



REQUEST FOR EMPANELMENT (RFE)
OF ADVISORS FOR M&A OPPORTUNITIES



PROPOSAL REF. NO. AA/M&A/RFE/2009

Issued by Corporate Mergers & Acquisitions Department,
Bharat Heavy Electricals Limited.
Registered and Corporate Office:
BHEL House, Siri Fort, New Delhi -110049
www.bhel.com



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Important Timelines

S. No	PARTICULARS	DATE	TIME
1	ISSUE OF NOTICE INVITING TENDER FOR RFE	23 RD NOVEMBER 2009	1000 HRS
2	LAST DATE FOR SENDING QUERIES TO BHEL	30 TH NOVEMBER 2009	1700 HRS
3	LAST DATE FOR SUBMISSION OF PROPOSALS	21 ST DECEMBER 2009	1100 HRS
4	OPENING OF PROPOSALS	21 ST DECEMBER 2009	1400 HRS



SECTION I: INVITATION FOR PROPOSALS (IFP)

Bharat Heavy Electricals Limited (BHEL) invites Proposals for empanelment of advisors for Mergers & Acquisitions for the scope detailed at Section IV "Scope of Work (SOW)" of this RFE Document. The thrust shall be primarily on Overseas Mergers & Acquisitions. There will be three separate panels one each for Financial Advisors, Accounting & Tax Due Diligence Advisors and Legal Due Diligence Advisors. Advisors will be appointed by BHEL as and when required for a particular opportunity. Responsibility of co-ordination and rendering a comprehensive service/solution for a target acquisition will be with the Financial Advisor. The advisors will be empanelled initially for a period of two years.

The RFE includes the following documents:

- Section I: Invitation for Proposals (IFP)
 - Section II: Instructions to Bidders (ITB)
 - Section III: Terms & Conditions of Contract (T&C)
 - Section IV : Scope of Work (SOW)
 - Section V: Formats A to F
1. The "Request for Empanelment" document is available on the website <http://www.bhel.com> for free download.
 2. General Manager In charge (M&A, CCG & CPIO) BHEL Corporate Office, New Delhi reserves the right to accept or reject any or all the proposals in whole or part without assigning any reasons.
 3. Address for Communication:

Vijay Kumar, General Manager In charge/(M&A, CCG) & CPIO
Bharat Heavy Electricals Limited,
Corporate Mergers & Acquisitions,
BHEL House, Siri Fort,
New Delhi - 110 049, INDIA
Tel. + 91 11 2600 1066, FAX: + 91 11 26492976
Email: mergers@bhel.in



SECTION II: INSTRUCTIONS TO BIDDERS (ITB)

1. Definitions

Unless the context otherwise requires, the following terms whenever used in this RFE and Contract have the following meanings:

- a) "Applicable Law" shall mean the Indian Law both substantive and procedural.
- b) "Seller" means the company/owners divesting the Target.
- c) "Target" means the company being divested by the Seller.
- d) "Process" shall mean the Seller's disinvestment of the Target and BHEL's participation in the same. The "Process" shall include all activities as detailed out in 'Scope of work' in Section IV.
- e) "Party" means BHEL or the advisors, as the case may be, and "Parties" means both of them.
- f) "Personnel" means persons employed by the advisors as employees and assigned to the performance of the Services or any part thereof.
- g) "Services" means the work to be performed by the advisors pursuant to empanelment and appointment, as described in the detailed Scope of work (Section IV).
- h) "Interested third party (ies)" means other firms and all others interested in the Process.

2. Introduction

BHEL is the largest engineering and manufacturing enterprise in India in the energy-related/infrastructure sector, today. BHEL was established more than 45 years ago, ushering in the indigenous Heavy Electrical Equipment industry in India - a dream that has been more than realized with a well-recognized track record of performance. The company has been earning profits continuously since 1971-72 and paying dividends since 1976-77.

BHEL manufactures over 180 products under 30 major product groups and caters to core sectors of the Indian Economy viz., Power Generation & Transmission, Industry, Transportation, Renewable Energy, etc. The wide network of BHEL's 15 manufacturing divisions, four Power Sector regional centres, over 100 project sites, eight service centres and 18 regional offices, enables the Company to promptly serve its customers and provide them with suitable products, systems and services efficiently and at competitive prices. The high level of quality & reliability of its products is due to the emphasis on design, engineering and manufacturing to international standards by acquiring and adapting some of the best technologies from leading companies in the world, together with technologies developed in its own R&D centers. BHEL's



operations are organized around three business sectors, namely Power, Industry (including Transmission, Transportation, Telecommunication and Renewable Energy) and Overseas Business. This enables BHEL to have a strong customer orientation, to be sensitive to his needs and respond quickly to the changes in the market.

BHEL's vision is to become a world-class engineering enterprise, committed to enhancing stakeholder value. The company is striving to give shape to its aspirations and fulfill the expectations of the country to become a global player. In line with above, BHEL is actively pursuing Mergers & Acquisitions route for inorganic growth of the company.

In this context, BHEL intends to select consulting firm/organizations/advisors through issue of Request for Empanelment. The Bidder shall be invited to submit a Proposal. The Proposal will be the basis for empanelment of Advisors. The advisors will be empanelled initially for a period of two years.

3. Conflict of Interest

BHEL requires that the Advisors should provide professional, objective, and impartial advice and at all times hold the BHEL'S interests paramount, strictly avoid conflicts with other assignments/jobs or their own corporate interests and act without any consideration for future work.

4. Right to accept Proposal

BHEL reserves the right to accept or reject any Proposal, and to annul the Empanelment process and reject all Proposals at any time prior to empanelment of advisers, without thereby incurring any liability to the affected Bidder(s) or BHEL or any obligation to inform the affected Bidder(s) of the grounds for such decision.

5. Amendments In RFE

At any time prior to deadline for submission of proposal, BHEL may for any reason, modify the RFE. The modifications will be notified on BHEL's website and such amendments shall be binding on bidder(s).

6. Pre-Proposal Queries

The prospective bidder, requiring any clarification on RFE may notify the same in the form of query to BHEL latest by 5:00 PM of 30th November 2009. Queries can be sent to mergers@bhel.in . BHEL would respond to the queries at the earliest.



7. Fraud and Corruption

BHEL requires that the Advisors empanelled through this RFE must observe the highest standards of ethics during the performance and execution of such contract. In pursuance of this policy, BHEL:

- a. Defines, for the purpose of this provision, the terms set forth as follows:
 - (i) "Corrupt practice" means the offering, giving, receiving or soliciting of any thing of value to influence the action of BHEL or any personnel of Consultant(s) in contract executions.
 - (ii) "Fraudulent practice" means a mis-presentation of facts, in order to influence a procurement process or the execution of a contract, to BHEL, and includes collusive practice among Bidders (prior to or after Proposal submission) designed to establish Proposal prices at artificially high or non-competitive levels and to deprive BHEL of the benefits of free and open competition;
 - (iii) "Unfair trade practices" means supply of services different from what is ordered on, or change in the Scope of Work which was given by the BHEL in Section IV.
 - (iv) "Coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the execution of contract.
- b. will reject a proposal for empanelment , if it determines that the Bidder recommended for empanelment , has been determined by BHEL to having been engaged in corrupt, fraudulent, unfair trade practices or coercive practices.
- c. will declare an advisor ineligible, either indefinitely or for a stated period of time, for awarding the contract, if it at any time determines that the Advisor has engaged in corrupt ,fraudulent and unfair trade practice in competing for, or in executing, the contract.

8. Clarifications of RFE Document

During pre qualification and evaluation of the Proposals, BHEL may, at its discretion, ask Bidders for clarifications on their proposal. The Bidders are required to respond within the time frame prescribed by BHEL.

9. Process for Empanelment & Awarding Subsequent project specific work

BHEL intends to empanel Advisors for M&A. The scope of engagement is explained in Section IV (SOW).



This enquiry is in the nature of Request for Empanelment (RFE) intended to result in the selection of three panels of Advisors (one each for Financial Advisors, Accounting & Tax Due Diligence Advisors and Legal Due Diligence Advisors.) The responses received pursuant to this RFE will be evaluated as per the criteria specified in this document.

The selected empanelled Advisors (based on expertise as furnished in the data along with RFE) will be invited to bid through a limited tender at sole discretion of BHEL as and when projects arise, through a request for proposal (RFP) on a project-to-project basis. The Advisors will be accepted after an evaluation of their proposals received pursuant to the RFP issued on a project specific basis.

The Detailed Scope of work for specific projects will be stated in RFP specific to the project. RFP may contain a specific Qualification Criteria depending upon the size of the deal (eg. annual turnover etc). Technical bids may also be called along with the financial bids after the empanelment.

10. Qualification Criteria:

Bidders to satisfy following qualification criteria as per the service they intend to provide, to apply for empanelment.

1. Financial Advisor

- a) The company should have minimum experience of advising corporates in India as Financial Advisor on M & A for preceding three Financial Years and
- b) The Indian arm of the company should have successfully completed at least three cross border M & A deals of at least USD 50 Mn each in the preceding three financial years as Financial Advisor and
- c) The Company should have an independent presence in India, Europe and North America.

Depending upon the target, a minimum annual turnover may be specified in RFP for a project.

2. Acct & Tax Due Diligence Advisor

- a) The company should have minimum experience of advising corporates in India as Acctg. & Taxation Due Diligence Advisor on M&A for preceding three Financial Years and
- b) The Indian arm of the company should have successfully completed at least three cross border M & A deals of at least USD 50 Mn each in preceding three financial years as Acctg. & Tax Due Diligence Advisor and
- c) The Company should have an independent presence in India, Europe and North America.



3. Legal Due Diligence Advisor

- a) The firm should have minimum experience of advising corporates in India as Legal Advisor on M & A for preceding three Financial Years and
- b) The Indian arm of the firm should have successfully completed at least three cross border M & A deals of at least USD 50 Mn in the preceding three financial years as legal advisor and
- c) The firm should have a presence in India either independently or through associates and
- d) The legal advisor may have to perform the due diligence themselves for which adequate familiarity of local laws will be required in the target country or through a suitable tie up with legal firm in the target country.

Documentary evidence is to be submitted by all above bidders to substantiate the experience as specified above.

All the advisors will be empanelled initially for a period of two years.

11. Request for Empanelment

The Bidder is expected to examine all the instructions, guidelines, terms and condition and formats in the RFE. Proposals with incomplete formats will be treated as non responsive and are liable for rejection. The entire set of RFE is available for a free download at: <http://www.bhel.com>.

12. Preparation of Proposal

The Bidders shall comply with the following during preparation of the Proposal:

- a. The Proposal and all associated correspondence shall be written in English and shall conform to prescribed formats. Any interlineations, erasures or over writings shall be valid only if they are initialed by the authorized person signing the Proposal.
- b. The Proposal shall be typed or written in indelible ink (if required) and shall be signed by the Bidder or duly authorized person(s) to bind the Bidder to empanelment when required.
- c. In addition to the identification, the covering letter shall indicate the name and address of the Bidder to enable the proposal to be returned in the case it is declared late pursuant, and for matching purposes.
- d. Proposals received by facsimile shall be treated as defective, invalid and rejected. Only detailed complete proposals received in hard copy shall be



taken as valid. However in extreme cases, facsimile and email may be accepted after due approval from the competent authority.

- e. Bidders are not permitted to modify, substitute, or withdraw Proposals after its submission.

13. Submission of Proposal

The complete proposal is to be submitted latest by 11:00 AM on 21st December 2009 in two (2) signed sets with company seal (one original & one copy). The proposal would be received in a sealed cover super-scribing thereon "Empanelment of Advisors for M&A opportunities - Panel Name" , "Panel Name" can be substituted by a. Financial Advisory b. Accounting and Taxation Due Diligence Advisory c. Legal Due Diligence Advisory depending upon the services intending to offer. Advisors intending to apply for multiple panels have to submit separate applications in separate envelopes. The submitted proposals will be opened on 21st December 2009 at 2.00 PM in Corporate Office, BHEL, Siri Fort, New Delhi-110049 in presence of parties who choose to be present during the RFE Opening. No details will be read out during the opening.

However, during the course of evaluation of Proposal, as well as during the period of empanelment, BHEL has the right to carry out a due diligence in a manner relevant to understand the facts.

14. Evaluation Criteria and Evaluation of Proposals

BHEL will evaluate the proposals submitted by Bidders for a detailed scrutiny. During evaluation of Proposals, BHEL, may, at its discretion, ask the Bidders for clarification of their Proposals.

15. Qualified Bidders

The final list of advisors chosen for empanelment will be made after due verification of submittals to the satisfaction of BHEL. The decisions in this regard by BHEL will be final. On acceptance of Proposal for empanelment, BHEL will notify the successful Bidders in writing that their proposals have been accepted. Any bidder not accepting empanelment after having submitted proposal against RFE may not be considered for any M&A advisory subsequently.

16. Confidentiality

Information relating to the examination, clarification and comparison of the Proposals shall not be disclosed to any Bidders or any other persons not concerned with such process. (Until the empanelment process is over) The undue use by any Bidder of confidential information related to the process may result in rejection of its Proposal.

During the execution of a specific project except with the prior written consent of BHEL, the Advisor and its personnel shall not at any time communicate to



any person or entity any information acquired or made available in the course of the said project.

Notwithstanding anything contained in this contract, the provisions of this clause shall survive for a period of five (5) years from the date of termination of this contract.



SECTION III:

TERMS & CONDITIONS OF CONTRACT (T&C)

1. Application for interpretation

Application for interpretation of any clause in the RFE, the interpretation of BHEL shall be final and binding on the Advisors.

2. Relationship between the Parties

Nothing mentioned herein shall be construed as relationship of master and servant or of principal and agent as between the 'BHEL' and 'the Advisor' for any purpose nor shall the advisor have the right or authority to assume, create or incur any liability or any objection of any kind or nature, expressed or implied against or in the name of or on behalf of BHEL. This contract shall not constitute the advisor as the legal representative of BHEL for any purpose whatsoever. The Advisor subject to this empanelment has complete charge of its personnel in performing the services under the Project executed with BHEL from time to time. The Advisors shall be fully responsible for the services performed by them or on their behalf hereunder.

3. Standards of Performance

The Advisor shall perform the services and carry out their obligations under the Contract with due diligence, efficiency and economy in accordance with generally accepted professional standards and practices. The Advisor shall always act in respect of any matter relating to this contract as faithful advisor to BHEL. The Advisor shall always support and safeguard the legitimate interests of BHEL, in any dealings with the third party.

4. Applicable Law

The Contract shall be interpreted and governed in accordance with the laws of India.

5. Intellectual Property Rights

No services covered under the Contract shall be sold or disposed by the Consultant in violation of any right whatsoever of third party, and in particular, but without prejudice to the generality of the foregoing, of any patent right, trademark or similar right, or any charge mortgage or lien. The Advisor shall indemnify the BHEL from all actions, costs, claims, demands, expenses (including attorneys fees and disbursements) and liabilities, whatsoever, resulting from any actual or alleged infringement as aforesaid and at the expenses of the Advisor, BHEL shall be defended in the defense of any proceedings which may be brought in that connection.



6. Governing Language:

The Contract shall be written in English Language. English version of the Contract shall govern its interpretation. All correspondences and other documents pertaining to the empanelment, which are exchanged between the parties, shall be written in the English Language.

7. Termination of association with BHEL

The empanelled Advisor(s)'s association with BHEL will terminate in following two ways:

- i. Automatically, on expiry of the term of empanelment
- ii. Termination of empanelment by BHEL at its sole discretion, due to non-performance during the execution of specific projects/cases as mentioned below but not limited to:
 - a. Performance is below expected level or
 - b. Non adherence to the timelines of the Project or
 - c. Quality of work is not satisfactory

The decisions of BHEL in above regard shall be final and binding. Upon the termination or expiration of empanelled advisor(s)'s association with BHEL for any reason whatsoever, the Advisor shall forthwith hand over to BHEL the possession of all documents, data, statements and any other property belonging to BHEL that may be in possession of the advisor or any of its employees or individuals assigned to perform the services under this contract. The advisor would be subject to Confidentiality Terms as per clause 16 of Section II of this RFE document.

8. Resolution of Disputes:

In the event of any dispute and differences between the parties, in relation to construction, meaning, scope, operation or effect of this contract or the validity or breach thereof shall be settled through arbitration by a sole arbitrator to be nominated by Chairman & Managing Director (CMD) of BHEL. The Arbitration & Conciliation Act, 1996 shall apply to such arbitration proceedings. The award of the arbitrator shall be final and binding on both the parties. The venue of arbitration shall be at New Delhi.

9. Legal Jurisdiction:

All legal disputes between the parties shall be subject to the exclusive jurisdiction of the Courts situated in New Delhi, India.

10. Obligations of the advisors

10.1 General

The advisor shall perform the services and carry out their obligations with all



due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advance technology and safe methods. The advisor shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisors to BHEL and shall at all times support and safeguard BHEL's legitimate interests in any dealings with third parties. The advisor would be the sole coordinating agency with other advisors whom the advisor or BHEL may appoint. Further, Advisor has to advise comprehensively on valuation, bidding strategy etc and is expected to complete the due diligence exercise within the stipulated time.

10.2 Conflict of interest

10.2.1. Advisor not to benefit from commissions, etc

The remuneration of the advisor shall constitute the advisor's sole remuneration in connection with this Contract or the Services, advisor shall not accept for their own benefit any trade commissions, discount, or similar payment in connection with activities pursuant to this contract or to the Services or in the discharge of their obligations under the Contract, except as permitted by BHEL.

10.2.2 Advisor and Subsidiaries not to be otherwise interested.

The successful bidder is required to give an undertaking to BHEL to the effect that they shall under no circumstances whatsoever, represent any other party(ies) in the current process. Advisor and their subsidiaries shall not render the same or related services to other interested third party(ies) or the Seller or the Target & their Representatives.

10.2.3 Confidentiality

The advisor shall execute a 'Deed of confidentiality Undertaking', as per the format & contents specified by the Seller/Target, if any.

10.2.4 Indemnity

The advisor shall indemnify and hold harmless BHEL and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, damages, costs and expenses, of whatever nature, including attorney's fees and expenses, which BHEL may suffer as a result of any infringement or alleged infringement of any Intellectual Property Rights or any breach of terms & conditions of contract, etc arising out of the actions of the advisor, its employees and officers at any time during the term of this Contract.

10.2.5 Deployment of personnel

The advisor shall employ suitable qualified personnel. The professional qualifications of key personnel proposed to be deployed on various assignments



are to be furnished to BHEL, and no changes shall be made, except with prior approval of BHEL.

10.2.6 Removal and/or replacement of personnel

(a) If BHEL finds that any of the Personnel have

- (i) Committed serious misconduct or have been charged with having committed a criminal action; or
- (ii) Been removed as an advisor or consultant or counsel involving any issue arising out of either moral probity or incompetence; or
- (iii) Any criminal investigation or enquiry in any form is pending against him;

Or if BHEL has reasonable cause to be dissatisfied with the performance of any of the Personnel

then the advisor shall, at BHEL's written request specifying the grounds thereof, promptly within a period of two working days provide as a replacement a person with qualifications and experience acceptable to BHEL.

(b) The advisor shall have no claim in any manner whatsoever for additional Costs arising out of or incidental to any removal and/or replacement of Personnel.

11. Assignment

The advisor/consultant shall not make any assignment of its rights or obligations to a third party without prior written approval of BHEL.

12. Notice

Any urgent notice, request, or any document to be given under this contract shall be delivered to the address first above written. Such notice, request or other document may be given either by hand or through registered mail.



SECTION IV: SCOPE OF WORK (SOW)

1.0 The empanelled Advisors will be invited, as and when projects arise, to submit their proposals based on Request for proposal (RFP) issued selectively at sole discretion of BHEL to empanelled advisors on a project-to-project basis. RFP may contain a specific Qualification Criteria depending upon the size of the deal (eg. annual turnover etc). Technical bids may be called along with the financial bids after the empanelment.

Response time for Request for Proposal (RFP) will be on a case to case basis for specific project depending on the exigencies of work. Minimum response time may be as less as one day. Empanelled advisors, not responding to the RFP despite repeated requests may invite de empanelment with immediate effect.

The broad project specific scope of the Advisor is to assist BHEL in acquiring the Target proposed to be disinvested by the Seller. The activities of the Advisor shall encompass, but not be restricted to, the activities listed in 2.0 below. The intent of the scope of work is indicative only and the advisor is expected to provide complete services as generally prevalent in the industry.

2.0 There will be three separate panels one each for Financial Advisors, Accounting & Tax Due Diligence Advisors and Legal Due Diligence Advisors. Advisors will be appointed by BHEL as and when required for a particular opportunity. Responsibility of overall co-ordination and rendering a comprehensive service/solution for a target acquisition will be with the Financial Advisor.

The detailed Scope of Work for the three advisors is provided below:

1. Financial Advisory

- Undertake preliminary due diligence of the Target & its subsidiaries on behalf of BHEL, through access to information, site visits, discussions etc. with the Seller, the Target and their representatives / advisors, etc.
- Provide translation services for all data / information provided in the local language.
- Analyze the various risks associated with the deal, including but not limited to economic risk, political risk, country risk, acquisition risks, HR risks and suggest risk mitigation mechanisms.
- Develop a detailed financial model to determine the transaction value & preliminary indicative non-binding bid. The model shall generate various projected cash flows for the projects (standalone & integrated) including financial & operative sensitivities to various parameters such as revenues, operating costs, cost of capital, and estimated liabilities, etc. This model should be able to generate such cash flow scenarios to determine returns to BHEL. This model may form the basis for the valuation except in case of a pure asset purchase deal.
- Range of valuations arrived at, with a brief write-up on the models on which the valuations are based and any assumptions made. The cautions / lacunae / limitations attached with each model would form an essential part.



- Based on the analysis, a fair market value of the target would be determined keeping in mind the various risk factors and terms and conditions of acquisition. The Advisor shall suggest the fair transaction value including financial / sensitivity analysis along with comparable companies' analysis, premium paid in precedent transactions if any, etc.
- Explore and suggest all options available for the financial structuring and financing of the deal inter-alia security requirements, regulatory guidelines, etc.
- Analyze merger consequences of the deal including accretion / dilution and pro-forma analysis and impact on BHEL's credit ratings.
- The percentage of shareholding to be acquired would be decided based on the conclusions from the analysis and recommendations of the Deal Advisor and internal guidelines of BHEL.

Negotiations

The Financial Advisor shall act as an inter-face between other advisors for discussions between BHEL and the target company's management and advisors (if any) and shall provide necessary assistance during negotiations including but not limited to:

- Advising BHEL in respect of bid strategies and tactics.
- The Advisor shall prepare all offers, complete in all respects, to be submitted by BHEL, including price, commercial terms, protective clauses like representations / warranties, caveats etc.
- Discussions / negotiations with the seller post bid submission.
- Revision of key bid assumptions and parameters, if required, and preparation of revised bid.

Deal Structure and Closure

- The Financial Advisor shall structure the acquisition transaction.
- The Financial Advisor shall advise BHEL in any proceedings relating to regulatory and shareholder approvals and in managing the tender offer process (if any).
- The Financial Advisor shall assist in closing the transaction upon successful negotiations including transfer of shareholding in BHEL's favor.
- The Financial Advisor shall assist in negotiation and finalization of the definitive agreements.
- The Financial Advisor may, from time to time, be asked to make presentations to the Indian Government Authorities/BHEL Board. The Advisor shall also assist BHEL in preparation of documentation for obtaining various approvals from Government and other agencies including Reserve Bank of India.
- The Financial Advisor shall prepare and submit various reports and make presentations to the BHEL Management as required by BHEL.

2. Accounting & Tax Advisory

- ✓ Establishing the appropriateness and reasonableness of accounting policies.



- ✓ Establishing the authenticity of disclosed/audited financial figures.
- ✓ Identification of off-balance-sheet items eg. exposure in derivatives, guarantees etc.
- ✓ Determination of compliance with the necessary statutes and other contracts together with an assessment of the possible liabilities in the event of non-compliance.
- ✓ Review of Direct/Indirect Tax assessment orders and related documents.
- ✓ Review/assessment of internal organization including internal control system and quality of MIS.
- ✓ Analysis of working capital requirement in order to identify the structural level of working capital.
- ✓ Examination & review of financial position of the Target for last 3 years.
- ✓ Review of the forecast information (assumptions) based on result analysis of last 3 years.
- ✓ Review of audit file of internal auditors, statutory financial/cost auditors report and any other audit conducted for 3 to 4 years.
- ✓ Review of Capital expenditure incurred during last three years identifying maintenance, growth and compliance capabilities
- ✓ Review of consolidated cash flows, long term liabilities including banks and leasing agreements.
- ✓ Review of sources and utilization of funds during the year.
- ✓ Ratio analysis for three years to know the financial health of the target.
- ✓ Review of company's policy on code of corporate governance and auditor's certificate on the subject.
- ✓ Assessment of the quality of earnings (EBIT/EBITDA) for the last three years and upto the latest available quarter for the current financial year.
- ✓ Analysis of sales, margins, utilization and operating and overhead costs.
- ✓ Review of personnel related issues such as management contracts, pensions and wage/bonus arrangements.
- ✓ Comparison of budget versus actual performance on a consolidated level for the last three years and up to the latest available quarter for the current financial year focusing on restructuring and cost saving measures.
- ✓ Identifying & estimating contingent liabilities.
- ✓ Review of MIS in place and brief comment on the forecasting systems and cash flow monitoring systems.
- ✓ Analysis of capital expenditure budgeting system.
- ✓ Review of high level risks related to corporate direct and indirect taxation.

3. Legal Advisory

- Examination & review of Memorandum & Articles of Association, as well as track record of the Target.
- Enquire about the back ground of the promoters/owners of the target.
- Legal documentation underlying the corporate structure of the Target.
- Statutory and regulatory clearances from the relevant authorities for the existing business.
- Examination & review of all statutory registers maintained by the company.
- Legal aspects of all material contracts entered/ proposed to be entered & documents pertaining to the Target including minutes of meeting of



shareholders, directors, committees of directors, annual reports, loan agreements, guarantee(s), any material contract entered into with the directors, employees, suppliers, contractors, consultants, bankers, financiers, creditors, etc.

- Review all litigation pertaining to cases before judicial as well as quasi-judicial proceedings including arbitration, conciliation proceedings, etc by and against the company and report on the legal and financial implications thereof.
- Details of share capital: equity, preference shares, options/rights/conversion and any special clauses on these instruments.
- Title investigation of land and other fixed assets, charges created against them, non-encumbrance certificates, statutory approvals / permissions, etc.
- Contracts / agreements, licenses, patents and other intellectual rights, payment of royalties, etc, entered into/proposed to be entered into by the Company.
- Outcome of contingent liabilities and their monetary implication.
- The effect of the extant business contracts i.e. benefits and liabilities arising from such contract, post disinvestment, on BHEL & the Target.
- HR policies of the company, agreements with trade unions and others bodies of officers and employees, representations of trade unions, etc.
- Assessment of the extent of management control proposed to be transferred to the bidder.
- Analysis of legal risks and liabilities which BHEL may assume pursuant to BHEL emerging as the acquirer and suggest risk mitigation strategies for minimizing the impact of such risks.
- Analysis / review of Joint venture, MOUs, technology licensing agreements (both past and current), and other agreements entered into by the Company.
- Review of current contracts under process as well as committed.
- Compliance with statutory & environmental requirements and estimating the liability in case of non-compliance thereof.
- Assistance in preparation of necessary documents as required by the Seller like Bank Guarantee, Power of Attorney for the financial bid, board resolutions and any other activity associated with the bidding process, including compilation and submission of the bid.

Public Announcements

- Any of the advisors or his representative or any of his employees shall not directly or indirectly issue or make any public announcement or statement regarding the engagement and/or transaction without BHEL's explicit written consent.



SECTION V: FORMATS (A to F)

FORMAT: A (PROPOSAL FORM: COVERING LETTER ON BIDDERS LETTER HEAD)

The bidders are required to submit the covering letter in Format A. This Form should be in the letter head of the bidders, who are submitting the proposal.

Date: _____

Proposal Ref. No. AA/M&A/RFE/2009

To,
General Manager Incharge,
(M&A, CCG) & CPIO
Bharat Heavy Electricals Limited,
Regd. & Corp. Office: BHEL House,
Siri Fort, New Delhi -110 049

Dear Sir,

Sub: Proposal for Empanelment of Advisors for M&A opportunities

With reference to RFE document of BHEL and having examined it, we, the undersigned, offer to propose our services as <Financial/Accounting & Tax Due Diligence/Legal Due Diligence> (Select one) Advisor for the Empanelment of Advisors with BHEL, in full conformity with the said RFE.

We have read the provisions of RFE and confirm that these are acceptable to us. We further declare that additional conditions, variations, deviations, if any, found in our proposal shall not be given effect to.

We agree to abide by this Proposal, consisting of this letter and the Formats A to F.

We hereby declare that all the information and statements made in this proposal are true and accept that any misinterpretation contained in it may lead to our disqualification.

We understand you are not bound to accept any proposal you receive.

Signature.....

In the capacity of.....
Duly authorized to sign Proposal for
And on behalf of.....
Date.....
Place.....



FORMAT: B

**Bidders to indicate option chosen for
providing advisory services**

Financial Advisory	Acctg. & Taxation Due Diligence	Legal Due Diligence

Put a tick mark (√)

(Separate applications required if applying for multiple panels)

Signature.....
 In the capacity of.....
 Duly authorised to sign Proposal for
 And on behalf of.....
 Date.....
 Place.....



FORMAT: C

**List of successful cross border M&A transactions by Indian arm
of the bidder in last 3 Financial Years**

S. No.	Name of Co.	Deal Size (in USD Mn)	Time taken for completing the transaction	Role of the bidder (FA/ ACCTG. & TAX DD /LEGAL DD)	Date of Completion of successful transaction

Signature.....

In the capacity of.....

Duly authorised to sign Proposal for

And on behalf of.....

Date.....

Place.....



FORMAT: D

Presence in India

Present in India since:

Details of Offices in India :-

- a. Complete Address
- b. Phone No.
- c. Fax No.
- d. Email
- e. Contact Person

Experience of advising corporates in India on M&A in the preceding 3 Financial years:-

S. No.	Name of Co.	Deal Size (in USD Mn)	Role of the bidder (FA/ ACCTG. & TAX DD/ LEGAL DD)	Date of Completion of transaction

Signature.....

In the capacity of.....

Duly authorised to sign Proposal for

And on behalf of.....

Date.....

Place.....



FORMAT: E

Revenue Details (Audited)

Year	Revenue earned (in Rs. cr) from Indian arm
2006	
2007	
2008	
2009	

(Audited accounts to be submitted for preceding three financial years)

Signature.....

In the capacity of.....

Duly authorised to sign Proposal for

And on behalf of.....

Date.....

Place.....



FORMAT: F

Global Presence

	List the countries	No. of offices
North America	1.X Country 2.Y Country 3.	1. in X 2. in Y 3.
Europe	1.X Country 2.Y Country 3.	1. in X 2. in Y 3.
Other Continents	1.X Country 2.Y Country 3.	1. in X 2. in Y 3.

Signature.....

In the capacity of.....

Duly authorised to sign Proposal for

And on behalf of.....

Date.....

Place.....