

### Procurement of Link Load Balancer - Pre-Bid Queries and Clarifications

RfP for Procurement of link load balancer in high availability mode for SIDBI, Mumbai office.

Tender No. : 400/2011/675/BYO/ISD Dated December 09, 2010

Date of Pre-bid : December 14, 2010

S.N.	Clarification point as stated in the tender document	Page Number	Comment/Suggestion/Deviation	SIDBI's Response
1.	Clause 3.7 - Forfeiture of bid security	10	Can SIDBI agree to provide a reasonable cure period to the bidder prior to forfeiture of the bid security?	No Change
2.	Clause 3.8.8. The Bank shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum as specified in General Terms and Conditions	11	Bidder proposes that the liquidated damages as may be agreed should be the sole remedy available to SIDBI for delay in performance as mentioned herein. Can SIDBI agree to the same?	No Change
3.	3.15.2.4. If a Bid is not substantially responsive, it will be rejected by the Bank and may not subsequently be made responsive by the Bidder by correction of the nonconformity.	13	There are certain terms and conditions mentioned in the RFP, in relation to which the bidder intends to propose changes/modifications. Can the bidder propose such changes in its proposal to the terms and conditions, which are important from bidder's perspective?	No change
4.	Clause 4.4.6 - Further, subsequent to the orders being placed/agreement executed, the Bidder shall pass on to the Bank all fiscal benefits arising out of reductions in Government Levies viz., Sales Tax, Excise Duty, Custom Duty etc. Otherwise rates are firm during the entire contract period	16	Can SIDBI agree that the any increase in the rate of taxes/duties or introduction of any new taxes will also be passed on to SIDBI?	Agreed. Any increase in taxes / duties after placing order by SIDBI and before raising of invoices would be borne by SIDBI on actuals. Similarly any decrease in taxes / duties shall be passed on in favour of SIDBI by the bidder.
5.	Clause 4.10.1 - Compliance with	19	Bidder agrees to defend or settle any	No Change

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	applicable laws (indemnity)  Clause 4.10.2 - Compliance in obtaining approvals/ permissions/ licenses:		claims that may arise in relation to breach of any applicable laws by the bidder or non-compliance in obtaining approvals / permissions / licenses. Can SIDBI agree to delete the provisions mentioned herein which require bidder to indemnify SIDBI?	
6.	Clause 4.13.3 - The Supplier shall provide complete and legal documentation of Systems, all subsystems, operating systems, compiler, system software and the other software. The Supplier shall also provide licensed software for all software products, whether developed by it or acquired from others. The Supplier shall also indemnify the Bank against any levies/penalties on account of any default in this regard.	20	Bidder would comply with this requirement. However in order to be able to comply with this requirement Bidder would require help from SIDBI by entering into appropriate license agreements that may be necessarily required in respect of proprietary software and other IP being offered by the Bidder and its sub-vendors. If this arrangement is acceptable to SIDBI, the indemnity provision would not be applicable and can be deleted as there would be separate license arrangement between SIDBI and the Software Vendors.	No Change
7.	Clause 4.20 - Termination	23	Will SIDBI notify Bidder of the failure and provide the Bidder an opportunity to cure any such failure on the part of the Bidder before terminating the contract? Will the Bidder also have a right to terminate the contract in case SIDBI commits any breach of the contract?	No Change
8.	Clause 4.21 - Patent Rights	23	Can Bidder propose a proper process for protecting SIDBI against claims by 3 <sup>rd</sup> parties for infringement of IP, incorporating how the claims would be dealt with (notification process), what SIDBI would pay for and the	No Change

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			circumstances in which the protection would not be available, etc. in place of the present clause?	
9.	Limitation of Liability		Bidder submits that Bidder's total aggregate liability under this contract be limited to the payments made by SIDBI to Bidder in the 12 months immediately preceding the date of cause of action. Neither party shall be liable to the other for any indirect, incidental, consequential losses or damages arising out of or relating to this connection with this contract. Will this be acceptable to SIDBI?	No Change
	Clause 3.8.1 - Delivery Schedule	10	Delivery schedule should be six weeks from date of purchase order. However, bidder would ensure the same well within 6 weeks.	Accepted Delivery schedule will be six weeks from date of order.

All other terms and conditions of RfP remain unchanged.

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