

OPEN TENDER ENQUIRY (No. 201811091): FRAMEWORK AGREEMENT FOR SUPPLY OF GALVANISED STEEL SUPPORT STRUCTURE.

GENERAL TERMS AND CONDITIONS (GCC):

SI No.	BHEL REQUIREMENTS	BIDDER TO CONFIRM/SPECIFY
2.0	<u>Material Specification, Size and Quantity:</u> Supply shall be made strictly as per specification mentioned in tender enquiry. Offer submitted by bidder should be complete in all respect. BHEL may consider some deviation on exceptional basis only. Any deviation if taken, same shall be indicated clearly in Techno-commercial bid (Part-2) itself.	
2.1	Technical Specifications of G.I. Structure items shall be as per Annexure-I (BHEL Product Standard) and BHEL Corporate Standard- AA10119, AA10108. Sample Quality Assurance Plan (QAP) and sample structure drawings attached for reference. However, the drawings and QAP are only indicative for bidders to have a feel of quantum of work involved and quality requirements. Separate QAP and drawing shall be provided against individual purchase orders. BHEL may ask for specific make of raw material against a purchase order as per end customer requirement. Bidder to confirm that he has gone through all the technical specifications and documents and that he accepts the same in toto.	
2.2	PO placement shall only be done to the customer approved vendors (for each project separately) which is essential part of the tender enquiry.	
2.3	Rates are to be quoted for entering into a frame work agreement (FA) for 01 year duration, therefore validity of offer must be 15 months form the date of opening techno-commercial bid.	
2.4	<u>Delivery Period for Supply:</u> Quantity indicated in NIT is envisaged for one-year requirement. BHEL shall place several purchase orders (PO) for smaller quantities periodically under the Framework Agreement finalized against this NIT. Delivery time shall be within 10 weeks from the date of placing Purchase order or within 02 weeks from dispatch clearance by BHEL provided vendor raises inspection call to BHEL well within delivery time (within 10 weeks from PO) for timely inspection. Vendor shall get all technical clarifications/drawing revisions from BHEL within first two (02) weeks from PO date. Delay arising out of any query raised after 02 weeks' time shall be to the vendors account. In case of urgency of structure items based on our end customer requirement/site urgency, BHEL may ask for early delivery.	
2.5	<u>Mode of Communication:</u> Contract formation, the communication of proposals, the acceptance of proposals, the revocation of proposals and acceptance, termination of contract as the case may be, shall be in electronic form either through BHEL's E-Procurement portal or e-mail communication. All queries/clarifications related to the tender, frame work agreement, purchase order, drawings etc. shall be exchanged through email. BHEL shall also send purchase orders (PO), drawings, QAP etc. through email. Date of email shall be considered as date of communication. Such contract, notice shall not be deemed unenforceable or un-delivered solely on the ground that electronic form or means was used for that purpose and no communication was received from BHEL in paper form through postal route or any other means. Primary mode of communication between BHEL and bidders/contractors shall be through e-mail. No bidder/contractor shall insist for the mode of communication to be through postal route like speed post or courier.	

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2.6	<u>Loading for deviation in Delivery Period:</u> In case of quoted delivery period being longer than the delivery period 10 weeks from the date of PO as specified in tender and also being accepted by BHEL, a loading of 0.5% per week of total order value shall be done for which relaxation sought. However, Offers quoting delivery period longer than 12-14 weeks from the date of Purchase order may be liable for rejection.	
2.7	Rates shall be quoted on “ZONE” basis i.e, Zone-1, Zone-2, Zone-3 Zone wise project details is attached as per annexure –II. The zone wise project detail is only indicative. There may be addition or deletion of projects and related quantity based on actual requirement limited to quantity indicated against each zone. Bidders are advised to go through the destination details carefully and submit the bid accordingly.	
2.8	<u>Liquidated Damages (LD):</u> 1. In case of delay in execution of contract/purchase order beyond the delivery period stipulated in the said contract/purchase order, a penalty of 0.5% on the value of delayed portion of supply (inclusive of basic rate, taxes, duties, freight & insurance as applicable) per week of delay shall be levied on Supplier. Maximum limit of Liquidated damages shall be 10% of total purchase order value (inclusive of basic rate, taxes, duties, freight & insurance as applicable). In case of quoting any deviation from the above LD clause, the offer shall be loaded in comparison statement for un-accepted portion of LD, maximum up to 10% of total purchase order value (inclusive of basic rate, taxes, duties, freight & insurance as applicable). GST shall also be charged on LD amount as per applicable rate and tax invoice shall be issued by BHEL. Note: i) In case of any amendment or revision in contract/Purchase order, the LD shall be linked to the amended / revised Purchase Order / Contract value and delivery / completion time / schedule, as applicable. ii) If, delay is not attributable to the supplier, delay analysis with documentary evidence may be submitted by the supplier at the earliest but not later than six months from the end of the financial year in which the payment is withheld. Based on the above details / documents submitted by the supplier, BHEL shall take final decision and if considered appropriate by BHEL, withheld amount (full or part as the case may be) shall be released, otherwise, full or balance withheld amount shall be treated as deduction of Liquidated Damages (LD) towards delayed delivery. Liquidated Damages = 0.5 % X Delay in Nos. of Weeks X Quantity *(Basic Rate + P&F + Freight + Other charges, if any + Taxes & Duties) + Applicable GST <i>Non acceptance of above clauses shall be considered as deviation to this tender and shall be loaded at the rate of 10% for each case for comparing standing.</i>	
2.9	<u>Payment Term:</u> i) BHEL Payment term is 100% direct EFT payment within 45 days from the date of receipt and acceptance of materials at BHEL Stores at site or at Rudrapur. ii) Any deviation in the above payment term will attract loading at the rate of "[Base rate i.e. Prime Lending Rate of State Bank of India (as applicable on the date of	

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	techno-commercial bid opening) + 6%] for the period of relaxation sought by bidders. iii) Respective bank charges to respective accounts. Payment through Bank/Usance LC is not preferred. In case of any such option being insisted by supplier, offer shall be liable for rejection.	
2.10	Acceptance to GST terms and conditions as per Annexure-GST.	
2.11	Price Variation Clause (PVC): PVC shall be applicable on basic rate (excluding freight & insurance) as per IEEMA Price Variation Clause for Transmission Line Towers (no. IEEMA/PVC/TLT/2010 (R-1) effective from 01.04.2014 with both heavy and light angles. Formula & applicable base prices are as below: $P = P_0 * [(11 + 32 * \frac{SBLR}{SBLR_0} + 25 * \frac{SBIR}{SBIR_0} + 09 * \frac{Zn}{Zn_0} + 23 * \frac{W}{W_0}) / 100]$ The applicable prices shall be as below: P₀ = Basic Rate (in Rs.) P = Basic rate after including price variation (in Rs.) SBLR₀ = Rs. 41,443/- PMT (for Jan'2019) SBIR₀ = Rs. 41,771/- PMT (for Jan'2019) Zn₀ = Rs. 2,09,300/- PMT (for Jan' 2019) W₀ = Rs. 302/- (for Nov'2018) For operating PVC following dates shall be applicable: SBLR, SBIR, Zn- As applicable on the 1st working day of the month, <u>02</u> months prior to the date of dispatch. W - As applicable on the 1st working day of the month, <u>04</u> months prior to the date of dispatch. The prices of SBLR, SBIR, Zn & W shall be taken from IEEMA's official website www.ieemail.com. In case of delay in delivery due to reasons not attributable to BHEL, the PVC shall be restricted to the purchase order delivery date or the actual dispatch date whichever is advantageous to BHEL. In case PO delivery date is extended by BHEL, the PVC shall be applicable for the extended delivery date.	
2.12	Reverse Auction(RA): BHEL reserves the right to go for Reverse Auction (RA) (Guidelines as available on www.bhel.com & as per "RA Guidelines" available with the N.I.T) 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	

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	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. iv) 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)."																				
2.13	Unsolicited revision of price shall NOT be considered after tender submission. In case of supplier insisting for submission of unsolicited revision of price after tender submission at any stage, offer shall be liable for rejection.																				
2.14	BHEL may negotiate with L-1 bidder or re-float the tender in case received L-1 rate is not found reasonable or acceptable to BHEL inter-alia other reasons.																				
2.15	Offers shall be evaluated on overall total cost to BHEL Rudrapur/site basis for each Zone (as per annexure-II).																				
2.16	Order Splitting: BHEL intends to split the total order quantity among three (03) bidders i.e, L-1 bidder and other two bidders as per following table, provided the other two bidders meet the final rate offered by L-1 bidder and accepted by BHEL. In case of less than two (02) bidders accepting L-1 rates, distribution shall be governed by the following table. <table><tr><th rowspan="2">Total No. of bidders accepting L-1 rates (including original L-1 bidder)</th><th colspan="3">Work Distribution (%)</th></tr><tr><th>L-1</th><th>L-2</th><th>L-3</th></tr><tr><td>1</td><td>100</td><td></td><td></td></tr><tr><td>2</td><td>60</td><td>40</td><td></td></tr><tr><td>3</td><td>50</td><td>30</td><td>20</td></tr></table> L-1 rate for each item shall be counter-offered to techno-commercially qualified bidders according to their ranking in comparison statement i.e. L-2, L-3 etc. respectively. In case of non-acceptance of counter-offer by any bidder, counter-offer shall be extended to next bidder in ranking. In case of "N" techno-commercially qualified responses, distribution shall be limited to "N-1" out of total "N" qualified responses.	Total No. of bidders accepting L-1 rates (including original L-1 bidder)	Work Distribution (%)			L-1	L-2	L-3	1	100			2	60	40		3	50	30	20	
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	The distribution shall be done separately for ZONE-1, ZONE-2 & ZONE-3.	
2.17	Risk Purchase Clause: If the supplier fails to deliver the whole or any part of the goods or services within the stipulated delivery period mentioned in the Purchase order, BHEL shall be entitled to terminate the contract and to purchase the same or “the best and the nearest available substitute” from elsewhere at the risk and cost of the seller either the whole or any part of the goods/Services. In case of deviation or non-acceptance of Risk Purchase clause, offer shall be liable for rejection. Risk & Cost Amount payable by Supplier or recoveries in-lieu of Risk Purchase may be recovered from supplier by encashing/invoking Bank Guarantee, Security Deposits available with BHEL against the same or any other contract or may be adjusted against dues payable to supplier by BHEL against other purchase orders/contracts/work orders etc. by any unit/region etc. of BHEL. Risk and Cost against Balance Work: Risk & Cost Amount= [(A-B) + (A x H/100)] Where, A= Value of Balance scope of Work/ Supply (*) as per rates of new contract B= Value of Balance scope of Work/ Supply (*) as per rates of old contract being paid to the contractor/ supplier at the time of termination of contract i.e. inclusive of PVC & ORC, if any. H = Overhead Factor to be taken as 5 In case (A-B) is less than 0 (zero), value of (A-B) shall be taken as 0 (zero). *(Balance scope of work/ supply) Difference of Contract Quantities and Executed Quantities as on the date of issue of Letter for ‘Termination of Contract’, shall be taken as balance scope of Work/ Supply for calculating risk & cost amount. Contract quantities are the quantities as per original contract. If, Contract has been amended, quantities as per amended Contract shall be considered as Contract Quantities. In case of deviation or non-acceptance of Risk Purchase clause, offer shall be liable for rejection.	
2.18	Pre-Dispatch Inspection: Pre-dispatch Inspection shall be carried out by BHEL/BHEL authorized TPIA(Third Party Inspection Agency)/BHEL customer. Supplier shall intimate (raise inspection call on BHEL CQ Portal) BHEL about material readiness well in advance (at least 07 days before) for enabling BHEL to conduct pre-dispatch inspection. Material shall be dispatched only after written clearance from BHEL. However, material shall be accepted after final inspection by BHEL at BHEL Rudrapur/BHEL site and availability of all relevant documents like GST Invoice, Material Test Certificate, Packing list etc.	
2.19	Identification & Marking: BOM/ Drg/ Var No/ project name shall be marked with indelible ink/ punched on the individual items and to be ensured by supplier.	
2.20	Transit Insurance:	

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	Supplier must insure the material for risks during transportation at their cost and is not payable by BHEL.	
2.21	<u>Independent External Monitor(IEM):</u> This tender shall be monitored by an IEM. Please refer Section-8 of the Integrity Pact(IP) for Role and Responsibilities of Independent External Monitor (IEMs). In case of any complaint arising out of the tendering processes, the matter may be referred to the IEM mentioned below. No routine correspondence shall be addressed to the IEM(Phone/email/post) regarding the clarifications, time extensions or any other administrative queries etc. on the tender issued. All such clarification/issues shall be addressed directly to the tender issuing (procurement) department. <u>Details of IEM of this tender is as below:</u> Name: Mrs. Pravin Tripathi, IA&AS(Retd.) Address: D-243, Anupam Gardens, Lane 1B, Neb Sarai, Sainik Farms, New Delhi – 110068 Email: pravin.tripathi@gmail.com Name: Shri D.R.S. Chaudhary, IAS (Retd.), Flat No. L-202,203, Ansal Lake View Enclave, Shamla Hills, Bhopal- 462013 Email: dilip.chaudhary@icloud.com	
2.22	<u>Offer Submission:</u> Offer must be submitted in three-part bids i.e. pre-qualification bid (part-1), techno-commercial bid(Part-2) & Price bid(part-3) through BHEL EPS Portal https://bhel.abcpocure.com/. Offer received through any other mode like postal, courier etc. shall not be entertained. Supplier may visit BHEL EPS Portal to get further details. Offer can be submitted within 2.00 PM on or before due date. After due date/time, no offer can be submitted on EPS portal.	
2.23	Supplier must not indicate price anywhere other than price bid in EPS portal. Supplier must not attach any attachment/file with price bid(Part-3). No cognizance of any attachment/file in price bid shall be taken. Price entered by typing in EPS portal shall only be considered.	
2.24	<u>Tender Opening:</u> First, techno-commercial bids of all offers received on or before due date & time shall be opened on due date & time 15.00 hrs. After this, BHEL shall go for price bids opening or reverse auction with techno-commercially qualified bidders only.	
2.25	<u>Corrigendum/Addendum:</u> Any corrigendum/addendum related to this tender shall be updated on BHEL website www.bhel.com. Bidders are requested to regularly visit the BHEL website to keep themselves abreast with updates.	
2.26	<u>Supplier Registration:</u> New Suppliers who are not registered with BHEL CFP Rudrapur unit shall submit Supplier registration Form through online portal https://supplier.bhel.in/ to get registered with BHEL Rudrapur before Price bid opening/Reverse Auction. There are separate forms for indigenous and foreign suppliers.	
2.27	<u>Framework Agreement (FA):</u> After finalization of this tender, BHEL shall enter into Framework Agreement with successful bidders. Framework Agreement shall be valid for the quantity mentioned in NIT and for ONE-year period. BHEL may extend the Framework Agreement Period / Quantity by further maximum 03 months & totaling to 01 year and 03	

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	months for the entire Frame-work agreement with mutual consent. However, finalization & signing of Framework Agreement does not entitle any bidder to any firm order. Any claim by the bidder on account of capacity blocking, funds etc. due to entering into the FA shall not be entertained. FA sets out terms and conditions under which specific purchases can be made during the term of the agreement and shall include agreement on prices which are determined after following the tendering procedure. BHEL shall place purchase order(s) in line with Framework Agreement and as per BHEL's requirement.	
2.28	Contract Execution Bank Guarantee (CEBG): The successful bidders (as per distribution clause 2.16) with whom BHEL indents to enter into the FA, shall submit a CEBG in the form of Bank Guarantee (BG) from any scheduled bank in the format available with the tender. The security deposit shall be 1% of the total basic value (including freight & insurance) of the quantity to be allocated in the FA or Rs.1,00,000/- whichever is lower. a) The bank guarantee shall be initially valid for a period of 01 year + 03 months from the date of issue of letter of intent/award. Same shall be kept valid by proper renewal till the supply completion of last PO. b) BHEL reserves the right to forfeit the CEBG in addition to other claims and penalties in the event of supplier's failure to fulfil any of the contractual obligations or in the event of termination of contract. BHEL reserves the right to set-off the CEBG against any claims of other contract with BHEL. c) It is the responsibility of the supplier to get the BG extended for the required period, as per the advice of BHEL. BHEL shall not be liable for issue of reminders regarding expiry of the BG. d) BG shall be released to the supplier after settlement of final bill deducting all expenses/other amount due to BHEL.	
2.29	OFFER RECEIVED IN SINGLE-PART BID OR MENTIONING PRICE IN TECHNO-COMMERCIAL BIDS SHALL BE LIABLE FOR REJECTION.	
2.30	No overdue interest shall be payable by BHEL.	
2.31	Any documents required due to BHEL/Govt. guidelines like Income tax clearance, registration documents of company, copy of PAN Card of company, Authorization letter etc. must be furnished by Bidder.	
2.32	Weight Variation Clause: Actual Weight variation maximum up to ±5% shall be allowed as per IS:1852. Weight criteria is just for payment purpose; however supplier has to ensure the PO completeness i.e. each item is physically delivered at destination in Nos. as per PO	
2.33	Payment shall be released on the basis of Actual weight basis (billed by supplier or received at Project Site/CFP RUDRAPUR, whichever is lower), within the tolerance limit of PO Weight.	
2.34	<u>Cancellation of PO/Contract:</u> In the event of non-performance of the contract by the supplier, BHEL reserves the right to cancel the purchase order with issue of a written notice through e-mail/postal etc. BHEL would provide a curing period of not more than 30 days for the supplier to rectify the situation. If situation is not rectified within notice period after issue of notice, BHEL shall be free to execute Risk purchase in addition to invoking of CEBG and other legal remedies.	

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2.35	Action shall be taken as per extant BHEL “ Guidelines for Suspension of Business Dealings with Suppliers/Contractors AA/MM/SB/01 Rev.02 Dated 22.07.2016 ” against Supplier who either fail to perform or are in default without any reasonable cause like force majeure, cause loss of business/money/reputation, indulge in malpractices, cheating, bribery, fraud or any other misconduct or formation of cartels so as to influence the bidding processor influence the price, tempering with tender process etc. Further details in this regard can be accessed through BHEL website www.bhel.com	
2.36	"The Bidder along with its associate/ collaborators/ sub-contractors/ sub-vendors/ consultants/ service providers shall strictly adhere to BHEL Fraud Prevention Policy displayed on BHEL website http://www.bhel.com and shall immediately bring to the notice of BHEL Management about any fraud or suspected fraud as soon as it comes to their notice."	
2.37	Conciliation Clause: The Parties i.e. BHEL and Supplier 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 or the Memorandum of Understanding (delete whichever is inapplicable), which the Parties are unable to settle 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 K to this NIT. The Annexure K together with its appendices will be treated as if the same is part and parcel hereof and shall be as effectual as if set out herein in the NIT.	
2.38	Benefits to MSE Suppliers as per MSME Act 2006 and Public Procurement Policy 2012: MSE suppliers can avail the intended benefits only if they submit along with the offer, attested copies of either EM-II certificate having deemed validity (five years from the date of issue of acknowledgement in EM II) or valid NSIC certificate or EM-II certificate along with attested copy of a CA certificate (Format enclosed at Annexure-I where deemed validity of EM-II certificate of five years has expired) applicable for the relevant financial year (latest audited) or Udyog Aadhar Memorandum (UAM) . Date to be reckoned for determining the deemed validity will be the date of bid opening (Part 1 in case of two part bid). Non submission of such documents will lead to consideration of their bid at par with other bidders. No benefit shall be applicable for this enquiry if any deficiency in the above-required documents are not submitted before price bid opening. If the tender is to be submitted through e-procurement portal, then such documents are to be uploaded on the portal. Bidder are also advised to declare their UAM No. in their offer and on invoice to get benefit of MSE Act 2006.	

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2.39	Arbitration: a) In case amicable settlement is not reached between the Parties, in respect of any dispute or difference or claim or controversy arising out of the formation, breach, termination, validity or execution of the Contract(or Agreement) or the respective rights and liabilities of the parties or in relation to interpretation of any provision of the Contract or in any manner touching upon the Contract, then, either party may, by a notice in writing to the other Party refer such dispute or difference or controversy of claim, (except as to any matters, the decision of which is specifically provided for therein) to the sole arbitration by the arbitrator appointed by Head/In-Charge of the BHEL Unit/Division/Region. b) The Arbitrator shall pass a reasoned award and the award of the Arbitrator shall be final and binding upon the parties to the dispute. c) Subject as aforesaid, the provisions of Arbitration and Conciliation Act 1996 (India), or other statutory modifications of re-enactments thereof and the rules made thereunder and for the time being in force shall apply to the arbitration proceeding under this clause. The seat of arbitration shall be at Component Fabrication Plant, Rudrapur, Distt. Udham Singh Nagar, Uttarakhand. d) In case of Contract with Public Sector Enterprise (PSE) or a Government Department, the following shall be applicable: e) In the event any dispute or difference relating to the interpretation and application of the provisions of the Contract, such dispute or difference shall be referred to by either party to the arbitration of one of the arbitrators in the department of Public enterprises to be nominated by the Secretary to the Government of India in-charge of the Department of Public Enterprises. The Arbitration and Conciliation Act, 1996 shall not be applicable to arbitration under this clause. The award of the arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law and Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary or Additional Secretary when so authorized by the Law Secretary, whose decision shall bind the parties hereto finally and conclusively. Notwithstanding the existence of any dispute or differences and/or reference for the arbitration, the Supplier shall proceed with and continue without hindrance the performance of its obligations under this Contract with due diligence and expedition in a professional manner.	
2.40	<u>For any other clarifications etc., Supplier may contact BHEL at following Address:</u> Bharat Heavy Electricals Ltd Component Fabrication Plant Materials Management Department Kiccha Bye-Pass Road, Rudrapur – 263153 (Uttarakhand) Ph No:05944 257 211 / 221 Emails: sandeepdr@bhel.in; rksaxena@bhel.in Supplier must indicate Tender/Nit reference on all communications.	

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