

Clarification-1 released on 10.09.2020 towards pre-bid queries received against Tender No. RECPDCL/TECH//2020-21/995 dated-26.08.2020

S. No.	Clause No.	Clause as per NIT/RFP	Pre-Bid queries raised by the bidder(s)	Clarification
1	Chapter-III, Detailed Scope of Work, (3.4) "Team Structure"	AMI Expert: Should have a good understanding of the AMI and electricity smart metering business including its nuances of technologies being implemented, architecture design, technology service providers, OEMs, smart meter manufacturers, policies, regulations, business models etc.	Proposed Clause: Technical Expert: -Should have a good understanding and proven experience of turnkey contracting, tender preparation, bid evaluation of EPC projects in power distribution which should include innovative projects like Agriculture feeder separation, HVDS, underground cabling, LT/HT AB cabling, voltage wise cost of supply, distribution audit operations, online AMI and electricity smart metering business etc. The experience should include knowledge of technologies being implemented, architecture design, technology service providers, OEMs, smart meter manufacturers, policies, regulations, business models etc.	No change
2	Chapter-III, Detailed Scope of Work, (3.2.4), "International business portfolio development"	International business portfolio development: (v) Technical & Financial assistance as per the Country's norms, law and Taxation. (ix) To assist in the local establishment in foreign country	It is requested that the assistance required under Clause 3.2.4 shall be provided based on information available in the public domain only.	The Consultant shall provide general information/ key inputs regarding prevailing laws, norms, taxation, ease of doing business environment in the said country which can overall help RECPDCL in prior decision making with respect to venturing into a business/ opportunity in such country and local establishment.
3			We understand that the consultant will be expected to provide technical assistance basis information available in public domain. Local establishment implementation related work is a separate specialized requirement and this would be performed by in-house team of RECPDCL/ local CA or legal firms as applicable. The manpower requirement mentioned under section 3.4 also does not mention requirement of such experience. Please confirm is this understanding is correct.	
4			It may be kindly clarified whether the successful bidder needs to assist RECPDCL in Legal, tax etc. support for establishing its business in other countries. This would require hiring of local resources/ firms and therefore should be appointed by RECPDCL in the country in which business needs to be established.	
5	Chapter-V, Instruction to Bidders, (29)	Non-Disclosure: The selected bidder shall not, without RECPDCL's prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, software code, sample of information furnished by or on behalf of RECPDCL or get access to in connection therewith, to	Proposed Clause: Kindly amend this as: "The selected bidder shall not, without RECPDCL's prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, software code, sample of information furnished by or on behalf of RECPDCL or get access to in connection therewith, to any person other than a person employed by the Bidder in the Performance of the Contract. Disclosure to any such employed person shall be made in	No change

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		any person other than a person employed by the Bidder in the Performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance. Bidder has to sign a Non-Disclosure agreement with RECPDCL.	confidence and shall extend only so far as may be necessary for purposes of such performance. Bidder has to sign a Non-Disclosure agreement with RECPDCL on need to know basis.”	
6	Chapter-V, Instruction to Bidders, (36-g)	Miscellaneous: g) If the selected bidder is not able to fulfill its obligations under the contract, which includes non-completion of the work, the RECPDCL reserves the right to accomplish the work through other sources and EMD/ Performance Security Deposit of vendor will be forfeited. Also any costs, damages etc. resulting out of the same shall have to be borne by the selected bidder.	We request you to limit the risk and cost amount to the value to the corresponding milestone amount only.	No change
7	Chapter-IV, Tender Evaluation, (4.2)	Experience criteria	Request you to allow experience of 100% subsidiary, as sometimes different work in different areas/ functions is undertaken in the name of separate subsidiaries due to technical/ legal reasons such as different countries for international experience.	No change
8			We have multiple affiliates and similar credentials exist with all of them. We would therefore request you to allow usage of credentials of affiliates to meet the technical evaluation requirements w.r.t Firm Experience (Section 4.2 of the Tender document) basis the credentials and experience of its affiliates.	
9	Chapter-IV, Tender Evaluation, (4.2)	Experience criteria	Please confirm that the relevant period of consideration of valid experience will be from the last date/ completion of the project rather than the start of the project as many projects are multi-year. This will be as shown in Work Order/ Completion Certificate/ other relevant document.	For evaluation of Firm Experience criteria, the start & completion of an assignment shall fall within the range of no. of experience years stipulated ending on the last date of bid submission.

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10	Chapter-IV, Tender Evaluation, (4.2-I-4), "Firm Experience"	Firm Experience: 4. (B). Experience of supporting in bid advisory for businesses overseas in developing countries -1 mark for each assignment subject to maximum of 2 marks for (B)	Please clarify whether this is specifically for "overseas businesses" i.e. companies outside India or for "overseas opportunities" irrespective of client's domicile.	This refers to supporting Indian Companies in bid advisory for businesses overseas in developing countries.
11	Chapter-V, Instruction to Bidders, (4), "Invitation to bid"	Part 1: Pre-Qualification Criteria & Technical Bid: Pre-contract integrity pact (In two original copies)	Stage, Submission Process & Mode of Pre-Contract Integrity Pact: 1. As per our understanding of the RFP and going through the general terms of the Pre-Contract Integrity Pact, the same needs to be signed before bidding the tender between RECPDCL and the interested bidder. Further it needs to be submitted in two original copies on notarized affidavit of Rs 100 and more along with the proposal. The same needs to be clarified. 2. Further, when the said pact would be signed between RECPDCL and the interested bidder, so that the two original copies can be submitted along with the proposal. Request clarification: would request you to kindly clarify whether the PRE-CONTRACT INTEGRITY PACT is to be submitted on a NJSP or letter head or a plain paper.	Pre-contract integrity pact shall be submitted (in hard copy) along with the technical bid (Part-1) duly signed and stamped by the Authorized Signatory of the bidder on a Rs. 100/- non-judicial stamp paper (two nos. original copies to be submitted).
12				
13	Annexure-J, Pg. No. 47	BID BANK GUARANTEE (EARNEST MONEY DEPOSIT) FORMAT	Change in Bid BG Format and Bank Details for processing of BG (EMD) 1. Our Banker RBL Bank has vetted the format of BG (EMD) as provided under Annexure J. They have suggested some minor changes in the BG Format text as per their standard procedures. Accordingly, relaxation as per Bank requirements under Annexure J is required; 2. Furthermore, the bank is seeking information on beneficiary bank's IFSC code. This is required to electronically send the issuance confirmation to beneficiary bank through SFMS platform. Accordingly, RECPDCL Bank Details needs to be specified.	Changes are not allowed in Bank Guarantee format of EMD, only typographical errors have been omitted in the revised format of Annexure-J enclosed with Amendment-1. Bank details of RECPDCL are as below: Name of Bank & Branch: IDFC First Bank Limited, Wholesale Banking Outlet, Express Building, 2nd Floor, 9-10 Bahadur Shah Zafar Marg, New Delhi-110002 Bank Account Name: REC Power Distribution Company Limited

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				Bank Account Number: 10000697415 Bank IFSC Code No: IDFB0020101
14	Chapter-V, Instruction to Bidders, (4), "Invitation to bid"	Joint Venture or Consortium bids are not allowed.	<p>1. We request you to allow bids in a consortium of two to three bidders as the tasks are quite varied and high level in nature. A single consultant will find it difficult to provide the entire scope of services on a standalone basis and if so there can be a compromise on the services to RECDPCL. Consultancy services of similar nature as sought by RECDPCL is generally on a consortium basis which includes Indian and International consultants. This is the global practice. We request you to consider this request from our end.</p> <p>2. If consortium is allowed. We request you to consider that the financial criteria for the lead bidder and the consortium members should collectively meet the minimum turnover criteria of Rs.400 crores.</p>	No change
15	Chapter-III, Detailed Scope of Work, (3.2.2-iii)	To assist for bid process coordinator assignments for various works pertaining to DISCOMs.	<p>It may be kindly clarified that the following scope of support would not be included in the above scope of work, as these would require support from experts in specific areas of bid advisory.</p> <ul style="list-style-type: none"> -Any legal support -Taxation related advisory -Valuations related support -Audit related support -Financial, tax and legal due diligence -Opportunities where the bidder is already conflicted (working with another or target party) -Strategy and technology implementation 	This refers to preparation of tender document and contract by the Consultant for various requirements having techno-commercial inputs. Legal & Tax advice is not in the scope of the Consultant.
16	Chapter-III, Detailed Scope of Work, (3.2.2-vi), (3.2.2-xi) & (3.2.3-viii)	<p>3.2.2 Power Distribution Portfolio Development:</p> <p>vi. To assist in empanelment of suitable partner for Distribution Franchisee, Distribution Licensee/ Distribution sub Licensee and MBC business etc. including preparation of RFP, evaluation of bids and completion of empanelment.</p> <p>3.2.2 Renewable Energy (RE) Portfolio development:</p>	We understand that the consultant will support with techno-commercial inputs in development of such RFP and contract agreements while the legal advice would be provided by the in-house team of RECDPCL. Please confirm if the understanding is correct.	This refers to preparation of tender document and contract by the Consultant for various requirements having techno-commercial inputs. Legal advice is not in the scope of the Consultant.

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		<p>xi. Prepare draft EPC contract/ EPC cum O&M contract</p> <p>3.2.3 Smart Metering portfolio development:</p> <p>viii. To assist in empanelment of suitable partner for Smart Metering projects including preparation of RFP, evaluation of bids and completion of empanelment</p>		
17	Chapter-III, Detailed Scope of Work, (3.2.5-vi)	<p>3.2.5 Other areas of support:</p> <p>vi. Setup and provide support in stakeholder workshops, consultations, conferences, other participants to drive potential market opportunities.</p>	We presume that the consultant would be providing necessary technical support (preparation of outreach material and support in communication with stakeholders etc.) for such consultation workshops. All expenditure towards organizing the workshop would be borne by RECPDCL. Please confirm if this understanding is correct.	This refers to providing technical support to RECPDCL i.e. preparation of outreach/technical material, support in communication with stakeholders etc. for various consultation workshops, conferences etc. Expenditure towards organizing the workshop is not in the scope of the Consultant.
18	Chapter-IV, Tender Evaluation, (4.2-III), "Approach and Methodology"	<p>Approach and Methodology:</p> <p>Shortlisted/Qualified bidders shall be invited for detailed presentation to the Screening Committee covering following attributes and weightage criteria. This should be delivered by key team members, including the Project Director and the Project Manager.</p>	We understand the approach and methodology will not require to be provided in the technical proposal as a separate presentation will be made by the bidder to the Screening Committee. Please confirm if the understanding is correct.	Shortlisted bidders shall give a presentation on "Approach & Methodology" at a later stage of technical evaluation. Date & time for presentation shall be notified separately.
19	Chapter-V, Instruction to Bidders, (5), "Preparation of Bid"	<p>Preparation of Bid:</p> <p>d. In addition, Bidder has to submit hard copies of only Part-1 Bid. One sealed envelope containing hard copy of the Part-1 Bid shall be submitted.</p>	We would request you to consider online submission of both the technical and financial proposals in light of challenges faced by bidders due to COVID-19. The bidders may be allowed to submit digitally signed copies of all documents required for the submission of the technical proposal (including the pre-contract integrity pact, power of attorney, signed copy of tender document, declaration towards blacklisting etc.)	<p>Following documents shall be mandatorily submitted in hard copy (online as well) as part of Technical Bid (Part-1):</p> <ol style="list-style-type: none"> 1. Undertaking on Compliance of Tender Specifications & Terms and Conditions of Tender Document (Annexure-C)

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				2. EMD (DD or Annexure-J or NEFT/RTGS) 3. Integrity Pact (Annexure-L)
20	Chapter-V, Instruction to Bidders, (21), "Manner of Execution of Contract"	i. RECPDCL, after the issue of the Letter of Award to the Contractor, will send one copy of the final agreement to the Contractor in line with terms & conditions of the tender documents. ii. The Agreement, unless otherwise agreed to, shall be signed within 15 days of the acceptance of the Letter of Award, at the office of RECPDCL on a date and time to be mutually agreed....	From the pre-bid meeting we understand that the consultant would be required to initiate work at a very short notice post award. We would therefore request you to share the draft contract agreement for our internal approvals beforehand.	The Contract Agreement shall be based on the provisions, terms & conditions of the RFP only. It will be shared with the successful bidder after completion of tendering process.
21	Chapter-V, Instruction to Bidders, (25), "Penalty and foreclosure"	a. Absence of resources: If the full-time resources deployed are lesser than the prescribed requirement or are absent for a period of more than one week without prior approval from RECPDCL, a penalty would be levied at 150% times the monthly rate for the particular resource on pro-rata basis for the days of absence. b. Mid-course review: The manpower deployed by the agency shall be reviewed by RECPDCL from time to time. In case the qualification and experience of the manpower deviates from the requirement / structure stipulated under scope of work, a penalty would be levied at 150% times the monthly rate for the particular resource on pro-rata basis for the days of deviation, as decided by RECPDCL.	Proposed Clause: a. Absence of resources: If the full-time resources deployed are lesser than the prescribed requirement or are absent for a period of more than one week without prior approval from RECPDCL, a penalty would be levied at 5% of the monthly rate for the particular resource on pro-rata basis for the days of absence. b. Mid-course review: The manpower deployed by the agency shall be reviewed by RECPDCL from time to time. In case the qualification and experience of the manpower deviates from the requirement / structure stipulated under scope of work, a penalty would be levied at 5% of times the monthly rate for the particular resource on pro-rata basis for the days of deviation, as decided by RECPDCL. c. Foreclosure: A quarterly review meeting would be conducted to evaluate the performance of the consultant. In case the performance of the consultant is not found to be satisfactory, then the contract may be terminated.	No change

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		<p>c. Foreclosure: A quarterly review meeting would be conducted to evaluate the performance of the consultant. In case the performance of the consultant is not found to be satisfactory, then the contract may be terminated.</p>		
22	Chapter-V, Instruction to Bidders, (26), "Arbitration"	<p>If any dispute (s) or differences (s) of any kind whatsoever arise between the Parties, the Parties hereto shall negotiate with a view to arrive at amicable resolution and settlement through a committee appointed by Chairman, RECPDCL. In the event no amicable resolution or settlement is reached between the parties within 30 days after receipt of notice by one party, then the disputes or differences as detailed above shall be referred to and settled by the Sole Arbitrator to be appointed by Chairman, RECPDCL. The arbitration proceedings shall be in accordance with the prevailing Arbitration and Conciliation Act, 1996 and Laws of India as amended or enacted from time to time. The venue of the arbitration shall be New Delhi, India. The fee & other charges of Arbitrator shall be determined by the arbitrator in terms of the Act and shall be shared equally between the parties. The arbitrator will give the speaking and the reasoned Award. The parties will not be entitled to any pendent-lite interest during arbitration proceeding. Notwithstanding any references to Arbitration, the parties shall</p>	<p>Proposed Clause: If any dispute (s) or differences (s) of any kind whatsoever arise between the Parties, the Parties hereto shall negotiate with a view to arrive at amicable resolution and settlement through a committee appointed by Chairman, RECPDCL. In the event no amicable resolution or settlement is reached between the parties within 30 days after receipt of notice by one party, then the disputes or differences as detailed above shall be referred to and settled by arbitration. The arbitration proceedings shall be in accordance with the prevailing Arbitration and Conciliation Act, 1996 and Laws of India as amended or enacted from time to time. The venue of the arbitration shall be New Delhi, India. The fee & other charges of Arbitrator shall be shared equally between the parties. The arbitrator will give the speaking and the reasoned Award. The parties will not be entitled to any pendent-lite interest during arbitration proceeding. Notwithstanding any references to Arbitration, the parties shall continue to perform their respective work/ obligation under the contract.</p>	No change

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		continue to perform their respective work/ obligation under the contract.		
23	New clause		<p>Proposed Clause (Limitation of liability): RECPDCL shall not recover from the consultant, in contract or tort, under statute or otherwise, any amount with respect to loss of profit, data or goodwill, or any other consequential, incidental, indirect, punitive or special damages in connection with claims arising out of this Agreement or otherwise relating to the Services, whether or not the likelihood of such loss or damage was contemplated. RECPDCL shall not recover from the consultant, in contract or tort, under statute or otherwise, aggregate damages in excess of the fees actually paid for the services that directly caused the loss in connection with claims arising out this agreement or otherwise relating to the Services.</p>	No change
24			<p>Proposed Clause (Limitation of liability): The total aggregate liability of Consultant, whether in contract, tort (including negligence) or otherwise, under or in connection with this agreement, shall in no circumstances exceed a sum equal to the fees paid or payable by the Client under this agreement. In no event will Consultant be liable for any consequential, incidental, indirect, punitive or special losses or damages (including loss of profits, data, anticipated savings, business or goodwill), regardless of whether such liability is based on breach of contract, tort, strict liability, breach of warranties, failure of essential purpose or otherwise.</p>	
25			<p>Proposed Clause (Limitation of liability): There is no clause which limits firm's liability in the RfP. Kindly incorporate below clause in the contract: - "Notwithstanding anything contained in the contract, Client agrees that the Vendor/ Bidder / Consultant shall not be liable to Client, for any losses, claims, damages, liabilities, cost or expenses ("Losses") of any nature whatsoever, for an aggregate amount in excess of the fee paid under the contract for the services provided under the contract, except where such Losses are finally judicially determined to have arisen primarily from fraud or bad faith of the Vendor/ Bidder / Consultant. In no event shall the Vendor/ Bidder / Consultant, be liable for any consequential (including loss of profit and loss of data), special, indirect, incidental, punitive, or exemplary loss, damage, or expense relating to the services provided pursuant to this Contract."</p>	

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26	Chapter-V, Instruction to Bidders, (32), "Termination"	RECPDCL may at any time terminate/ cancel the contract, if the bidder is unable to provide the services as per the scope of work. In such cases, if any amount is due to the Bidder on account of the work executed by him, if payable, shall be paid to him only after due recoveries as per the provisions of the tender document and after alternate arrangement to complete the work has been made at the selected bidder's cost and risk. The selected bidder will give at least three months' notice prior to discontinuing the service.	<p>Additional Clause proposed for insertion: The consultant may terminate this agreement, or any particular Services, immediately upon written notice to RECPDCL if the consultant reasonably determines that it can no longer provide the Services in accordance with applicable law or professional obligations.</p>	No change
27	New clause		<p>Proposed Clause (Anti-Bribery and Anti-Corruption): Each Party represents, warrants and undertakes that: a) It has not and shall not offer, promise, give, encourage, solicit, receive or otherwise engage in acts of bribery or corruption in relation to this Agreement (including without limitation any facilitation payment), or to obtain or retain business or any advantage in business for any member of its group, and has and shall ensure to the fullest extent possible that its employees and agents and others under its direction or control and directly involved in providing Services under the Agreement do not do so. For the purposes of this clause it does not matter if the bribery or corruption is (i) direct or through a third party; (ii) of a public official or a private sector person; (iii) financial or in some other form; or (iv) relates to past, present, or future performance or non-performance of a function or activity whether in an official capacity or not, and it does not matter whether or not the person being bribed is to perform the function or activity to which the bribe relates, or is the person who is to benefit from the bribe. For the purposes of this clause, a "person" is any individual, partnership, company or any other legal entity, public or private. b) Each Party shall, adhere to applicable anti-bribery and corruption laws.</p>	No change. The relevant provisions are already part of Pre-contract integrity pact.

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			<p>c) Each Party shall, immediately upon becoming aware of them, give the other Party all details of any non-compliance with sub-clauses (a) and (b).</p> <p>d) It is a condition of this Agreement that each Party fully complies with this Clause. If it does not do so, without prejudice to any other remedy available to a party, the non-breaching party shall have the right (but not the obligation) in its absolute discretion to terminate the whole of this Agreement, or that part of this Agreement to which the bribery or corruption relates. For the avoidance of doubt, any breach of this Clause shall be deemed to be incapable of remedy.</p>	
28	New clause		<p>Proposed Clause (Economic and Trade Sanctions): As of the date of this Agreement the Client warrants that, (a) neither Client nor any of its subsidiaries, or any director or corporate officer of any of the foregoing entities, is the subject of any economic or trade sanctions or restrictive measures issued by the United Nations, United States or European Union ("Sanctions"), (b) the Client is not 50% or more owned or controlled, directly or indirectly, individually or collectively, by one or more persons or entities that is or are the subject of Sanctions, and (c) to the best of Client's knowledge, no entity 50% or more owned or controlled by a direct or indirect parent of the Client, is the subject of Sanctions. For purposes of clause (c) in this section, "parent" is a person or entity owning or controlling, directly or indirectly, 50% or more of the Client. For so long as this Agreement is in effect, the Client will promptly notify CRIS if any of these circumstances change, upon occurrence of which, CRIS shall have the right to terminate the Agreement immediately in whole or in part for reasons of the Client's breach.</p>	No change
29	New clause		<p>Proposed Clause (Non-Exclusivity): The Client acknowledges that CRIS or its associates may have other commercial transactions with the Client, other parties reviewed for the Client or referred in the agreement (if any) and the services provided under the agreement shall be on a non-exclusive basis.</p>	No change
30	New clause		<p>Proposed Clause (Non-conformity of deliverables): Client may notify the Consultant in writing within 10 calendar days of Consultant providing the Deliverables to the Client any substantial non-conformity of the Deliverables vis-à-vis the Requirements. Upon receiving Client's notification, the</p>	No change

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			<p>Consultant shall rectify the non-conformity verified by it and resubmit the Deliverables to the Client within 15 calendar days. The Deliverables shall be considered "accepted" upon such re-delivery or the expiry of 10 calendar days as stated above, whichever is earlier.</p>	
31	New clause		<p>Proposed Clause (GST): The fees and any amounts payable under this Agreement are exclusive of all applicable taxes (including GST), levies, duties etc. With regards to the applicability of Goods and Services Tax, the Client's address as mentioned for the purposes of GST will be considered as the consumption location for the Services provided by Consultant under this Agreement. The GST registration number ("GSTIN") provided by the Client will be used by Consultant for filing of the GST returns. With regards to the applicability of Goods and Services Tax, the Client's address as mentioned for the purposes of GST will be considered as the consumption location for the Services provided by Consultant under this Agreement. Where Consultant issues a credit note to the Client in relation to any invoice, the Client shall adjust and upload its Input Tax Credit on the GSTN on or before the end of the month in which the credit note is issued by Consultant to the Client. If the Client fails to do so, and this results in additional liability for Consultant, Client shall be liable to reimburse Consultant for any liability incurred by Consultant (being the tax, interest and any penalties thereon). The current contract pricing are based on an assumption that GST will apply to the services provided by the Consultant to the Client and the consultant is able to claim credit of the GST charged by its partners, vendors, sub-consultants. In the event that such assumption is incorrect and Consultant is not able to claim GST credit for the services provided to it by vendors, partners or sub-consultants, the consultant reserves its rights to recover from the Client an amount equivalent to 18% or prevailing GST rate on such invoice values to the Consultant.</p>	No change