

E-Tender No.: IPA/GAD/Container Scanner/2016 dated 16-11-2016
Procurement of 7 (Seven) Nos of Mobile X-Ray Container Scanning Systems
Pre-bid meeting held on 22-11-2016

<u>S.No.</u>	<u>Clause/ Description</u>	<u>Query/ Suggestion</u>	<u>Clarifications</u>
1.	<u>Name of Firm : M/s Leidos, Inc</u>		
a)	General Query	Can those bidders which already submitted an EMD bank guarantee, submit an amendment to the same bank guarantee extending the existing EMD validity date as per tender requirement	<i>EMD submitted against Tender No. IPA/GAD/Container Scanner/2016 dated 16/06/2016, revalidated to the requirements as in the instant tender dated 16-11-2016 will be acceptable.</i>
b)	General Query	For those bidders that already submitted the tender fee, do they have to submit a fresh tender fee	<i>Yes, fresh tender fee need to be submitted.</i>
c)	General Query	Please clarify whether the financial accounts prepared on the basis of Non-GAAP standards, i.e. per Indian Accounting Standards, duly certified by the certified public accountant (CPA) shall be acceptable by IPA	Financial Accounts prepared on the basis of Accounting Standards of the country where the bidder is located, shall be acceptable. However, Financial Accounts prepared on the basis of GAAP as well as Non GAAP Accounting principles are acceptable provided the same are duly audited by the Certified Public Accountants.
2.	<u>Name of Firm : M/s Rapiscan Systems</u>		
a)	General Query	We are one of the bidders for earlier tender No. IPA/GAD/Container Scanner/2016 Dated June 2016. We understand that the tender dated June 2016 now stand cancelled. However, there is no official information regarding cancellation of this tender, whereas a re-tender is invited with the same Tender No. IPA/GAD/Container Scanner/2016 Dated Nov 2016. Do we understand that both the tender are same and earlier tender of June 2016 is scrapped, please clarify.	<i>Earlier tender dated 16-06-2016 has been discharged. A fresh tender dated 16-11-2016 has been invited with the same Tender No. IPA/GAD/Container Scanner/2016.</i>

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b)	General Query	In Continuation to the query above SI No. 1, we would like to know whether the EMD submitted along with our previous bid dated 10th October 2016 vide No. 0999516FG0001592 dated 16/08/2016 for INR 2,10,00,000.00, Valid 30th September 2017 can be considered against Re-tender dated Nov 2016 in order to save time and bank charges. We will get the validity extended as per re-tender requirement.	<i>EMD submitted against Tender No. IPA/GAD/Container Scanner/2016 dated 16/06/2016, revalidated to the requirements as in the instant tender dated 16-11-2016 will be acceptable.</i>
c)	General Query	The supplier being foreign entity it may please be noted that the equipment will be imported in the name of purchaser and Bill of Entity will also be filed in the name of purchaser. However all necessary arrangements like, customs clearance and delivery of equipment at site will be completed by the supplier or its local representative. This means that the IEC code of the purchaser will be used for import and customs of the equipment, please clarify.	<i>Yes, the understanding is correct. Respective Ports will be requested to obtain IEC code and furnish the same to IPA.</i>
d)	General Query	The civil work is not in the scope of the supplier, hence any delay in completion of civil work should not be attributable to supplier of the equipment and the delivery and completion of overall project to be extender if it is required due to delay in completion of civil work	<i>While the supposition is correct, this should not be considered in slowing/ delaying the manufacturing, conducting FAT and dispatch of the equipment.</i>
3	<u>M/s Nuctech Company Limited</u>		
a)	General Query	Nuctech has arranged BG from Indian Bank as per previous tender before it was retendered. Being a foreign company you will appreciate that arranging a new BG in India will take 20 to 25 working days due to several processes. Hence we want to use the same BG for this tender.	<i>EMD submitted against Tender No. IPA/GAD/Container Scanner/2016 dated 16/06/2016, revalidated to the requirements as in the instant tender dated 16-11-2016 will be acceptable.</i>
b)	General Query	Time Given for the preparation of the bid is too	<i>Since, Project has to be implemented in time bound manner .Therefore, no</i>

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		short to prepare a responsive bid hence we request you to kindly give extension in bid submission date of three(3) weeks to enable us submit a responsive and competitive bid.	<i>further extension.</i>
4	<u>M/s Smiths Detection</u>		
a)	Art No. 1.84,2.51, 2.52,2.53,2.54, 2.55, 2.56	Amendment: “In the event a dispute arising between the parties in connection with or arising from this Agreement, the interpretation thereof, such dispute shall be referred to arbitration under the Arbitration and Conciliation Act, 1996, to a sole arbitrator to be jointly appointed. The venue and seat of arbitration shall be New Delhi. The arbitration proceedings shall be conducted in English. The award made by the tribunal shall be final & binding to the parties.” [Customer/Personnel Name, Date] Comment: Insert justification	<i>These are `General Conditions of Contract` duly vetted by Ministry of Law and meant to be adopted in Government tenders. Tender conditions prevail.</i>
b)	Art No.2.5	Amendment: “If an action is brought against the Purchaser claiming that the Equipment when used in accordance with the documentation and as permitted under this agreement in India, infringes a valid patent issued by India’s patent office or registered trademarks or misappropriates a trade secret, the Supplier shall defend the Purchaser at supplier’s expense and pays the damages and cost finally awarded against the Purchaser in relation to the infringement or misappropriation action, but only if Purchaser notifies the Supplier promptly upon learning that an action has been or might be asserted, Supplier	<i>These are `General Conditions of Contract` duly vetted by Ministry of Law and meant to be adopted in Government tenders. Tender conditions prevail.</i>

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		has sole control over the defence of the action and any negotiation for its settlement or compromise and the Purchaser fully cooperates in the Supplier's defence." [Customer/Personnel Name, Date] Comment: Insert justification.	
c)	Art No. 2.9	Comment Instead of the word "from the date of completion and acceptance of work" the following may be inserted "from the date of SAT"	<i>These are 'General Conditions of Contract' duly vetted by Ministry of Law and meant to be adopted in Government tenders. Tender conditions prevail.</i>
d)	Art No. 2.17	Comment Please clarify who is supposed to clear customs and whether customs clearance cost will be included?	<i>Requirement is amply clear. Tender condition prevails.</i>
e)	Art. No. 2.20	Comment Instead of the word "entire work" the following may be inserted "SAT"	<i>These are 'General Conditions of Contract' duly vetted by Ministry of Law and meant to be adopted in Government tenders. Tender conditions prevail.</i>
f)	Art. No. 2.22	Amendment If any defective goods are repaired/rectified/replaced during the warranty period the warranty for such goods shall be extended for the duration it was under repair, rectification or replacement	<i>These are 'General Conditions of Contract' duly vetted by Ministry of Law and meant to be adopted in Government tenders. Tender conditions prevail.</i>
g)	Art. No. 2.31	Kindly clarify who is supposed to clear the customs?	<i>It is the responsibility of the tenderer. Please refer to Clause 2.17 in this regard.</i>
h)	Art No. 2.58	Amendment: To the maximum extent permissible under applicable law, contractor shall have no liability arising out of this	<i>These are 'General Conditions of Contract' duly vetted by Ministry of</i>

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		<p>services contract in excess of the amount of the most recent year's maintenance fee. In no event shall contractor be liable for any special, incidental, consequential, exemplary, or other contractual or delictual damages, including, without limitation, any damages resulting from cost of substitute procurement; loss of use; loss of data; loss of profits, savings, and/or revenues; loss of business; or failure or delay in performance, even if contractor has been advised of the possibility of any such damages. Nor shall contractor be responsible for any claim against Customer by a third party.</p> <p>Comment: Insert justification. [Customer/Personnel Name, Date] Comment: Insert justification.</p>			<p><i>Law and meant to be adopted in Government tenders. Tender conditions prevail.</i></p>
i)	Art No. 3.18 – 3.26	<p>Comment: Can it be performed? [Customer/Personnel Name, Date] Comment: Insert justification.</p>			<p><i>Query is not clear. But actions cited in the referred clauses can be performed.</i></p>
j)	SECTION 1- INSTRUCTION TO BIDDERS				
	1.79 The Purchaser will pay the Supplier the following amounts, if the Supplier completes the work at each stage and produces billing documents				
	S.No	Stage	Payment	Billing documents which the Supplier has to produce	
	1.	Advance	*Up to 20% of ex-duty/ tax cost.	a) Claim as per Form 9 b) Evidence that the Supplier has	Request for 35% advance payment against BG to maintain the cash flow in production
					<i>No change; tender condition prevails.</i>

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			(as soon as possible after signing the contract)	given the performance security. c) Supplier's commercial invoice in quadruplicate. d) Bank Guarantee for 110% of the amount sought as advance.		
	2.	Upon completion of Factory Acceptance Test and receipt of MXCS at site of installation	*70% of the ex-duty/tax cost, minus advance paid, if any	a) Claim as per Form 9. b) Supplier's commercial invoice in quadruplicate for the amount. c) Installation Certificate issued by the Commissionerate in Form 7.	This milestone can be broke down in 1) 10% on FAT 2) 70% - Advance (35%+10%)on supply of equipment at Site.	<i>No change; tender condition prevails.</i>
k)	SECTION 3 SCHEDULE OF REQUIREMENTS Clause 3.1 vi) Product Support for fifteen years after the two year warranty period;				Standard product support for equipment is 10 years.	<i>Scanner systems are costly equipment having long service life. Hence, product support duration of 15 years after 2 years' of warranty is reasonable.</i>

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l)	SECTION 3 SCHEDULE OF REQUIREMENTS Clause 3.1 vii) Provide upgrades from time to time.	The normal version upgrade can be provided, but any new software for similar equipment will only be upgraded with upgrade of equipment, as it requires compatible hardware.	<i>Supposition is in order.</i>
m)	REGULATORY & OTHER REQUIREMENTS Clause 3.4 The MXCS shall meet the regulatory requirements of Atomic Energy Regulatory Board (AERB) in India and other Government authorities. The Supplier shall obtain all requisite clearances in this regard and shall also make payment of fee/ processing charges/ deposits, as required. Further, the Supplier is required to provide no-objection certificate from AERB for the model of MXCS System being offered either along with the bid or prior to completion of technical evaluation of the offers. Wherever, the application for approval has to be obtained by the Purchaser, the Supplier shall prepare all such documents as are necessary to obtain the clearances and shall also make requisite payments, if any	Request for sharing of AERB requirements, so that particular points of requirements/concerns are addressed in our solution offer.	<i>Tenderer will need to interact with AERB based on the scanner system being offered by him. Tender condition prevails.</i>
n)	SITE WORKS & SERVICES Clause 3.9 Site works relating to equipment & radiation safety, CCTVs for MXCS, air-conditioners, data communication networking and supervisors' office will be carried out by the Supplier. Weigh-bridge supply, installation commissioning and licensing shall be the responsibility of the Supplier. It will be the responsibility of Supplier to offer right type of equipment/ system/ furniture/fixtures/	Noted. Site condition based on Civil works completion to receive equipment on site must be mutually agreed and signed before dispatch of equipment from country of manufacture.	<i>This is dependent on the work progress both at site of installation and manufacture, assembly, FAT etc. at the works of the tenderer. Thus, a mutual understanding would exist.</i>

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	<p>accessories, etc. to meet the tender requirements. These shall be with BIS specifications of reputed make (to be approved by the Purchaser). Equipment and items available in India should only be used for such purposes. Detailed bill of quantities (for all items of works & supplies) shall be furnished in the technical bid. Any omission of substantial details in this regard may result in likely rejection of the offer.</p>		
o)	<p>DELIVERY Clause 3.13 After successful completion of tests and trials, the Supplier shall deliver the Mobile X-ray Container Scanner System and all related equipment, operation manuals, construction drawings, quality assurance reports, reference documents, etc. to the user Customs Commissionerate and Port authorities. The delivery will be completed when the Supplier and the Port authorities sign the Certificate of Delivery and Acceptance as provided in Form 8. Decisions of the Purchaser as to compliance or non-compliance with the requirements shall be final and binding upon both parties hereto.</p>	<p>It is suggested that Delivery must be done in milestones.</p> <ol style="list-style-type: none"> 1) Physical delivery of FAT equipment at site of installation. It should be linked to partial payment to improve cash flow for supplier. As any delay in acceptance by authorities due to any reason will have impact on financial conditions of supplier. 2) Delivery of services. (Installation and Commissioning). Should be linked to partial payment as SAT and actual acceptance of site by authorities can have long waiting period as well. 3) Period between SAT + training, one month Operational trial and actual signing of acceptance of equipment should be either fixed and warranty should start effective that due date. No operations will happen during that period and payment will be released based on SAT considering delivery of equipment. 4) Mutual acceptance of local construction works before shipment of equipment. 5) Any delay on completion of civil works for receipt of equipment should not be transferred or linked to delay in physical delivery of equipment or overall 	<p><i>The equipment delivery is on 'turnkey' basis, comprising of various stages, which are interlinked. Hence, breaking delivery on milestone basis would not be feasible. Tender condition prevails.</i></p>

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		delivery.	
p)	<p>TERMS OF DELIVERY Clause 3.15 Until the delivery is completed, the MXCS and all its associated systems & equipment are the responsibility of the Supplier. Accordingly, its packing, transport, insurance, clearance through Customs, handling, maintenance and upkeep until the delivery shall be to the responsibility of the Supplier and to his account.</p>	<p>1) Delivery of services. (Installation and Commissioning). Should be linked to partial payment as SAT and actual acceptance of site by authorities can have long waiting period as well. 2) Period between SAT + training, one month Operational trial and actual signing of acceptance of equipment should be either fixed and warranty should start effective that due date. No operations will happen during that period and payment will be released based on SAT considering delivery of equipment.</p>	<p><i>The equipment delivery is on 'turnkey' basis, comprising of various stages, which are interlinked. Hence, breaking delivery on milestone basis and partial payment is not admissible. Tender condition prevails.</i></p>
q)	<p>TERMS OF DELIVERY Clause 3.16 Any loss or damage to the Mobile Container Scanner (Road) System & associated equipment during handling, transportation, etc. until completion of delivery shall be to Supplier's account. The Supplier shall be responsible for preferring of all claims and make good for the damage of loss by way of repairs and/or replacement of the portion of equipment damaged or lost.</p>	<p>Noted. Equipment once received on site should also be responsibility of Customer, as any damage done at site due to reasons not pertaining to supplier should not be considered or transferred to supplier. (like unfinished civil works causing physical damage of equipment, security of equipment is within preview of customer, as area is not entirely in control of supplier.)</p>	<p><i>Tenderer may ask for a safe and secure place to store the equipment till installation and commissioning is carried out by him. Tender condition prevails.</i></p>
r)	<p>PROGRESS MONITORING Clause 3.17 Within 15 days of the notification of award of contract, the Supplier should submit a detailed Time Bar Chart/PERT chart covering key phases of design, manufacture, inspection & testing, site works, supply, installation and commissioning of the MXCS and its associated systems & equipment.</p>	<p>Noted. Any delay in civil construction works or local approvals except equipment related approvals should not be transferred to supplier. Hence no LD clause should be applicable in that case.</p>	<p><i>The observations could apply to the Tenderer as well as hence will be determined as the work progresses. Tender conditions prevail.</i></p>

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	<p>If the Purchaser so requires, the Supplier shall discuss the Time Bar /PERT Chart with the Purchaser and revise it. Time Bar Chart/PERT Chart will be used to periodically review the progress of the project. The Purchaser through its representatives may convene periodic monitoring meetings with the supplier/sub-contractors and other stakeholders, from time to time, to ensure that the construction and other activities are being carried out as per the specifications given in the contract. All key plans, detailed drawings, materials stipulated in requirements and workmanship entering into the making of the Systems may at all times be subject to inspection and tests by the Purchaser or his representative. The facilities, labour and materials necessary for the safe and convenient conduct of such inspection shall be furnished by the Supplier without extra charge.</p>		
s)	<p>GENERAL MAINTENANCE REQUIREMENTS Clause 3.18 The MXCS will be required to operate 24 X 7 and the Supplier shall offer satisfactory service during warranty period of two years and post warranty maintenance under CAMC for eight years the Supplier should either have his own service set-up in India or he should appoint as 'Maintenance Contractor' any indigenous manufacturer / reputed contractor who is to capable maintain the MXCS and its associated systems & equipment. The Supplier must indicate in the offer the name of the maintenance contractor and enclose a copy of the</p>	<p>Rectification. The statement "Penal charges @ 50% of the AMC charges per hour for the period (number of hours) for which MXCS remained non-operational beyond free time i.e. 5% of the total time in a year, subject to a maximum of 5% of the AMC charges shall be levied. CAMC shall be entered with the successful bidder bringing out modalities of apportionment of time required for break down as well as preventive maintenance." If the penal charge @ 50% of AMC Charge per hour is charged then, limiting to 5% of AMC charges per annum is not applicable. The penal charges of 0.5% of AMC per hour should be applicable capping it to 5% of AMC charges beyond the allowed period of</p>	<p><i>Clause 3.18 is modified to the following extent:</i> <i>"...Penal charges @ 50% of the AMC charges per hour (arrived at by dividing annual AMC charges by 8,760 hours) for the period (number of hours) for which MXCS remained non-operational beyond free time i.e. 5% of the total time in a year, subject to a maximum of 5% of the annual AMC charges shall be levied....."</i></p>

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	agreement with them. The agreement must be valid for at least ten years. The availability of the scanner system should be better than 95% of the time in a year. 5 % time in a year is allowed for break down maintenance, which includes preventive maintenance. Penal charges @ 50% of the AMC charges per hour for the period (number of hours) for which MXCS remained non-operational beyond free time i.e. 5% of the total time in a year, subject to a maximum of 5% of the AMC charges shall be levied. CAMC shall be entered with the successful bidder bringing out modalities of apportionment of time required for break down as well as preventive maintenance.	non-operational free time of 5% of total time.	
t)	<p>WARRANTY MAINTENANCE Clause 3.20</p> <p>During warranty period, the Supplier or, as the case may be, the Maintenance contractor shall set right the MXCS System immediately on receipt of a complaint but in no case later than 24 hours. Preventive Maintenance shall be carried out once in 6 months i.e. 4 times during the warranty period of two years. The Supplier must deploy only qualified and experienced staff in maintenance activities. The spare parts whatever required shall be provided by the supplier free of cost.</p>	The complaint will be attended within 24 hours, where first level of response to resolve the issue will be taken on priority. Any complaint requiring major repair will be intimated and noted. All efforts will be done to set right the MXCS system as the earliest.	<i>It is matter of procedure. Noted.</i>
u)	<p>POST-WARRANTY MAINTENANCE Clause 3.23</p> <p>Maximum time limit for attending to the complaint shall be 24 hours. Sunday and any other Govt. Holidays will not be included in the maximum time</p>	Understanding that Non-Operational time beyond the period of 5% of total annual time will be charged 1% each day to the maximum limit of 5% of AMC charges combining together with clause in SI No. 3.18.	<i>Clause 3.23 is in addition to clause 3.18 and not in combination together. Clause 3.23 is modified to the following extent: “.....If the MXCS System remains non-</i>

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	limit prescribed therein for attending and making the equipment operational. If the MXCS System remains non-operational continuously beyond this time limit, 1% of the CAMC charges will be deducted for every such day or part thereof.		<i>operational continuously beyond this time limit, 1% of the CAMC charges will be deducted for every such day or part thereof, subject to a maximum of 5%."</i>
v)	POST-WARRANTY MAINTENANCE Clause 3.24 The Supplier or, as the case may be, the maintenance contractor shall carry out preventive maintenance visits at least once in 6 months. For every failure to carry out a preventive maintenance, 2.5% of the CAMC charges will be deducted.	Noted. Understanding that, if preventive maintenance is not performed every 6 month, each default will have deducting of 2.5% of CAMC charges. Maximum to 5% of annual CAMC charges annually each year of Post-warranty period.	<i>Understanding is in order.</i>
w)	PURCHASER 'S RIGHT TO TERMINATE THE MAINTENANCE CONTRACT Clause 3.29 Purchaser reserves its right to terminate the maintenance contract at any time without assigning any reason. The Supplier will not be entitled to claim any compensation against such termination. However, while terminating the contract, if any payment is due to the Supplier for maintenance services already performed in terms of the contract, the same shall be paid to him as per the contract terms	The rational of termination and representation of facts to be considered for fully understand the cause of non-fulfilment of scope requirements as mentioned or outlined in this tender document. A fair chance of representation should be given	<i>Noted. Any such action will be taken only after due deliberations and mutual discussions.</i>
x)	SOFTWARE & SOFTWARE UPGRADES Clause 3.30 The Supplier shall agree to provide copies of as-built software in executable code that are installed in the system at all levels. It shall also state the Hardware that needs to be in place for	Any fixing or modification in already supplied version of software will be updated as per the case. Any new version of software for similar equipment can only be upgraded with upgradation of equipment only as they require compatible hardware for these upgrades.	<i>Contention is in order.</i>

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	implementation ensuring that the system un-availability is minimal. The Supplier shall also comply and guarantee software upgrades for the service life of the scanner. Commercial image processing software, if used, should be provided with each set of the image inspection unit (work station).		
y)	SOFTWARE & SOFTWARE UPGRADES Clause 3.31 Taking into account the operational requirements of the Purchaser, there may be a need to customize some portion of the software. Supplier should agree for such customization, which is expected to be limited, at no extra cost.	Noted. Any modification or fixation which does not require to write the software codes again or change the codes will be done limited to patch programs for connectivity etc. It is suggested that all connectivity compatibility of systems should be highlighted before start of manufacturing. The system where connectivity is required must be indicated with sufficient details which can be considered before start of manufacturing to minimize the customization at later stage. The EDI and DMS connectivity interface requirements (detailed Summary and write up along with process flow chart) must be given prior to start of manufacturing.	<i>It is recommended that successful tenderer discusses the requirements of EDI & DMS (local & central) connectivity and obtain requisite information from the Purchaser before commencement of manufacturing of the scanner system so as to minimise customisation at a later stage.</i>
z)	SOFTWARE & SOFTWARE UPGRADES Clause 3.32 Any software upgrades developed by the Supplier during the warranty and the post warranty period should be made available to the Purchaser at no extra cost and should be delivered and installed in a prompt and efficient manner. The Supplier should install and train the operator with software upgrades.	Refer to remarks in section SI No. 3.30	<i>The clause is different from 3.20. Tender requirement stays.</i>

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aa)	<p>DISASTER MANAGEMENT Clause 3.33 The supplier has to provide detailed disaster management plan to meet any eventuality, which may arise during the operation of MXCS. The disaster management plan should be elaborate, detailing the actions to be undertaken in the case of any emergency and/or disaster and defining the role of every authority and person during such a situation.</p>	<p>Any maintenance of equipment post disaster not attributing to supplier, will be charged extra and will be mutually agreed post assessment. The duration in this period till equipment comes to 100% pre-disaster status will not be considered in down time of equipment. The CAMC time will only start again post rectification from disaster.</p>	<p><i>The disaster management plan is be provided by the tenderer to mitigate any eventuality during the operation of the scanner system. Tender requirements stays.</i></p>
bb)	<p>DOCUMENTATION Clause 3.35 Relevant documents as required by the Purchaser shall be submitted for review/ reference, from time to time, during the execution of the contract. Complete documents, quality assurance records and as-built drawings shall be provided to the Purchaser, both in soft & hard copies, after the completion of the contract.</p>	<p>Noted. Any document related to detailed engineer and design which infringement to IP will not be shared.</p>	<p><i>Extent of detailed engineering and other details required by the Regulator for reviews and by the Purchaser for future references will need to be provided. Tender condition prevails.</i></p>
cc)	<p>General query</p>	<p>Request for extension of this bid submission, as this will give us time to discuss and close the open points and issues.</p>	<p><i>Since, Project has to be implemented in time bound manner .Therefore, no further extension.</i></p>