

**REFERENCE: RFI 01/2015**

**REQUEST FOR INFORMATION**

**DESCRIPTION:**  
**A PANEL OF RECOMMENDED *CURATOR BONII***

**DATE ISSUED: 30 OCTOBER 2015**

**CLOSING DATE: 23 NOVEMBER 2015**

**TENDER BOX:**  
**570 FEHRSEN STREET**  
**BROOKLYN BRIDGE**  
**GROUND FLOOR, LINTON HOUSE**  
**BROOKLYN, PRETORIA**

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## 1. INTRODUCTION

The South African Revenue Service (“**SARS**”) is uniquely placed to contribute to government’s plan of action to address socio-economic growth and development, poverty alleviation and job creation. Through the vital role of providing the revenue to fund the full spectrum of initiatives, plans, programmes and strategies of national and provincial government departments, SARS plays a crucial enabling role in government delivery.

### OVERVIEW OF SARS

#### Our Mandate

In terms of the South African Revenue Service Act, 1997 (Act No. 34 of 1997), SARS is mandated to –

- collect all revenues due;
- ensure maximum compliance with tax and customs legislation; and
- provide a customs service that will maximise revenue collection, protect our borders and facilitate trade.

#### Our Vision

SARS is an innovative revenue and customs agency that enhances economic growth and social development, and that supports the country’s integration into the global economy in a way that benefits all South Africans.

#### Our Mission

To optimise revenue yield, to facilitate trade and to enlist new tax contributors by promoting awareness of the obligation to comply with tax and customs laws, and to provide a quality, responsive service to the public.

#### Our Values

**F** – Fairness; **A** – Accountability; **I** – Integrity; **R** – Responsibility

#### Our Core Outcomes

- Increased customs and tax compliance.
- Increased ease and fairness of doing business with SARS.
- Increased cost effectiveness, internal efficiency and institutional respectability.

## 2. PURPOSE

The purpose of this request for information (“**RFI**”) is to compile a panel (“**Panel**”) of individuals (“**Bidders**”) for recommendation to the High Court as *curator bonii* as and when required. This RFI does not constitute an offer to do business with SARS.

The objectives and scope of work are set out in more detail in section 8 of the RFI.

### 3. LEGISLATIVE FRAMEWORK

#### 3.1. LEGISLATION

The Bidder should be familiar with all relevant legislation, including but not limited to tax laws applicable in the Republic of South Africa and should fully comply with such laws.

#### 3.2. PROCUREMENT LEGISLATION

SARS has a detailed evaluation methodology premised on Treasury Regulation 16A3, promulgated under Section 76 of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the Preferential Procurement Policy Framework Act, 2000 (Act No.5 of 2000) and the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003).

### 4. BRIEFING SESSION

A briefing session will be held at Brooklyn Bridge, Linton House, 570 Fehrsen Street, Brooklyn, Pretoria, on the 05 November 2015 at 11H00, to clarify the scope and extent of work to be executed.

### 5. DURATION OF THE PANEL

Subject to the conditions contained in this RFI, the successful Bidders ("**Panel Members**") will be appointed to the Panel for a period of thirty-six (36) months. SARS reserves the right to extend the term of the Panel for two (2) successive periods of twelve (12) months each. SARS does not guarantee that Panel Members will receive work during the term of the Panel. Panel Members will, based on the requirements of each case, be recommended to Court on an *ad hoc* basis as and when required.

### 6. TIMELINES OF THE RFI PROCESS

The project timeframes of this RFI are set out below:

Activity	Date Due
Advertisement of RFI in Government Tender Bulletin	30 October 2015
Distribution of RFI documents on SARS website and advertisement in newspaper/s	01 November 2015
Briefing session	05 November 2015
Questions relating to RFI from prospective Bidders	17 November 2015
Proposal submission closing date	23 November 2015 at 11h00
Notice to Panel Members	*February 2016

All times given in this RFI are in South African Standard Time and are, along with dates, subject to change at SARS' discretion. A reference to a time or date does not create –

- an obligation on the part of SARS to take any action; or

- any right for any Bidder to demand that action be taken on a specific date or at a specific time.

The Bidder accepts that, if SARS extends the closing date for proposal submissions for any reason, the requirements of this RFI will otherwise apply equally to the extended deadline.

## 7. CONTACT

Enquiries may be made in writing via e-mail to Mr. Aser Makgate (Procurement Tender Office) at [tenderoffice@sars.gov.za](mailto:tenderoffice@sars.gov.za) with a copy to [rft-professionalservices@sars.gov.za](mailto:rft-professionalservices@sars.gov.za). No telephonic enquiries will be entertained.

## 8. BUSINESS REQUIREMENTS

### 8.1. BACKGROUND

Section 163 of the Tax Administration Act allows SARS to apply to the High Court for a preservation order prohibiting a taxpayer from dealing with the assets to which the order relates. This is done to prevent realisable assets from being disposed of or removed in an effort to frustrate the collection of taxes that are due or payable, or that a senior SARS official believes on reasonable grounds may be due or payable. In these cases, SARS must take reasonable steps to preserve and safeguard the assets and in order to do so, may request the High Court to appoint a suitable *curator bonis* in whom the assets vest.

Although the Tax Administration Act does not prescribe who may be appointed as a *curator bonis*, the Court will consider SARS' recommendation, SARS being the applicant for the preservation order. SARS therefore wishes to establish the Panel consisting of suitable Panel Members from which a *curator bonis* can be recommended.

### 8.2. DOCUMENTATION REQUIRED

As part of their proposal, Bidders are required to submit –

- 8.2.1 a comprehensive resume including background, academic and professional qualifications, professional membership<sup>1</sup>, area of specialisation, experience (a minimum of seven (7) years in this field is required) and references;
- 8.2.2 proof of academic and professional qualifications, organisational membership as well as experience (see section 13.4);
- 8.2.3 the completed Annexure A ("**Declaration of Good Standing**");
- 8.2.4 a certified identity document;
- 8.2.5 a description of the document management / record-keeping system that will be used; and
- 8.2.6 a detailed profile of the company / business of the Bidder including annual financial statements.

The proposals must be as comprehensive as possible. SARS reserves the right to request further details or supporting documentation.

### 8.3. CONDITIONS APPLICABLE TO APPOINTMENT

- 8.3.1 Any award made to a Bidder under this RFI is conditional upon –

<sup>1</sup> Such as the Association of Black Business Rescue and Insolvency Practitioners of South Africa, the South African Restructuring and Insolvency Practitioner Association, the South African Institute of Chartered Accountants and the Law Society of South Africa.

- (a) the Bidder accepting all terms and conditions applicable to the provision of *curator bonii* services as set out in this RFI and any court order that confirms their appointment. Misrepresentations in a proposal may result in a Panel Member's removal from the Panel and a claim by SARS against the Bidder.
  - (b) a Panel Member being prepared to transfer knowledge and skills to SARS personnel during the periods of appointment.
  - (c) the Bidder being in good standing as set out in Annexure A.
- 8.3.2 No award shall be made to a Bidder whose Declaration of Good Standing does not confirm their good standing and SARS reserves the right to withdraw an award made to a Panel Member in the event that it is established that such Panel Member –
- (a) was in fact not in good standing at the time of the award;
  - (b) has submitted a fraudulent Declaration of Good Standing to SARS; or
  - (c) does not remain in good standing for the full term of the Panel.
- 8.3.3 The Bidder will be required to inform SARS should any details in their Declaration of Good Standing change.
- 8.3.4 During the term of the Panel, in the event that a Panel Member relocates to a new company / business, the continued inclusion of such Panel Member will be subject to the written approval by SARS and the submission of a –
- (a) profile of the new company / business including annual financial statements; and
  - (b) description of the document management / record-keeping system that will be used.
- 8.3.5 For purposes of rendering the services as described in this RFI, SARS reserves the right, if necessary, to recommend a *curator bonis* outside the approved Panel.

## 9. EVALUATION AND SELECTION CRITERIA

SARS has set minimum standards (Gates) that a Bidder must meet in order to be evaluated and selected as Panel Members. The minimum standards consist of the following:

- **Pre-Qualification Criteria (Gate 0)** – Bidders must submit all Standard Bidding (“SBD”) Documents (section 9.1), a certified identity document (section 8.2.4) and Annexure A (section 12).
- **Technical Evaluation Criteria (Gate 1)** – Bidders must submit all the documents as outlined in Annexure B (section 13).

### 9.1. PRE-QUALIFICATION CRITERIA – GATE 0

Without limiting the generality of SARS’ other critical requirements for this RFI, a Bidder must complete, sign and submit the documents listed in **Table 1** below. Proposals may be disqualified for non-submission of any of the documents.

**Table 1**

Name of the document that must be submitted	Non-submission may result in disqualification?
Response to RFI Letter	<b>YES</b> – Please complete and sign the supplied pro forma document.
Tax Clearance Certificate – SBD 2	<b>YES</b> – Please submit a valid and original certificate.

Name of the document that must be submitted	Non-submission may result in disqualification?
SARS' Oath of Secrecy	<b>YES</b> – Please complete and sign the supplied pro forma document in the presence of a Commissioner of Oaths and initial every page.
Invitation to Bid – SBD 1	<b>YES</b> – Please complete and sign the supplied pro forma document.
Declaration of Interest – SBD 4	<b>YES</b> – Please complete and sign the supplied pro forma document.
Declaration of Past Supply Chain Management Practices – SBD 8	<b>YES</b> – Please complete and sign the supplied pro forma document.
Certificate of Independent Bid Determination – SBD 9	<b>YES</b> – Please complete and sign the supplied pro forma document.
Certified Identity Document	<b>YES</b> – Please have the document certified by a Commissioner of Oaths.
Declaration of Good Standing (Annexure A)	<b>YES</b> - Please complete and sign the supplied pro forma document in the presence of a Commissioner of Oaths and initial every page.*
<i>Curator Bonii</i> Hourly rate card (Annexure C)	<b>YES</b> – Submit hourly rate in Annexure C.

\* See section 8.3.2.

## 9.2. TECHNICAL EVALUATION (GATE 1) = 100 POINTS

- 9.2.1 Only Bidders who have met the Pre-Qualification Criteria in (Gate 0) will be evaluated in Gate 1 for functionality.
- 9.2.2 Bidders will be evaluated out of 100 points. Only Bidders who have met the threshold of 75 out of 100 points will be considered for inclusion in the Panel.

The information of the Bidder will be scored according to the following points system:

Technical Adjudication Criteria	Points
<b>Technical analysis:</b> <ul style="list-style-type: none"> <li>• Qualifications.</li> <li>• Experience.</li> <li>• Professional Membership.</li> <li>• References.</li> <li>• Record Keeping.</li> </ul>	
<b>TOTAL:</b>	<b>100</b>

Please refer to Annexure B (section 13) on how Bidders will be evaluated.

### **9.3. COMPANY / BUSINESS PROFILE**

Bidders must submit a detailed profile of their company / business, including annual financial statements. These documents will not be used to evaluate a Bidder's eligibility to serve on the Panel. In the event that a *curator bonis* application has specific requirements, they will be used to ensure that these can be met.

### **9.4. CURATOR BONII RATE CARD**

Bidders are required to submit the rate card in Annexure C. The rate card will be used for internal analysis, and will form part of future engagement with the successful bidders as and when the services are required.

## **10. SPECIAL CONDITIONS OF THIS RFI**

### **10.1. RESERVATION OF RIGHTS**

SARS reserves the right –

- 10.1.1 not to award or to cancel this RFI at any time and shall not be bound to accept any proposals;
- 10.1.2 to cancel and / or terminate the RFI process at any stage, including after the closing date for proposal submission and / or after presentations have been made, and / or after proposals have been evaluated and / or after Bidders have been notified;
- 10.1.3 to carry out site inspections or explanatory meetings in order to verify the nature and quality of the services offered by a Bidder, whether before or after adjudication of proposals; or
- 10.1.4 to correct any mistakes that may have been in the RFI documents or that occurred at any stage of the RFI process.

### **10.2. CONFLICT OF INTEREST, CORRUPTION AND FRAUD**

SARS reserves its right to disqualify any Bidder who with or without their company / business, whether in respect of SARS or any other government organ or entity and whether from the Republic of South Africa or otherwise ("**Government Entity**"), –

- 10.2.1 engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other Bidder or company / business in respect of the subject matter of this RFI;
- 10.2.2 seeks any assistance, other than assistance officially provided by a Government Entity, from any employee, advisor or other representative of a Government Entity in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;
- 10.2.3 makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of SARS' officers, directors, employees, advisors or other representatives;
- 10.2.4 accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to a Government Entity;
- 10.2.5 pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift or any other consideration, that is contingent upon or results from the award of any tender, contract, right or entitlement which is in any way related to procurement or the rendering of any services to a Government Entity;



10.2.6 has in the past engaged in any matter referred to above; or

10.2.7 has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed and despite such Bidder, member or director's name not specifically appearing on the List of Tender Defaulters kept at National Treasury.

### **10.3. PREPARATION COSTS**

The Bidder will bear all its costs in preparing, submitting and presenting its response to this RFI and all other costs incurred by it throughout the RFI process. Furthermore, no statement in this RFI will be construed as placing SARS, its employees or agents under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the Bidder in the preparation of their response to this RFI.

### **10.4. INDEMNITY**

If a Bidder breaches the conditions of this RFI and, as a result of that breach, SARS incurs costs or damages (including, without limitation, the cost of any investigations, procedural impairment, repetition of all or part of the RFI process or enforcement of intellectual property rights / confidentiality obligations), then the Bidder indemnifies and holds SARS harmless from any and all such costs which SARS may incur and for any damages or losses SARS may suffer.

### **10.5. PRECEDENCE**

This document will prevail over any information provided during any briefing session whether oral or written, unless such written information provided, expressly amends this document by reference.

### **10.6. LIMITATION OF LIABILITY**

A Bidder participates in this RFI process entirely at their risk and cost. SARS shall not be liable to compensate a Bidder on any grounds whatsoever for any costs incurred or any damages suffered as a result of participation in this RFI process.

### **10.7. TAX COMPLIANCE**

No award shall be made to a Bidder whose tax affairs are not in order and SARS reserves the right to withdraw an award made to a Panel Member in the event that it is established that such Panel Member –

- was in fact not tax compliant at the time of the award;
- has submitted a fraudulent Tax Clearance Certificate (“TCC”) to SARS; or
- does not remain tax compliant for the full term of the Panel.

The Bidder will be required to submit a new tax clearance certificate upon expiry of a previous TCC.

### **10.8. NATIONAL TREASURY**

No award shall be made to a Bidder should their or their company/ business's name (or any of their members, directors, partners or trustees), appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers. SARS reserves the right to withdraw an award to a Panel Member should it be established, at any time, that Bidder or their company / business have been blacklisted with National Treasury by another government institution.

### **10.9. GOVERNING LAW**

South African law governs this RFI and the RFI response process. The Bidder agree to submit to the exclusive jurisdiction of the South African courts in any dispute of any kind that may arise out of or in

connection with the subject matter of this RFI, the RFI itself and all processes associated with the RFI.

#### **10.10. RESPONSIBILITY FOR COMPANY/ BUSINESS' PERSONNEL**

A Bidder is responsible for ensuring that its personnel (including agents, officers, directors, employees, advisors and other representatives), comply with all terms and conditions of this RFI.

#### **10.11. CONFIDENTIALITY**

Except as may be required by operation of law, by a court or by a regulatory authority having appropriate jurisdiction, no information contained in a proposal will be disclosed to any person not officially involved with SARS' examination and evaluation of the proposals.

No part of the RFI may be distributed, reproduced, stored or transmitted, in any form or by any means, electronic, photocopying, recording or otherwise, in whole or in part except for the purpose of preparing a proposal. This RFI and any other documents supplied by SARS, remain proprietary to SARS and must be promptly returned to SARS upon request together with all copies, electronic versions, excerpts or summaries thereof or work derived there from.

Throughout this bidding process and thereafter, Bidders must secure SARS' written approval prior to the release of any information that pertains to: (i) the potential work or activities to which this RFI relates; or (ii) the RFI process. Failure to adhere to this requirement may result in disqualification from the RFI process and civil action.

No confidential information relating to the process of evaluating or adjudicating proposals or appointing a Panel Member will be disclosed to a Bidder, their company / business or any other person not officially involved with such process.

#### **10.12. SARS PROPRIETARY INFORMATION**

Bidders must on their proposal cover letter make a declaration that neither they nor any of their company / business' personnel (including agents, officers, directors, employees, advisors and other representatives) have access to any SARS proprietary information or any other information that may have unfairly placed them in a preferential position in relation to any of the other Bidders.

### **11. INSTRUCTIONS TO BIDDERS**

- 11.1.** Proposals must be properly packaged in accordance with section 11.5 and deposited on or before the closing date and time in the tender box situated at the main entrance of the:

SARS Procurement Centre  
Brooklyn Bridge  
Linton House - Ground floor  
570 Fehrsen Street  
Brooklyn, Pretoria

- 11.2.** Proposals may also be posted to the Tender Office - SARS Procurement Department, Linton House, 570 Fehrsen Street, Brooklyn Bridge, Brooklyn, Pretoria, 0181.

- 11.3.** Proposals will only be considered if received by SARS before the closing date and time, regardless of the method used to send or deliver such documents.

11.4. Late proposals will not be accepted and shall be returned to sender.

11.5. Bidders are required to complete the following RFI Information Pack in full:

- Standard Bidding Documents
- Technical
- Bidder's details / company
- Supplier Registration Form
- Annual Financial Statements

11.6. Bidders are required to submit a file as well as a copy of the file (i.e. a file with a duplicate) together with 1 (one) CD-ROM containing the content of the file by no later than **23 November 2015 at 11H00**. The file as well as the CD-ROM must be properly labelled and submitted in the following format:

11.6.1 **Exhibit 1**

- Pre-qualification documents (SBD documents) as outlined in section 9.1.
- Declaration of Good Standing contained in Annexure A (section 12).
- Rate card – Annexure C

11.6.2 **Exhibit 2**

- Technical Response as outlined in Annexure B (section 13).

11.6.3 **Exhibit 3**

- Company / business profile.
- Supplementary Information.

Each file and CD-ROM must be marked correctly and sealed separately for easy reference during the evaluation process.

## 12. ANNEXURE A – DECLARATION OF GOOD STANDING

I, \_\_\_\_\_  
(full name and Surname)

Date of Birth: \_\_\_\_\_ Identity number: \_\_\_\_\_

hereby swear / solemnly declare that I –

1. am not insolvent and have never been declared insolvent Answer: \_\_\_\_\_
2. am resident in the Republic of South Africa Answer: \_\_\_\_\_
3. have not been convicted of a crime involving dishonesty where a sentence of imprisonment without a fine or a fine exceeding R 2 000.00 was imposed Answer: \_\_\_\_\_
4. will not collude with any party affected by a preservation order to grant any benefit not provided by law Answer: \_\_\_\_\_
5. will not act as a *curator bonis* for purposes of executing a preservation order involving a taxpayer or other person liable for a tax debt, for whom I have acted as bookkeeper, accountant or auditor during a twelve month period preceding the application Answer: \_\_\_\_\_
6. in law am not deemed to be a representative taxpayer, withholding agent or responsible third party Answer: \_\_\_\_\_
7. have not been removed from an office of trust by the Court on account of misconduct Answer: \_\_\_\_\_
8. am not subject to any order under the Tax Administration Act, 2011 (Act No. 28 of 2011) or any related legislation Answer: \_\_\_\_\_
9. will not offer or agree to abstain from investigating any affairs connected or subject to the preservation order Answer: \_\_\_\_\_
10. will act with circumspection, due skill, care and diligence; and treat all parties honestly and fairly, especially in a situation of conflicting interests Answer: \_\_\_\_\_
11. will comply with all applicable statutory or common law requirements Answer: \_\_\_\_\_

Signature: \_\_\_\_\_

(Must be signed in the presence of a Justice of the Peace, Magistrate or Commissioner of Oaths)

Date: \_\_\_\_\_ Place: \_\_\_\_\_

1. I certify that prior to my administering the prescribed oath / affirmation, I put the following questions to the deponent and wrote down his / her answers thereto in his / her presence:
  - 1.1. Do you know and understand the contents of the above statement? Answer: \_\_\_\_\_
  - 1.2. Do you have any objection to taking the prescribed oath / affirmation? Answer: \_\_\_\_\_
  - 1.3. Do you regard the prescribed oath / affirmation as binging on your conscience? Answer: \_\_\_\_\_
2. I certify that the deponent acknowledges that he / she knows and understands the contents of this statement, which was sworn to / affirmed and signed by the deponent in my presence.

Signed: \_\_\_\_\_

Justice of the Peace / Magistrate / Commissioner of Oaths

Full first names and surname: \_\_\_\_\_

Designation / Rank: \_\_\_\_\_

Date: \_\_\_\_\_ Place: \_\_\_\_\_

### 13. ANNEXURE B – TECHNICAL SCORECARD

Description		RFI Reference	Weight
<b>As part of the proposal, Bidders must submit:</b>			
<b>13.1. Qualifications</b>			<b>20</b>
Proof of academic and professional qualifications		Section 8.2.2	
<b>13.2. Experience</b>			<b>25</b>
Comprehensive resume		Section 8.2.1	
<b>13.3. Professional Membership</b>			<b>15</b>
Proof of membership		Section 8.2.2	
<b>13.4. References</b>			<b>20</b>
A testimonial on a letterhead from at least three (3) current / recent referees, which includes the name of the client, a contact person, their business address (if applicable), their phone number as well as the duration and a brief description of the services provided.		Section 8.2.2	
<b>13.5. Record Keeping</b>			<b>20</b>
<ul style="list-style-type: none"> <li>A description of the document management / record keeping systems sufficient to administer the preservation of assets in terms of section 163 of the Tax Administration Act.</li> <li>Full details of how electronic as well as paper-based confidential client information will be stored and maintained.</li> </ul>		Section 8.2.5	
<b>TOTAL POINTS:</b>			<b>100</b>

14. ANNEXURE C – *CURATOR BONII* RATE CARD

ORIGINAL