

**RFP : SBI/GITC/Data Centres & Cloud/2024/2025/1234 dated : 14.11.2024 Pre-bid queries dated 26.11.2024**

SI No.	RFP Page no	RFP Clause No	Existing clause	Query/Suggestions	Banks Response
1	11	8 (v)	No request for change in commercial/legal terms and conditions, other than what has been mentioned in this RFP or any addenda/corrigenda or clarifications issued in connection thereto, will be entertained and queries in this regard, therefore will not be entertained.	Bidder requests to relax these terms to enable the Bidder to propose/suggest alternate terms on the material terms and conditions of the RFP. Also, the Bidder submits that the contract will be signed based on mutually agreed terms between the parties.	As per RFP
2	12	10	If EMD is forfeited 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.	Bidder submits that EMD shall not be forfeited for inability of the parties to reach a mutual agreement on the applicable terms and conditions.  Bidder requests clarity that delays owing to ongoing negotiations on the finalization of terms and conditions of the Contract shall not be accounted towards the time period specified for the submission of the PBG/execution of the contract.  Bidder requests that the forfeiture of EMD be invoked only where HPE has been convicted for fraud. Additionally, Bidder requests that forfeiture of the EMD not be a cause for blacklisting / debarring unless it is owing to actions of a fraudulent nature.	As per RFP
3	16	14 (iv)	Once Purchase Order or Letter of Intent is issued by the Bank, the said price will remain fixed for the entire Contract period and shall not be subjected to variation on any account, including exchange rate fluctuations and custom duty. A Bid submitted with an adjustable price quotation will be treated as non-responsive and will be rejected.	Bidder requests that price variations owing to a change in taxes are permitted as these would be beyond <b>the Bidder's control.</b> <b>This clause also seems contrary to clause 25 that permits price revision owing to quantity change, place of delivery, etc. Please clarify which of the clauses shall prevail</b>	As per RFP

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4	16	14(i) & (ii)	<p>i. Bid shall remain valid for duration of 6 calendar months from Bid submission date.</p> <p>ii. Price quoted by the Bidder in Reverse auction shall remain valid for duration of 6 calendar months from the date of conclusion of RA.</p>	Bidder requests that the time frame for the bid validity and the price validity should be reduced to two months, i.e. 60 days, as it becomes difficult to maintain the same quotes for longer periods.	As per RFP
5	19	19. CONTACTING T	i. Applicability of Preference to Make in India, Order 2017 (PPP-MII Order)	Bidder request to remove this clause as scope covers only services	As per RFP
6	22	21 (iii)	If any change in the work is likely to result in reduction in cost, the parties shall agree in writing so as to the extent of change in contract price, before the finally selected Bidder(s) proceeds with the change.	Bidder requests that the changes in scope that cause increase in cost to Bidder should be entertained through change requests that have been mutually agreed by both Parties.	As per RFP
7	23	24 and Appendix H	Bank Guarantee	<p>Bidder submits that the BG issuance process should be initiated after the execution of the governing contract. Till that period the Customer has already retained the EMD.</p> <p>Within 21 days of the date of signing the contract, the successful Bidder shall submit the performance Bank guarantee valid for the duration of the contract only. No grace/additional period shall be allowed for the validity of the Performance Bank Guarantee beyond the operative period of the contract. We further submit that the Performance Guarantee shall be valid for a period of 12 months from the date of Contract which shall be renewed at the end of each contract year for the duration of contract.</p> <p>Bidder requests that Bank shall provide a cure period of 30 days for rectifying the failure in discharging its contractual obligations prior to forfeiture of Bank guarantee or any legal action and such amount be limited to the actual losses suffered and subject to the Limitation of Liability.</p>	As per RFP

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8	24	28	RIGHT TO AUDIT	<p>Bidder submits that this clause is amended to include the below-mentioned modifications to all the audit requirements:</p> <p>Audit shall be conducted, unless required by applicable law, once annually with a notice of 10 days to the Bidder. Audit shall be strictly conducted to ascertain service charges payable for the present scope of work and files that are pertaining only to the present scope of work shall be audited.</p> <p>Auditors shall NOT be given access to:</p> <ol style="list-style-type: none"> <li>any information not related to the Services;</li> <li>Bidder locations/premises (or portions thereof) that are not related to the Services and/or are shared environment; or</li> <li>Bidder records or documents relating to the make up of Bidder's internal overhead calculations or direct costs, their relationship to the service charges, any financial cost model, calculation of service charges or Bidder's profitability; or</li> <li>internal Bidder audit reports, or any summaries thereof.</li> </ol> <p>We require Independent Monitors to:</p> <ol style="list-style-type: none"> <li>provide Bidder with at least thirty (10) days notice of its requirement for an Audit allowed once in a year, with such notice describing the issue(s) that will be the subject of the audit;</li> <li>be subject to Bidder site/premises security obligations and have their access controlled/monitored by Bidder;</li> <li>pay all Bidder costs associated with the audit at current time and material rates and submit any requests for Bidder</li> </ol>	As per RFP
9	24	26 and Appendix I	Penalties	Bidder submits that penalties are not applicable.	As per RFP
10	26	30. VALIDITY OF AGREEMENT	The Agreement / SLA will be valid for the period of three (3) year(s) and may be extended for 2 more years subject to rendering of satisfactory services and annual review. The Bank reserves the right to terminate the Agreement as per the terms of RFP/ Agreement.	Bidders request mutual discussion on commercials for 2 more year extension after 3rd year of contract expiry.	As per RFP

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11	28	36	INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP	<p>Bidder requests that the following clause be inserted in addition to the existing clause:</p> <p><i>"Bank grants the Service Provider a non-exclusive, worldwide, royalty-free right license to any intellectual property that is necessary for the Service Provider and its designees to perform the Services.</i></p> <p><i>The Service Provider shall retain ownership of:</i></p> <p><i>a. all pre-existing Intellectual Property Rights ("IPR") and;</i></p> <p><i>b. all IPR in materials and reports etc. developed during the course of the Agreement and remain therefore able to re-use any copyrightable or patentable elements of the materials and report in future engagements."</i></p> <p><i>Infringement indemnity should be limited to third party claims</i></p>	As per RFP

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12	35	40	TERMINATION FOR DEFAULT	<p>Bidder requests that clause 40 (i) is amended so that not withstanding any other clause of the RFP/Agreement the termination of Agreement can take place only due to material failure of Service Provider to deliver or perform obligations, material violations of terms and conditions and not for ordinary failure or ordinary breach.</p> <p>We request deletion of step-in and risk purchase right. We request that any transition services required to be provided by the bidder in the event of expiry or termination of the agreement or otherwise shall be at additional charges to the Bank to be charged by the bidder. Request deletion of penalty @10% in Cl. 40 (vi). Also, part termination or reduction in scope shall be subject to change request as pricing may vary.</p> <p>Further, the following clause be inserted in addition to the existing clause:                      In the event of termination by customer, Bidder shall be paid for the:</p> <ul style="list-style-type: none"> <li>a) Goods delivered till the date of termination;</li> <li>b) Services rendered till the date of termination;</li> <li>c) Work in progress rendered till the date of termination;</li> <li>d) Third party orders in pipeline which cannot be cancelled despite Bidder's best efforts; and</li> <li>e) Unrecovered investments shall be paid by customer as per termination schedule till the date of termination.</li> </ul>	As per RFP

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13	37	43	TERMINATION FOR CONVENIENCE	We request that this provision be deleted as this will cause revenue recognition problems for the Bidder.	As per RFP
14	46	Appendix-B Bidder's Eligibility Criteria	5. Bidder should have relevant experience of minimum 5 (five) years in providing the Data Centre Services for facility management including Electrical (UPS, Battery, Panel, PDU, BBT, Cabling etc.), Fire Suppression System, BMS, Rack Management, Power Management, HVAC, CCTV, House Keeping in IT Environment).	We request you to read the clause as: "Bidder should have relevant experience of minimum 5 (five) years in providing comprehensive Data Centre Services	As per RFP
15	46	Appendix-B Bidder's Eligibility Criteria	Bidder should have relevant experience of minimum 5 (five) years in providing the Data Centre Services for facility management including Electrical (UPS, Battery, Panel, PDU, BBT, Cabling etc.), Fire Suppression System, BMS, Rack Management, Power Management, HVAC, CCTV, House Keeping in IT Environment).		As per RFP
16	46	Appendix-B Bidder's Eligibility Criteria	The bidder should have experience in providing Facility Management services for a minimum of three Data Centres. Total load of these Data Centres should be of 2 MW and above, out of which one DC should be of minimum 1 MW load.		As per RFP
17	46	Bidder's Eligibility Criteria	Bidder should have relevant experience of minimum 5 (five) years in providing the Data Centre Services for facility management including Electrical (UPS, Battery, Panel, PDU, BBT, Cabling etc.), Fire Suppression System, BMS, Rack Management, Power Management, HVAC, CCTV, House Keeping in IT Environment).	Eligibility related to Financials are required for last 3 years, so we request for relevant experience for the Facility Management Services within the same time frame, ie 3 Years. It will help participation of Startups.	As per RFP
18	48	Appendix-B Bidder's Eligibility Criteria	11. The bidder should have experience in providing Facility Management services for a minimum of three Data Centres. Total load of these Data Centres should be of 2 MW and above, out of which one DC should be of minimum 1 MW load.	We request you to read the clause as: "The bidder should have experience in providing comprehensive services for a minimum of three Data Centres."	As per RFP

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19	57	Scope of Work and Payment Schedule	Consumables for Data Centre as per therequirement of routine activities. & Any minor variations in the above list to be accommodated by the Vendor.	Please help us understand the quantum of Minor variations, in terms of Percentage	Refer corrigendum												
20	64	Appendix-E	7. Payment schedule -Service Provider is entitled to invoice the Bank for fees and expenses on monthly in arrears	Bidder request to confirm bank will pay within 30 days from invoice date.	As per RFP												
21	66	Appendix-F	Note: \$\$Special services, in the above mentioned table is for only for the purpose of calculation of TCO. The price bifurcation is to be provided for including the same as rate card in the service level agreement. Bank will place separate purchase order(s) on requirement basis as and when relevant demand arises	Bidder requeust 10% YOY increament on the rate card offered.	As per RFP												
22	71	Appendix-G	Certificate of Local Content -< Certified copy of board resolution for appointment of statutory/cost auditor should also be enclosed with the certificate of local content.>	Bidder requeust to remove this clause as scope covers only services	As per RFP												
23	77	Appendix-I	Other terms: If the service provider is found in breach of obligations detailed above, they shall be liable for paying of cumulative penalty to an extent of 20% of the total monthly contract value on demand to the Bank, which may be settled from the payment of the invoices or Bank Guarantee for the contracted period or by invocation of Bank Guarantee.	We request bank to capped the penalty to 5% of total monthly contract value.	As per RFP												
24	77	Other Terms and Penalties	<p><b>Table- B</b></p> <table border="1"> <thead> <tr> <th>Issue</th> <th>Description</th> <th>Penalty (in Rs.)</th> </tr> </thead> <tbody> <tr> <td>Critical Alerts</td> <td>Failure to respond to critical alerts related to Power, Cooling, Fire etc., on immediate basis</td> <td>1000 per instance</td> </tr> <tr> <td>Low Critical Alerts</td> <td>Failure to respond to Low critical alerts within 5 min</td> <td>500 per instance</td> </tr> <tr> <td>Escalations / Vendor Follow - ups</td> <td>Missed escalations in a timely manner to F &amp; OA / Vendors / Bank Officials and other stakeholders</td> <td>1000 per instance</td> </tr> </tbody> </table>	Issue	Description	Penalty (in Rs.)	Critical Alerts	Failure to respond to critical alerts related to Power, Cooling, Fire etc., on immediate basis	1000 per instance	Low Critical Alerts	Failure to respond to Low critical alerts within 5 min	500 per instance	Escalations / Vendor Follow - ups	Missed escalations in a timely manner to F & OA / Vendors / Bank Officials and other stakeholders	1000 per instance	Please help by defining the critical and Non Critical Alets, It shall be related to Uptime of the Data Center as per deployment	As per RFP
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25	78	Appendix J	Service Level Agreement	Bidder requests that deviations requested above should, by reference be incorporated into Appendix J for similar clauses.	As per RFP												

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26	91	Appendix N- Integrity Pact	Fall Clause	Bidder proposes deletion of "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"	As per RFP
27	91	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.	Since this is a Facility Management bid, Resources cost varies from State to State and time to time, so please help us removing this clause.	As per RFP
28	92	Appendix N- Integrity Pact	Facilitation of Investigation	Bidder submits that these investigations are subject to restrictions proposed under Audit clause.	As per RFP
29	93	Appendix N- Integrity Pact	Validity	Bidder proposes that validity period should be completion of services under the Agreement.	As per RFP
30	105	Appendix J - clause 3.4.1	Payments	Bidder requests that all invoices raised by the bidder be paid within 30 days from the date of the invoice.	As per RFP

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31	106	Appendix J - clause 3.5 & 9	Bank Guarantee and Penalties, LDs	Bidder would like to clarify if these are in addition to BG, penalties and Liquidated Damages under main RFP/agreement. Which document prevails in case of conflict.	As per RFP
32	108	Appendix J - clause 4.2(g)	Data Processing Agreement	Bidder proposes deletion as no Appendix G is found in RFP for Data Processing. Also, this may not apply.	Refer corrigendum
33	108	Appendix J - clause 4.2(h)	The Service Provider agrees to comply with the obligations arising out of the Digital Personal Data Protection Act, 2023, as and when made effective.	We would request that the clause be amended as follows:  <i>"Service Provider agrees to comply with the obligations arising out of the Digital Personal Data Protection Act, 2023, as and when made effective, subject to the limitation of liability and to the extent it would be applicable to the Service Provider as an IT Service Provider."</i>	As per RFP
34	109	5.2 Additional Representation and Warranties by Service Provider		We understand that all clauses may not be applicable, it shall be only applicable for the Bidders Supplied Products and Resources, not for the existing Material of the Data Centre.	As per RFP
35	111	Appendix J - clause 6.1	General Indemnity	Bidder submits deletion of this general indemnity clause as this is onerous and contractual damages will always be available as a remedy to SBI for a general breach by the Bidder.	As per RFP
36	112	Appendix J - clause 8, Annexure F	Transition Requirement	Bidder propose deletion of this clause including the appendix. Any transition services if required shall be discussed between the parties and will be subject to cost of the Bank.	As per RFP
37	130	ANNEXURE-C		Is it applicable, if yes please help us with more data in the annexure	As per RFP