

National e-Governance Services Limited

Clarifications/ Corrigendum, dated 17th September, 2019

RFP. No: NESL/IU /2019/001 Date: 7th Aug, 2019

Sr No	Section	RFP Clause	Query / Suggestions from prospective bidders	Bidder Concern / Query	Clarification by NeSL	Corrigendum:
3	10 Penalties	10.3 Any loss incurred by NESL due to penalties or other charges imposed by regulatory authorities, such as, IBBI , UIDAI and CCA for non-compliance by the application system of their requirements or for breach of any rule, for the reasons attributed to supplier, the same will be recovered in to-to	Bidder would be liable for SLAs , Penalties relates to regulatory authorities cannot be applied	Bidder cannot be made liable for penalties related to regulatory authorities, since all the programs/applications developed by us will be tested by your teams for all functional/regulatory compliance , before rolling into production - hence this point is irrelevant/unfair	Please refer corrigendum.	The para No 10.3, Section - III: 'Penalty' is deleted.

		<p>from the amounts payable to the supplier. However, such recoveries , if any, will be limited to 10 % of the total amount of Column H of Phase 1 Section - V, i. e. the total estimated charges quoted by the bidder for Phase 1.</p>				
6	Limitation of Liability	Limitation of Liability	<p>Penalties for breach of SLAs is already mentioned in RFP hence we request NeSL to exclude indirect liabilities from LOL clause. Would</p>	<p>BIDDER policy mandates the exclusion of indirect/consequential damages in any contract and hence we request you to kindly add the suggested clause, else BIDDER will not be able to</p>		<p>The para No 14, Section - III : "Limitation of Liability" is amended as given below: i: The maximum aggregate liability of Service Provider, subject to clause 14(ii) below, in respect of following</p>

			<p>suggest to add following to LOL Clause "Neither party shall be liable to the other for any special, indirect, incidental, consequential (including loss of profit or revenue, loss of data), exemplary or punitive damages whether in contract, tort or other theories of law, even if such</p>	<p>participate in this bid</p>		<p>cases shall not exceed the total amount of Column H of Phase 1 Section - V, i.e. the total estimated charges quoted by the supplier for Phase 1.</p> <p>a. any claims, losses, costs or damages arising out of or in connection with this RFP, Contract/ Works Order or SoW,</p> <p>b. damage(s) occasioned by Service Provider for breach of Confide</p>
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			party has been advised of the possibility of such damages "			ntiality Obligations c. Regulatory or statutory fines imposed by a Government or Regulatory agency for non-compliance of statutory or regulatory guidelines applicable to NeSL, provided such Rules, Regulations etc. were brought to the notice of Service Provider.
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						<p>ii. The limitations set forth at para 14(i) above, shall not apply with respect to:</p> <p>a) claims that are the subject of indemnification pursuant to infringement of third party Intellectual Property Right;</p> <p>b) damage(s) occasioned by the Gross Negligence or Willful Misconduct of Service Provider,</p>
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						<p>iii. Under no circumstances shall either Party be liable for any indirect, consequential or incidental losses, damages or claims including loss of profit, loss of business or revenue.</p>
7	Indemnity	<p>The supplier shall save, indemnify and hold harmless NESL from any third party Govt. Claims, losses, penalties, if any, arising in connection with this Contract.</p>	<p>As you would appreciate, Bidder would be supplying support as per NESL's requirement, to ensure that the bidder meets these commitments,</p>	<p>Request clarity on this - since we are unable to determine the correlation on the Govt claims w.r.t our employees. In our view, these are typically the claims that the third party will impose on</p>	<p>Please refer the corrigendum.</p>	<p>Para 16, Section - III: "Indemnity" is amended as given below:</p> <p>Supplier may please note that, NESL shall neither be the Employer of nor shall it be deemed to be the principal employer</p>

			<p>the NESL has listed LD's and penalties for any breach of the same. However it must be clearly understood that the bidder is not responsible for the business outcome, since the same is defined by the NESL. Under these circumstances, it is not felt appropriate to expect bidder to</p>	<p>Nesl - as a part of your contractual/regulatory obligation with them - for which bidder is not liable.</p>		<p>of any persons to be deployed by the supplier towards the service rendered and shall not in any manner be responsible for any act, omission or commissions by the supplier, the manpower deployed for this project or by his employees, in respect of any noncompliance of all or any labour and other laws statutory notifications, relevant rules and regulations applicable to the provision of</p>
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			<p>indemnify the NESL against losses and make good the same, which could be considered in the event of a business partnership wherein the risks and rewards are equally shared between the parties . It is with this intent that we wanted the NESL to remove this clause</p>		<p>Provident Fund and ESIC of the persons engaged by the supplier and no claim in the respect shall lie against NeSL. The supplier shall keep indemnified NeSL for any such claim raised by employees of the supplier. It may be expressly understood that the relationship between the parties hereto is as Principal - to - Principal and the supplier shall not be an agent of NeSL for any</p>
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						purpose whatsoever, and shall not represent or hold himself out as such to any person/s.
20	II	The bidder must have developed at least three projects on open source platform, versatile in developing API, microservices with focus on data security, in last 5 years. The relevant documents in support of this requirement should be submitted along with the technical proposal listed at para 5, Envelope	In work order/contract document/RFP, development of API, microservices with focus on data security are not mentioned specifically, they are part of design document which is most of the time are classified as confidential and not shared.	Our clients have signed NDA with us, so we cannot share copy of order as we have to comply to our customer obligations. We would request you to allow us to share supporting case-studies.	This is acceptable.	

		3. Section - I	Can we submit a self-certificate for this?			
4	In Eligibility Criteria	Point 4 : " The bidder should be a profit making company (profit after tax) in at least three of the last five financial years."			5 financial years includes up to FY 18-19 for this eligibility criteria	
<p>Please note that this corrigendum supersedes the earlier corrigendum published on 9th September, 2019. No further queries will be entertained for this RFP.</p>						