

Pre-Bid Queries for RFP FOR EMPANELMENT OF SERVICE PROVIDERS FOR PROVIDING IT HUMAN RESOURCES

S.No	RFP Page No.	RFP Clause No.	Existing Clause	Query/Suggestions	Bank Response
1	40	Appendix B Eligibility criteria point no 3 & 4	3.The Bidder must have an average turnover of minimum Rs._500 crore during last 03 (three) financial year(s) i.e. FY18-19, FY 19-20 and FY20-21. 4. The Bidder should be profitable organization on the basis of profit before tax (PBT) for at least 02 (two) out of last 03 (three) financial years mentioned in para 3 above.	Note to SBI: Since we are the spin off of IBM so request your confirmation that we can submit the CA certificate for last 3 years profitability and annual turnover for submission and same should be considered.	No change in RFP Terms
2	12	9. Earnest Money Deposit	i. In lieu of EMD, Bidders are required to submit Bid Security Declaration as per Technical Bid Form (Appendix-A). Proposals without Bid Security Declaration under Technical Bid Form (Appendix-A) shall be summarily rejected. ii.Bidder(s) shall be considered in breach of Bid Security Declaration :- (a)if a Bidder withdraws his Bid during the period of Bid validity specified in this RFP; or (b) if a Bidder makes any statement or encloses any form which turns out to be false / incorrect at any time prior to signing of Contract; or (c) if the successful Bidder fails to accept Letter of Empanelment and/or sign the Contract with the Bank or furnish Bank Guarantee, within the specified time period in the RFP. iii. If Bid Security Declaration is breached for any reasons mentioned above, the concerned Bidder may be debarred from participating in the RFPs floated by the Bank/this department, in future, as per sole discretion of the Bank and other appropriate action may be initiated as per the terms of this RFP.	Note to SBI: Bidder proposes deletion of this clause, since EMD is not required under this RFP	No change in RFP Terms
3	16	19. Award Criteria	i. Bank will notify successful Bidder in writing by way of letter or fax/email that its Bid has been accepted. The selected Bidder has to return the duplicate copy of the same to the Bank within 7 working days, duly Accepted, Stamped and Signed by Authorized Signatory in token of acceptance. ii. The successful Bidder will have to submit Non-disclosure Agreement, Bank Guarantee for the amount and validity as desired in this RFP and strictly on the lines of format given in appendix of this RFP together with acceptance of all terms and conditions of RFP. iii. Copy of board resolution and power of attorney (POA wherever applicable) showing that the signatory has been duly authorized to sign the acceptance letter, contract and NDA should be submitted. iv. The successful Bidder shall be required to enter into a Contract with the Bank and submit the Bank Guarantee, within 30 days from issuance of Letter of empanelment or within such extended period as may be decided by the Bank. v. Till execution of a formal contract, the RFP, along with the Bank's notification of award by way of issuance of Letter empanelment and Service Provider's acceptance thereof, would be binding contractual obligation between the Bank and the successful Bidder. vi. The Bank reserves the right to stipulate, at the time of finalization of the Contract, any other document(s) to be enclosed as a part of the final Contract. vii. Failure of the successful Bidder to comply with the requirements/terms and conditions of this RFP shall constitute sufficient grounds for the annulment of the award and forfeiture of the BG.	Note to SBI : On point (iv) and (v)- Bidder complies with the understanding that the all the deviations and the final proposal submitted by the Bidder shall form part of the contract and the commencement of services shall begin only after the contract is signed by the parties. Please confirm.	No change in RFP Terms
4	16	19. Award Criteria (Continued)	viii. Upon notification of award to the successful Bidder, the Bank will promptly notify the award of contract to the successful Bidder on the Bank's website.. ix. The Rate discovery for Scope of Work/ Services to be provided by the Service Provider under the respective RFQ will be done after empanelment by floating a Request for Quotation (RFQ) among empanelled Service Providers through the reverse auction process to be conducted by the Bank or its authorised service provider during empanelment period. The Bank may describe specific eligibility criteria under the respective RFQ as per the Scope of Services. Order No. P-45021/2/2017- B-E-II issued by Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India relating to Public Procurement (Preference to Make in India), Order 2017 and any subsequent amendment/ clarifications thereto will be considered for participation in bidding process and deciding the L1 bidder(s). Also, participating bidders need to sign and submit Pre-Contract Integrity Pact, based on the estimated value at the time of submitting bids in respective RFQs as per – Annexure – N. x. Statement of Work (SOW)will be shared in these RFQs mentioning details of Services sought and Payment Terms along with additional clauses as per case to case basis. xi. The successful Bidder in the RFQ shall be required to enter a contract with the Bank and submit the required Bank Guarantee, within 30 days of award of the Contract or within such extended period as may be decided by the Bank. The purchase order along with the Statement of Work will form the contract. The stamp duty and other such expenses on such SOW will be borne by the successful bidder in the RFQ.		No change in RFP Terms

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5	21	31. Limitation Of Liability	<p>The maximum aggregate liability of Service Provider under the empanelment Agreement, subject to clause 31 (iii), in respect of any claims, losses, costs or damages arising out of or in connection with this RFP/Agreement shall not exceed Rs. 1000000 (ten lakh rupees). The maximum aggregate liability of Service Provider under the respective RFQ and SOW to be entered in pursuant to such RFQ, subject to clause 31 (iii), in respect of any claims, losses, costs or damages arising out of or in connection with this RFQ/SOW shall not exceed the total Purchase Order Value agreed to be paid under such Purchase Order giving rise to such claims or equivalent to amount of Performance Security in form of Bank Guarantee [BG] submitted by Service Provider in pursuant to respective RFQ, whichever is greater..</p> <p>ii. Under no circumstances shall either Party be liable for any indirect, consequential or incidental losses, damages or claims including loss of profit, loss of business or revenue.</p> <p>iii. The limitations set forth herein shall not apply with respect to:</p> <p>(a) claims that are the subject of indemnification pursuant to infringement of third party Intellectual Property Right;</p> <p>(b) damage(s) occasioned by the Gross Negligence or Willful Misconduct of Service Provider,</p> <p>(c) damage(s) occasioned by Service Provider for breach of Confidentiality Obligations,</p> <p>(d) Regulatory or statutory fines imposed by a Government or Regulatory agency for non-compliance of statutory or regulatory guidelines applicable to the Bank, provided such guidelines were brought to the notice of Service Provider.</p> <p>"For the purpose of clause 31(iii)(b) "Gross Negligence" means any act or failure to act by a party which was in reckless disregard of or gross indifference to the obligation of the party under this Agreement and which causes injury, damage to life, personal safety, real property, harmful consequences to the other party, which such party knew, or would have known if it was acting as a reasonable person, would result from such act or failure to act for which such Party is legally liable Notwithstanding the foregoing, Gross Negligence shall not include any action taken in good faith.</p> <p>"Willful Misconduct" means any act or failure to act with an intentional disregard of any provision of this Agreement, which a party knew or should have known if it was acting as a reasonable person, which would result in injury, damage to life, personal safety, real property, harmful consequences to the other party, but shall not include any error of judgment or mistake made in good faith.</p>	<p>Note to SBI: Bidder proposes deletion of the value of INR 10,00,000 as maximum aggregate liability. The maximum aggregate liability of the service provider under the Agreement shall not exceed the purchase order value under the respective RFQ and SOW.</p> <p>Bidder also proposes the following changes to clause(iii):</p> <p>iii. The limitations set forth herein shall not apply with respect to:</p> <p>(a) claims that are the subject of indemnification pursuant to infringement of third party Intellectual Property Rights <u>resulting from acts/omission solely attributable to the Bidder;</u></p> <p>(b) damage(s) occasioned by the Gross Negligence or Willful Misconduct of Service Provider,</p> <p>(c) damage(s) occasioned by Service Provider for material breach of Confidentiality Obligations,</p> <p>(d) Regulatory or statutory fines imposed by a Government or Regulatory agency for non-compliance of statutory or regulatory guidelines applicable to the Bank, provided such guidelines were brought to the notice of Service Provider. The damages herein <u>will be capped to the value of the statutory/regulatory fine imposed on the Bidder.</u></p> <p>"For the purpose of clause 31(iii)(b)"Gross Negligence" means any act or failure to act by a party which was in reckless disregard of or gross indifference to the obligation of the party under this Agreement and <u>which causes any injury causing damage to life, personal safety, real property, or consequences of such nature to the other party,</u> which such party knew, or would have known if it was acting as a reasonable person, would result from such act or failure to act for which such Party is legally liable. Notwithstanding the foregoing, Gross Negligence shall not include any action taken in good faith.</p> <p>"Willful Misconduct" means any act or failure to act with an intentional disregard of any provision of this Agreement, which a party knew or should have known if it was acting as a reasonable person, <u>which would result any injury causing damage to life, personal safety, real property, or consequences of such nature to the other party,</u> but shall not include any error of judgment or mistake made in good faith.</p> <p>Note to Kyndryl India: Please clarify on the value of this RFP, so we can appropriately propose further deviations here.</p>	No change in RFP Terms
6	19	24.Bank Guarantee	Refer to the clause in the RFP	<p>Note to SBI: Bidder proposes that BG be forfeited only in case of material breach of the contract by the Bidder. Please confirm. We have sought clarification from our Bank and incase any changes required , they should be mutually agreed between SBI and bidder.</p>	No change in RFP Terms
7	20	28.Right To Audit	<p>i. The Selected Bidder (Service Provider) shall be subject to annual audit by internal/ external Auditors appointed by the Bank/ inspecting official from the Reserve Bank of India or any regulatory authority, covering the risk parameters finalized by the Bank/ such auditors in the areas of services etc. provided to the Bank and Service Provider is required to submit such certification by such Auditors to the Bank. Service Provider and or his / their outsourced agents /sub – contractors (if allowed by the Bank) shall facilitate the same The Bank can make its expert assessment on the efficiency and effectiveness of the security, control, risk management, governance system and process created by Service Provider. Service Provider shall, whenever required by the Auditors, furnish all relevant information, records/data to them. All costs for such audit shall be borne by the Bank. Except for the audit done by Reserve Bank of India or any statutory/regulatory authority, the Bank shall provide reasonable notice not less than 7 (seven) days to Service Provider before such audit and same shall be conducted during normal business hours.</p> <p>ii. Where any deficiency has been observed during audit of Service Provider on the risk parameters finalized by the Bank or in the certification submitted by the Auditors, Service Provider shall correct/resolve the same at the earliest and shall provide all necessary documents related to resolution thereof and the auditor shall further certify in respect of resolution of the deficiencies. The resolution provided by Service Provider shall require to be certified by the Auditors covering the respective risk parameters against which such deficiencies have been observed.</p> <p>iii. Service Provider further agrees that whenever required by the Bank, it will furnish all relevant information, records/data to such auditors and/or inspecting officials of the Bank/Reserve Bank of India and/or any regulatory authority(ies). The Bank reserves the right to call for and/or retain any relevant information /audit reports on financial and security review with their findings undertaken by Service Provider. However, Service Provider shall not be obligated to provide records/data not related to Services under the Agreement (e.g. internal cost breakup etc.).</p>	<p>Note to SBI: Bidder is agreeable to regulatory audits however if SBI will appoint an external auditors, Bidder proposes the following:</p> <p>i) - A third party auditor may be appointed only with the mutual consent of the parties on a non-contingent basis after he has executed a confidentiality agreement with the Bidder.</p> <p>ii) The audit cannot be carried out by any of the Bidder's competitors.</p> <p>iii) Information relating to costing and records will not be a part of the Audit.</p> <p>iv) Location for the audit would be place from where Bidder is servicing the Bank.</p> <p>v) Audits shall be conducted only to verify if Bidder is performing services in accordance with the service levels/Contract.</p> <p>vi) Such audit shall be conducted (a) upon thirty days prior written notice to Bidder; (b) no more than once each calendar year; (c) only in relation to the previous twelve months' activities; (d) during normal business hours; and (e) to the extent it does not interfere with Bidder's ability to perform the Services in accordance with the Agreement.</p> <p>Please confirm.</p>	No change in RFP Terms

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8	23	36. Intellectual Property	<p>i. All data or information supplied by the Bank to Service Provider and/or its employee, agent or sub-contractor in connection with the provision of Services by Service Provider shall remain the property of the Bank or its licensors. In connection with the provision of Services under the respective RFQ/SOW, it is not required from Service Provider to license and/or supply third party materials, including any third party software, hardware, tools, content, graphics or other materials (collectively "Third Party Materials") to the Bank. In the event that a portion of the Services requires the use of Third Party Materials, the Bank already has or will license or acquire such Third Party Materials directly from the third party provider, and shall ensure that it has the right to provide Service Provider with access to and/or use of such Third Party Materials in the provision of Services performed by Service Provider. All Third Party Materials are subject to the terms and conditions of the applicable license or other agreement between the Bank and the applicable third party provider and Service Provider, its employee, agent or subcontractor shall comply with the terms and conditions of access and uses of such Third Party Materials under applicable agreements.</p> <p>ii. Without the Bank's prior written approval, Service provider will not, in performing the Services, use or incorporate link to or call or depend in any way upon, any software or other intellectual property that is subject to an Open Source or Copy left license or any other agreement that may give rise to any third-party claims or tolmit the Bank's rights under this RFP/ RFQ.</p> <p>iii. Subject to clause 36 (iv) and 36 (v) of this RFP, Service Provider shall, at its own expenses without any limitation, indemnify and keep fully and effectively indemnified the Bank against all costs, claims, damages, demands, expenses and liabilities whatsoever nature arising out of or in connection with all claims of infringement of Intellectual Property Right, including patent, trademark, copyright, trade secret or industrial design rights of any third party arising from the Services or use of the technology / software / products or any part thereof in India or abroad.</p> <p>iv. The Bank will give (a) notice to Service Provider of any such claim without delay/provide reasonable assistance to Service Provider in disposing of the claim;</p> <p>(b) sole authority to defend and settle such claim and; (c) will at no time admit to any liability for or express any intent to settle the claim provided that (i) Service Provider shall not partially settle any such claim without the written consent of the Bank, unless such settlement releases the Bank fully from such claim, (ii) Service Provider shall promptly provide the Bank with copies of all pleadings or similar documents relating to any such claim, (iii) Service Provider shall consult with the Bank with respect to the defense and settlement of any such claim, and (iv) in any litigation to which the Bank is also a party, the Bank shall be entitled to be separately represented at its own expenses by counsel of its own selection.</p> <p>v. Service Provider shall have no obligations with respect to any infringement claims to the extent that the infringement</p>	<p>Note to SBI: Bidder proposes the deletion of clauses 36 (iii), 36 (iv), 36 (v) and 36 (vii) since they do not have any applicability to the present scope of services. Further, Bidder wishes to clarify that the rights under Clause 36(vi) is subject to proprietorship rights that the Bidder may possess in an existing work and therefore propose deletion of the following language in the clause:</p> <p>"Any Work Product, of which the ownership or the Intellectual Property Rights do not vest with the Bank under law, shall automatically stand assigned to the Bank as and when such Work Product is created, and Service Provider agrees to execute all papers and to perform such other acts as the Bank may deem necessary to secure its rights herein assigned by Service Provider."</p> <p>Bidder wishes to clarify that when it provides deliverables as specified in the Contract, the Bank will own the copyright in works of authorship that the Bidder develops for the Bank as described ("Project Materials"). However, this excludes "Existing Works". Existing Works are works of authorship delivered to the Bank, but not created, under the Contract, and includes any modifications or enhancements of such works made during the performance of the Services. Some Existing Works may be subject to a separate license agreement ("Existing Licensed Works").</p> <p>The Bidder grants the Bank an irrevocable (subject to the Bank's payment obligations), nonexclusive, worldwide license to use, execute, reproduce, display, perform and prepare derivatives of Existing Works that are not Existing Licensed Works.</p> <p>The Bidder retains an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, sublicense, distribute, and prepare derivative works of Project Materials.</p> <p>Bidder's liability for infringement of IPR would be limited to query/ clarification mentioned above in Clause 31 (Limitation of liability). Please confirm.</p>	No change in RFP Terms
9	25	37. Liquidated Damages	If Service Provider fails to deliver and perform any or all the Services within the stipulated time, schedule as specified in the respective RFQ, the Bank may, without prejudice to its other remedies under the RFP/Agreement/RFQ and unless otherwise extension of time is agreed upon without the application of liquidated damages, deduct from the respective Purchase Order Value as liquidated damages as defined under the respective RFQ. Once the maximum deduction is reached, the Bank may consider termination of the respective RFQ/Purchase Order/SOW.	Bidder seeks to clarify that liquidated damages shall be payable only in cases where delay is due to reasons solely attributable to the Bidder and shall remain as the sole and exclusive remedy of the Bank in case of a delay. In no event shall the aggregate Liquidated Damages/ Penalties for delay or any other penalties payable under the contract exceed 2% of the total contract value. Please confirm.	No change in RFP Terms
10	25	38. Conflict Of Interest	(i) Bidder shall not have a conflict of interest (the "Conflict of Interest") that affects the bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Bank shall be entitled to forfeit and appropriate the Bid Security and/or Performance Security (Bank Guarantee), as the case may be, as mutually agreed upon genuine estimated loss and damage likely to be suffered and incurred by the Bank and not by way of penalty for, inter alia, the time, cost and effort of the Bank, including consideration of such Bidder's proposal (the "Damages"), without prejudice to any other right or remedy that may be available to the Bank under the bidding Documents and/ or the Agreement or otherwise.	<p>Note to SBI: Bidder proposes that BG be forfeited only in case of material breach of the contract by the Bidder. Please confirm.</p>	No change in RFP Terms
11	27	39. Code Of Integrity	Refer to the clause in the RFP	Note to SBI: Bidder wishes to clarify that the determination that Company is engaged in any corrupt/fraudulent/coercive/undesirable or restrictive practices shall be by a court of competent jurisdiction vide a decree.	No change in RFP Terms

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12	30	40. Termination For Default	<p>The Bank may, without prejudice to any other remedy for breach of Agreement, written notice of not less than 30 (thirty) days, terminate the Agreement/respective Purchase Order/SOW in whole or in part:</p> <p>(a) If Service Provider fails to deliver any or all the obligations within the time period specified in the RFP/Agreement/SOW, or any extension thereof granted by the Bank;</p> <p>(b) If Service Provider fails to perform any other obligation(s) under the RFP/Agreement/SOW;</p> <p>(c) Violations of any terms and conditions stipulated in the RFP/Agreement/SOW;</p> <p>(d) On happening of any termination event mentioned in the RFP/Agreement/SOW.</p> <p>Prior to providing a written notice of termination to Service Provider under clause 40 (i) (a) to 40 (i) (c), the Bank shall provide Service Provider with a written notice of 30 (thirty) days to cure such breach of the Agreement/respective Purchase Order/SOW. If the breach continues or remains unrectified after expiry of cure period, the Bank shall have right to initiate action in accordance with above clause.</p> <p>ii. In the event the Bank terminates the Contract/respective Purchase Order/SOW in whole or in part for the breaches attributable to Service Provider, the Bank may procure, upon such terms and in such manner as it deems appropriate, Services similar to those undelivered, and subject to limitation of liability clause of this RFP, Service Provider shall be liable to the Bank for any increase in cost for such similar Services. However, Service Provider shall continue performance of the Contract to the extent not terminated.</p> <p>iii. If the Contract is terminated under any termination clause, Service Provider shall handover all documents/ executable/ Bank's data or any other relevant information to the Bank in timely manner and in proper format as per scope of this RFP/RFQ and shall also support the orderly transition to another vendor or to the Bank.</p> <p>iv. During the transition, Service Provider shall also support the Bank on technical queries/support on process implementation.</p>	<p>Note to SBI: Bidder proposes a minimum of 60 days from the date of receipt of the notice to cure be provided as period as cure period. Please confirm. Bidder also clarifies that a termination for default event will not be triggered for violation of material terms and not just any term. In view of the same bidder proposes the following changes to clause 40 (c)-</p> <p>"Violations of any material terms and conditions stipulated in the RFP/Agreement/SOW."</p>	No change in RFP Terms
13	32	42. Termination For Insolvency:	<p>42. TERMINATION FOR INSOLVENCY:</p> <p>The Bank may, at any time, terminate the Contract/SOW by giving written notice to Service Provider, if Service Provider becomes Bankrupt or insolvent or any application for bankruptcy, insolvency or winding up has been filed against it by any person. In this event, termination will be without compensation to Service Provider, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to the Bank.</p>	<p>Note to SBI: Bidder proposes the following changes to the clause:</p> <p>The Bank may, at any time, terminate the Contract/SOW by giving written notice to Service Provider, if Service Provider becomes Bankrupt or insolvent, as determined and adjudicated by a court of competent jurisdiction vide a decree. In this event, termination will be without compensation to Service Provider, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to the Bank.</p>	No change in RFP Terms
14	32	43. Termination For Convenience:	<p>43. TERMINATION FOR CONVENIENCE:</p> <p>i. The Bank, by written notice of not less than 90 (ninety) days, may terminate the Contract/ SOW/ PO, in whole or in part, for its convenience .</p> <p>ii. In the event of termination of the Agreement/SOW/PO for the Bank's convenience, Service Provider shall be entitled to receive payment for the Services rendered (delivered) up to the effective date of termination under the respective SOW.</p>	Note to SBI: Bidder proposes deletion of this clause.	No change in RFP Terms
15	22	34. Service Provider Obligations 37 (iii) And (iv)	<p>i. Service Provider is responsible for and obliged to conduct all contracted activities in accordance with the Contract using state-of-the-art methods and economic principles and exercising all means available to achieve the performance specified in the Contract.</p> <p>ii. Service Provider is obliged to work closely with the Bank's staff, act within its own authority and abide by directive issued by the Bank from time to time and complete implementation activities.</p> <p>iii. Service Provider will abide by the job safety measures prevalent in India and will free the Bank from all demands or responsibilities arising from accidents or loss of life, the cause of which is Service Provider's negligence. Service Provider will pay all indemnities arising from such incidents and will not hold the Bank responsible or obligated.</p> <p>iv. Service Provider is responsible for activities of its personnel or sub-contracted personnel (where permitted) and will hold itself responsible for any misdemeanours.</p> <p>v. Service Provider shall treat as confidential all data and information about the Bank, obtained in the process of executing its responsibilities, in strict confidence and will not reveal such information to any other party without prior written approval of the Bank as explained under 'Non-Disclosure Agreement' in Appendix-H of this RFP.</p>	Note to SBI: Bidder wishes to clarify that its liability for all claims will be subject to the cap prescribed under clause 31. Please confirm.	No change in RFP Terms
16	61	6. General Indemnity	<p>Service Provider agrees and hereby keeps the Bank indemnified against all claims, actions, loss, damages,, costs, expenses, charges, including legal expenses (Attorney, Advocates fees included) which the Bank may suffer or incur on account of (i) Services Provider's breach of its warranties, covenants, responsibilities or obligations; or (ii) breach of confidentiality obligations mentioned in this Agreement; or (iii) any willful misconduct and gross negligent acts on the part of employees, agents, representatives or sub-contractors (if allowed) of Service Provider. Service Provider agrees to make good the loss suffered by the Bank.</p>	Note to SBI: Bidder proposes deletion of this clause since unlimited liability is already provided for indemnity with regards to third party IP infringement and breach of confidentiality. Bidder will not be in a position to be provide further indemnity for breach of material terms or failure in performance obligations since they can be claimed directly as damages from the bidder.	No change in RFP Terms

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17	61	8.Transition Requirement	In the event of failure of Service Provider to render the Services under the respective RFQ or in the event of termination of Agreement/SOW or expiry of term or otherwise, without prejudice to any other right, the Bank at its sole discretion may make alternate arrangement for getting the Services contracted with another vendor. In such case, the Bank shall give prior notice to the existing Service Provider. The existing Service Provider shall continue to provide services as per the terms of the RFQ/SOW until a 'New Service Provider' completely takes over the work. During the transition phase, the existing Service Provider shall render all reasonable assistance to the new Service Provider within such period prescribed by the Bank, at no extra cost to the Bank, for ensuring smooth switch over and continuity of services, provided where transition services are required by the Bank or New Service Provider beyond the term of respective RFQ/SOW, reasons for which are not attributable to Service Provider, payment shall be made to Service Provider for such additional period on the same rates and payment terms as specified in the respective Purchase Order/SOW. If existing Service Provider is breach of this obligation, they shall be liable for paying a penalty of 10% of the respective Purchase Order Value on demand to the Bank, which may be settled from the payment of invoices or Bank Guarantee for the contracted period or by invocation of Bank Guarantee. Transition & Knowledge Transfer plan is mentioned in Annexure B.	Note to SBI: Bidder proposes to delete this clause, since it is already included at Clause 40 of the RFP.	No change in RFP Terms
18	62	9.Liquidated Damages	Refer to the clause in the RFP	Note to SBI: Bidder proposes to delete this clause since it is already included at Clause 37 of the RFP	No change in RFP Terms
19	63	12.Intellectual Property Rights	Refer to the clause in the RFP	Note to SBI: Bidder proposes deletion of this clause under the SLA since it is repetitive and has already addressed at clause 36 of the RFP.	No change in RFP Terms
20	65	13.Audit And Inspection	Refer to the clause in the RFP	Note to SBI: Bidder proposes deletion of this clause, since it is already included at clause 28 of the RFP.	No change in RFP Terms
21	69	16.Termination	Refer to the clause in the RFP	Note to SBI: Bidder proposes a minimum of 60 days from the date of receipt of the notice to cure be provided as period as cure period. Please confirm. Bidder also clarified that risk purchase shall be subject to the cap set out in the limitation of liability clause at Clause 31. Bidder would like to clarify that Bank shall pay bidder for all products and services provided up to the effective date of termination. Bidder proposes deletion of Clause 16.2 and 16.4 (iii) and 16.4(iv).	No change in RFP Terms
22	66	14. Confidentiality	Refer to the clause in the RFP	Note to SBI: The definition of Confidential Information under this clause is not consistent with the definition provided in the NDA. Also Clause 14 does not make any reference to the NDA at Annexure H. Request clarity on whether the obligations Bidder proposes deletion of the terms "proprietary information and trade secrets, whether or not protected under any patent, copy right or other intellectual property laws" from the definition of Confidential Information.	No change in RFP Terms
23	71	Dispute Redressal Mechanism And Governing Law	Refer to the clause in the RFP	Note to SBI: Bidder proposes deletion of this clause, since it is repetitive and is already included in the RFP. The same clause will apply for the SLA.	No change in RFP Terms
24	73	20.Limitation Of Liability	Refer to the clause in the RFP	Note to SBI: Bidder proposes deletion of this clause, since it is repetitive and already sufficiently address in the RFP.	No change in RFP Terms
25	76	23.3 Non Hire And Non Solicitation	Refer to the clause in the RFP	Note to SBI: Bidder proposes that this clause be mutual	No change in RFP Terms
26	92	ANNEXURE H- NDA: 1.Confidential Information and Confidential Material	Refer to the clause in the RFP	Note to SBI: Request clarity on the definition of Confidential Information, since it is inconsistent with the definition under clause 14 of the SLA. Further Bidder wishes to clarify that the Confidential Information and Confidential Material shall include only those that are explicitly marked Confidential by the disclosing party. Also request clarity on whether the confidentiality obligations under clause 14 and NDA will read together.	No change in RFP Terms
27	95	4(i) Miscellaneous	(i) The Agreement shall be effective from _____ ("Effective Date") and shall be valid for a period of _____ year(s) thereafter (the "Agreement Term"). The foregoing obligations as to confidentiality shall survive the term of this Agreement and for a period of five (5) years thereafter provided confidentiality obligations with respect to individually identifiable information, customer's data of Parties or software in human-readable form (e.g., source code) shall survive in perpetuity.	Note to SBI: Bidder proposes the following: The Agreement shall be effective from _____ ("Effective Date") and shall be valid for a period of _____ year(s) thereafter (the "Agreement Term"). The foregoing obligations as to confidentiality will be effective for a period of five (5) years from the date of disclosure of the Confidential Information. Bidder also propose inclusion of a termination clause for this NDA, by providing notice of 30 days by either party.	No change in RFP Terms
28	102	4. EMD	Refer to the clause in the RFP	Note to SBI :Bidder proposes deletion of this clause.	No change in RFP Terms
29	104	ANNEXURE K- Pre Contract Integrity Pact: 6. Fall Clause	6.Fall Clause The BIDDER undertakes that it has not supplied/is not supplying similar product/systems or subsystems at a price lower than that offered in the present Bid in respect of any other Ministry/Department of the Government of India or PSU or any other Bank and if it is found at any stage that similar product/systems or sub systems was supplied by the BIDDER to any other Ministry/Department of the Government of India or a PSU or a Bank at a lower price, then that very price, with due allowance for elapsed time, will be applicable to the present case and the difference in the cost would be refunded by the BIDDER to the BUYER, if the contract has already been concluded.	Note to SBI : Bidder proposes deletion of this clause as it would trigger anti compete defaults.	No change in RFP Terms

Pre-Bid Queries for RFP FOR EMPANELMENT OF SERVICE PROVIDERS FOR PROVIDING IT HUMAN RESOURCES

S.No	RFP Page No.	RFP Clause No.	Existing Clause	Query/Suggestions	Bank Response
30	Additional Queries/ clauses to be included	Covid clause		Covid 19 Clause The parties acknowledge and agree that pandemics like COVID-19 is an event beyond the parties' reasonable control, and it is not possible to foresee (or advisable to try and foresee) its duration, impact or extent (including measures and recommendations that may be put in place by regulators). As such, where a party's non-monetary obligations are not performed, affected, and/or delayed and that is attributable to pandemics like COVID-19 or its related impacts, notwithstanding any other provision in the agreement, the affected party will not be responsible for such non-performance, affected performance or delay as if the pandemic situation was akin to a force majeure like situation. The parties will act reasonably to discuss the affected obligations, potential workarounds and related issues in good faith and will document any agreed changes to the agreement.	No change in RFP Terms
31	Additional Queries/ clauses to be included	Late payment fee and non payment clause		Payments are due from date of receipt of invoice and payable within thirty (30) days of date of invoice. In the event of late payments, Kyndryl reserves the right to charge a late payment fee @ 2% per month on the overdue amounts, in addition to the right of suspension of services, till the overdue amounts are paid	No change in RFP Terms
32	Additional Queries/ clauses to be included	GDPR Clause		GDPR a. The Client hereby represents and warrants, under its own responsibility, that i) no Personal Data subject to GDPR or ii) other data protection laws identified at www.Kyndryl.com/dpa/dpl (altogether "Data Protection Laws") are or will be processed by Kyndryl as a Processor on behalf of the Client as part of the Service provision. b. The Client shall communicate to Kyndryl in writing, without undue delay, any anticipated change affecting Client's representation and warranty in Section a. above. The parties then will agree to enter into a data processing agreement, which shall amend this Agreement, as is reasonably required (1) to reflect their obligations and risks under the applicable Data Protection Laws and (2) for Kyndryl to provide the Services in a manner that allows Client and Kyndryl to comply with their respective obligations under the applicable Data Protection Laws prior to the change affecting Client's representation and warranty in Section a., above. c. The Client agrees to assist Kyndryl in any request or procedure by a national data protection supervisory authority, or in any lawsuit, relating to the processing of any Personal Data covered by the representation and warranty in Section a., above. "Client agrees that no Client personal data that is subject to European General Data Protection Regulations (GDPR) requirements will be provided to Kyndryl under this transaction. In the event of a change, Client will notify Kyndryl in writing and Kyndryl's Data Processing Addendum (DPA) at http://Kyndryl.com/dpa will apply and supplements the Agreement. Additionally, Kyndryl and Client will agree on a DPA Exhibit (as described in the DPA). The DPA Exhibit and, if applicable, a custom services DPA amendment will be added as an Appendix to this transaction."	No change in RFP Terms
33	40	Appendix B - Bidder Eligibility Criteria Sr. No. 5	Bidder should have experience of minimum 10 years in providing IT Human Resources of various skill sets. - Bidder to submit Copy of the order and / or Certificate of completion and/or experience certificate from client for the work	We request the Bank to accept email confirmation / Auditor's certificate as most of our Global as well as Indian clients have strict NDAs and we will not be able to share Contract Copies or any other documentary evidence	No change in RFP Terms
34	40	Appendix B - Bidder Eligibility Criteria Sr. No. 6	Client references and contact details (email/ landline/ mobile) of customers to whom the Bidder has provided IT Human Resources in India.(Start and End Date of the Project to be mentioned) in the past (At least 05 client references are required and all must be from BFSI sector.)	We request the Bank to accept email confirmation / Auditor's certificate as most of our Global as well as Indian clients have strict NDAs and we will not be able to share Contract Copies or any documentary evidence	No change in RFP Terms
35	42	Appendix B - Bidder Eligibility Criteria Sr. No. 11	The Bidder should have successfully completed a single contract of Rs. 50 Cr or above during any of the last three financial years i.e. FY18-19, FY 19-20 and FY20-21 - Bidder to submit Copy of the order and / or Certificate of completion and/or experience certificate from client for the work	We request the Bank to accept email confirmation / Auditor's certificate as most of our Global as well as Indian clients have strict NDAs and we will not be able to share Contract Copies or any documentary evidence	No change in RFP Terms
36	42	Appendix B - Bidder Eligibility Criteria Sr. No. 11	The Bidder should have successfully completed a single contract of Rs. 50 Cr or above during any of the last three financial years i.e. FY18-19, FY 19-20 and FY20-21 - Bidder to submit Copy of the order and / or Certificate of completion and/or experience certificate from client for the work	We request the Bank to please amend this to completed/ongoing contracts of Rs.50cr or above (including amendments) during any of the last three financial years i.e. FY18-19, FY 19-20 and FY20-21	No change in RFP Terms
37	43	Appendix C - Technical Evaluation Matrix Sr. No. 3	Number of client reference for providing IT Human Resources in the BFSI Sector- Bidder to submit Copy of the order and / or Certificate of completion and/or experience certificate from client for the work	We request the Bank to accept email confirmation / Auditor's certificate as most of our Global as well as Indian clients have strict NDAs and we will not be able to share Contract Copies or any documentary evidence	No change in RFP Terms
38	43	Appendix C - Technical Evaluation Matrix Sr. No. 4	Number of successfully completed contract of Rs.50 Cr or above and above during any of the last three financial years i.e. FY18-19, FY 19-20 and FY20-21.	We request the Bank to please amend this to completed/ongoing contracts of Rs.50cr or above (including amendments) during any of the last three financial years i.e. FY18-19, FY 19-20 and FY20-21	No change in RFP Terms
39	43	Appendix C - Technical Evaluation Matrix Sr. No. 1	Number of IT Human Resources on Bidders pay roll excluding those working in BPOs)	It has been observed in the Indian Market that many large service provider have not been able to successfully complete the projects demanding specialized skills in the BFSI sector. Hence, we suggest and recommend the Bank to empanel service providers in multiple categories where skillset grouping can be done basis on specialised skills. Eg. – Category 1 can be of UI/UX, Category 2 can be of AI/ML/RPA, Category 3 can be Advanced Analytics & Cloud, etc., and the generic IT skills can be a separate category. This will enable the Bank to empanel specialized service providers who can provide the requires skill-sets and the Bank is assured of a quality and continued service vis-a-vis reliance on a large vendor for all skill-sets that they may not be able to provide consistently and of good quality.	No change in RFP Terms
40	43	Appendix C - Technical Evaluation Matrix Sr. No. 1	Number of IT Human Resources on Bidders pay roll excluding those working in BPOs)	Please confirm whether the number of IT Human Resources is for resources on location in India or it includes global resources too. We suggest to evaluate bidder capability in deployment of the resources regionally, especially in Mumbai, as seeking employee strength globally will not be applicable for the purpose of delivery of the contract.	No change in RFP Terms

Pre-Bid Queries for RFP FOR EMPANELMENT OF SERVICE PROVIDERS FOR PROVIDING IT HUMAN RESOURCES

S.No	RFP Page No.	RFP Clause No.	Existing Clause	Query/Suggestions	Bank Response
41	43	Appendix C - Technical Evaluation Matrix Sr. No. 1	Number of IT Human Resources on Bidders pay roll excluding those working in BPOs)	We suggest to check bidder credentials on resource deployment by checking on the employee count dedicated for India based client. Employees who are deployed globally or identified for global clients should not be included in the total count as these resources will not be applicable for the purpose of delivery of the contract.	No change in RFP Terms
42	40	Bidder's Eligibility Criteria	3. The Bidder must have an average turnover of minimum Rs._500 crore during last 03 (three) financial year(s) i.e. FY18-19, FY 19-20 and FY20-21.	Request bank to consider below modification: The Bidder must have an average turnover of minimum Rs. 250 crore during last 03 (three) financial year(s) i.e. FY18-19, FY 19-20 and FY20-21.	No change in RFP Terms
43	40	Bidder's Eligibility Criteria	10. The Bidder should have minimum 25000 IT Human Resources on its pay roll in India at the time of submission of Bid excluding those who are working in BPOs	Request bank to consider below modification: The Bidder should have minimum 900 IT Human Resources on its pay roll in India at the time of submission of Bid excluding those who are working in BPOs	No change in RFP Terms
44	41	Bidder's Eligibility Criteria	11. The Bidder should have successfully completed a single contract of Rs. 50 Cr or above during any of the last three financial years i.e. FY18-19, FY 19-20 and FY20-21.	Request bank to consider below modification: The Bidder should have successfully completed a single contract of Rs. 25 Cr or above during any of the last three financial years i.e. FY18-19, FY 19-20 and FY20-21.	No change in RFP Terms
45	43	Appendix-C TECHNICAL EVALUATION MATRIX FOR BIDDERS	1. Number of IT Human Resources on Bidders pay roll excluding those working in BPOs) Range Score ≥ 25000 & ≤ 30000 5 30001- & ≤ 35000 10 35001 & ≤ 40000 15 40001 & ≤ 50000 25 50001 and above 35	Request bank to consider below modification: Number of IT Human Resources on Bidders pay roll excluding those working in BPOs) Range Score 500 & ≤ 600 5 601 & ≤ 700 10 701 & ≤ 800 15 801 & ≤ 900 25 901 and above 35	No change in RFP Terms
46	43	Appendix-C TECHNICAL EVALUATION MATRIX FOR BIDDERS	2. Experience of providing IT Human Resources of various skill sets. Range (in years)* Score ≥ 10 Up to 12 5 >12 Up to 15 10 >15 Up to 19 15 19 and above 20	Experience of providing IT Human Resources of various skill sets. Range (in years)* Score ≥ 05 Up to 07 5 >07 Up to 08 10 >08 Up to 09 15 10 and above 20	No change in RFP Terms
47	43	Appendix-C TECHNICAL EVALUATION MATRIX FOR BIDDERS	3. Number of client reference for providing IT Human Resources in the BFSI Sector Clients score ≥ 5 Up to 7 5 More than 7 Up to 10 10 11 and above 20	Request bank to consider below modification: Number of client reference for providing IT Human Resources in the BFSI Sector Clients score 1 5 2 10 4 20	No change in RFP Terms
48	43	Appendix-C TECHNICAL EVALUATION MATRIX FOR BIDDERS	4. Number of successfully completed contract of Rs. 50 Cr or above and above during any of the last three financial years i.e. FY18-19, FY 19-20 and FY20-21. Number of contracts score 01 up to 3 5 More than 3 Up to 5 10 More than 5 up to 10 20 Above 10 25	Request bank to consider below modification: Number of successfully completed contract of Rs. 25 Cr or above and above during any of the last three financial years i.e. FY18-19, FY 19-20 and FY20-21. Number of contracts score 1 5 2 10 3 20 4 and above 25	No change in RFP Terms
49	6	1. INVITATION TO BID:	i. State Bank of India (herein after referred to as 'SBI/the Bank'), having its Corporate Centre at Mumbai, various other offices (LHOs/ Head Offices /Zonal Offices/Global Link Services, Global IT Centre, foreign offices etc.) of State Bank of India, branches/other offices, Subsidiaries and Joint Ventures available at various locations and managed by the Bank (collectively referred to as State Bank Group or 'SBG' hereinafter). This Request for Proposal (RFP) has been issued by the Bank on behalf of SBG for empanelment of Service Providers for providing IT Human Resources	Request bank to provide clarity on the mentioned clause. Bidder to deploy resources for banks subsidiaries and joint ventures is in scope?	No change in RFP Terms
50	20	28. RIGHT TO AUDIT:	i. The Selected Bidder (Service Provider) shall be subject to annual audit by internal/ external Auditors appointed by the Bank/ inspecting official from the Reserve Bank of India or any regulatory authority, covering the risk parameters finalized by the Bank/ such auditors in the areas of services etc. provided to the Bank and Service Provider is required to submit such certification by such Auditors to the Bank. Service Provider and or his / their outsourced agents / sub – contractors (if allowed by the Bank) shall facilitate the same The Bank can make its expert assessment on the efficiency and effectiveness of the security, control, risk management, governance system and process created by Service Provider. Service Provider shall, whenever required by the Auditors, furnish all relevant information, records/data to them. All costs for such audit shall be borne by the Bank. Except for the audit done by Reserve Bank of India or any statutory/regulatory authority, the Bank shall provide reasonable notice not less than 7 (seven) days to Service Provider before such audit and same shall be conducted during normal business hours.	Request bank to consider below modification: i. The Selected Bidder (Service Provider) shall be subject to annual audit by internal/ external Auditors appointed by the Bank/ inspecting official from the Reserve Bank of India or any regulatory authority, covering the risk parameters finalized by the Bank/ such auditors in the areas of services etc. provided to the Bank and Service Provider is required to submit such certification by such Auditors to the Bank. Service Provider and or his / their outsourced agents / sub – contractors (if allowed by the Bank) shall facilitate the same The Bank can make its expert assessment on the efficiency and effectiveness of the security, control, risk management, governance system and process created by Service Provider. Service Provider shall, whenever required by the Auditors, furnish all relevant information, records/data to them. All costs for such audit shall be borne by the Bank. Except for the audit done by Reserve Bank of India or any statutory/regulatory authority, the Bank shall provide reasonable notice not less than 15 (Fifteen) days to Service Provider before such audit and same shall be conducted during normal business hours. However, the access to the Auditors/ authorized representatives shall be granted, provided such Auditors/ authorized representatives should not be the competitors of C-Edge in any manner i.e. they should not be conducting or helping to conduct same/similar line of business. It shall be the implied duty of the said auditors/authorized representative and the Bank at all times to adhere to all necessary protocols required to maintain confidentiality and security during the conduct of such audit or inspection.	No change in RFP Terms

Pre-Bid Queries for RFP FOR EMPANELMENT OF SERVICE PROVIDERS FOR PROVIDING IT HUMAN RESOURCES

S.No	RFP Page No.	RFP Clause No.	Existing Clause	Query/Suggestions	Bank Response
51	21	31. LIMITATION OF LIABILITY:	i. The maximum aggregate liability of Service Provider under the empanelment Agreement, subject to clause 31 (iii), in respect of any claims, losses, costs or damages arising out of or in connection with this RFP/Agreement shall not exceed Rs. 1000000 (ten lakh rupees). The maximum aggregate liability of Service Provider under the respective RFQ and SOW to be entered in pursuant to such RFQ, subject to clause 31 (iii), in respect of any claims, losses, costs or damages arising out of or in connection with this RFQ/SOW shall not exceed the total Purchase Order Value agreed to be paid under such Purchase Order giving rise to such claims or equivalent to amount of Performance Security in form of Bank Guarantee [BG] submitted by Service Provider in pursuant to respective RFQ, whichever is greater.. iii. The limitations set forth herein shall not apply with respect to: (a) claims that are the subject of indemnification pursuant to infringement of third party Intellectual Property Right; (b) damage(s) occasioned by the Gross Negligence or Willful Misconduct of Service Provider, (c) damage(s) occasioned by Service Provider for breach of Confidentiality Obligations, (d) Regulatory or statutory fines imposed by a Government or Regulatory agency for non-compliance of statutory or regulatory guidelines applicable to the Bank, provided such guidelines were brought to the notice of Service Provider.	Request bank to consider below modification: This clause can be agreed post empanelment once the exact scope would be defined. Till date no liability can be accepted other than depositing EMD.	No change in RFP Terms
52	22	34. SERVICE PROVIDER'S OBLIGATIONS:	iii. Service Provider will abide by the job safety measures prevalent in India and will free the Bank from all demands or responsibilities arising from accidents or loss of life, the cause of which is Service Provider's negligence. Service Provider will pay all indemnities arising from such incidents and will not hold the Bank responsible or obligated	Request bank to consider below modification: iii. Service Provider will abide by the job safety measures prevalent in India and will free the Bank from all demands.	No change in RFP Terms
53	23	36. INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP:	iii. Subject to clause 36 (iv) and 36 (v) of this RFP, Service Provider shall, at its own expenses without any limitation, indemnify and keep fully and effectively indemnified the Bank against all costs, claims, damages, demands, expenses and liabilities whatsoever nature arising out of or in connection with all claims of infringement of Intellectual Property Right, including patent, trademark, copyright, trade secret or industrial design rights of any third party arising from the Services or use of the technology / software / products or any part thereof in India or abroad.	Request bank to remove the mentioned clause.	No change in RFP Terms
54	28	(a) Holiday Listing (Temporary Debarment - suspension)	Whenever a Vendor is found lacking in performance, in case of less frequent and less serious misdemeanors, the vendors may be put on a holiday listing (temporary debarment) for a period upto 12 (twelve) months. When a Vendor is on the holiday listing, he is neither invited to bid nor are his bids considered for evaluation during the period of the holiday.	Request bank to remove the mentioned clause.	No change in RFP Terms
55	46	Appendix E	Certificate of Resources in India	Request bank to accept signature of Authorized signatory or Local HR head on this appendix	No change in RFP Terms
56	20	SUBCONTRACTING (Clause 29)	As per scope of this RFP, sub-contracting is not permitted.	TechM requests for subcontracting right with prior written permission where required.	No change in RFP Terms
57	25	LIQUIDATED DAMAGES (Clause 37) [and Clause 9 on page 62]	If Service Provider fails to deliver and perform any or all the Services within the stipulated time, schedule as specified in the respective RFQ, the Bank may, without prejudice to its other remedies under the RFP/Agreement/RFQ and unless otherwise extension of time is agreed upon without the application of liquidated damages, deduct from the respective Purchase Order Value as liquidated damages as defined under the respective RFQ. Once the maximum deduction is reached, the Bank may consider termination of the respective RFQ/Purchase Order/SOW.	While we understand that this is an RFP and the actual penalty/ liquidated damages shall be subject of the RFQ, by not including a skeletal structure of the range of penalties it shall not be possible to ascertain our appetite for risk. We humbly propose the aggregate penalty falls within the range of 5-10% of the concerning value of PO.	No change in RFP Terms
58	30	TERMINATION FOR DEFAULT (Clause 40 (i)) [and Clause 16.1 on page 61]	The Bank may, without prejudice to any other remedy for breach of Agreement, written notice of not less than 30 (thirty) days, terminate the Agreement in whole or in part: (a) If Service Provider fails to deliver any or all the obligations within the time period specified in the RFP/Agreement, or any extension thereof granted by the Bank; (b) If Service Provider fails to perform any other obligation(s) under the RFP/Agreement; (c) Violations of any terms and conditions stipulated in the RFP; (d) On happening of any termination event mentioned in the RFP/Agreement.	TechM requests that the Termination for Default clause to be mutual i.e., TechM shall also have the right to terminate the Agreement in the event of default from the Bank.	No change in RFP Terms
59	30	TERMINATION FOR DEFAULT (Clause 40 (ii)) [and clause 16.3 on page 70]	In the event the Bank terminates the Contract/ respective PO/ SOW in whole or in part for the breaches attributable to Service Provider, the Bank may procure, upon such terms and in such manner as it deems appropriate, Services similar to those undelivered, and subject to limitation of liability clause of this RFP Service Provider shall be liable to the Bank for any increase in cost for such similar Product and / or Services. However, Service Provider shall continue performance of the Contract to the extent not terminated.	TechM requests the below addition in the clause: <i>"In the event the Bank terminates the Contract in whole or in part for the breaches attributable to Service Provider, the Bank may procure, upon such terms and in such manner as it deems appropriate, Services similar to those undelivered, and subject to limitation of liability clause of this RFP Service Provider shall be liable to the Bank for any increase in cost for such similar Product and / or Services. However, Service Provider shall continue performance of the Contract to the extent not terminated. For the avoidance of doubt, Service Provider shall be liable to pay the Bank only 10% of the differential cost for the procurement of such similar Product and/or Services from another service provider."</i>	No change in RFP Terms

Pre-Bid Queries for RFP FOR EMPANELMENT OF SERVICE PROVIDERS FOR PROVIDING IT HUMAN RESOURCES

S.No	RFP Page No.	RFP Clause No.	Existing Clause	Query/Suggestions	Bank Response
60	31	TERMINATION FOR DEFAULT (Clause 40 (vi))	In the event of failure of Service Provider to render the Services or in the event of termination of Agreement or expiry of term or otherwise, without prejudice to any other right, the Bank at its sole discretion may make alternate arrangement for getting the Services contracted with another Service Provider. In such case, the Bank shall give prior notice to the existing Service Provider. The existing Service Provider shall continue to provide services as per the terms of the Agreement until a 'New Service Provider' completely takes over the work. During the transition phase, the existing Service Provider shall render all reasonable assistance to the new Service Provider within such period prescribed by the Bank, at no extra cost to the Bank, for ensuring smooth switch over and continuity of services, provided where transition services are required by the Bank or New Service Provider beyond the term of this Agreement, reasons for which are not attributable to Service Provider, payment shall be made to Service Provider for such additional period on the same rates and payment terms as specified in this Agreement. If existing Service Provider is breach of this obligation, they shall be liable for paying a penalty of 10% of the total Project Cost on demand to the Bank, which may be settled from the payment of invoices or Bank Guarantee for the contracted period or by invocation of Bank Guarantee.	TechM requests the below modification since it reduces the equilibrium between risk and reward: <i>"In the event of failure of Service Provider to render the Services or in the event of termination of Agreement or expiry of term or otherwise, without prejudice to any other right, the Bank at its sole discretion may make alternate arrangement for getting the Services contracted with another Service Provider. In such case, the Bank shall give prior notice to the existing Service Provider. The existing Service Provider shall continue to provide services as per the terms of the Agreement until a 'New Service Provider' completely takes over the work. During the transition phase, the existing Service Provider shall render all reasonable assistance to the new Service Provider within such period prescribed by the Bank, at no extra cost to the Bank, for ensuring smooth switch over and continuity of services, provided where transition services are required by the Bank or New Service Provider beyond the term of this Agreement, reasons for which are not attributable to Service Provider, payment shall be made to Service Provider for such additional period on the same rates and payment terms as specified in this Agreement. If existing Service Provider is breach of this obligation, they shall be liable for paying a penalty of 10% of the total Project Cost on demand to the Bank, which may be settled from the payment of invoices or Bank Guarantee for the contracted period or by invocation of Bank Guarantee."</i>	No change in RFP Terms
61	32	FORCE MAJEURE (Clause 41(iv))	(iv) If the Force Majeure situation continues beyond 30 (thirty) days, either party shall have the right to terminate the Agreement by giving a notice to the other party. Neither party shall have any penal liability to the other in respect of the termination of the Agreement as a result of an event of Force Majeure. However, Service Provider shall be entitled to receive payments for all services actually rendered up to the date of the termination of the Agreement.	TechM requests the below modification in the clause: <i>(iv) If the Force Majeure situation continues beyond 6 (six) months, either party shall have the right to terminate the Agreement by giving a notice to the other party. Neither party shall have any penal liability to the other in respect of the termination of the Agreement as a result of an event of Force Majeure. However, Service Provider shall be entitled to receive payments for all services actually rendered up to the date of the termination of the Agreement.</i>	No change in RFP Terms
62	32	TERMINATION FOR CONVENIENCE (Clause 43) [and clause 16.2 on page 70]	(i) The Bank, by written notice of not less than 90 (ninety) days, may terminate the Contract/ SOW/ PO, in whole or in part, for its convenience. (ii) In the event of termination of the Agreement for the Bank's convenience, Service Provider shall be entitled to receive payment for the Services rendered (delivered) up to the effective date of termination under the respective SOW.	TechM requests the following: (i) <i>Mutual rights for Termination for Convenience;</i> (ii) <i>Bank to pay termination fee or incurred, committed and non-cancellable costs in addition to the payment of Services rendered (delivered) and also Bank to pay for the Services for which work has been commenced but not delivered.</i>	No change in RFP Terms
63	61	GENERAL INDEMNITY (Clause 6.1)	Service Provider agrees and hereby keeps the Bank indemnified against all claims, actions, loss, damages, costs, expenses, charges, including legal expenses (Attorney, Advocates fees included) which the Bank may suffer or incur on account of (i) Services Provider's breach of its warranties, covenants, responsibilities or obligations; or (ii) breach of confidentiality obligations mentioned in this Agreement; or (iii) any willful misconduct and gross negligent acts on the part of employees, agents, representatives or sub-contractors (if allowed) of Service Provider. Service Provider agrees to make good the loss suffered by the Bank.	TechM requests the below modifications in the clause because having indemnity for breach of warranties, covenants, responsibilities or obligations in the Agreement will make the liability cap redundant. <i>"Service Provider agrees and hereby keeps the Bank indemnified against all claims, actions, loss, damages, costs, expenses, charges, including legal expenses (Attorney, Advocates fees included) which the Bank may suffer or incur on account of (i) Services Provider's breach of its warranties, covenants, responsibilities or obligations; or (ii) breach of confidentiality obligations mentioned in this Agreement; or (iii) any willful misconduct and gross negligent acts on the part of employees, agents, representatives or sub-contractors (if allowed) of Service Provider. Service Provider agrees to make good the loss suffered by the Bank."</i>	No change in RFP Terms
64	104	FALL CLAUSE (Clause 6)	The BIDDER undertakes that it has not supplied/is not supplying similar product/systems or subsystems at a price lower than that offered in the present Bid in respect of any other Ministry/Department of the Government of India or PSU or any other Bank and if it is found at any stage that similar product/systems or sub systems was supplied by the BIDDER to any other Ministry/Department of the Government of India or a PSU or a Bank at a lower price, then that very price, with due allowance for elapsed time, will be applicable to the present case and the difference in the cost would be refunded by the BIDDER to the BUYER, if the contract has already been concluded.	TechM requests deletion as this may resultant in reduction of total cost value along with refund requirement of difference in the cost charges, at any stage of the contract. <i>The BIDDER undertakes that it has not supplied/is not supplying similar product/systems or subsystems at a price lower than that offered in the present Bid in respect of any other Ministry/Department of the Government of India or PSU or any other Bank and if it is found at any stage that similar product/systems or sub systems was supplied by the BIDDER to any other Ministry/Department of the Government of India or a PSU or a Bank at a lower price; then that very price, with due allowance for elapsed time, will be applicable to the present case and the difference in the cost would be refunded by the BIDDER to the BUYER, if the contract has already been concluded.</i>	No change in RFP Terms
65	20	29	As per scope of this RFP, sub-contracting is not permitted.	Kindly Consider modifying it to Permitted	No change in RFP Terms
66	32	43	In the event of termination of the Agreement/SOW/PO for the Bank's convenience, Service Provider shall be entitled to receive payment for the Services rendered (delivered) up to the effective date of termination under the respective SOW.	Bank should be liable to pay for damage (if any) caused due to termination of agreement for their convenience	No change in RFP Terms
67	19	26	Penalties will be mentioned in the respective RFQ issued in pursuant to this RFP.	Penalties and LD must be clearly specified in the clause and limited to maximum of 10% of TCV.	No change in RFP Terms
68	30	40 (ii)	In the event the Bank terminates the Contract/respective Purchase Order/SOW in whole or in part for the breaches attributable to Service Provider, the Bank may procure, upon such terms and in such manner as it deems appropriate, Services similar to those undelivered, and subject to limitation of liability clause of this RFP Service Provider shall be liable to the Bank for any increase in cost for such similar Services. However, Service Provider shall continue performance of the Contract to the extent not terminated.	In case of risk purchase, service provider's liability should be limited to 110% of the cost of unperformed portion of the project only.	No change in RFP Terms
69	10	4. SCOPE OF WORK	v.) Service Provider shall facilitate and/ or handover the Device to the Bank or its authorized representative for investigation and/or forensic audit.	Consider modifying the clause as "On receipt of seven (7) days written notice by Bank to Service Provider shall facilitate and/ or handover the Device to the Bank or its authorized representative for investigation and/or forensic audit."	No change in RFP Terms

Pre-Bid Queries for RFP FOR FOR EMPANELMENT OF SERVICE PROVIDERS FOR PROVIDING IT HUMAN RESOURCES

S.No	RFP Page No.	RFP Clause No.	Existing Clause	Query/Suggestions	Bank Response
70	24	36. INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP	Subject to clause 36 (iv) and 36 (v) of this RFP, Service Provider shall, at its own expenses without any limitation, indemnify and keep fully and effectively indemnified the Bank against all costs, claims, damages, demands, expenses and liabilities whatsoever nature arising out of or in connection with all claims of infringement of Intellectual Property Right, including patent, trademark, copyright, trade secret or industrial design rights of any third party arising from the Services or use of the technology / software / products or any part thereof in India or abroad.	This clause is not applicable to Tech Mahindra, as Bank will provide all license or acquire such Third Party Materials directly from the third party provider, and shall ensure that it has the right to provide Service Provider with access to and/or use of such Third Party Materials.	No change in RFP Terms
71	25	37. LIQUIDATED DAMAGES	If Service Provider fails to deliver and perform any or all the Services within the stipulated time, schedule as specified in the respective RFQ, the Bank may, without prejudice to its other remedies under the RFP/Agreement/RFQ and unless otherwise extension of time is agreed upon without the application of liquidated damages, deduct from the respective Purchase Order Value as liquidated damages as defined under the respective RFQ. Once the maximum deduction is reached, the Bank may consider termination of the respective RFQ/Purchase Order/SOW.	As this is an empanelment of Service Providers for Providing IT Human Resources, Liquidated Damages clause is not applicable.	No change in RFP Terms
72	30	40. TERMINATION FOR DEFAULT	ii. In the event the Bank terminates the Contract/respective Purchase Order/SOW in whole or in part for the breaches attributable to Service Provider, the Bank may procure, upon such terms and in such manner as it deems appropriate, Services similar to those undelivered, and subject to limitation of liability clause of this RFP Service Provider shall be liable to the Bank for any increase in cost for such similar Services.	Consider capping of increase in cost / step in cost s at 110% of the value of undelivered software solution and/or services of from the respective RFQ/ purchase order.	No change in RFP Terms
73	31	40. TERMINATION FOR DEFAULT	iv. During the transition phase, the existing Service Provider shall render all reasonable assistance to the new Service Provider within such period prescribed by the Bank, at no extra cost to the Bank,	Consider modifying the clause statement as "During the transition phase, the existing Service Provider shall render all reasonable assistance to the new Service Provider for a period of 1 month, at no extra cost to the Bank, "	No change in RFP Terms
74	31	40. TERMINATION FOR DEFAULT	If existing Service Provider is breach of this obligation, they shall be liable for paying a penalty of 10% of the respective Purchase Order Value on demand to the Bank,	Consider modifying the clause statement as "If existing Service Provider is breach of this obligation, they shall be liable for paying a penalty of 5% of the undelivered/affected transition services from the respective purchase order value on demand to the Bank,"	No change in RFP Terms