



UCO BANK

Department of Information Technology

Request for Proposal (RFP) for Supply, Installation & Maintenance of Software Solution for setting up Centralised Forex Processing Centre-FXPC { Re-tendering}.

RFP REF NO: DIT/BPR&BTD/OA/5367/2019-20 Date: 20/02/2020

Amendments, Addendums

Corrigendum

Sl. No.	Existing Clause	Modified Clause
1	<p>Page No. 59, Clause No. 40 Order Cancellation</p> <p>UCO BANK reserves the right to cancel the order placed on the selected bidder and recover expenditure incurred by UCO BANK under the following circumstances: -</p> <ul style="list-style-type: none">a. Non-compliance of the scope of the job.b. Delay in commissioning / implementation / testing beyond the specified periodc. Serious discrepancy in the quality of service expected during the implementation, rollout and subsequent maintenance processd. Breach of any of the terms and conditions of the Purchase Order by the selected biddere. If the selected bidder goes into liquidation voluntarily or	<p>Modified Clause to be read as:</p> <p>The Bank reserves its right to cancel the Order/ Service Level Agreement by giving a written notice of ninety (90) days which will be inclusive of a cure period of thirty (30) days before cancellation of the Order/Service Level Agreement, in event of one or more of the following situations, that have not occurred due to reasons solely and directly attributable to the Bank alone:</p> <ul style="list-style-type: none">i. The bidder commits a breach of any of the terms and conditions of the offer or any of the terms and conditions of the Purchase Order / SLA.ii. Serious discrepancy in the quality of service expected during the implementation, rollout and

<p>otherwise</p> <p>f. The selected bidder commits a breach of any of the terms and conditions of the bid.</p> <p>g. The progress regarding execution of the order accepted, made by the selected bidder is found to be unsatisfactory.</p> <p>h. If deductions on account of liquidated damages exceeds more than 10% of the total contract price.</p> <p>i. In case of cancellation of order, any payments made by the Bank to the Vendor would necessarily have to be returned to the Bank, further the Vendor would also be required to compensate the Bank for any direct loss suffered by the Bank due to the cancellation of the contract/purchase order and any additional expenditure to be incurred by the Bank to appoint any other Vendor. This is after repaying the original amount paid.</p> <p>j. Vendor should be liable under this section if the contract/ purchase order has been cancelled in case sum total of penalties and deliveries equal to exceed 10% of the TCO.</p> <p>k. After award of the contract, if the selected bidder does not perform satisfactorily or delays execution of the contract, UCO Bank reserves the right to get the balance contract executed by any bidder of its choice by giving one month's notice for the same to the Bidder. In this event, the selected bidder shall be bound to make good additional expenditure, which UCO Bank may have to incur in executing the balance contract.</p>	<p>subsequent maintenance process.</p> <p>iii. The bidder goes into liquidation voluntarily or otherwise.</p> <p>iv. An attachment is levied or continues to be levied for a period of 7 days upon the effects of the order.</p> <p>v. The progress regarding execution of the order accepted made by the vendor is found to be unsatisfactory.</p> <p>vi. Non-compliance of the scope of the job.</p> <p>vii. Repetitive failure of the deployed personnel to perform the job to the satisfaction of the bank.</p> <p>viii. On the events of data piracy / privacy / system failures / security failures.</p> <p>ix. If deductions on account of liquidated damages exceed more than 10% of the total order price.</p> <p>In case of cancellation of the Order/Service Level Agreement due to the above stated situations, the following consequences will entail:</p> <p>I) In case the selected bidder fails to deliver the ordered hardware, software , services and FM resources as stipulated in the delivery schedule, UCO BANK reserves the right to procure these deliverable from alternate sources at the risk, cost and responsibility of the selected bidder with the capping of 125% of the original quoted</p>
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<p>This clause is applicable, if for any reason, the contract is cancelled.</p> <p>l. UCO BANK reserves the right to recover any dues payable by the selected bidder from any amount outstanding to the credit of the selected bidder, including the pending bills and/or invoking the bank guarantee under this contract.</p> <p>m. In addition to the cancellation of purchase order, UCO Bank also reserves the right to forfeit / invoke the Performance Guarantee / Security submitted to UCO Bank by the Bidder as well as blacklisting the Bidder.</p>	<p>cost for such deliverable as per commercial bid.</p> <p>II) If the bidder does not perform satisfactorily or delays execution of order, UCO Bank reserves the right to get the balance order executed by another party of its choice by giving 30 days' notice for the same. In this event the bidder is bound to make good with the capping of 125% of the original quoted cost for such deliverable as per commercial bid, which UCO Bank may have to incur in executing the balance order. This clause is applicable, if for any reason, the order is cancelled.</p> <p>III) UCO Bank reserves the right to recover any dues payable by the bidder under the contract from any amount outstanding to the credit of the bidder, including the bills and /or invoking the Bank Guarantee under this purchase order.</p> <p>IV) In case of cancellation of order, any advance payments (except payment against ATS) made by the Bank to the Vendor for implementation of project, would necessarily have to be returned to the Bank, if bidder fail to return such payment within 30 days, then vendor have to be returned amount to the Bank with interest @ 15% per annum , further the Vendor would also be required to compensate the Bank for any direct loss suffered by the Bank due to the cancellation of the contract/purchase order and any additional expenditure to be incurred by the</p>
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		<p>Bank to appoint any other Vendor. This is after repaying the original amount paid.</p> <p>V) Vendor should be liable under this section if the contract/ purchase order has been cancelled in case sum total of penalties and deliveries exceeds 10% of the TCO.</p> <p>VI) In case of order cancellation Bank will notify selected bidder with 90 days' notice period inclusive of 30 days cure period before cancellation of the Order. However, it is clarified that the notice should specifically contain that the 90 days period for cancellation is inclusive of cure period of 30 days, if the Vendor fails to cure within 30 days' time the notice for cancellation will become absolute.</p>
2	<p>Page no. 50 Clause No. 24 Indemnity</p> <p>The selected Bidder agrees to indemnify and keep indemnified the Bank against all losses, damages, costs, charges and expenses incurred or suffered by the Bank due to or on account of any claim for infringement of intellectual property rights.</p> <p>The selected Bidder agrees to indemnify and keep indemnified the Bank against all losses, damages, costs, charges and expenses incurred or suffered by the Bank due to or on account of any breach of the terms and conditions contained in this RFP or Service Level Agreement to be executed.</p>	<p>Modified Clause to be read as:</p> <p>Selected bidder shall indemnify, protect and save the Bank and hold the Bank harmless from and against all claims, losses, costs, damages, expenses, action suits and other proceedings, (including reasonable attorney fees), relating to or resulting directly or indirectly from</p> <p>a) an act or omission of the service provider and /or its employees, agents, sub-contractors in performance of the obligations under this RFP; and/or</p>

<p>The selected Bidder agrees to indemnify and keep indemnified Bank at all times</p> <p>against all claims, demands, actions, costs, expenses (including legal expenses), loss of reputation and suits which may arise or be brought against the Bank, by third parties on account of negligence or failure to fulfil obligations by the selected bidder or its employees / personnel.</p> <p>All indemnities shall survive notwithstanding expiry or termination of Service Level Agreement and the Vendor shall continue to be liable under the indemnities.</p> <p>Selected Bidder is required to furnish a separate Letter of Indemnity (Format whereof to be supplied by the Bank) in Bank's favour in this respect before or at the time of execution of the Service Level Agreement.</p>	<p>b) material breach of any of the terms of this RFP or breach of any representation or false representation or inaccurate statement or assurance or covenant or warranty of the service provider under this RFP; and/or,</p> <p>c) Bank's authorized/ bona-fide use of the deliverables and/or the services provided by the service provider under this RFP; and/or</p> <p>d) Infringement of any patent, trademarks, copyrights etc. Or such other statutory infringements in respect of all components provided to fulfil the scope of this project.</p> <p>Vendor shall further indemnify the Bank against any loss or damage to the Bank premises or property, loss of life, solely attributable, due to the acts of the Vendor's employees or representatives. The Vendor shall further indemnify the Bank against any loss or damage arising out of claims of infringement of third-party copyright, patents, or other intellectual property, and third-party claims on the Bank for malfunctioning of the equipment or software or deliverables at all points of time, provided however,</p> <p>i. the Bank notify the vendor in writing immediately on becoming aware of such claim,</p> <p>ii. the Vendor has sole control of defence and all related settlement negotiations,</p> <p>iii. the Bank provides the Vendor with the</p>
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		<p>assistance, information and authority reasonably necessary to perform the above, and</p> <p>iv. The Bank does not make any statement or comments or representations about the claim without prior written consent of the Vendor, except under due process of law or order of the court.</p> <p>It is clarified that the vendor shall in no event enter into a settlement, compromise or make any statement (including failure to take appropriate steps) that may be detrimental to the Bank (and/or its customers, users and service providers) rights, interest and reputation. Vendor shall be responsible for any loss of life, etc. due to acts of Vendor's representatives, and not just arising out of gross negligence or misconduct, etc. as such liabilities pose significant risk. Vendor should take full responsibility for its and its employee's actions.</p> <p>The vendors should indemnify the Bank (including its employees, directors or representatives) from and against claims, losses, and liabilities arising from:</p> <ul style="list-style-type: none"> •Non-compliance of the vendor with applicable Laws / Governmental Requirements, IP infringement; •Negligence or gross misconduct attributable to the Vendor, its employees, and agents •Breach of any terms of RFP, Representation or Warranty •Act or omission in performance of service. <p>Further,</p> <p>i.Vendor's aggregate liability in connection with</p>
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		<p>obligations undertaken as a part of the RFP regardless of the form or nature of the action giving rise to such liability (whether in contract, tort or otherwise), shall be at actual and limited to the Total Contract Value.</p> <p>ii. Vendor's liability in case of claims against the Bank resulting from Wilful Misconduct or Gross Negligence of Bidder, its employees and Subcontractors or from infringement of patents, trademarks, copyrights or such other Intellectual Property Rights or breach of confidentiality obligations shall be unlimited.</p> <p>iii. Bank shall not be held liable for any responsibility or claim / litigation arising out of the use of any third party software or modules supplied by Bidder as part of procurement under the RFP.</p> <p>iv. Under no circumstances bank shall be liable to the selected Bidder for direct, indirect, incidental, consequential, special or exemplary damages arising from termination of this Agreement, even if UCO Bank has been advised of the possibility of such damages, such as, but not limited to, loss of revenue or anticipated profits or lost business.</p> <p>v. Subject to any law to the contrary, and to the maximum extent permitted by law Bank shall not be liable to vendor for any consequential/ incidental, or indirect damages arising out of this agreement.</p> <p>Indemnity would be limited to court; tribunal or arbitrator awarded damages and shall exclude indirect, consequential and incidental damages. However indemnity would cover damages, loss or liabilities suffered by the Bank arising out of claims</p>
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		<p>made by its customers and/or regulatory authorities.</p> <p>The vendor shall not indemnify the Bank for</p> <p>i. Any loss of profits, revenue, contracts, or anticipated savings or</p> <p>ii. Any consequential or indirect loss or damage however caused, provided that indemnity would cover damages, loss or liabilities suffered by the Bank arising out of Claim made by Regulatory Authorities for reasons attributable to breach of services provided/ obligation under this document and by the Service Provider.</p>
3	<p>Page No. 62, Clause No. 46, Limitation of Liability</p> <p>Bidder's aggregate liability under the contract shall be limited to a maximum of the contract value. This limit shall not apply to third party claims for</p> <p>a. IP Infringement indemnity.</p> <p>b. Bodily injury (including Death) and damage to real property and tangible property caused by Bidder/s' gross negligence. For the purpose of this section, contract value at any given point of time, means the aggregate value of the purchase orders placed by Bank on the Bidder that gave rise to claim, under this RFP.</p> <p>Bidder shall be liable for any indirect, consequential, incidental or special damages under the agreement/ purchase order.</p>	<p>Modified Clause to be read as:</p> <p>i. For breach of any obligation mentioned in this document, subject to point no. iii, in no event selected bidder shall be liable for damages to the Bank arising under or in connection with this agreement for an amount exceeding the total project cost/contract value.</p> <p>ii. Service Provider will ensure Bank's data confidentiality and shall be responsible for liability arising in case of breach of any kind of security and/or leakage of confidential customer/Bank's related information to the extent of loss cause.</p> <p>iii. The limitations set forth in point no. 1 shall not apply with respect to:</p> <p>a) claims that are the subject of indemnification pursuant to Intellectual Property Rights and Ownership.</p>

		<p>b) damages occasioned by the gross negligence or willful misconduct of Service Provider.</p> <p>c) damages occasioned by Service Provider for breach of confidentiality obligations.</p> <p>d) Regulatory or statutory fines imposed by the Government or Regulatory agency or non-compliance of statutory or regulatory guidelines applicable to the project.</p> <p>“Gross Negligence” means an indifference to, and/or a blatant violation of a legal duty with respect of the rights of others, being a conscious and voluntary disregard of the need to use reasonable care, which is likely to cause foreseeable grave injury or harm to persons, property, or both. Gross negligence involves conduct that is extreme, when compared with ordinary negligence. A mere failure to exercise reasonable care shall not be a gross negligence.</p> <p>“Wilful Misconduct” means any act or failure to act with an intentional disregard of any provision of this RFP/Contract, 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>
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Page No. 53, Clause No. 30 Exit Option and Contract Re-Negotiation

The Bank reserves the right to cancel the contract in the event of happening one or more of the following Conditions:

- Failure of the Selected bidder to accept the contract / purchase order and furnish the Performance Guarantee within 30 days of receipt of purchase contract;
- Delay in offering;
- Delay in commissioning project beyond the specified period;
- Delay in completing commissioning / implementation and acceptance tests / checks beyond the specified periods;
- Serious discrepancy in project noticed during the testing;
- Serious discrepancy in functionality to be provided or the performance levels agreed upon, which have an impact on the functioning of the Bank.
- Serious discrepancy in completion of project.
- Serious discrepancy in maintenance of project.

In addition to the cancellation of purchase contract, Bank reserves the right to appropriate the damages through encashment of Bid Security / Performance Guarantee

The Bank reserves the right to cancel the contract in the event of happening one or more of the following Conditions:

- Failure of the Selected bidder to accept the contract / purchase order and furnish the Performance Guarantee within 30 days of receipt of purchase contract;
- Delay in offering;
- Delay in commissioning project beyond the specified period;
- Delay in completing commissioning / implementation and acceptance tests / checks beyond the specified periods;
- Serious discrepancy in project noticed during the testing;
- Serious discrepancy in functionality to be provided or the performance levels agreed upon, which have an impact on the functioning of the Bank.
- Serious discrepancy in completion of project.
- Serious discrepancy in maintenance of project.

Bank shall notify selected bidder with 90 days' notice period inclusive of 30 days cure period before cancellation of the Order. However, it is clarified that the notice should specifically contain that the 90 days period for cancellation is inclusive of cure period of 30 days, if the Vendor fails to cure

<p>given by the Selected Bidder.</p> <p>The Bank will reserve a right to re-negotiate the price and terms of the entire contract with the Selected Bidder at more favorable terms in case such terms are offered in the industry at that time for projects of similar and comparable size, scope and quality.</p> <p>The Bank shall have the option of purchasing the equipment from third-party suppliers, in case such equipment is available at a lower price and the Selected Bidder's offer does not match such lower price. Notwithstanding the foregoing, the Selected Bidder shall continue to have the same obligations as contained in this scope document in relation to such equipment procured from third-party suppliers.</p> <p>As aforesaid the Bank would procure the equipment from the third party only in the event that the equipment was available at more favorable terms in the industry, and secondly,</p> <p>The Equipment procured here from third parties is functionally similar, so that the Selected Bidder can maintain such equipment.</p> <p>The modalities under this right to re-negotiate /re-procure shall be finalized at the time of contract finalization.</p>	<p>within 30 days time the notice for cancellation will became absolute.</p> <p>In addition to the cancellation of purchase contract, Bank reserves the right to appropriate the damages through encashment of Bid Security / Performance Guarantee given by the Selected Bidder.</p> <p>The Bank will reserve a right to re-negotiate the price and terms of the entire contract with the Selected Bidder at more favourable terms in case such terms are offered in the industry at that time for projects of similar and comparable size, scope and quality.</p> <p>The Bank shall have the option of purchasing the equipment from third-party suppliers, in case such equipment is available at a lower price and the Selected Bidder's offer does not match such lower price. Notwithstanding the foregoing, the Selected Bidder shall continue to have the same obligations as contained in this scope document in relation to such equipment procured from third-party suppliers.</p> <p>As aforesaid the Bank would procure the equipment from the third party only in the event that the equipment was available at more favourable terms in the industry, and secondly, The Equipment procured here from third parties is functionally similar, so that the Selected Bidder can maintain such equipment.</p>
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<p>Notwithstanding the existence of a dispute, and/or the commencement of arbitration proceedings, the Selected Bidder will be expected to continue the services. The Bank shall have the sole and absolute discretion to decide whether proper reverse transition mechanism over a period of 6 to 12 months, has been complied with. In the event of the conflict not being resolved, the conflict will be resolved through Arbitration.</p> <p>The Bank and the Selected Bidder shall together prepare the Reverse Transition Plan. However, the Bank shall have the sole decision to ascertain whether such Plan has been complied with.</p> <p>Reverse Transition mechanism would typically include service and tasks that are required to be performed / rendered by the Selected Bidder to the Bank or its designee to ensure smooth handover and transitioning of Bank's deliverables, maintenance and facility management.</p> <p>In the event of Agreement comes to end on account of termination or by the expiry of the term / renewed term of the Agreement or otherwise, the Successful bidder shall render all reasonable assistance and help to the Bank and to any new vendor engaged by the Bank, for the smooth switch over and continuity of the Services.</p>	<p>The modalities under this right to re-negotiate /re-procure shall be finalized at the time of contract finalization.</p> <p>Notwithstanding the existence of a dispute, and/or the commencement of arbitration proceedings, the Selected Bidder will be expected to continue the services. The Bank shall have the sole and absolute discretion to decide whether proper reverse transition mechanism over a period of 6 to 12 months, has been complied with. In the event of the conflict not being resolved, the conflict will be resolved through Arbitration.</p> <p>The Bank and the Selected Bidder shall together prepare the Reverse Transition Plan. However, the Bank shall have the sole decision to ascertain whether such Plan has been complied with.</p> <p>Reverse Transition mechanism would typically include service and tasks that are required to be performed / rendered by the Selected Bidder to the Bank or its designee to ensure smooth handover and transitioning of Bank's deliverables, maintenance and facility management. However during transitioning period payment will be made to vendor as per payment terms.</p>
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Addendum

Sl. No.	Description	New Clause Added
1	Amendment(s) in the Contract / Service Level Agreement	There shall be no variation(s) in or modification(s) in the terms of the Contract/Service Level Agreement save and except by a written mutual consent signed by both the Parties i.e. the Bank and Vendor. Bank shall have the discretion/liberty to give effect to any amendment, modification etc. in the Contract/Service Level Agreement, if so required by Bank, sequel to any amendment(s)/ modification(s) etc. in the applicable Laws/Statutes including but not limited to amendment(s)/ modification(s) etc. in the existing Guidelines/ Instructions issued/to be issued by any Regulatory Authority.
2	Severability	If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any Applicable Law, and if the rights or obligations of the Parties under this Contract/ Service Level Agreement will not be materially and adversely affected thereby (a) such provision will be fully severable; (b) this Contract/Service Level Agreement will be construed and enforced as if such illegal, invalid, or unenforceable provision had never been comprised a part hereof; and (c) the remaining provisions of this Contract/ Service Level Agreement will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance here from.

Place: Kolkata

Date : 04/07/2020
