

RESPONSE TO QUERRIES RAISED BY BIDDERS (Till Date 15th July 2013)

1	Part B Section 2 : Technical Requirements Pg 80	2.1 Concept of EOC	The basic functions of EOC, derived on the basis of functional framework of disaster management would be to: 1. Receive, monitor, and assess disaster information. 2. Keep track of available resources. 3. Monitor, assess, and track response units and resource requests.	Please advice on the workflow and information dissemination platform.	Information Flow diagram is attached at Annexure-1
2	Section 2 :Technical Requirements; 2.2.1 Page 82	2.2.1 State EOC	Planned unified communication system will support the key concepts of interoperability, reliability, scalability and portability to ensure that personnel from different disciplines, jurisdictions, organizations and agencies are able to communicate with each other instantly. For example, communication between first responders such as police, disaster rescue forces, fire brigades that use wireless communication systems mostly equipment operating in Very High Frequency (“VHF”) band and administrators on terrestrial or satellite based Very Small Aperture Terminals (“VSAT”), should be possible with Voice over Internet Protocol (“VoIP”) based unified communication system.	Please clarify if the UCS is based on VoIP technology.	Yes. Communication links operating on various technologies are converted to VoIP for interconnection.
3	Section 2 :Technical Requirements, Pg 88	2.3.2.1 Resources for Setting up of ECN : Transportable VSAT Systems	h. Very High Frequency (VHF) radio base station / handsets (walkie -talkie)	While the requirement of Base station and number of hand-held walkie-talkie sets are clear for ERVs, the RFP also mentions need for radio base stations at SEOC, DEOC and also with the portable VSATs. But numbers are not mentioned. Pls mention the exact requirement in terms of number of Radio base stations and number of hand-held sets.	Requirements at SEOC: One base station with 10 VHF handsets Requirement at DEOC: One VHF base station and 5 VHF handsets Back-up battery to be provided at SEOC as well as DEOC along with battery charger. The battery capacity should be enough to support operations of base station for talk time up to 8 hours without recharging

4	Part B Section 2.3.3.3 Pg 94	Equipment and network resources at SEOC:	(l) Plotter and Scanner	In this, DMD need a A0 size plotter and scanner, please validate if this is correct or else specify the required sizes	The requirement is correct. The equipment is required for printing / Scanning of large drawings
5	Part B Section 2.3.3.3 Pg 94	Equipment & Network resources at SEOC	Physical Map Display System	Please elaborate the requirement. Give description and specification of the system	The system is required to select and display large scale flexi maps of vulnerable districts for decision making during disaster response. <ul style="list-style-type: none"> • System should operate with remote control • It will have up to 20 rolled –up maps stored above false ceiling with a facility to select and unroll desired map. • It will also roll-up maps that are not in use.
6	Part B Section 2 : Technical Requirements, Page 94	2.3.3.3 Equipment and network resources at SEOC	f. Voice recording with time stamp to record all incoming and outgoing calls from / to public	Kindly Clarify for how long voices recording of calls are required.	It should be possible to access on line recording for up to 30 days. Subsequently recordings should be transferred to CDs. Recordings of voice calls should be available for up to one year for analysis.
7	Part B Section 2 : Technical Requirements, Pg 94	2.3.3.3 Equipment and network resources at SEOC	j. Universal interface for inter-connectivity between different communication links (Wireless radio, VoIP Phones etc.)	Kindly Clarify how many ports of universal interface are required.	Total ports required are 8 (eight) including:: <ul style="list-style-type: none"> • VHF radio : 2 ports • UHF Radio: 1 Port • HF radio: 1 port • VoIP: 2 Ports • LAN ports : 2 Ports
8	Part B Section 2 : Technical requirement, Page 94	2.3.3.3 Equipment and network resources at SEOC	k. Decision support system and software	Kindly Clarify what are the software required.	Decision support system will be part of Incident Management system. Specifications for the system are provided at Page no.102

9	Part B Section 2 :Brief Description of facilities and concept, Page 95	2.3.4 Systems and facilities at DEOC	<p>a. Tabletop video phone based Video Conferencing (VC) desktop based VC</p> <p>b. News gathering (TV news channels, public access telephone numbers etc.)</p> <p>c. Video display system for geographical maps / Weather maps / satellite imagery (such as maps obtained by remote sensing satellites)</p> <p>d. Terrestrial (land line and Cellular)Telephone and software for voice broadcasting</p> <p>e. Very High Frequency (VHF) radio base stations / hand sets</p> <p>f. Equipment for Satellite communication links such as VSATs, Satellite phones (when permitted by regulatory authorities) etc.</p> <p>g. Computers, LAN ,Scan /print / Fax composite machine</p> <p>h. Air-conditioning (at least for electronic equipment)</p> <p>i. Furniture for staff</p> <p>j. Physical map display system</p> <p>k. Emergency power back-up UPS and Diesel Generator set with adequate diesel storage</p>	There is some confusion in the BOM for the District and Divisional EOCs if we compare the item list provided under Section 4 (Deliverables) at Sl. No 10 (a) with the requirement mentioned at 2.3.4 Pgs 95-96. Kindly Clarify the detailed BOM and the specifications of items required.	<p>Few of the items are missing in the list of deliverables on page 129. Following may be added in that list:</p> <ul style="list-style-type: none"> • Table top video phone (1) • Terrestrial phone and cell phone (1 each) • VHF radio base station with back-up battery and charger and 5 wireless handsets (walkie-talkie) • Air-conditioner (1) • Furniture for operator's staff • Physical map display for a single map with motorized rolling facility (1) • Diesel generator set of adequate back-up (at least 3 KVA) (1)
10	Part B Section 2 : Technical Requirements, 2.4 Pg 96	The Disaster Information Management System	The state control room will be operational round the clock and will coordinate with district EOCs / flood control rooms that function during disaster season (June and October in case of floods). Flood and rain monitoring system Flood Monitoring and Information System (FMIS) is operational for last few years. FMIS provides information on floods and to some extent helps in prediction of severity of floods. Alert and warning messages are sent to divisional and sub-divisional offices via telephone calls, fax messages or SMS.	Please clarify what facts these system collects.	Data on flood water level and rain fall data is collected.
11	Pg 102	3.2	Technical Specifications for Incident Management Application Operational Requirements for Incident Management System (IMS) Sr No 1.2 - GIS, Map Data, Collaboration Framework	Does this means that Bidder will have to provide GIS application and software and Map Data. In this regard, please clarify if Map Data is available or not for GIS system with DMD.	Bidder will have to provide GIS software, Map data will be the responsibility of DMD.

				If Map Data is not available, then it will have to be created or sourced from various agencies.	No. It will done by DMD.
12	pg 103		pt. 1.3 - RFP mentions that system should display the historical data as well.	Please clarify if DMD have all historical data to draw a trending and in which format that bidder has to do data entry of such type of historical data into GIS system?	Not available in electronic format at the moment. However it will be made available during the operational phase.
13	pg 103		pt 1.4	Please note that, web GIS access would be provided at fixed and mobile application on mobile devices. Please validate our understanding. Additionally what type of mobile device are planned to be used?	Mobile devices will include Smart phones and tablets.
14	pg 104		pt 1.14	Please clarify the maximum number of users for GIS application	Maximum number of simultaneous users will be up to 100.
15	Pg 69	1.1	Scope of work	We understand that design and development of GIS application (Database, Desktop and Web) would be required for DMD along with IMS. Or DMD already having any GIS system available? Please clarify.	No. But it will be available in due course.
16	Pg 10	1.2	Bihar State	Detailed GIS map would be required up to a village level along with other geographical features (transportation, forest, water, land used, Power lines etc. as per the requirement of the project) and various Zones (earthquake, flood, fire, high speed wind paths or any other).	Detailed GIS maps will be made available in due course.
17	Pg 132		pt b Resources to be provided by DMD are: pt e	Please provide details of existing GIS database, layer names and infrastructure available along with version and release	Details will be provided in due course.

18	Pg 136		Integration of GIS based static (legacy data) with dynamic information / data transmitted from disaster sites	Please provide the details of all legacy system available from integration point of view	At the moment GIS data is not available but will be provided in due course.
19	pg 104		pt 1.17	Current version of ArcGIS is 10.1 is the latest, & the development would be carried out in 10.1 release. (As Olders version support is not available from ESRI) Since ADF is a dated framework, It is proposed that the new development for web GIS application may be carried out using available web API Java Script, Silver Light and Flex APIs.	The specification will be corrected in corrigendum. Bidder can offer suitable system.
20	Section 2.3.2.1 (d) Pg 86	VSAT Network	The VSAT network will be a captive network of Bihar State. However it will operate on shared Hub (part of VSAT service provider's network) at a suitable place in India till necessary licenses and regulatory conditions are fulfilled and captive Hub is established at SEOC and it is operational.	We suggest the DMD apply for its VSAT License right away. The license should become available by the time the tender is awarded and the the equipment arrives at location. This way the interim mechanism of a shared hub can be done away with.	Application for licence will be submitted within next one month. Interim arrangement is proposed only to tide over situation in case approval from DoT is delayed for any reason.
21	Pg 111	BUC (4 Watts)	Frequency Range : 13.75 - 14.5 GHz	Request you to amend as 13.75 - 14.25 OR 14.0 to 14.5 GHz	The specification can't be modified as we have to consider satellite spectrum availability over next 5 years (in fact up to 10 years or till the lifetime of the equipment)
22	Pg 114	BUC (25 Watts)	Frequency Range : 13.75 - 14.5 GHz	Request you to amend as 13.75 - 14.25 OR 14.0 to 14.5 GHz	Same response as for item 21 above
23	Section 3; Sub-Section 3.4; Pt. 7; pg 115	Components and capability requirement for ERV	Minimum Ground Clearance : 350 mm	For 72 hrs of operations need separate fuel tank which can be built below the platform. Thus would like to know if 250mm ground clearance is acceptable.	Higher ground clearance is asked for ensure that vehicle can travel even over damaged roads (due to earthquake or floods). As such the original specifications will not be changed.

24	Section 3; Sub-Section 3.4; Pt. 14; pg 116	Power Supply	One 5KVA UPS and One 10KVA Diesel Generator Set	a) Can we have Qty two of 2.5 KVA UPS and Qty two of 5KVA Diesel Gen Set b) Can we have Petrol Gen Set	Suggested options are acceptable. However operator should ensure that: <ul style="list-style-type: none"> Necessary precautions are taken to balance loads. Generator (s) caters for high starting surge current for air-conditioning unit (s). Higher generator capacity was suggested for above reasons. Operator will be responsible to take care of these aspects.
25	Section 4: Deliverables; SI No 4(g) Pg 128	Audio/Video and multimedia management system at SEOC)	-Software based VC facility using work stations for control room staff (2 Nos) <ul style="list-style-type: none"> Large Video display systems in Operations (control) room and large screen display systems \geq 50 inches) in Conference room in SEOC for monitoring news channels, Videoconferencing, geospatial information and visual information related to Incident Management System Two large screen display systems along with cameras and videoconferencing systems should be provided. One will be for Conference room and a spare kept in control room Capacity to display of any video inputs from any source on any one of the display systems in operations and Conference room. Facility to display multiple video inputs on a single screen should be provided. For e.g.: TV news 	There is complete confusion as to the exact number and type of display systems required at the SEOC. Pls specify whether a Video wall is required in addition to the two large LED screens or not. Requesting you to pls give an exact count and description of type of display systems required in the Operations (Control) Room and Conference Room of the SEOC	Requirement is clearly specified: <ul style="list-style-type: none"> Software based VC (with webcam and desktop) for control room staff (2) Videoconferencing systems with cameras (one working and one back-up) (2) Common Large screens \geq 50 inches for display, VC etc. (2) One in Control room and other in Conference room Facility for multiple displays within single screen (TV, Map, VC etc.) by splitting the screen (in both screens) Video + audio signal amplifier splitters and switching system to facilitate wanted signal selection from multiple choices
26	Part B Section 4 (Deliverables) SI 4 (g) Pg 128	SEOC	g. Audio/ Video and multimedia management system	Please specify how many MCU for video and audio conferencing is required.	One MCU with facility for simultaneous VC with 4 sites as well as audio conference with 4 sites

27	SECTION 4 : Deliverables, Pg 129	SI No 10 (a) of table : Equipment and System at each DEOC	UPS for 1 hour Back-up for all equipment provided by operator	Does this mean that DG sets are not required to be supplied at the DEOCs? On Pg 96, Section 2.3.4 (k) Systems & facilities at DEOC states : Emergency power back-up UPS and Diesel Generator set with adequate diesel storage. Pls clarify.	DG sets are required. Please refer to response to query no. 9 above
28	Section 4; pg 130 & 131; Pt. 13 (a), (b), (c), (d), (e);	Manpower	Pt. 13 (a), (b), (c), (d), (e);	It is requested that this deliverable be removed. NDMA must develop force as has been done by FEMA (Federal Emergency Management Agency) in USA to meet disasters nationwide. It needs a disciplined and well trained force.	Main responsibilities for Disaster Management are on DMD and district magistrate staff as well Disaster Response Forces (DRF) and not on operator's staff The man power to be supplied by the operator is for: <ul style="list-style-type: none"> • operation and maintenance of communications equipment and audio video systems and provide support to SEOC government staff • Drive ERV • Technical staff to operate communications equipment of ERV as well as portable communications systems • Call centre operations at SEOC • Technical support for Government DEOC personnel • Train DMD staff in operation of IMS and IMSP applications

29	Part B Section: 4 Deliverables Pg 132	Facility Management	The operator has to take care of expenses towards: consumables, generator fuel /lubricant, electricity consumed for equipment and. Air-conditioning	Since the power situation in Bihar (except in the capital city) is very bad it is difficult to predict the exact duration of time the DG sets might have to be operated daily at the different sites especially in the district and divisional locations. If the systems have to be always on during office hours in the DEOCs, the DG set might have to run for 6-8 hours every day. This we are saying from our experience as the BOOT operator for BSWAN. Diesel prices being highly volatile the entire project might become unviable for the Operator. We would suggest that all consumables should be kept out of the costing and should be paid for at actual. For your information we would like to cite the example of a recent Tamil Nadu government RFP, where this approach has been taken.	This issue has been discussed in details and it is decided that operator will be responsible for all expenses. Bidder has taken into considerations ground realities in the state to arrive at likely expenses, No change will be made in existing RFP conditions in this respect.
30	General			Pls confirm if any data digitization and migration will be required to be carried out. If yes, pls indicate the volume and type of records.	Digitization of data will be responsibility of DMD. The migration will be minor work.

31	SLA Section 2.2.5 Pg 161	Project Performance Guarantee	The Operator shall, for securing the performance of its obligations hereunder during the Implementation phase as well as Operation and Maintenance Phase, provide to DMD, no later than 15 (fifteen) days from the date of LOA, an irrevocable and unconditional guarantee from a Nationalised/Scheduled Bank, in favour of DMD, for a sum equivalent to 4 (four) times of the QGR, i.e. Rs. **** Crore (Rupees **** Crore) in the form that will be supplied by DMD along with LOA (,the Project Performance Guarantee'). Until such time the Project Performance Guarantee is provided by the Operator pursuant hereto and the same comes into effect, the agreement between DMD and Operator doesn't come into force. The Project performance guarantee shall remain in force till implementation and phase and BOOT period of 5 (five) years is Over.	Can there be a single Bank Guarantee for both the Implementation and Operation Phase?	No. Separate BG is required.
32	SLA Section 7.2 Pg 187	Operation & Maintenance Phase	The payment of 50% of QGR shall be made within 15 days of quarter ending subject to the condition that an invoice is raised by the Operator within 2 days of quarter ending. Any payment over & above 50% of QGR to which the Operator is entitled shall be paid after the penalty is calculated by the designated Official / agency (,Third Party Agency'). The remaining payment out of QGR (after deducting the penalties) shall be made within 15 days from the date of response by the Operator to the notice issued by DMD as mentioned hereinafter, provided the Operator immediately responds to the notice issued by DMD.	On Pg 139 (part B Sec 6.1 relating to Terms of Payment) it is mentioned that the operator shall be paid at least 70 % of the QGR for every quarter during the term of the Agreement whereas in the SLA Agreement it is 50 % of QGR. Pls clarify.	These two statements relate to different clauses. <ul style="list-style-type: none"> • Minimum 70 % payment relates to penalty clause and it is to convey that 70% of QGR payment will be guaranteed even in case up- time falls below 95% • 50% payment relates to settlement of invoice. Initial 50% of invoice payment will be made even if up-time report is not received from TPA and penalty has not been calculated. Remaining payment will be made after deduction of penalty. The clause is to ensure that operator gets at least 50% payment immediately.

33	Part B Section 6.1Pg 139	Terms of Payment		We would like the government to pay the Capex charges of the project at the completion of the Implementation Phase and only the O & M cost be paid as QGRs over 5 years.	The request is not accepted and RFP conditions remain.
			Legal & Contractual Queries		
1	Page 145	Name of the Agreement		Request that the Service Level Agreement be re-named as the Services Agreement (as referred to in the RFP) or as the Master Services Agreement as it delineates terms and conditions applicable to the services provided by the Operator and does not just stipulate the service levels.	Suggestion is accepted. The agreement will be called "Service Agreement"
2	Section 2.2.5 (ii) and (iii) and Page 161-162	Encashment of Bank Guarantees		Request deletion of these clauses as these clause place the Operator in a very inequitable position. Request that in both clauses 2.2.5(ii) and (iii) Termination of the contract (after providing the Operator with a reasonable cure period of 30 days) be the DMD's sole remedy (apart from remedies available at law).	These conditions are included after due considerations and the request for deletion is not agreed to.

3	Section 2.6 and Page 165	Acceptance Testing and Certification		<p>All acceptance testing and final certification (as applicable) costs if any to be borne by the DMD even if conducted by the OPERATOR at the DMD' request.</p> <p>Request that all acceptance testing, commissioning and final certification (as applicable) be conducted only against the mutually agreed specifications and parameters.</p> <p>Request insertion of a standard deemed acceptance clause which has not been included herein.</p> <p>Items reported as defects that are not deviations from the immediate previously accepted baseline will be reported again as a fresh Change Request under the established Change Management/Change Control Procedure. Items reported through the Change Management/Control Procedure will be dealt with separately.</p>	<p>DMD will not be responsible for any payments other than QGR as such request is not accepted.</p> <p>The acceptance test procedures and conditions will be based on equipment / system specifications offered by the operator and standard test procedures followed for similar systems in other government projects. Indicative tests are included in RFP.</p> <p>Suitable clause for deemed acceptance is already included in the RFP (Clause 2.6 (e) page 167)</p> <p>This request is not acceptable as any items that are reported as defective have to be either replaced with new items or repaired to satisfy specifications. Items reported as defective can't be offered as fresh change request.</p>
4	Sections 3.2-3.3 and Page 169	Services		<p>Request insertion of standard exceptions to the calculation of uptime.</p>	<p>Applicable exceptions will be only those that are covered under Force Majeure clause (Clause 6.4 page 181).</p> <p><i>Please note that the infrastructure being set-up is expected to operate even during natural calamities when normal system fail and are expected to be designed with sufficient redundancies to ensure near 100% up time.</i></p>

				Further, request that the cumulative value of the penalties imposed on the OPERATOR under the SLA as well as under the contract does not exceed 1% of the contract value.	High penalties are to be imposed to ensure really high reliability. System design indicates multiple (up to 4 layers) redundancies to ensure high up time. The infrastructure is for use during disasters, hence the reliability requirements. Please note that SLA is specified only for those systems which are under operator's control and SLA values are well within acceptable up time standards. As such the request is not accepted
5Pg 170;	Security & Safety	<p>a) The Operator shall comply with the directions issued from time to time by DMD and the standards related to the security and safety as stated in the Project Documents insofar as it applies to the provision of Services</p> <p>b) The Operator shall also comply with EOCI Project's information technology security and</p>	It is requested that the activities in points (a) & (b) be taken under "Change Management" in case there is any financial implications.	These requirements are related to security of services hence request for change is not accepted. Any financial implications are part of risk the bidder has to take.	

<p>6 Section 4 and Page 171</p>	<p>Terms of Payment, Invoicing and Taxes</p>		<p><u>Request the following inclusions in clause</u> <u>4.2 to be included:- All invoices and bills will be raised by the Operator as per the payment terms and will become due for payment within thirty (30) days of presentation.</u></p> <p><u>The Operator to have the right to levy an interest at the rate of 1.5 percent per month for all payments due for more than thirty (30) days on the invoice amount calculated from the date the payment became due until the recovery is made in full with interest.</u></p> <p><u>OPERATOR to also have the right to withhold provision of Services in case of non-payment of invoices within 30 days of receipt of invoice and any such withholding by the OPERATOR shall not be treated as breach.</u></p> <p><u>Request the following modifications in clause</u> <u>4.3:- All fees payable to OPERATOR to be exclusive of any sales, use, value added tax, service taxes or taxes of a similar nature measured by the services, deliverables or charges thereon, imposed by any applicable taxing jurisdiction and where such taxes are applicable, the DMD shall be responsible to pay or reimburse the OPERATOR the amount of such taxes. Each party shall be responsible for its own income taxes, corporate taxes and franchise taxes. Any increase or decrease in the rate of any applicable taxes, duties or levies shall be to DMD' account.</u></p>	<p>The suggested clause regarding payment within 30 days from the date of presentation is accepted. However it will be subjected to satisfactory service provided during the quarter for which invoice is raised. Payment will be made after deduction of applicable penalty.</p> <p>Suggestion is not accepted</p> <p>Suggestion is not accepted. Bidder should remember that services being offered for disaster management and should not be denied except under Force Majeure clauses</p> <p>The RFP has already mentioned that QGR should include all applicable taxes as on date of submission. Corrections will be made in case there are any statutory changes changes in tax rates. Which will be to DMD's account (Clause 2.13.4 (b) page 28)</p>
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	7 Section 5 and Page 172	Intellectual Property Rights		<p>Request modifications in clause 5.1 to ensure that the DMD shall have no right to sell, lease, exchange, mortgage, pledge, license, sub license, assign or in any other way convey in favour of any person (either for commercial consideration or not (including by way of transmission)), and/or reverse compile or in any other way arrive at or attempt to arrive at the source code of any pre-existing intellectual property rights over which the OPERATOR has accorded the DMD a right to use as per the terms mentioned herein.</p> <p>Request a specific clause protecting the Operator's pre-existing intellectual property rights.</p> <p>Further any third party IPR used herein shall be subject to the terms of the End User License Agreement signed in that respect.</p> <p>As regards the third party intellectual property rights infringement indemnity being provided by the Operator herein request the following changes: -</p> <p>Request deletion of all other indemnity provisions in the RFP document as this is the only indemnity being provided by the Operator. Request insertion of all standard exceptions, disclaimers and conditions to Operator's provision of third party intellectual property rights infringement indemnity. All exceptions, conditions and disclaimers have not been provided herein.</p>	Necessary conditions are already included in the contract and any modification will not be made.
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8	Section 6 and Page 178	Warranties		<p><u>Request the following modifications: -</u> <u>Request insertion of all standard warranty exclusions and disclaimers some of which have not been included.</u></p> <p><u>Please note that all third party software will be subject to warranty provisions stipulated by the relevant 3rd party vendor(s) in the relevant End User License Agreements signed in that respect.</u></p> <p><u>Please modify clause 6.1 to stipulate expressly that the scope of the warranty shall be limited only to correction of any bug that were left undetected during acceptance testing by the DMD. Warranty shall not cover any enhancements or changes in the application software, carried out after acceptance testing. This warranty is only valid for defects against the mutually agreed specifications.</u></p> <p><u>Request deletion of clause 6.2 as the only indemnity being provided by the Operator herein is third party intellectual property infringement indemnity.</u></p>	<p>The operator is expected to ensure that offered systems and software meet the reliability requirements. DMD will not be responsible or not interested in limitations imposed by 3rd party suppliers on software or IPR. DMD will ensure that there is no misuse of software or infringement of IPRs.</p> <p>As such requested changes are not accepted</p>
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9	Section 6.3 and Page 180	Limitation of Liability		<p><u>Request modifications as under:-</u></p> <p><u>Request that clause 6.3 be culled out as a separate clause in the contracts so that it becomes applicable to the entire contract.</u></p> <p><u>Request in insertion of a standard excuse clause stipulating that the OPERATOR shall not be liable for delays arising due to reasons not solely attributable to the OPERATOR.</u></p> <p><u>Request that clause 6.3 be reworded slightly to ensure that the cumulative liability of the OPERATOR under the contract not exceed the total amount paid to the OPERATOR by DMD under that applicable Statement of Work that gives rise to such liability (in the preceding 12 months)</u></p> <p><u>In clause 6.3 request that the only exceptions to such limitation of liability be damages arising from (a) willful misconduct (b) indemnification against third party claims for infringement of IP Rights.</u></p>	<p>Clause no. 2.2.3 on page 161 addresses concern of bidder. As such no more changes are necessary in the RFP.</p> <p>Same comments as above</p> <p>Operator's liability has been fixed at 10 QGRs to ensure that no one easily walks off or dares to breach the contract on flimsy grounds. Please note that this project relates to disaster situations and lives of large number of people may be affected in case of failure of systems. As such no modification in clause is accepted.</p> <p>Same comments as above</p>
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10	Section 6.4 and Page 181	Force Majeure		<p>Request introduction of a termination right for either party - in case a Force Majeure Event lasts for a continues period of 30 days either party to have the right to terminate. The OPERATOR to have the right to receive payments pertaining for all services delivered/performed under the MSA irrespective of the occurrence of a force majeure event.</p>	<p>The Operator will not be in a position to terminate the contract unless agreed to by DMD even in case Force Majeure events lasts more than 30 days. The operator can claim the payment for services during the period of Force Majeure. The termination by the operator without consent of DMD will be treated as breach of contract and will be treated accordingly.</p>
11	SLA Section 6.4.2 Pg 182	Force Majeure during Operation & Maintenance Phase	<p>It is important to note that the EOCI Project is designed to establish and facilitate communication linkages between SEOC, remote EOCs and ERV / portable VSATs at remote affected location(s) during Force Majeure situations. The Operator shall make all efforts to maintain SEOC facilities up and running and establish communication linkages as per the directions receive from SEOC or its designated official in charge. DMD shall deal with service outages during Force Majeure conditions very seriously and strictly. In case the default is due to extreme geographical conditions preventing physical access to damages inflicted area of the EOCI Project, DMD may review such incidents on</p>	<p>While all efforts will be made to ensure availability of man power and uptime of equipment, force majeure situations can occur during certain disaster scenarios and exceptions to adherence of SLAs should be granted in such cases. In case of total disruption in road and rail communication the government should arrange alternate mode of transport. Also in case the equipment gets destroyed or stolen, the SLAs should not apply. In case of a committee to review such force majeure cases during Operation Phase, it should consist of: one member from the government, an independent expert and a nominee from the operator's side.</p>	<p>DMD will definitely arrange alternate mode of transport in case road communication is damaged. Portable VSATs are expected to take care of such situations. However no change is SLA will be made for this purpose. DMD will consider all reasonable requests for waivers of SLA clauses. However Operator's staff is expected to take due precautions to handle the equipment carefully. The Third Party Agency will be an independent expert group to handle such situations and will advice DMD in such cases. Operator will have chance to represent the case but nominee of the operator will not be in the committee.</p>

12	Section 18 and Page 36	Audit		<p>DMD to provide the Operator with a reasonable prior written notice prior to any scheduled audit.</p> <p>Items reported as defects that are not deviations from the immediate previously accepted baseline will be reported again as a fresh Change Request under the established Change Control/Management Procedure. Items reported through the Change Control/Management Procedure will be dealt with separately.</p> <p>The Auditor appointed shall not be a competitor of the OPERATOR and shall agree to adhere to any security /confidentiality policies stipulated by the OPERATOR in this regard.</p> <p>The schedules stipulating the details have not been included in the RFP.</p>	<p>Yes.</p> <p>This point is already discussed at sr. no.3 in Legal and contractual queries above</p> <p>Accepted. Due care will be taken to address this apprehension.</p>
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13	Section 7 and Page 186	Termination		<p><u>Request Modifications as under: -</u></p> <p><u>Request insertion of provisions which enable the OPERATOR to also have the right to terminate the contract for any material breach by DMD and for convenience.</u></p> <p><u>Request deletion of the provision which permits the DMD to forfeit the performance bank guarantee in cases of termination for default as this would amount to a double penalty on the OPERATOR.</u></p> <p><u>The OPERATOR to have the right to receive payments for all services performed under the Contract till the effective Date of termination (irrespective of the grounds of termination).</u></p> <p><u>The schedule stipulating the LD detail setc have not been included in the RFP. We however request that: - The Liquidated damages be payable only if the underlying delay/default is solely attributable to the Operator and not attributable directly or indirectly to any Force Majeure Event.</u></p> <p><u>Request that LD be charged at 0.5% of the total value of the uncompleted/undelivered portion of the work per week, subject to a maximum of 5% of the total fees payable for the uncompleted/undelivered portion of the work.</u></p> <p><u>Request that the Operator's liability to pay LD under the contract be limited to 5% of the total fees payable for the uncompleted/undelivered portion of the work.</u></p> <p>-</p>	<p>The operator can terminate the contract only with permission of DMD for any reason whatsoever and clauses regarding termination will apply.</p> <p>In any case total penalty will not exceed 10 QGRs and in case of forfeiture of performance guarantee operator will be liable for additional penalty equal to 6 QGRs</p> <p>The operator will receive the payment only after payment of applicable penalty and in case the penalty exceeds Bank Guarantee DMD has the right to recover remaining amount from payment dues to operator.</p> <p>The LD will be charged only in case the delay is attributable to operator and not in those cases where delay is caused due to Force Majeure.</p> <p>There is no specific LD component in the RFP. The operator will forfeit the BG of appropriate phase in case of delay in implementation of the contracted obligations as specified there in</p> <p>As already explained above the LD will be equal to BG for implementation / Operation phase as applicable..</p>
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14	Pg 182	6.4.1 Implement ation Phase	If the Operator does not complete the Implementation Phase in accordance with the revised timelines, DMD shall have the option to invoke the Implementation Phase Performance Guarantee and/or terminate this Agreement	<u>It is requested that a committee be formed having representations from both the groups and a neutral party for taking decision on invoking the performance guarantee and/or terminating the agreement</u>	Due process will be followed and opportunity will be given to the operator represent his case as well all facts will be considered before deciding on forfeiture of BG or termination of contract.
15	pg 182	6.4.2 Operations and Maintenance Phase	In case of non fixation of mutually agreeable date attributable to any of the parties, the Evaluation Committee shall decide the date. In case the default continues further, DMD shall have the option to invoke the Project Performance	It is requested that the evaluation committee should have representations from both the groups and a neutral party for taking decision on invoking the performance guarantee and/or terminating the	The operator will be given an opportunity to present the case but the request for inclusion in the evaluation committee will not be feasible. However independent expert(s) will be included in the committee.
16	Section 17 and Page 35	Confidentiality		Request that the confidentiality provisions (applicable to both parties) survive the termination or expiry of the contract for a period of 2 Years thereafter. Request deletion of the provision which entitles the DMD to levy penalties/damages for breach of confidentiality. Either party to have the right to seek an injunction or other equitable orders and to have the right to exercise all other remedies available at law.	DMD will not receive any confidential information from the operator, hence there is no reason to make the clause applicable to DMD. The operator has the freedom to explore legal provisions in case of breach on part of DMD.

17	Section 10 and Page 196	Disputes and Arbitration		<p>As regards the informal dispute resolution process as described in the un-included schedule clause – we request that “discussions between the parties involving senior management representatives of both parties” be included so that the informal disputes resolution process is fair, economical and simple.</p> <p>Request that the venue for arbitration be decided by both parties acting mutually.</p>	<p>The relevant schedule is included in the corrigendum</p> <p>Arbitration will according laws applicable in the state of Bihar and it will be held at Patna, Bihar State</p>
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18		<p>Insertion of New Clauses in the Tender Document</p>		<p>There are no specific clauses on the following items in the Tender document. <u>Request that specific clauses with respect to the following be included in the Tender document</u> can become part of the Contract (to be signed in relation to the current Project) in future: -</p> <p>(1) DMD's Indemnity: specific clause delineating the scope of third party intellectual property rights infringement indemnity and general indemnity for loss to person and/or property being provided by the DMD to the OPERATOR needs to be included in the tender document.</p> <p>(2) Clause referencing applicability of the Tata Code of Conduct</p> <p>(3) Two-way Non-solicitation clause</p> <p>(3) Non-exclusivity the Operator</p> <p>(4) Clause on the Change Management Procedure</p>	<p>Most of these issues have been addressed in the RFP. Causes for change of control are under preparations and will be discussed with winning bidder and included in the agreement.</p>
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