

# A

## Technology Management Department Clarification to Pre-Bid queries- Report of the Technical Committee

Ref: TMD:ISS: PG: 361 :2012- 13 Dt. 16.05.2012

### Notice 1- Clarification to Pre-bid queries

02.06.2012

SN	Reference	Page	Specification	Queries	Replies
1	Section 5:	12	Qualification Criteria for Bidders: 5.2 The bidder's annual turn over in any one of the last three financial years ending 31.3.2011 should be more than Rs.10 Crore. The bidder should have earned profit for the last three financial years ending 31.3.2011. Copies of attested/ audited Balance Sheet to be enclosed by the bidder.	The bidder should have registered profit (profit after tax) for atleast one year during the last three financial years, (not inclusive of the profit of the associate companies) as per the audited accounts.	The clause remains unchanged
2	Section 7.12	23	7.12 INDEMNIFICATION 7.12.1. The Supplier shall, at its own expense, defend and indemnify the Purchaser against all third-party claims of infringement of Intellectual Property Rights, including patent, trademark, copyright, trade secret or industrial design rights arising from use of the Products or any part thereof in the Purchaser's country. 7.12.2. The Supplier shall expeditiously extinguish any such claims and shall have full rights to defend itself therefrom. If the Purchaser is required to pay compensation to a third party resulting from such infringement, the Supplier shall be fully responsible therefor, including all expenses and court and legal fees.	Requesting certain amendments in the indemnification clause, which are as under-  (1) The indemnity for IPR shall be only with regards to direct claims of third party for any infringement of IPR (arising out of the use of Bidder supplied products). (2) The refund of fees shall become applicable only in case if the same has been paid in advance to bidder. Such refund shall be only to the undelivered portion of products and services. (3) No indemnity of bidder on the products and services obtained by Indian Bank from such independent contractors, who have been aligned to bidder, so as to provide materials and services.	The clause remains unchanged
3	Section 7.20.3	27	A delay by the Supplier in the performance of its delivery obligations due to reasons solely and directly attributable to the Supplier alone and that was in no way contributed to by any act or omission of the Purchaser or any event of force majeure shall render the Supplier liable to the imposition of liquidated damages, unless an extension of time is agreed upon without the application of liquidated damages.	Requesting the Bank for amendment /change on grounds as under- (i) the exceptions of Force Majeure conditions and any delay or non-performance due to the same shall not be covered under non-performance of bidder (ii) The delay or failure to perform due to reasons directly attributable to	The clause remains unchanged

# A

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				Bank, its employees or agents etc, shall not be considered as failure in performance by bidder.	
4	Section 7.21	27	7.21. LIQUIDATED DAMAGES 7.21.1. If the Successful bidder fails to perform the Services within the period(s) specified in the SLA, the Bank shall, without prejudice to its other remedies under the Contract, deduct penalty from the Contract Price, as liquidated damages, for every such default in service. (SLA will be provided along with the Purchase order)	(iii) This penalty under this clause shall be levied if bidder has either not adhered to or failed to perform (including provision of cure/ remedy by bidder to alleged defect), even after 30 days notice to this effect by Bank to bidder.	Clause remains unchanged
5	Section 7.22, 7.23, 7.24 & 7.25	27,28, 29	TERMINATION: (i) In the event, the Bank terminates the Contract in whole or in part, the Bank may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the Successful Bidder shall be liable to the Bank for any excess costs for such similar Goods or Services. However, the Successful Bidder shall continue performance of the Contract to the extent not terminated when the value of the liquidated damages exceed 10% of the contract amount. (ii) The Bank and the Bidder shall together prepare the Reverse Transition Plan as part of vendor exit plan. However, the Bank shall have the sole decision to ascertain whether such Plan has been complied with. (iii) In addition to the cancellation of contract, Bank reserves the right to appropriate the damages through encashment of Security Deposit / Performance Guarantee given by the Bidder. (iv) Notwithstanding the existence of a dispute, and/or the commencement of arbitration proceedings, the Bidder will be expected to continue the facilities management services. The Bank shall have the sole and absolute discretion to decide whether proper reverse transition mechanism over a period of 6 to 12 months, has	Requesting the bank to amend the termination clause as under- (i) On willful termination of the Contract by Bank (i.e. for no fault of bidder), the bidder shall have the right to recover full BG amount along with pending dues payable by Bank to bidder and liquidated damages for any losses suffered to it (ii) In case of any default or alleged breach by bidder, Bank shall provide reasonable notice period of at least 30 days to bidder to cure such defect. If bidder fails to cure such defect even after lapse of 30 days, only then Bank shall entitled to forfeit any BG.	Clause remains unchanged

# A

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			<p>been complied with. (v) Reverse Transition mechanism would typically include service and tasks that are required to be performed / rendered by the Bidder to the Bank or its designee to ensure smooth handover, transitioning of application knowledge, Bank's deliverables, and maintenance and facility management.</p> <p>vi. Termination for convenience: The Bank, by written notice sent to the Bidder, may terminate the Contract, in whole or in part, at any time its convenience. The notice of termination shall specify that termination is for the Bank's convenience, the extent to which performance of work under the Contract is terminated and the date upon which such termination becomes effective.</p>		
6	Section 7.35	32	<p>Delivery of appliances: Equipment should be supplied within four weeks from the date of issue of purchase order. Installation/ commissioning of equipments: (Appliances should be ready for use with Basic configuration &amp; with failover testing) : Within six weeks from the date of issue of delivery instructions for supply of equipment Implementation and acceptance by the Bank: (Successful running of the equipments in production environment as per Bank's requirement, integrating with monitoring tools and training Bank employees): Within eight weeks from the date of issue of delivery instructions for supply of equipment</p>	<p>Requesting the bank to amend the delivery to 6 weeks from purchase order as the equipments are high end &amp; requires back to back ordering and delivered from out of country location.</p> <p>Requesting the bank to amend the Installation clause without fail over testing as the bank needs to provide a suitable down time for the fail over testing.</p>	Clause remains uncahanged
7	Section 8	34	<p>DETAILED REQUIREMENTS AND SPECIFICATIONS Firewall, VPN, Advanced Networking and clustering, Identity Awareness</p>	Please clarify requirements of Advanced routing. Is ISP redundancy configuration part of scope?	Requirements are as provided in the datasheet of Checkpoint 4807
8	Section 8	34	High Availability: Link failure detection	Please clarify requirement. This is not related to ISP Link redundancy.	Requirements are as provided in the datasheet of Checkpoint 4807

# A

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9	Section 9.11	54	Format for Non-Disclosure	Requesting the bank to amend the NDA form to include mutual confidentiality clause (obligation of non-disclosure liable upon both Parties).	Format remains unchanged
10			Limitation on Liability	Requesting the bank to include the following Limitation of Liability clause.  IT IS SUGGESTED THAT THE LIMITATION OF LIABILITY OF THE BIDDER SHOULD BE CAPPED. BIDDER, THE TOTAL AGGREGATE AND CUMULATIVE LIABILITY TOWARDS INDIAN BANK / ANY THIRD PARTY, ARISING FROM OR RELATING TO THIS AGREEMENT, WHETHER IN LAW , IN CONTRACT, IN NEGLIGENCE, IN TORT, STATUTE, UNDER A THEORY OF STRICT LIABILITY OR OTHER LEGAL THEORY OR OTHERWISE, WILL BE LIMITED TO 10% OF THE AMOUNT OF THE CONTARCT VALUE ACTUALLY RECEIVED BY THE BIDDER	Please refer clause 7.21.2 of RFP with regard to limitation of liability on supply of equipments.
11			NO WARRANTY AND DISCLAIMER OF WARRANTY:	"Indian Bank acknowledges and is aware that the Bidder does not manufacture the Products (or where the Products comprise computer software does not publish or license the software) and subject to the conditions set out in this Clause, the Bidder only sells the Products with the benefit of the manufacturer's or publisher's or licensor's ("publisher's") warranty (as the case may be).  The Bidder will accept liability for defective Products only to the extent that the Bidder is entitled to make a	Please adhere to tender specifications (Refer clause 7.27)

# A

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02.06.2012

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				claim under the manufacturer's or publisher's, Dead on Arrival, warranty or other defective goods terms and actually obtains from the manufacturer or publisher a refund credit repair or replacement in respect of the defective Products and the claims for the same shall be made according to the manufacturer's procedure and the instructions only.	
12			CONSEQUENCES OF TERMINATION:	Post the termination of the Contract due to any reasons mentioned in the Contract, the right of the Company to claim and receive any payment as dues upon Indian Bank, shall subsist . In case of any further delay, the bidder shall have the right to claim interest @ 15% upon such dues till the final recovery from Indian Bank.	The clause remains unchanged
13			ASSIGNMENT RIGHTS:	The Company/ the bidder shall have the rights to assign any of its obligation to its contractors, sub-contractors, subsidiaries and affiliates , provided (i) a prior information in writing has been given by the company to Indian Bank (ii) such assignment shall not impair the right of Indian Bank to make the company responsible for any breach of the terms of the contract.	The terms and conditions as per RFP remain unchanged
14			F. ARBITRATION :	"The Parties agree that in the event any Dispute is not resolved in the ordinary course of business, the Parties shall in good faith attempt to resolve the Dispute through negotiation by their representatives. Each Party agrees to use reasonable efforts to resolve any disputes or disagreements as soon as possible. Any dispute between the Parties	Please refer clause 7.8. The clause remains unchanged

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15	Section 9.9	48	Activity 3: Security/Platform Framework Management Integration of security devices with AAA systems like, TACACS+ / SecurID for the Administrative access framework & audit trails.	<p>arising out of or in connection with this Agreement or any Statement of Work, which is not resolved by the Parties' respective project managers, will be promptly escalated to their respective senior managers or equivalent level for resolution. Each senior manager shall make himself or herself available for conference calls and, if necessary, face to face meetings. If the dispute is not resolved by the senior managers within two weeks, the dispute will be promptly escalated to each party's respective Vice President or equivalent level ("VPs") for resolution. Each VP shall make himself or herself available for conference calls and, if necessary, face to face meetings.</p> <p>If a Dispute cannot be resolved by negotiation within 1 (one) month of commencement of negotiations, the Dispute may be referred to and finally resolved by arbitration under the Arbitration and Conciliation Act 1996.</p> <p>The proceedings of the arbitration shall be English language and the venue shall be at New Delhi.</p> <p>Please clarify if 2Factor Authentication is currently available. Also, if integration with TACACS is required to be done with existing ACS</p>	<p>2 factor authentication is currently not available. Integration with TACACS or any other authentication server of the Bank is required.</p>
16	Section 9.9	49	Activity 4: Security Application Management Tracking/Alerting the maintenance contract expiry & required license, software subscription for all hardware & software	<p>As contract Maintenance is mapped to your Account, management of licenses and subscription can be managed through Indian bank</p>	<p>Since the vendor also has access to the information, the vendor must keep the Bank informed. The</p>

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			components of security devices	designated account only. Please clarify what is required from this section.	vendor shall ensure that the software subscriptions remain valid during the period of contract.
17	Section9.9	52	Activity 9 REPORTS Proposed solution should include pre built comprehensive reports Anti Virus information: Top M compliant / non compliant assets; assets with N, N-1,N-2, N-3 DAT file versions	Please clarify this reporting requirement from Firewall Reporting console. There is no endpoint or AV Software Blade present in the Part code requirements (BOM) of this RFP.	The report regarding antivirus is not required as the Bank is having a separate antivirus implementation.