**Pre-bid Queries and clarifications**

**RFP No.400/2018/1311/BYO/CAV dated February 16, 2018**

**RfP for appointment of Tax Consultant**

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| **Sr. No.** | **Page No.** | **Section & Clause Ref. no./Appendix no./Annexure no.** | **Clauses in RFP** | **Clarification sought** | **SIDBI Comments** |
| 1. | 10 | 2.6 | **Receiving of RFP Response**  All submissions, including any accompanying documents, will become the property of Bank. | We would expect all the submissions, including any accompanying documents etc. will be returned to bidder if the bidder does not succeed.  However, it is clarified that all the submissions made before income tax authorities such as IT returns, forms etc. shall be property of the Bank. | All submissions, including any accompanying documents, will become the property of Bank even if the bidder does not succeed. |
| 2. | 15 | 4.2 | **Project Scope**  *(A)* *– Direct Tax*  *f. Providing Training to officers/staff of the Bank in Taxation related matters*. | Kindly specify the number of trainings per annum that are expected to be conducted by the successful bidder. | The training will be need based as and when required by the bank. |
| 3. | 16 | 4.3 | **General**  *c) The award of contract shall not normally be more than 2 years except in very rare cases where it can be awarded for a period not exceeding three years. However,*  *the assignment thus awarded to the consultant selected on the basis of the evaluation or the LCB will be initially for a period of 12 months, with scope for extension for an additional period of upto 2 years, one year at a time or any period of time within that limit, subject to satisfactory performance at the time of annual review of performance of the consultant and at the Bank’s discretion* | What is the exact period of engagement of the successful bidder under this RFP. | The assignment awarded will be initially for a period of 12 months. The assignment can be extended for additional period up to 2 years, one year at a time or any period of time within that limit,**subject to satisfactory performance at the time of annual review** of performance of the consultant and at the Bank’s discretion |
| 4. | 16 | 4.2 [B] (e) | *Advising on queries promptly being received from Bank’s Branch offices/Regional offices/ HO verticals, as referred to by the Bank.* | Will the services involve regional level co-ordination or will there be a spoc at H.O. level to co-ordinate for all the queries. | The co-ordination for all the queries received from Bank’s Branch offices / Regional offices / HO verticals, will be at HO level. |
| 5. | 16 | 4.2 [B] (f) and (g) and 4.2 [C] | *Drafting, filing appeals and appearing before the appellate authorities – including but not limited to Commissioner of Service Tax/GST (Appeals) and Custom Excise & Service Tax Appellate Tribunal, or any other Appellate Tribunal including GST for this purpose).*    *Opinion on the issues raised in audit conducted by the various authorities; and drafting reply to queries raised during ; briefing Counsel for appearing Appellate Tribunal under Service Tax/GST for this purpose.*    *The consultant may require to visit the States / places outside Mumbai, in connection with handling appeals or any other matter.* | Whether the appearance (before Tribunal and higher authorities) will be sub-contracted to Counsel by the consultant or directly by the Bank. | All matters related to the appearance before appellate / Tribunal / higher authorities will be handled by the tax consultant. The appointment of the counsel will be as recommended by the tax consultant and approved by the Bank. |
| 6. | 16 | 4.2 B (h) | *For the said agreement GST/ Service Tax shall mean any other similar law which may be in force in future.* | Kindly clarify is there is any other indirect tax (other than GST) is envisaged to be covered as a part of this agreement. | In addition to the references received for current indirect taxes, any other tax law, if any, that may be introduced/announced by the Govt. of India in future is covered as a part of this agreement. |
| 7. | 16 | 4.2 B (i) | *Providing Training to officers/staff of the Bank in Taxation related matters.* | What would be the frequency of such training? Will it involve any visit to locations other than H.O.? | The training will be need based as and when required by the bank. In case participation is required from other locations, the training will be held through Video Conference from Mumbai. |
| 8. | 16 | 4.2 B (k) | *The consultant shall provide related policies & procedures for the GST compliance and handholding in the initial time period of implementation and filing of returns.* | Will this involve reviewing and advising on SOP or also include preparation activity with bank team. | As per RFP. |
| 9. | 16 | 4.2 [D] | *Advising, guiding on any other issues related to Compliance with all relevant Rules and provisions related to Direct and Indirect tax other than mentioned at A and B*  *above and any other similar law(s) along with implementation thereof which may be in force in future.* | We understand that the said scope involves advisory on various GST related issues for procedures, compliances and filings.    Please confirm that this does not involve review of computations or payments or filing of returns or maintaining any records under GST for the Bank. | Yes, for both, direct and indirect tax.  As far as GST is concerned, this does not involve review of computations or payments or filing of returns or maintaining any records for the Bank. |
| 10. | 18, 19 | 5(3) | **Conflict of Interest**  *(b) The consultant and****its affiliates****shall not engage in consulting activities that conflict with the interest of the client under the contract. The consultants should provide professional, objective and impartial advice and at all times hold the bank’s interests paramount, without any consideration for future work, and that in providing advice they avoid conflicts with other assignments and their own corporate interests. It is clarified that the bidder shall not undertake any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the bank.*    *[c] Without limitation on the generality of the fore-goings, the selected bidder and****any of their affiliates and member firms****, shall be considered to have conflict of interest and shall not be engaged under any of the circumstances set forth below:*  *(i) Conflict among consulting assignments: Consultants (including their personnel) or any of their affiliates and members shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultants to be executed for the same or /and any other employer.*    *[d] The bidders have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interests of the bank, or that may reasonably be perceived as having this effect. The bidders will disclose in their tender*  *details of any circumstances, including personal, financial and business activity that will, or might, give rise to a conflict of interest if they are awarded contract pursuant to RfP.*    *[e] If tenderer identify any potential conflict, at any stage of their engagement, they should forthwith inform the bank and state how they intend/plan to avoid such conflicts.* | Being a service provider, we  provide services which are similar in nature to various clients. It may not be possible for us to avoid conflict everytime. However appropriate confidentiality shall be maintained and in case we being aware of any situation of actual or potential conflict we can inform the Bank.    Further, this Agreement is between the consultant and the Client and where there are no affiliates involved, hence the references of affiliates should be removed from the entire document. | As per RFP. |
| 11. | 21 | 6.2 | Technical Scoring Methodology | What is the date of technical presentation to be made by the Bidders to the Bank before finalisation of technical score. | As of now there is no requirement of technical presentation under RFP. The date may be communicated in due course if required. |
| 12. | 26 | 7.13 | **Indemnity:**  The successful bidder shall exercise reasonable skill, care and diligence in the performance of the assignment and indemnify and keep SIDBI, its officers, directors, employees indemnified in respect of any loss, damage or claim howsoever arising out of or related to breach of contract, statutory duty or negligence by the firm or it’s staff, agents or subcontractors in relation to the performance or otherwise of the Services to be provided under the contract | We suggest the following indemnity clause to be inserted :    *“The Client shall indemnify and hold harmless consultant and any other consultant Entity from all third party Claims except to the extent finally determined to have resulted primarily from fraud of the consultant, or any other consultant Entity.  In circumstances where all or any portion of the provisions of this Paragraph are finally determined to be unavailable, the aggregate liability of consultant and all other consultant Entities (including their respective personnel) for any Claim shall not exceed an amount which is proportional to the relative fault that their conduct bears to all other conduct giving rise to such Claim.”* | As per RFP. |
| 13. | 27 | Clause 7.14(b) | **Representations and Warranties:**  That the bidder is not involved in any litigation, potential, threatened and existing,  that may have an impact of effecting or compromising the performance and delivery of Service(s) under the Engagement. | The bidder may be able to provide confirmation in respect of  the key professional staff that shall carry out the assignment of bank under this Bid. | As per RFP. |
| 14. | 27 | Clause 7.14 (i) | **Representations and Warranties:**  That there are –  (1) No legal proceedings pending or threatened against bidder or any of its partners or its team which adversely affect/may affect performance under this Engagement; and  (2) No inquiries or investigations have been threatened, commenced or pending against the bidder or any of its Partners or its team members by any statutory or regulatory or investigative agencies. | The bidder may be able to provide confirmation in respect of  the key professional staff that shall carry out the assignments of Bank under this Bid. | As per RFP. |
| 15. | 28 | Clause 7.15 | **Confidentiality Clause** | The confidentiality seems to be perpetual. Kindly let us know the clause be restricted to 1 year. | The confidentiality shall be perpetual. |
| 16. | 28 | Clause 7.16 | We do not have any termination right as per our standard tax terms where it protects us in case of any independence/conflict related issues. | We suggest the following indemnity clause to be inserted:    *“The*consultant*may terminate the Contract, in whole or in part, with immediate effect upon written notice to the Client if the*consultant*determines that the performance of any part of the Services is or becomes in conflict with law or independence or professional rules applicable to the*consultant*Entities in performance of the services.”* | As per RFP. |
| 17. | 39 | 8.8 | **Annexure – H - Pre Contract Integrity Pact**  *“M/s \_\_\_\_\_\_\_ represented by Shri \_\_\_\_\_, Chief Executive Officer (hereinafter called the “BIDDER/Seller”* | Kindly let us know whether an executant (partner) who can represent and bind the consultation firm holding a written authority letter issued by Competent Authority of consultant firm, can execute Pre Contract Integrity Pact. | As per RFP. |
| 18. | 40 | 8.8 – Sub para 3.3 | *BIDDERs shall disclose the name and address of agents and representatives and Indian BIDDERs shall disclose their foreign principals or associates.* | Kindly let us know, who shall be covered under the term “ foreign principals or associates” | As per RFP. |
| 19. | 40 | 8.8 – Sub para 3.5 | **Commitments of buyer**  *The BIDDER further confirms and declares to the BUYER that the BIDDER is the Original manufacture/integrator/ authorized government sponsored export entity of the defence stores and has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or any way to recommend to the BUYER or any of its functionaries, . .* | This clause does not appear to be applicable for Tax Consultants, Kindly let us know whether bidder is required to confirm this clause in pre-integrity pact. | As per RFP. |
| 20. | 43 | 8.8 – Sub para 12 | The validity of this Integrity Pact shall be from the date of its signing and extent up to 5 years. | We suggest that the validity of IP should be one year | As per RFP. |
| 21. | 18                                  41 | 5(3)(c)(ii)                                  8.8 – Sub para 3.12 | **Conflict of Interest.**  *(ii) Relationship with the staff: Consultants (including their personnel) that have a business or family relationship with a member of SIDBI’s staff who are directly or indirectly involved in any part of (a) the preparation of the RfP or the contract or terms of reference or assignment, (b) the selection process for such assignment / contract, or (c) supervision of such contract; may not be awarded a contract, unless it is established to the complete satisfaction of the employing authority, for the reason to be recorded in writing, that such relationship would not affect the aspects of fairness and transparency in the selection process and monitoring of consultant’s*  *work because of resolution of conflict stemming from such relationship in a fair and reasonable manner throughout selection process and execution of the contract.*    **Commitments of buyer**  *if the BIDDER or any employee of the BIDDER or any person acting on behalf of the BIDDER, either directly or indirectly, is a relative to any of the officers of the BUYER or alternatively, if any relative of the officer of the BUYER has financial interest/stake in the BIDDER’s firm, the same shall be disclosed by the BIDDER at the time of filling of tender.* | The bidder/consultant is a practising in India having employed more than 3,000 people, is practically unable to confirm and disclose that its employees is directly or indirectly related to any officers of the buyer. Alternatively, bidder/consultant may be able to confirm that none of the key professional staff that shall carry out the assignments of bank is related to any officer of the bank. | As per RFP. |
| 22. | 42 | 8.8 – Sub para 7 | **Fall Clause**  *The BIDDER undertakes that it has not supplied/is not supplying similar products /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 and if . . .* | This clause does not appear to be applicable for Tax Consultants, Kindly let us know whether bidder is required to give undertaking on this clause in pre-integrity pact. | As per RFP. |
| 23. | 43 | 9 | **Facilitation of investigation**  *In case of any allegation of violation of any provision of this Pact or payment of commission,****the BUYER or its agencies shall be entitled to examine all the documents including the Books of Accounts of the BIDDER****and the BIDDER shall provide necessary information and documents in English and shall extend all possible help for the purpose of such examination.* | This clause does not appear to be applicable for Tax Consultants, Kindly let us know whether bidder is required to give undertaking on this clause in pre-integrity pact.    We do not share information on financials of the Firm (including access to books of accounts) as these are strictly private and confidential. Therefore we suggest the words “***the BUYER or its agencies shall be entitled to examine all the documents including the Books of Accounts of the BIDDER”***should be removed.  Further, it is suggested that following words shall be inserted “*by way of providing time and expenses related records”*after the words such examination. | As per RFP. |
| 24. |  |  |  | There is no limitation of liabilities mentioned in the Bid document. We suggest the insertion of the following language in the indemnity clause:    “The liability of DHS in connection with this Contract will be limited to one time of fees received under this Contract” | AS per RFP. |