assigned to conciliation and the following persons are nominated as Conciliator(s) for conciliating and assisting the Parties to amicably resolve the disputes in terms of the Arbitration & Conciliation Act, 1996 and the Procedure ---- to the subject Contract

...../MoU/Agreement/LOI/LOA, if possible. Name

and contact details of Conciliator(s)

- a)
- b)
- c)

You are requested to submit the Statement of Claims or Counter-Claims (strike off whichever is inapplicable) before the Conciliator(s) in Format 5 (enclosed herewith) as per the time limit as prescribed by the Conciliator(s).

Yours faithfully,
Representative of BHEL

CC: To Conciliator(s)... for Kind Information please. Encl: As

above

Note: The Format may be suitably modified, as required, based on facts and circumstances of the case.