

**GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF DISINVESTMENT**

**ENGAGEMENT OF BOOK RUNNING LEAD MANAGERS FOR DISINVESTMENT
IN BHARAT HEAVY ELECTRICALS LIMITED (BHEL) THROUGH “FURTHER
PUBLIC OFFER” IN THE DOMESTIC MARKET – REQUEST FOR PROPOSALS**

1. Introduction

1.1 Bharat Heavy Electricals Limited, hereinafter referred to as ‘company’ or ‘BHEL’, is a Government of India enterprise under the administrative control of the Department of Heavy Industry under the Ministry of Heavy Industries and Public Enterprises. The Company was incorporated in November, 1964 with the objective to become a leading company in the field of construction, engineering and project management consultancy services.

1.2 The paid-up capital of the Company as on 31st March, 2011 is ₹ 489.52 crore. Presently the Government of India holds 67.72% of the paid-up equity capital of the Company. At the end of March, 2011 the Company has an employee strength of 46748.

1.3 The Government has decided of disinvest 5% paid-up equity capital of the Company. The face value of shares of BHEL is ₹10. In order to make the shares more affordable to the investors, before the proposed disinvestment the Ministry of Heavy Industries and Public enterprises and the Company would split the shares of face value of ₹ 10 into 5 equity shares of face value of ₹ 2 each. The Ministry and BHEL has initiated procedural measures to split the shares of face value of ₹ 10 each into shares of face value of ₹ 2 each.

2. Proposal

2.1 Keeping in view the operation of the company, the expected investor interest and the present shareholding of the Government, the Government is considering the disinvestment of 5% paid up equity share capital of BHEL comprising of (2,44,76,000

shares of face value of ₹ 10 each or 12,23,80,000 shares of FV of ₹ 2 each), out of Government of India's 67.72% shareholding, through "Further Public Offer" in the domestic market. A part of the public offering will be reserved for employees of the company. The eligible employees and retail investors will be offered shares at a discount of 5% on the Issue Price.

2.2 Proposals under the guidelines at para 5 hereunder are invited by **15.30 hrs (IST) on 15th July, 2011** from reputed Category I Merchant Bankers registered as such with SEBI having valid certificate; either singly or as a consortium; with experience and expertise in public offerings in the capital market; to act as Book Running Lead Managers (BRLMs) and to assist & advise the Government in the process. The Certificate of Registration with SEBI is required to be valid till the completion of all activities relating to "Further Public Offer".

3. Responsibilities of the Book Running-Lead Managers (BRLMs)

3.1 The Book Running Lead Managers will be required, inter alia, to undertake tasks related to all aspects of the "Further Public Offer", including but not restricted to, as mentioned below: -

- (i) Advise the Government of India on the timing and the modalities of the "Further Public Offer".
- (ii) Structure the "Further Public Offer" in conformity with the prevailing framework and Regulations/ Guidelines of SEBI, the Stock Exchanges and Securities Contract (Regulations) Act, 1956; Securities Contracts (Regulation) Rules, 1957; and Companies Act, 1956, etc.
- (iii) Undertake due diligence activities and prepare the DRHP/RHP/Prospectus and complete all stipulated requirements & formalities of regulatory/statutory authorities.
- (iv) Undertake filing of the DRHP/RHP/Prospectus with SEBI/ Stock Exchanges/ ROC.

- (v) Advise on the regulatory norms and assist in securing approval and exemptions, wherever necessary, from various regulatory agencies such as SEBI, Stock Exchanges, RBI, etc.
- (vi) Ensure best return to the Government.
- (vii) Conduct pre-market survey, road shows to generate interest amongst prospective investors. Arrange meetings with the key investors, facilitate communication about the growth potential of the Company and articulate the key marketing themes & positioning of the Company.
- (viii) Undertake market research, assist in the pricing of the Issue, allocation of shares and provide after sale support, etc.
- (ix) Perform all other responsibilities connected with the “Further Public Offer”.
- (x) Underwrite the “Further Public Offer”.
- (xi) Assist in selection of intermediaries to be appointed by Government and coordinate the work of all intermediaries.
- (xii) Prepare and approve the statutory advertisements for publication. The cost of the preparation will be borne by the BRLMs and the cost of publication will be borne by the Government.
- (xiii) Organize road shows both domestic and international. All expenses in this regard will be borne by the BRLMs except the tour expenses of Government and BHEL officials.
- (xiv) Undertake the task of printing and distribution of stationery required for the “Further Public Offer” as illustrated in **Annexure-I**. The BRLMs will ensure that the stationery is printed in adequate quantity and delivered to the Centres /Parties well in advance. The appointed BRLMs will have to print a minimum of **One crore** Application Forms for all the categories

taken together. Any deficiency noticed in this regard shall be viewed seriously by the Government. All expenses in this respect will be borne by the BRLMs.

- (xv) The appointed BRLMs will also make the following payments:
 - i. Filing fee to SEBI;
 - ii. NSE/BSE charges for use of software for the book building;
 - iii. Payments required to be made to Depository or the Depository Participants for transfer of shares to the beneficiaries' account.

- (xvi) Shall enter into the requisite agreements i.e Offer Agreement, Underwriting Agreement, Syndicate Agreement, Agreement with Registrar and Escrow Agreement based on the model agreements as available on the website www.divest.nic.in of the Department of Disinvestment.

- (xvii) Ensure completion of all post issue related activities as laid down in the SEBI Regulations.

- (xviii) Render such other assistance as may be required in connection with the FPO.

NOTE:

- (a) The appointment of Bankers to the Issue, Registrar to the Issue, Legal Advisers—Domestic and International, Auditors and Advertising Agency/Public Relation Agency will be made by the Government which will also bear the expenditure involved on account of these intermediaries.

- (b) The expenses related to the tour programme of only Government and BHEL officials will be borne by the Government.

- (c) In case the Government decides to defer the Public Offering after the Application Forms have been printed, the Government would reimburse the

actual cost of printing of Application Forms only and not the distribution cost. Further, in the event the filing fee is required to be paid again due to deferment of the offering, then Government will reimburse the initial filing fee paid by the BRLMs.

3.2 The Government will select and appoint upto 4 (four) Merchant Bankers with requisite experience in Public Offerings, who together will form a team and would be called Book Running Lead Managers. The BRLMs, in consultation with the Government, will form a syndicate as required under the SEBI Guidelines/Regulations. The Government will have the option of appointing additional syndicate member(s), if considered appropriate.

4. Eligibility

4.1 Bidders should have handled at least one domestic equity issue (Initial Public Offering or Further Public Offering) of the size of ₹1000 crore or more during the period from 1st April, 2008 to 31st March, 2011.

4.2 The Government has prescribed revised guidelines for qualifications for Advisors for disinvestment process, enclosed at **Annexure-III**. The interested Bidders fulfilling eligibility criteria mentioned in paragraph 4.1 above are advised to go through the guidelines and if eligible, furnish the following certificate as a part of the Proposal,

“We certify that there has been no conviction by a Court of Law or indictment/adverse order by a regulatory authority for a grave offence against us or any of our sister concern(s). It is further certified that there is no investigation pending against us or our sister concern(s) or the CEO, Directors/Managers/ Employees of our concern or of our sister concern(s). It is certified that no conflict of interest as defined in O.M. No. 5/3/2011-Policy dated 8th June, 2011 exists as on date and if in future such a conflict of interest arises, we will intimate the same to the Government of India/ Company.

Further, we certify that as on the date we are not advising or acting on behalf of or associated with any other person or entity (including any company, partnership, proprietary concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Company (being disinvested), in respect of any transaction of same nature as the transaction for which the Government and/or the Company (being disinvested) is proposing to select the Adviser, except for the list of the mandates, duly signed by us, in the same line of business and for the same type of transaction as enclosed.

Further, we certify and undertake that for a period commencing from the date of our appointment (if so appointed) as the Adviser till the completion of the transaction, we shall keep the Government/CPSE informed of any mandate/contracts entered into, to advise or act on behalf of or associate ourselves with, any other person or entity (including any company, partnership, proprietary concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Company being disinvested , in respect of any transaction of same nature as the transaction in respect of which we have been appointed as the Adviser.”

(The certificate should be signed by the authorized signatory of the Bidder.)

Note: The content of the certificate must not be changed. Clarification, if any, may be provided separately.

5. Submission of Proposal:

5.1 Proposals have to be submitted as per the following directions:

(i) **Envelope 1 (sealed)** containing the following:

(a) Non-refundable fee of **₹.1,00,000** (Rupees One lac only) by way of a demand draft drawn in favor of 'Pay and Accounts Officer, Ministry of

Finance, Department of Disinvestment, New Delhi' payable at Delhi (Enclosure-1);

- (b) Certificate, duly signed by the authorized signatory of the bidder as per para 4.2 (Enclosure-2);
 - (c) Certificate in format at **Annexure-IV** (Enclosure 3);
 - (d) Authority letter authorizing the person of the bidder to sign the proposal and other documents (Enclosure 4);
 - (e) Copy of the valid certificate of Category 1 Merchant Banker issued by SEBI (Enclosure 5); and
 - (f) Confirmation letter that you are agreeable to sign the agreements on the basis of model agreements in the format as placed on the website www.divest.nic.in of the Department of Disinvestment (Enclosure 6).
- (ii) **Envelope 2 (Sealed)** containing the technical bid as per format in para 5.4, to be opened in the presence of the bidders **on 15th July, 2011 (Friday) at 17.00 hrs** in the Committee Room No. 515, Department of Disinvestment, Block 14, CGO Complex, New Delhi.
- (iii) **Envelope 3 (Sealed)** containing the Financial Bid, to be opened only after the presentations and of only those parties who qualify in the technical bid. The bids will be opened in the presence of the bidders (who are technically qualified based on presentations) immediately after the presentations. Bids with conditionality will be summarily rejected.

5.2 The proposal (**all three envelopes**) can be submitted **by 15.30 Hrs on 15th July to Shri Rajib Kumar Shen, Director, Department of Disinvestment, Room No. 204, 2nd Floor, Block No. 11, CGO Complex, New Delhi-110003** in hard copies in original, duly signed by the authorized officer of the Merchant Banker. No proposal will be entertained after the appointed time and date. The Government will

not be responsible for any postal/courier delay. The proposals received after the appointed time and date will be summarily rejected.

5.3 The Government reserves the sole right to accept or reject any or all Proposals thus received without assigning any reasons thereof.

5.4 **Proposal Format:**

The Proposals are to be submitted in detail as indicated in the following Sections. The weightage for evaluation of the Merchant Bankers in respect of each criterion has been indicated against each Section.

Section (A):

Experience and Capabilities in handling similar transactions as Advisers/Global Coordinators - (Weightage for evaluation 15/100)

(from 1.4.2008 to 31.03.2011)

- (i) Profile of the organization with full particulars of the constitution, ownership and business activities of the prospective Book Running Lead Manager (Bidder).

In case of consortium bids, the particulars of the coordinating firm having the principal responsibility for the mandate (Consortium Leader) as well as those of other partners may be furnished along with letters of acceptance from each partner. The responsibility of the consortium bidders shall be 'joint' and 'several'.

- Note:**
1. Consortium will be treated as one party and in case of selection, only consortium leader's name will appear in the documents like DRHP/RHP/Prospectus.
 2. The partners of one consortium are precluded from participating in the bid, as a partner to another consortium.

- (ii) Unabridged Annual Reports or audited financial accounts for the last three years of the firm submitting the Proposal and of each consortium partner, if applicable.
- (iii) Details of all pending litigation and contingent liabilities, if any should be indicated. Details of past conviction and pending litigation against sponsors/partners, Directors etc., if any, and areas of possible conflicts of interest may also be indicated.

Note: In case of consortia, similar details of each proposed partner will be required.

- (iv) Details of Domestic and International Equity Offerings managed as Book Running Lead Managers, in respect of issue size of ₹1000 crore or more, to be furnished in the format given in Annexure-II.
- (v) Equity sales and distribution capacity with demonstrable capability of selling Indian Issues in particular, Asian equity and global equity; along with distribution network may be furnished.

Section (B):

Past Performance with Department of Disinvestment (In offer for sale or fresh issue in conjunction with offer for sale with effect from 1.4.2009) – (Weightage for evaluation 10/100)

- (i) The Merchant Banker would be evaluated on the number of applications and the issue amount procured by them for various issues in which Department of Disinvestment also divested Government of India shareholding.
- (ii) The quality of deal team and its ability to handle the issues that had arisen during the transactions.

- (iii) Understanding of the regulatory framework by the deal team and the time frame and quality of response to the queries of the Department/Company.

Section (C):

Sector Expertise, Experience and Understanding of BHEL. - (Weightage for evaluation 20/100)

- (i) Indicate work done in the areas of Heavy Engineering/Electrical equipment manufacturing Sector including BHEL - like studies or research undertaken.
- (ii) Exhibit strength/expertise in the areas of Heavy Engineering/Electrical equipment manufacturing Sector including BHEL, if any.
- (iii) The Public Offerings handled during the period from 1.4.2008 to 31.3.2011 in the area of Heavy Engineering/Electrical equipment manufacturing Sector.
- (iv) Research Reports done on the companies operating in areas of Heavy Engineering/Electrical equipment manufacturing Sector including BHEL.
- (v) SWOT analysis of BHEL.

Section (D):

Deal Team Qualification & Manpower Commitment to the Deal - (Weightage for evaluation 10/100)

Details of **core team** that will be handling the proposed issue, their status in the organization, their background, qualification, experience and present addresses, telephone numbers – office, residence, mobile, e-mail etc. – hands-on experience should be furnished. Separately, similar details in respect of the **supervisory team** may be indicated.

Details of other professionals who would provide back-up support may also be indicated separately.

An undertaking is also to be given that if during the process, any of the core team members is not available due to resignation etc. another person of the same qualification and experience would be made available with concurrence of the Government.

Section (E):

Marketing strategy & Post Issue Market Support - (Weightage for evaluation 15/100)

- (i) Optimal syndicate structure suggested to maximize quality and quantity of demand.
- (ii) Proposal on syndicate incentivisation.
- (iii) Strategy for pre-marketing.
- (iv) Proposed Road Show venues and reasons for suggesting the same and the level of BRLM representatives who will travel on the domestic and international road shows.
- (v) Demand analysis and aspects influencing demand.
- (vi) Strategy for marketing shares and identification of target investor groups.
- (vii) Commitment(s) which may act either as a constraint, or as a conflicting interest, to your involvement in the proposed "Further Public Offer".
- (viii) Strength in lending after market support, with specific reference to Indian issues managed in the past.
- (ix) Identification of key selling points for marketing the Offering.

- (x) Details of the valuation methodology to be followed in determining the price of the “Further Public Offer”.
- (xi) Underwriting capabilities including details of capital base of the Investment Bank available to support such underwriting, record of past underwriting commitments and experience. Details of the underwriting commitments (including hard underwriting) which could not be met.
- (xii) Indicate realistic time schedule for launching the proposed “Further Public Offer” with break up of all activities to be undertaken by various agencies involved in the process.

Section (F):

Local presence and commitment to India and strength in drawing Retail Investor participation - (weightage for evaluation 15/100)

A brief note evidencing the Bidders presence in India in both qualitative and quantifiable terms with specific reference to research teams and details of available infrastructure may be furnished. The details shall include manpower deployed in the investment banking (equity segment), offices in India and other relevant information. The distribution network strength to elicit maximum retail participation should be indicated.

Section (G):

Global Presence and Distribution Capabilities - (Weightage for evaluation 10/100)

- (i) Indicate global network and distribution strength.
- (ii) The funds mobilized from international investors for Equity Public Offerings in India during the period from 1.4.2008 to 31.3.2011.

(iii) The understanding and relationship with international institutional investors.

Section (H):

Research Capability - (Weightage for evaluation 5/100)

Research strength in the country, sector, region and world, based on rating as established by independent global surveys. Details should be given relating to research capabilities, experience and background of the research team.

NOTE (refer to Section B):

The Merchant Bankers who have not worked on any assignment in the past with the Department of Disinvestment would be evaluated on all parameters except Section B above and would be awarded marks out of 90 instead of 100 and then proportionately increased to a scale of 100 so that they are neither at an advantage nor at a disadvantage.

5.5 The complete information sought above with any additional information considered necessary by the Bidder as a part of the Proposal, should be sent (maximum of 10 pages in font size 12) to the officer mentioned in para 5.2.

6. Payment of Selling Commission

6.1 The Government will bear the expenses relating to the payment of brokerage to the brokers etc. to elicit wider participation of retail investors. The brokerage will be 0.35% on allotment to Retail investors; 0.15% on allotment to non-institutional investors and 0.25% on allotment to eligible employees out of quota reserved for them. In the first instance the brokerage will be paid by the appointed BRLMs and on successful completion of the transaction the brokerage would be reimbursed on production of documentary proof of actual disbursement within the stipulated period of one month from the date of finalization of the basis of allotment.

7. Procedure for Selection of the Book Running-Lead Managers (BRLMs)

7.1 Qualified interested Bidders would be required to make a presentation of their credentials, **in the format prescribed in paragraph 5.4** above, for the proposed transaction, before an Inter-Ministerial Group (IMG) at New Delhi in the Committee Room of Department of Disinvestment, Room No.515, Block No.14, CGO Complex, New Delhi-110003. **The presentations will be held at 11.00 AM on 18th & 19th July, 2011 (Monday & Tuesday). The time of the presentation will be posted on the website of Department of Disinvestment 'www.divest.nic.in' on 15th July, 2011 at 18.30 Hrs.** Only the Team Leader of the Core Team shall make the presentation.

7.2 The IMG would evaluate the Bidders on the criteria mentioned in paragraph 5.4 above based on their presentation and Proposals received and shortlist them for the purpose of opening of their Financial Bids. Only the parties scoring predetermined marks/score out of 100, which will be announced before presentation, will be technically short listed.

7.3 After the short listing of Bidders based on their presentations, IMG would open the Financial Bids of only short listed Bidders. The short listed bidders, if they so desire, may remain present at the time of opening of the financial bids. The marks scored by the short listed bidders will be announced before opening of the financial bids. The date and time of opening of the financial bids would be announced at the time of the presentations.

7.4 The marks scored by the short listed bidders in the technical evaluation will then be given a weightage of 70. Similarly the financial bids of the short listed bidders will be given a weightage of 30. The combined score of technical and financial bids will determine the H1, H2, H3 and so on.

7.5 The party scoring the highest points/marks (H1) based on the above principles would be appointed for the transaction. The other technically qualified BRLMs ranked as H2, H3 and so on in that order would be asked to accept the fees

quoted by H1 and the parties who so accept the fees quoted by H1 will also be appointed till the required number of BRLMs are filled up. Government may consider selecting lesser number of Bidders for appointment as BRLMs.

7.6 The fee quoted by H1 would be shared equally by all the appointed BRLMs. However, if any BRLM selected on this basis has quoted a lower fee than that quoted by H1 that BRLM will get a fee equal to the fee quoted by him divided by the number of BRLMs appointed for the transaction. However, the expenses to be incurred by the appointed BRLMs on items as mentioned in para 3.1 above would be shared equally by all the BRLMs.

7.7 The selected Bidders will work as a team and be called Book Running Lead Managers.

8. Requirements for Financial Bids

8.1 The Bidder is required to quote a fee in INR (in a sealed envelope) for the transaction. The fee quoted by the Bidder should be inclusive of all the applicable taxes, cess, duties etc. **The fee quoted should be minimum ₹1.00 (Rupee one) or in multiples of ₹1.00 (Rupee one), failing which the financial bid would be rejected.** The different taxes should be indicated separately while raising the bills for payment of fee. All bills are to be raised in INR and will be payable in INR only after successful and satisfactory closure of the transaction.

Note: All merchant bankers are required to furnish a break-up of expenses on items like printing of stationery; advertisement agency/public relation agency for preparation of statutory advertisements and road shows; fee payable to SEBI as filling fee; payment to NSE and BSE for use of software for the book building and payment required to be made to depositories or depository participants for transfer of shares; any additional selling commission/brokerage that the Merchant Bankers may pay in addition to selling commission/brokerage that Government will pay. These details are to be provided along with the financial bid on a separate sheet being the annexure to the financial bid.

8.2 The fee quoted should be unconditional and inclusive of the expenditure to be incurred on the intermediaries and the work mentioned in paragraph 3.1 above.

8.3 The Bidders may quote a drop dead fee, if any, payable by Government in case of calling off of the transaction by the Government after initiation of the process by the Bidder. The drop dead fee applicable at various stages of the transaction should be indicated. The lowest drop dead fee quoted by any of the finally selected Bidders would be treated as drop dead fee payable by Government and be shared equally by all the Bidders. Drop dead fee will not be a criterion in determining the H1 Bidder.

8.4 The Bidders will be liable to pay taxes applicable as per law.

9. For any further clarification, contact Shri Rajib Kumar Sen, Director, Department of Disinvestment, Ministry of Finance, Room No. 204, 2nd Floor, Block No.11, CGO Complex, New Delhi - 110 003, Tel. 011-2436 8521 , Fax 011-2436 0382, e-mail: rajib.sen@nic.in

Annexure - I

INDICATIVE LIST OF STATIONERY FOR THE “FURTHER PUBLIC OFFER” IN RESPECT OF BHARAT HEAVY ELECTRICAL LIMITED

Sr.	Description
1	DRAFT RED HERRING PROSPECTUS
2	RED HERRING PROSPECTUS (ORDINARY & SPECIAL)
3	PROSPECTUS
4	BID CUM APPLICATION FORM with Memorandum in Book form (RESIDENT/NRI/EMPLOYEES)
5	POSTERS/BANNERS
6	CAN, REFUND STATIONERY ETC.

Annexure - II

DETAILS OF DOMESTIC/INTERNATIONAL EQUITY OFFERINGS

Parameters	01.04.2008-31.03.2009		01.04.2009-31.03.2010		01.04.2010-31.03.2011	
	Mandate	Value (₹ Cr)	Mandate	Value (₹ Cr)	Mandate	Value (₹ Cr)
DOMESTIC EQUITY PUBLIC OFFERINGS	1		1		1	
	2		2		2	
	3		3		3	
TOTAL						
INTERNATION AL EQUITY PUBLIC OFFERINGS	1		1		1	
	2		2		2	
	3		3		3	
TOTAL						
PUBLIC OFFERINGS PULLED OUT/WITHDR AWN PRE OR POST ROADSHOW	1		1		1	
	2		2		2	
	3		3		3	
TOTAL						

Note: 1. Please indicate whether you were engaged by Government of India for any Equity Public Offering, other than those mentioned above and if so, furnish details.

No. 5/3/2011-Policy
Government of India
Ministry of Finance
Department of Disinvestment

Block 14, CGO Complex,
Lodhi Road, New Delhi- 110003

Dated the 8th June, 2011

OFFICE MEMORANDUM

Subject: Guidelines for qualification of Advisers for disinvestment process.

In order to inspire public confidence in the selection of Advisers through competitive bidding, the Government had framed comprehensive and transparent guidelines defining the criteria for their selection. In addition to using a set of criteria like sector experience, knowledge, commitment etc., additional criteria for qualification/disqualification of the parties to act as Advisers to the Government for disinvestment transactions were prescribed by the Department of Disinvestment vide its O.M. No. 5/3/2011 – Policy dated 2.5.2011.

2. In supersession of the above-mentioned O.M. of this Department, the revised criteria for qualification/disqualification of the parties to act as Advisers for disinvestment transactions would be as under:

- (a) Any conviction by a Court of Law or indictment/adverse order by a regulatory authority for a grave offence against the Advising concern or its sister concern would constitute a disqualification. Grave offence would be defined to be of such a nature that it outrages the moral sense of the community. The decision in regard to the nature of offence would be taken on a case-to-case basis after considering the facts of the case and relevant legal principles by the Government. Similarly, the decision in regard to the relationship between the sister concerns would be taken based on relevant facts and after examining whether the two concerns are substantially controlled by the same person/persons.
- (b) In case such a disqualification takes place, after the entity has already been appointed as Adviser, the party would be under an obligation to withdraw voluntarily from the disinvestment process, failing which the Government would have the liberty to terminate the appointment/contract.
- (c) Disqualification shall continue for a period that Government deems appropriate.

- (d) Any entity, which is disqualified from participating in the disinvestment process, would not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified. The mere pendency of appeal will have no effect on the disqualification.
- (e) The disqualification criteria would come into effect immediately and would apply to all the Advisers already appointed by the Government for various disinvestment transactions, which have not yet been completed.
- (f) Before disqualifying a concern, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity to explain its position.
- (g) Henceforth, these criteria will be prescribed in the advertisements seeking Expressions of Interest (EOI) from the interested parties to act as Adviser. Further, the interested parties shall be required to provide with their EOI an undertaking to the effect that no investigation by a regulatory authority is pending against them. In case any investigation is pending against the concern or its sister concern or against the CEO or any of its Directors/Managers/Employees, full details of such investigation including the name of the investigating agency, the charge/offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed, to the satisfaction of the Government. For other criteria also, similar undertaking will be obtained along with EOI. They would also have to give an undertaking that if they are disqualified as per the prescribed criteria, at any time before the transaction is completed, they would be required to inform the Government of the same and voluntarily withdraw from the assignment.
- (h) The interested parties would also be required to submit a list of or disclose any mandated transactions which are in the same line of business as that of the company (being disinvested) in respect of any transaction of same nature as the transaction for which the Government and/or the Company (being disinvested) is proposing to select or have appointed the Adviser and confirm in writing that there exists no conflict of interest as on the date of submitting their proposal for appointment/ their appointment as Advisers in handling of the transaction and that, in future, if such a conflict of interest arises, the Adviser would immediately intimate the Government/Company (being disinvested) of the same.

The Government/Company (being disinvested) shall at its sole discretion after providing due and reasonable opportunity decide whether such future conflict of interest shall materially adversely affect the interest of the Government and the Company (being disinvested) in relation to the transaction and shall be entitled to grant the consent to the Adviser to continue as Adviser or terminate the appointment of the Adviser. For disinvestment purposes,

conflict of interest is defined to include engaging in any activity or business by the Adviser in association with any third Party, during the engagement, which would or may be reasonably expected to, directly or indirectly, materially adversely affect the interest of Government of India and/ or the Company (being disinvested) in relation to the transaction, and in respect of which the Adviser has or may obtain any proprietary or confidential information during the engagement, that, if known to any other client of the Adviser, could be used in any manner by such client to the material disadvantage of Government of India and/ or the Company (being disinvested) in the transaction.

- (i) The conflict of interest would be deemed to have arisen if any Adviser in respect of the transaction is appointed by a third party for advising or acting on behalf of or associated with any other person or entity (including any company, partnership, proprietary concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Company (being disinvested), in respect of any transaction of same nature as the transaction for which the Government and/or the Company (being disinvested) is proposing to select or have appointed the Adviser. Further, the decision of the Government/Company (being divested) as to whether such other person or entity is engaged in the same line of business as that of the Company being disinvested, shall be final and binding on the Adviser.
- (j) The conflict of interest would also be deemed to have arisen if any Adviser firm/ concern has any professional or commercial relationship with any bidding firm/ concern for the same disinvestment transaction during the pendency of such transaction. In this context, both Adviser firm and bidding firm would mean the distinct and separate legal entities and would not include their sister concern, group concern or affiliates etc. The professional or commercial relationship is defined to include acting on behalf of the bidder or undertaking any assignment for the bidder of any nature, whether or not directly related to disinvestment transaction. (This clause is applicable in strategic sale only).
- (k) The interested parties would also be required to give information and disclose that as on the date of submitting their proposal for appointment/ their appointment as Advisers in respect of the transaction, they are advising or acting on behalf of or associated with any other person or entity (including any company, partnership, proprietary concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Company (being disinvested), in respect of any transaction of same nature as the transaction for which the Government and/or the Company (being disinvested) is proposing to select or have appointed the Adviser.

- In the event the Adviser fails to disclose that it is advising or acting on behalf of or associated with any other person or entity which is engaged in

the same line of business as that of the Company (being disinvested), in respect of any transaction of same nature as the transaction for which the Government and/ or the Company (being disinvested) is proposing to select or have appointed the Adviser, at the time of giving the afore-mentioned undertaking, the Government/Company (being disinvested) shall be entitled to terminate their appointment. Before terminating the appointment, a show cause notice stating why its appointment should not be terminated would be issued giving it an opportunity to explain its position.

- (l) For a period commencing from the date of appointment of the Adviser till the completion of the transaction, the Adviser shall keep the Company/ Government informed of any mandate/contract entered into to advise or act on behalf of or associate itself with, any other person or entity (including any company, partnership, proprietary concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Company being disinvested, in respect of any transaction of same nature as the transaction in respect of which the Adviser has been appointed as the Adviser. Provided that, if six months or more have elapsed from the date of appointment as Adviser to the government disinvestment transaction, the Adviser would normally be permitted by the Government/Company (being disinvested), save for exigent circumstances. The decision of the Government/Company (being disinvested) in this regard shall be final and binding on the Adviser. Further, the decision of the Government/Company (being divested) as to whether such other person or entity is engaged in the same line of business as that of the Company being disinvested, shall be final and binding on the Adviser.
- (m) For the purpose of clauses (k) and (l) above, the 'nature' of transaction may include, but not be limited to, a capital market transaction which in turn could include, but not be limited to, a domestic offering of shares or any other security, whether by way of initial public offer or further public offer or qualified institutions placement or issue of IDRs or by any other manner, as well as the international offering of securities, whether by way of issue of ADRs, GDRs or FCCBs or by any other manner.
- (n) In the event the Adviser fails to obtain the prior written consent of the Government/Company (being disinvested) as aforesaid, the Government/ Company (being disinvested) shall be entitled to terminate the appointment of the Adviser. Before terminating the appointment, a show cause notice stating why its appointment should not be terminated would be issued to the Adviser giving it an opportunity to explain its position.

Sd/-
(V.P. Gupta)
Deputy Secretary to the Government of India
Tel: 2436 8036

FORMAT OF UNCONDITIONAL BID ON THE LETTER HEAD OF THE BIDDER

This is to certify that the fee quoted by us for engagement as Book Running Lead Managers for disinvestment in Bharat Heavy Electrical Limited through “Further Public Offer” is in accordance with the terms and conditions laid down in the Request for Proposals displayed on the website of the Department of Disinvestment and is unconditional.

Seal with signatures of authorized signatory of the Merchant Banker