

# **SOUTH AFRICAN REVENUE SERVICE**

## **REQUEST FOR PROPOSAL**

### **RFP 38/2022**

### **APPOINTMENT OF A SERVICE PROVIDER FOR**

### **HEALTH AND SAFETY TRAINING**

**Amended : 17 March 2023**

**Closing date : 14 April 2023**

## **MAIN RFP DOCUMENT**

### **INSTRUCTIONS, GUIDELINES, AND CONDITIONS OF TENDER**

Bidder must note that the following sections have been amended:

- Section 7.3.2 Mandatory evaluation process (Gate 1)

The following are removed from mandatory evaluation criteria

- Examples
- South African Qualifications Authority Act, 1995 (Act No. 58 of 1995)  
Section 7.5 Technical evaluation process (Gate 2)

Category B and C will be combined and evaluated as one.

Change impact:

Due to the changes made above, Bidders are required to note the following documents that have also been amended to align to the scope:

- Category A – First Aid Level 1, 2 and 3. (Bidders are required to provide pricing for all levels)
- Annexure B1 – B4 – Technical Evaluation Criteria (Category B and C will be combined and evaluated as one)
- Annexure C: Pricing Template
- Technical evaluation process (Gate 2)
- Annexure A1 – SARS Business Requirements

TABLE OF CONTENTS

1	PURPOSE OF THIS REQUEST FOR PROPOSAL .....	3
2	OVERVIEW OF SARS' REQUIREMENTS .....	3
3	STRUCTURE OF THE RFP PACK .....	4
4	KEY ACTIVITIES AND DATES.....	4
5	COMMUNICATION.....	5
6	TENDER PREPARATION AND SUBMISSION .....	6
7	EVALUATION OF PROPOSALS .....	8
8	TRUSTS, JOINT VENTURES, SUBCONTRACTING AND OTHER ARRANGEMENTS .....	14
9	COMPLAINTS AND ALLEGATIONS.....	15
10	GENERAL CONDITIONS OF BIDDING.....	15
11	CHECKLIST OF RETURNABLES .....	21

## REQUEST FOR PROPOSAL

### Summary, Guidelines, Conditions and Instructions

#### 1 PURPOSE OF THIS REQUEST FOR PROPOSAL

- 1.1 The purpose of this Request for Proposal (RFP) is for the South African Revenue Service (SARS) to invite suitably qualified service providers (bidders) to submit proposals (tenders) in accordance with the rules set out in this RFP on a non-exclusive basis.

#### 2 OVERVIEW OF SARS' REQUIREMENTS

##### 2.1 Summary of the scope

- 2.1.1 Details of the scope of work and the required goods and services are defined in more detail in the Business Requirements Specification document annexure A and other documents forming part of this RFP.

##### 2.2 Background

According to Section 17 of the Occupational Health and Safety Act (Act 85 of 1993), employers who employ 20 or more workers on premises must appoint representatives to monitor health and safety conditions. One of the key principals of the Occupational Health and Safety Act is that work related hazards, risks and dangers should be addressed through good communication between management and employees. Appointed representatives represent workers regarding safety and health matters to management. Representatives form part of an important link between management and the rest of the organisation's employees.

The Act compels employers to provide training to these representatives to enable them to meet their responsibilities and be compliant. The training services will ensure that the representatives receive appropriate and accredited certification for appointment and to ensure availability when the certificates expired. The training is important as Health and Safety representatives will not continue with their duties once the certificates have expired.

The appointment of Health and Safety representatives is a statutory requirement. Their lack of appointment and training may lead to SARS receiving contravention notices from the Department of Employment and Labour and other regulatory bodies who visit workplaces at any given time to check compliance to the Occupational Health and Safety Act, 85 of 1993 and related regulations.

SARS has a duty to ensure that representatives are properly empowered to perform their duties as health and safety representatives. Representatives are entitled to attend incident investigations and enquiries, inspect documents and participate in internal health and safety audits.

### 3 STRUCTURE OF THE RFP PACK

#### 3.1 Structure

3.1.1 This RFP pack is organised in 5 (five) sections consisting of one or more documents in each section.

**Table 1: RFP pack outline and contents**

Section	Index	Description of section contents
1	<b>Main RFP Document</b>	Documents outlining the main RFP guidelines, instructions, conditions and documents necessary for a bidder to submit a proposal.
2	<b>Business Requirements Specification</b>	Document(s) outlining the business requirements specifications, technical requirements and other information required by a bidder to submit a proposal.
3	<b>SBD Documents</b>	Standard Bid Documents (SBDs) and other administrative documents that are required by National Treasury and SARS Procurement to be read, completed, and returned as part of a bidder's proposal.
4	<b>Contract management</b>	The General Conditions of Contract (GCC) and proposed agreement under which SARS wishes to contract the services.
5	<b>Response templates</b>	Where applicable, response templates that are required to be completed and returned as part of a bidder's proposal.

### 4 KEY ACTIVITIES AND DATES

4.1 The table below lists certain key dates and activities relevant from the time of issue of the RFP up to and until the closing date:

**Table 2: Key activities and dates**

No.	Activity	Date / Time / Details
1.	<b>Bid Number</b>	RFP 38-2022
2.	<b>Description</b>	Appointment of a service provider for health and Safety Training
3.	<b>Duration of contract</b>	The successful bidder will be appointed for a period of thirty - six (36) months subject to SARS terms and conditions.
4.	<b>Validity period of proposals</b>	Bids submitted will be valid for a period of 180 calendar days from closing date. SARS may however, subject to

		the bidders' consent, extend the validity period prior to expiry thereof.
5.	Advertisement of the RFP	a) <b>SARS website: 24 February 2023</b> b) <b>National Treasury Tender Portal: 24 February 2023</b>
6.	RFP pack available for download from SARS website	24 February 2023
7.	Virtual briefing session date and registration	The <b>non-compulsory</b> briefing session will be held on 02 March 2023 virtually via a Microsoft Teams meeting and can be accessed at the following link: [provide link].
8.	Bidders to submit written questions on or before	24 February 2023 (29 March 2023)
9.	SARS to respond to bidders' written questions on or before	17 March 2023 (05 April 2023)
10.	<b>CLOSING DATE AND TIME (proposals due)</b>	24 March 2023 AT 11:00 (14 April 2023 AT 11:00)

- 4.2 All dates and times in this RFP are South African Standard Time. The establishment of a time or date in this RFP does not create an obligation on the part of SARS to take any action or create any right or expectation in any way for any bidder to demand that any action be taken on the date established, or on any other date. A bidder accepts that if SARS extends the deadline (closing date) for proposal submissions for any reason whatsoever, the requirements of this RFP will apply equally to the extended deadline.

## 5 COMMUNICATION

- 5.1 All communications to SARS must be addressed to the SARS Tender Office, emailed to [tenderoffice@sars.gov.za](mailto:tenderoffice@sars.gov.za), and must contain a clear reference to this RFP. Communication sent by SARS must only be regarded as official communication if sent from [tenderoffice@sars.gov.za](mailto:tenderoffice@sars.gov.za), or a communication accompanied by a letter of authorisation signed by the SARS Procurement Executive.
- 5.2 A bidder may not make any communication to SARS regarding this RFP other than through the official contact provided in this document. SARS may, at its sole discretion, disqualify a bidder if the bidder communicates or attempts to communicate any information regarding this RFP to any of SARS' employees; officials; or any third parties involved in the preparation, evaluation, or award of the RFP other than through the official contact provided.

## 6 TENDER PREPARATION AND SUBMISSION

### 6.1 Introduction

6.1.1 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), which prescribes that SARS' procurement processes be:

- 6.1.1.1 economical, efficient, fair, equitable, transparent, competitive and cost effective; and
- 6.1.1.2 consistent with the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), its Regulations, and the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003).

### 6.2 Question and answer process

- 6.2.1 A bidder may submit questions to SARS as part of the question-and-answer process to gain a full understanding of any aspect of the RFP that is not clear to the bidder.
- 6.2.2 Between the dates given in paragraph 4, SARS will receive written questions sent by bidders by email through the official contact provided in this document. SARS will respond to these questions, but however is not be obliged to respond to a question should it choose not to do so. The questions and answers will be published on the SARS website. The identity of a bidder who has directed a question to SARS will not be disclosed by SARS in such responses.
- 6.2.3 SARS may issue updated versions of documents issued in the RFP pack and/or may issue additional documentation to form part of the RFP pack. Such reissued or additional documentation will be published on the SARS website. It is a bidder's responsibility to visit the SARS website at regular intervals to ensure that a bidder uses the latest versions of documents in the RFP pack.
- 6.2.4 The SARS procurement website must be treated as the primary means of communication. In the event of any other communication that conflicts with communications posted on the SARS website, the SARS website communication will prevail.

### 6.3 Central Supplier Database

- 6.3.1 All bidders wishing to do business with SARS must register on the Government's Central Supplier Database (CSD) at [www.CSD.gov.za](http://www.CSD.gov.za), and to include in their submission their CSD Master Registration Number. The recommended bidder(s) must be registered on the CSD prior to an award letter / purchase order / signed contract being issued.
- 6.3.2 Foreign suppliers with neither South African tax obligations nor history of doing business in South Africa must complete the questionnaire on the Standard Bidding Document (SBD) 1.

### 6.4 Proposal submission

- 6.4.1 For this RFP, SARS will accept proposal submissions in the form of physical proposal submissions, either deposited in the SARS tender box or posted to the SARS Tender Office.
- 6.4.2 The physical proposal submissions must be deposited in the SARS tender box on or before the closing date and time at the SARS Tender Office, situated at the main entrance at:

**SARS Procurement Tender Office, Lehae La SARS,  
299 Bronkhorst Street, Nieuw Muckleneuk, Brooklyn, Pretoria, 0181.**

- 6.4.3 The proposals may also be posted to the address provided in the afore mentioned paragraph.
- 6.4.4 Proposals will only be considered if received by the SARS Tender Office before the closing date and time, regardless of the method used.
- 6.4.5 Late proposals will not be accepted.

## 6.5 Instruction for submitting a proposal

- 6.5.1 This section details the instructions to bidders for preparing a proposal in response to this RFP, which must be followed in detail to enable the information contained in a bidder's proposal to be read, understood and evaluated in a common and consistent layout, and to ensure that the information submitted is correct, complete and well structured. Should a proposal be received that is not in the correct format, SARS reserves the right to disqualify the entire proposal or portions of the proposal depending on the extent of the deviation from the format described in this document.
- 6.5.2 All proposals and supporting documentation must be submitted in English.
- 6.5.3 A bidder's proposal is required to be submitted as:

<b>1 x Original hardcopy</b>	One (1) original hardcopy proposal clearly marked as " <i>Original</i> "
<b>1 x Duplicate hardcopy</b>	One (1) duplicate proposal clearly marked as " <i>Copy</i> "
<b>1 x Electronic copy</b>	One (1) electronic copy of the original hardcopy proposal

- 6.5.3.1 A "hardcopy proposal" means an A4 ring bound lever arch file.
- 6.5.3.2 An "electronic copy" means a memory stick (USB stick).
- 6.5.4 Each hardcopy proposal and electronic copy must be marked and labelled correctly, and must be outer sealed, wrapped and packaged, for ease of reference during the evaluation process.
- 6.5.5 **Pricing information must be included in a separate file (File 2), and not be included in the technical file (File 1).**
- 6.5.6 A bidder is required to submit the contents of its proposal (hardcopy and electronic) in the following format:

**Table 3: Format and organisation of proposal**

Files		Section	Responses
<b>File 1:</b> TECHNICAL proposal	• RFP reference	<b>1</b>	• Prequalification documents (SBD and other documents), <i>excluding SBD 6.1 Preference point claim form.</i>

	<ul style="list-style-type: none"><li>• Description</li><li>• Bidder name</li></ul>	2	<ul style="list-style-type: none"><li>• Response to mandatory requirements (if applicable)</li><li>• Supporting documents for mandatory requirements (if applicable)</li></ul>
		3	<ul style="list-style-type: none"><li>• Response to technical requirements</li><li>• Supporting documents for technical requirements</li></ul>
		4	<ul style="list-style-type: none"><li>• Company profile</li><li>• Supplementary information</li></ul>
		5	<ul style="list-style-type: none"><li>• Draft agreement</li></ul>
File 2: PRICE and B-BBEE proposal	<ul style="list-style-type: none"><li>• RFP reference</li><li>• Description</li><li>• Bidder name</li></ul>	1	<ul style="list-style-type: none"><li>• B-BBEE certificate or sworn affidavit</li><li>• SBD 6.1 Preference point claim form</li></ul>
		2	<ul style="list-style-type: none"><li>• Pricing response template.</li></ul>
		3	<ul style="list-style-type: none"><li>• 3 most recent years audited / independently reviewed financial statements</li></ul>

## 7 EVALUATION OF PROPOSALS

### 7.1 Process after the closing date

- 7.1.1 After the closing date and time SARS will evaluate the proposals with reference to SARS' evaluation criteria. SARS reserves the right to employ subject matter experts to assist in performing such evaluations.

### 7.2 Administrative Prequalification evaluation process (Gate 0)

- 7.2.1 SARS has defined minimum administrative prequalification criteria that must be met by a bidder. The table below contains the administrative prequalification documents that are required as part of a bidder's proposal, which must be completed and signed by the duly authorised representative of the prospective bidder(s).
- 7.2.2 Where a bidder's proposal fails to comply fully with any of the administrative prequalification criteria, SARS may at its discretion allow the bidder an opportunity to submit and/or supplement the information and/or documentation provided within a period of **five (5) working days** or such alternative period as SARS may determine to achieve full compliance with these criteria before disqualifying the bidder.

**Table 4: Administrative Prequalification criteria**

	Prequalification documents to be submitted	Instructions	Non-submission may result in disqualification?
1.	SBD 1: Invitation to bid form	Bidder to complete and sign the supplied pro forma document.	YES
2.	SBD 4: Bidder's Disclosure	Bidder to complete and sign the supplied pro forma document.	YES



	Prequalification documents to be submitted	Instructions	Non-submission may result in disqualification?
3.	SBD 6.1: Preference points claim form	Bidder to complete and sign the supplied pro forma document.	NO - Non-submission will lead to a zero score on B-BBEE
4.	Supplier Risk Questionnaire	Bidder to and sign the supplied pro forma document	YES
5.	Proof of registration on the Central Supplier Database (CSD)	Bidder to submit the proof of registration on CSD.	YES
6.	General Conditions of Contract (GCC) and/or Draft Agreement	Bidder to sign the supplied pro forma document.	YES
7.	A complete set of three (3) most recent audited / independently reviewed financial statements	Submit complete sets of audited or independently reviewed annual financial statements as detailed in this RFP.	YES - Required for due diligence process for award purposes

### 7.3 Mandatory evaluation process (Gate 1)

7.3.1 Only Bidders that have met the administrative prequalification Criteria in Gate 0 will be evaluated in Gate 1 for mandatory evaluation. The table below contains the mandatory evaluation criteria.

7.3.2 **If a bidder does not meet any of the mandatory evaluation criteria, the bidder will be disqualified, and the bidder's proposal will not be evaluated further.**

**Table 5: Mandatory evaluation criteria**

	Mandatory evaluation criteria	Bidder to submit as proof
1.	<del>South African Qualifications Authority Act, 1995 (Act No. 58 of 1995)</del>	<del>Bidders must submit proof of accreditation number and valid certificate with South African Qualifications Authority.</del>
2.	Health and Welfare Sector Education and Training Authority (HWSETA) and Other relevant SETA'S)	Bidders must submit proof of accreditation number and valid certificate with Health and Welfare Sector Education and Training Authority and other relevant SETA,s
3.	Department of Employment and Labour	Bidders must submit proof of registration with Department of Employment and Labour
4.	South African Maritime Safety Authority (Proof of accreditation number and valid certificate)	Bidders must submit proof of accreditation number and valid certificate with South African Maritime Safety Authority (Category E – Maritime Operations)

#### 7.4 Technical evaluation process (Gate 2)

- 7.4.1 Only bidders that have met the prequalification and mandatory evaluation requirements will be evaluated for technical capability and functionality, strictly according to the technical evaluation criteria below. A bidder is required to provide a technical solution for the required goods and services that meet SARS' requirements, and that is financially competitive and offers value for money.
- 7.4.2 The technical evaluation will be scored out of a total of 100 points, and bidders are required to score a minimum threshold of [70] out of 100 points to proceed to the next stage of evaluation, namely price and B-BBEE evaluation.

Bidders may submit proposals in respect of anyone (1) or more of the four (4) categories listed below.

**Category B and C will be combined and evaluated as one.**

- Category A – First Aid Level 1,2 and 3. **(Bidders are required to provide pricing for all levels)**
- Category B – Basic Fire Fighting and **Category C – Emergency Evacuation Procedures.**
- Category D – Safety, Health, Environmental Representative, and Incident Investigation; and
- Category E – Maritime Operations.

Bidders must complete Annexure A1 and clearly indicate the categories they are bidding for. Bidders are required to submit proposal in respect of anyone (1) or more of the four (4) categories listed above for all SARS regions.

Bidders to refer to the Annexure B1,B2, B3 and B4 for all technical evaluation criteria.

#### 7.5 Price and B-BBEE evaluation (Gate 3)

- 7.5.1 In line with the requirements of the Preferential Procurement Policy Framework Act, 2000, and its Regulations, only bidders that have met or exceeded the minimum threshold for functionality in the technical evaluation, will be evaluated further in terms of the following preference point system:

**Table 7: Price and B-BBEE evaluation**

	Criteria	Points
1.	Price	80
2.	Specific goals	20
	<b>TOTAL</b>	<b>100</b>

#### 7.5.2 Price evaluation (Gate 3, Stage 1)

- 7.5.2.1 Points for the price evaluation will be calculated in accordance with the formula stated below.
- 7.5.2.2 Bidders are required to complete all line items in the pricing response template provided by SARS, which will be used for the price evaluation. The price should be all-inclusive for all the goods and services required in the scope of work, and bidders must ensure the completeness and accuracy of the pricing figures provided in the pricing response

template. Failure to complete the pricing response template/bill of quantities may lead to a bidder scoring zero for the pricing evaluation or disqualification of the bidder.

**Table 8: Pricing evaluation formula**

Price evaluation formula	Points
$P_s = 80 \left[ 1 - \frac{P_t - P_{min}}{P_{min}} \right]$	80

Where

$P_s$	=	Points scored for price of proposal under consideration
$P_t$	=	Rand value of proposal under consideration
$P_{min}$	=	Rand value of lowest acceptable proposal

### 7.5.3 Specific goals evaluation (Gate 3, Stage 2)

- 7.5.3.1 Points for the B-BBEE evaluation will be allocated in accordance with a bidder's B-BBEE status claimed. Points for B-BBEE can only be awarded to a bidder who submits a valid B-BBEE certificate or sworn affidavit together with the SBD 6.1 Preference points claim form.
- 7.5.3.2 Bidders who do not claim preference points will be scored zero for B-BBEE.
- 7.5.3.3 Failure of a bidder to submit a B-BBEE certificate from a verification agency accredited by the South African Accreditation System (SANAS), a CIPC B-BBEE Certificate for Exempted Micro Enterprise (EME), or a sworn affidavit confirming annual turnover and level of black ownership in the case of an Exempted Micro Enterprise (EME) and Qualifying Small Enterprise (QSE) together with the proposal, will be interpreted to mean that preference points for B-BBEE are not claimed.
- 7.5.3.4 The B-BBEE certificate or sworn affidavit should be submitted in the name of the bidding entity. If the proposal is submitted by an *incorporated* joint venture, the *incorporated* joint venture must submit their B-BBEE status level verification certificate or sworn affidavit. If the proposal is submitted by an *unincorporated* joint venture arrangement, the *unincorporated* joint venture must submit a consolidated B-BBEE certificate or sworn affidavit as if they were a group structure, and that such consolidated B-BBEE certificate or sworn affidavit is prepared for every separate proposal.
- 7.5.3.5 SARS reserves the right to request bidders to submit proof of any information, to substantiate claims made about their B-BBEE status.

**Table 9: B-BBEE evaluation points allocation**

B-BBEE evaluation Criteria	Points
Bidders to submit: a) A duly completed SBD 6.1 Preference point claim form, and b) A valid B-BBEE certificate or sworn affidavit.	20

- 7.5.3.6 The following table indicates the specific B-BBEE documents that must be submitted for this RFP to claim Specific goals points.

**Table 10: B-BBEE documents checklist for Specific goals**

	Classification	Turnover	Submission requirement
1.	Exempted Micro Enterprise (EME)	Below R10 million p.a.	<ul style="list-style-type: none"> <li>A sworn affidavit or certificate from CIPC.</li> </ul>
2.	Qualifying Small Enterprise (QSE)	Between R10 million and R50 million p.a.	<ul style="list-style-type: none"> <li>A sworn affidavit only 51% Black Ownership and above; or</li> <li>A copy of B-BBEE Rating Certificate from a SANAS accredited rating agency.</li> </ul>
3.	Large Enterprise (LE)	Above R50 million p.a.	<ul style="list-style-type: none"> <li>A copy of B-BBEE Rating Certificate from a SANAS accredited rating agency.</li> </ul>

#### 7.5.4 Consolidation of price and B-BBEE evaluation (Gate 4)

7.5.4.1 The points scored by a bidder for the price evaluation and the B-BBEE evaluation will be added together to determine the overall points a bidder's proposal will score out of 100 points for the consolidated price and B-BBEE evaluation and ranking of the bidders.

#### 7.6 Financial risk analysis

7.6.1 SARS may conduct a financial risk analysis on the bidders.

7.6.2 The bidders are required to submit complete sets of audited / independently reviewed annual financial statements, for the three (3) most recent financial periods in the name of the bidding entity. The annual financial statements must contain:

7.6.2.1 A statement of profit and loss and other comprehensive income;

7.6.2.2 A statement of financial position;

7.6.2.3 A statement of cash flows;

7.6.2.4 A statement of changes in equity / net assets; and

7.6.2.5 Accompanying notes.

7.6.3 The bidders are required to submit the public interest score (PIS) in compliance with the Companies Act, Act 71 of 2008.

7.6.4 Bidders who have been trading for less than three (3) financial periods must provide:

7.6.4.1 A letter detailing the fact, signed by a duly authorised representative of the entity;

7.6.4.2 The annual financial statements that the entity can provide, considering the period that it has been trading; and

7.6.4.3 Any other information or documentation which would provide more clarity on the financial history of a bidder.

7.6.5 SARS reserves the right to request further information regarding the annual financial statements of a bidder at a later stage to demonstrate the potential bidder's financial capability. These will include, but are not limited to:

7.6.5.1 Holding company's / Parent company's accounts;

7.6.5.2 Management accounts;

7.6.5.3 Signed letter from a recognised financial institution confirming capital availability and bank statements; and/or

7.6.5.4 Credit rating reports (confirming capital availability or access to capital).

7.6.6 In the event of a subsidiary being the bidding entity and it submits the holding company's financial statements for financial analysis purposes, the holding company must furnish a Performance Guarantee that is signed by a Financial Service Provider (Guarantor) of the holding company, stating that the Guarantor will undertake to cover any or all risks associated with a bidder, in the event the bidder is awarded the RFP.

7.6.7 If the proposal is submitted by an *incorporated* joint venture, the *incorporated* joint venture is required to submit annual financial statements of the joint venture. If the proposal is submitted by an *unincorporated* joint venture arrangement, the *unincorporated* joint venture is required to submit annual financial statements of each of the parties to the arrangement.

7.6.8 SARS reserves the right to request a financial guarantee from the recommended bidder(s) prior to award, based on the financial risk evaluation outcome, which will be 10% of the tender value. Where the project is capital intensive and the recommended bidder(s) overall financial risk is assessed as high, SARS reserves the right to request a financial guarantee prior to award, of up to 50% of the average annual tender value, to cover the upfront costs and to enable the bidder(s) to commence with the project.

## 7.7 Recommended bidders' due diligence and risk assessment prior to award

7.7.1 SARS has a moral obligation to ensure that a supplier's financial position does not place public money or services at unacceptable risks, and will therefore perform due diligence and risk assessment of recommended bidder(s) prior to award.

7.7.2 Where SARS requested the annual financial statements as part of the prequalification or mandatory evaluation requirements, these will be used as a basis on assessing the financial capability and assessing a contract limit size considered "safe" to award to a potential bidder. To assist in encouraging new business and in the spirit of encouraging supplier growth, SARS will engage the bidder to demonstrate any further evidence of financial risk, capacity, or capability mitigations.

## 7.8 Proposed agreement

7.8.1 Any award made to a bidder under this RFP is conditional, amongst other provisions, upon SARS and such bidder concluding a written agreement within the time frame stipulated in the letter of award.

7.8.2 Upon award, SARS and the successful bidder will conclude an agreement regulating the specific terms and conditions applicable to the goods and services being procured by SARS. In this regard:

7.8.2.1 SARS will enter into negotiations with the bidder with a view to concluding the agreement.

7.8.2.2 SARS will be entitled to cease negotiating with a bidder and negotiate with another bidder if SARS, in its sole discretion, is of the opinion that: (i) the bidder has made misrepresentations in its proposal; (ii) the bidder is attempting to withdraw from positions or commitments made in its proposal; (iii) the bidder is not negotiating in good faith; or (iv) an agreement may not be expeditiously concluded with the bidder for any other reason.

7.8.2.3 SARS reserves the right to vary the terms and conditions of the proposed agreement during the course of negotiations with a bidder at SARS' sole discretion.

- 7.8.3 A bidder should note that the terms of its proposal will be incorporated in the proposed agreement by reference and that SARS relies upon the bidder's proposal as a material representation in making an award to a successful bidder and in concluding an agreement with the bidder. It follows therefore that any misrepresentations in a proposal may result in legal action or other processes by SARS against the bidder, notwithstanding the conclusion of an agreement between SARS and the bidder for the provision of the goods and services in question. In the event of a conflict between the bidder's proposal and the agreement concluded between the parties, the agreement will prevail.
- 7.8.4 If the successful bidder fails to sign the proposed agreement within twenty-one (21) days, or as requested by SARS, calling upon it in writing to do so, SARS reserves the right to:
- 7.8.4.1 cancel the award to the successful bidder;
  - 7.8.4.2 enter into negotiations with reserve bidder(s) and conclude the proposed agreement with such reserve bidder(s); or
  - 7.8.4.3 take any other action SARS deems reasonable and appropriate.

## 8 TRUSTS, JOINT VENTURES, SUBCONTRACTING AND OTHER ARRANGEMENTS

### 8.1 Proof of existence of a trust, joint venture and subcontracting arrangements

- 8.1.1 Where, for the purposes of this RFP, a bidder submits its proposal as a trust, such bidder must submit concrete proof of the existence of a trust. SARS will accept a registered trust deed as acceptable proof of the existence of a trust. The trust deed must include amongst others:
- 8.1.1.1 Details of the trustees of the trust; and
  - 8.1.1.2 Details of the beneficiaries of the trust. In instances where the beneficiary is a trust, the trust deed of that specific trust is required.
- 8.1.2 Where, for the purposes of this RFP, a bidder submits its proposal as a joint venture (incorporated or unincorporated), the bidder must submit the joint venture agreement, which sets forth the following details:
- 8.1.2.1 identification of each party to the agreement in full;
  - 8.1.2.2 the percentage ownership of the joint venture of each party to the agreement (if applicable);
  - 8.1.2.3 the precise functions and responsibilities which each party will fulfil in terms of the agreement. This should include details of the delimitations of scope within the goods and services to be assigned to such a party(ies);
  - 8.1.2.4 the anticipated percentage of the revenue that the party(ies) would receive (anticipated revenue that the party(ies) would receive as a percentage of the total revenue the bidder would anticipate receiving over the term of the agreement with SARS), if the bidder is successful; and
  - 8.1.2.5 clearly set out the roles and responsibilities of the Lead Partner and the remainder joint venture party(ies). The agreement must also clearly identify the Lead Partner, who shall be given the power of attorney to bind the other party(ies) in respect of matters pertaining to the joint venture.
- 8.1.2.6 If a bidder is submitting a proposal in the form of an *unincorporated* joint venture, the SBD 4 Bidder's disclosure form should be completed by each party participating in the joint venture agreement, and proof of CSD registration should be submitted for all parties participating in the joint venture for this RFP.

- 8.1.2.7 Joint venture members should be advised that each member will be held jointly and severally liable for the performance of the joint venture.
- 8.1.3 Where, for the purposes of this RFP, a bidder has or intends to subcontract areas of scope of the goods and services, bidders must note the following:
- 8.1.3.1 the bidder must complete paragraph 7 of the SBD 6.1 Preference point claim form. If a bidder intends subcontracting to more than one subcontractor, it must include all the relevant information in the form, or alternatively submit a separate attachment with the information required as per the Preference point claim form and reference must be made to the attachment;
  - 8.1.3.2 the agreement will be concluded between the main contractor(s) and SARS, therefore, the main contractor(s) and not its/their subcontractor(s) will be held liable for performance in terms of its contractual obligations
  - 8.1.3.3 the successful bidder must, at all times, be solely and entirely accountable to SARS for the performance of its contractual obligations in terms of the agreement; and
  - 8.1.3.4 Without diminishing the bidder's accountability in any way for the delivery of the services, including the performance standards, SARS may require: access to and transparency in the subcontracting agreements; the full details of the functions which the subcontractor will fulfil in terms of the agreement including details of the delimitations of scope within the services to be assigned to such a subcontractor; monitoring and reporting of subcontractor's participation and performance to SARS; direct participation of subcontractor(s) in the account and project planning activities; and subcontractors' representation in account governance structures and committees. SARS will, at all times, demand fair dealing in the relationship between a bidder and its subcontractor(s).
- 8.1.4 Any bidder, whether participating in a trust, joint venture and/or subcontracting arrangement, who participates in preparatory work on the basis of which another tender will flow, may not participate in the resultant tender because of the advantage of having been privy to the underlying preparatory work.

## 9 COMPLAINTS AND ALLEGATIONS

- 9.1.1 Should a Bidder have reasons to believe that the technical specifications are not open and/or are written for a particular bidder, brand or product; the bidder is urged to notify the Procurement Department within ten (10) days after publication of the bid.
- 9.1.2 Any suspicious calls asking for upfront payment to secure an award of a bid or in lieu of claims that the outcome of a tender can be influenced towards your company, please immediately inform the SARS Fraud/Anti-Corruption Hotline at 0800-002870 for further investigation.
- 9.1.3 The "SARS hotline" further provides an anonymous reporting channel for any unethical behaviour that a bidder wants to report.

## 10 GENERAL CONDITIONS OF BIDDING

- 10.1 By bidding, a bidder, is deemed to have accepted all terms and conditions of this RFP; and is further deemed to have accepted that if successful, any award made will be made subject to the terms and conditions of this RFP.

## 10.2 Reservation of rights

- 10.2.1 In addition to any rights which SARS has reserved to itself in this document or any other document in the RFP pack, SARS reserves the right in its sole discretion to:
- 10.2.1.1 make no award, or to accept part of a proposal rather than the whole;
  - 10.2.1.2 withdraw, or cancel this RFP;
  - 10.2.1.3 amend, vary, or supplement any of the information, terms or requirements contained in this RFP, any information or requirements delivered pursuant to this RFP, or the structure of the RFP process;
  - 10.2.1.4 schedule additional briefing sessions / site inspections, and to conduct site visits, site inspections, product evaluations, local content evaluations, and/or perform audits on any bidder whenever SARS deems it prudent to do so;
  - 10.2.1.5 no longer consider a bidder's proposal where adverse information about the bidder or its proposal submission has come to the attention of SARS, provided that such bidder is informed accordingly and afforded an opportunity to object;
  - 10.2.1.6 award a proposal based on which bidder is offering the best value for money, even if such proposal is not scored the highest points during the evaluation;
  - 10.2.1.7 conduct a risk assessment of a bidder's capability to deliver the goods and perform the services in accordance with the specified service levels and/or achieve SARS' objectives;
  - 10.2.1.8 request additional information, clarification or verification in respect of any information contained in or omitted from a bidder's proposal, which SARS may do either in writing or at a meeting convened with the bidder for that purpose;
  - 10.2.1.9 conduct a due diligence on any bidder or its subcontractor, which may include interviewing customer references or performing other activities to verify information and capabilities submitted, claimed, or otherwise, (including visiting a bidder's, subcontractors, or customer reference premises, sites and/or facilities to verify certain stated facts or assumptions). The bidder will be obliged to grant SARS with all such access, assistance and/or information as SARS may reasonably request. The bidder must respond within the timeframes set by SARS, failing which SARS reserves the right not to consider the bidder's proposal any further; and/or
  - 10.2.1.10 request presentations from such short-listed bidders. All costs relating to the preparation of such presentations will be borne by the bidders.
- 10.2.2 SARS will disqualify any bidder, who:
- 10.2.2.1 engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other bidder in respect of the subject matter of this RFP;
  - 10.2.2.2 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;
  - 10.2.2.3 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;
  - 10.2.2.4 makes or offers any gift, gratuity, anything of any value or other inducement, to any government entity's officers, directors, employees, advisors or other representatives in order to obtain any unlawful advantage in relation to procurement or services provided or



to be provided to a government entity;

10.2.2.5 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;

10.2.2.6 pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift or any other consideration, which 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;

10.2.2.7 has been found guilty in a court of law or administrative or regulatory authority having appropriate jurisdiction on charges of unethical or improper conduct, regardless of whether or not a prison term or penalty was imposed;

10.2.2.8 is listed on the National Treasury's Register for Tender Defaulters or the National Treasury's Database of Restricted Suppliers; or

10.2.2.9 whose tender contains a misrepresentation which is materially incorrect or misleading.

#### 10.2.3 Bidders' own conditions

10.2.3.1 Bidders may not come up with their own terms and conditions, counter conditions, modify or vary any of the terms, conditions or requirements herein. SARS may disqualify any bidder who fails to comply with this clause.

### 10.3 Conflict of interest

10.3.1 If at any time a bidder identifies an actual or potential conflict of interest, the bidder must immediately notify SARS in writing. SARS reserves the right to exclude the proposal submitted by such bidder from further consideration, unless the bidder is able to resolve the conflict to SARS' satisfaction. If it comes to SARS' knowledge that there was indeed a conflict of interest or a potential conflict of interest, same will be grounds for the immediate disqualification of the bidder.

### 10.4 Confidentiality

10.4.1 Except as may be required by operation of law, by a court or by a regulatory authority having appropriate jurisdiction, information contained in a bidder's proposal(s) may not be disclosed by any bidder, other than to a person officially involved with SARS' examination and evaluation of a proposal.

10.4.2 Throughout this RFP process and thereafter, the 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 RFP relates; or (ii) the process which follows this RFP. Failure to adhere to this requirement may result in disqualification from the RFP process and such legal action as SARS may deem suitable.

### 10.5 Fronting

10.5.1 SARS supports the spirit of broad-based black economic empowerment and recognises that real empowerment can only be achieved through individuals and businesses conducting themselves in accordance with the Constitution and in an honest, fair, equitable, transparent and legally compliant manner. Against this background SARS condemns any form of fronting.

10.5.2 SARS, in ensuring that bidders conduct themselves in an honest manner will, as part of the bid evaluation processes, conduct or initiate the necessary enquiries / investigations to determine the accuracy of the representations made in the bid documents. Should any of the fronting indicators as

contained in the Guidelines on Complex Structures and Transactions and Fronting, issued by the Department of Trade and Industry be established during such enquiry / investigation, the onus will be on the bidder / contractor to prove that fronting does not exist. Failure to do so within a period of 14 days from date of notification may invalidate the bid / contract and may also result in the restriction of the bidder / contractor to conduct business with the public sector for a period not exceeding ten years, in addition to any other remedies SARS may have against the bidder / contractor concerned.

#### **10.6 Insurance**

- 10.6.1 The successful bidder will be required, on or before the effective date of the agreement and for the duration of the agreement, to have and maintain in force adequate insurance cover consistent with acceptable and prudent business practices and acceptable to SARS, which shall include, without limitation, professional indemnity insurance cover.

#### **10.7 Indemnity**

- 10.7.1 If a bidder breaches any condition of this RFP 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 RFP process and/or enforcement of intellectual property rights or 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.

#### **10.8 Intellectual property**

- 10.8.1 SARS retains ownership of all intellectual property rights in the documents that form part of this RFP. Bidders will retain the intellectual property rights in their proposals but grant SARS the right to make copies.

#### **10.9 Limitation of liability**

- 10.9.1 A bidder participates in this RFP process entirely at its own risk and cost. SARS will not be liable to compensate a bidder on any grounds whatsoever for any costs incurred or any damages suffered as a result of the bidder's participation in this RFP process.

#### **10.10 Preparation costs**

- 10.10.1 A bidder will bear all its costs in preparing, submitting, delivering, and presenting any response or proposal to this RFP and all other costs incurred by it throughout the RFP process. No statement in this RFP 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 bidders in the preparation of their response to this RFP.

#### **10.11 Precedence**

- 10.11.1 The terms and conditions of this document will prevail over any information provided during any briefing session or communication, whether oral or written, unless such information is official written communication, as set out per the Communication paragraph in this document, and that such information expressly states that it amends this document.

#### **10.12 Responsibility for bidder's personnel and subcontractors**

- 10.12.1 A bidder is responsible for ensuring that its personnel (including agents, officers, directors, employees, advisors and other representatives of a bidder), its subcontractors (if any), and personnel of its subcontractors comply with all the terms and conditions of this RFP.
- 10.12.2 If SARS allows a bidder to make use of subcontractors, such subcontractors will at all times remain the responsibility of the bidder and SARS will not under any circumstances be liable for any losses or damages incurred by such subcontractors.
- 10.12.3 The proposal shall however be awarded to the Vendor as a primary contractor who shall be responsible for the management of the awarded proposal. No separate contract shall be entered into between SARS and/or its client and any such subcontractors.
- 10.12.4 If a bidder includes evidence of experience of individuals that are not currently employed by the said bidder, then the bidder is required include in their submission a letter or agreement from the respective individual whose evidence of experience is included in the proposal, that the individual is aware and is in agreement that their evidence of experience may be included for tendering purposes, and that the said individual confirms to commit and will make him/herself available for the contract period should the contract be awarded.
- 10.12.5 If a bidder includes experience of an entity other than the bidder itself, then the bidder must include in their submission a letter or agreement from the respective entity that the entity is aware and agrees that their experience may be included for tendering purposes. Copies of the signed agreements between the relevant parties must be attached to the proposal responses

#### **10.13 RFP not an offer**

- 10.13.1 This RFP does not constitute an offer to do business with SARS, but merely serves as an invitation to bidders to facilitate a requirements-based decision process. Nothing in this RFP or any other communication made between SARS (including its officers, directors, employees, advisers and representatives) is a representation that SARS will offer, award or enter into an agreement with the bidder.

#### **10.14 SARS' oath / affirmation of secrecy**

- 10.14.1 SARS has a Policy in terms of which the successful bidder; key personnel or any other personnel as may be determined by SARS will be required, upon award, to individually take a mandatory oath/ declaration/ affirmation of secrecy. The award will therefore be made subject to the condition that the successful bidder along with the personnel referred to above comply with the afore mentioned Policy.

#### **10.15 Screening and vetting of a bidder**

- 10.15.1 Acceptance of a bidder's proposal is subject to the condition that both the contracting firm and its personnel providing the goods and services, must be screened and cleared by the appropriate authorities to the grade of clearance in line with SARS Policy.
- 10.15.2 Obtaining the necessary clearance is the responsibility of the contracting firm concerned. If the principal contractor appoints a subcontractor, the same provisions and measures will apply to the subcontractor.
- 10.15.3 The bidders shall supply and maintain a list of personnel involved on the project indicating their clearance status.

**10.16 Tax compliance**

- 10.16.1 No bid will be awarded to a bidder who is not tax compliant. As part of good governance, directors/owners of the bidding entity should also maintain their tax compliance status.

**10.17 Tender defaulters and restricted suppliers**

- 10.17.1 No bid will be awarded to a bidder whose name (or any of its members, directors, partners or trustees) appears on the National Treasury's Register for Tender Defaulters or the National Treasury's Database of Restricted Suppliers.

**10.18 Local production and content**

- 10.18.1 SARS supports and promotes local production and local content, environmentally friendly products, and sustainable sourcing.
- 10.18.2 To enable this objective to be adequately assessed and as part of contract management, bidders shall advise SARS of its local and regional strategy and its initiatives to involve, support and use local/regional entities and workforce.
- 10.18.3 The appointed supplier shall provide and use, for the performance of this contract, local subcontractors or locally acquired materials, equipment and facilities, to the extent available and within reasonable costs, to produce the quality and quantity of work and materials required by this contract.

**10.19 Validity of information**

- 10.19.1 SARS has made reasonable efforts to ensure the accuracy of the information contained in this RFP. However, neither SARS, nor its employees, officers, advisers or agents will be liable (directly or otherwise) to a bidder or any third party for any inaccuracy or omission of any information in the RFP or in respect of any additional information SARS may provide to a bidder as part of the RFP process.
- 10.19.2 A bidder is deemed to have examined this RFP and any other information supplied by SARS to the bidder and to have satisfied itself as to the correctness and sufficiency of such information before submitting any of its responses.

**10.20 Governing law**

- 10.20.1 This RFP and any resultant agreement shall be governed by the laws of the Republic of South Africa.

## 11 CHECKLIST OF RETURNABLES

Table 12: Checklist of returnable documents

	Checklist of returnable documents	Comply	Do not comply
1.	An original, a copy and an electronic RFP proposal has been submitted for this RFP.		
2.	The pricing information is included as a separate file (File 2) and is not included in the technical file (File 1).		
3.	The tender proposal has been organised as per the format required for this tender (paragraph 6).		
4.	SBD 1: Invitation to bid form has been completed and signed.		
5.	SBD 4: Bidder's Disclosure has been completed and signed.		
7.	SBD 6.1: Preference points claim form has been completed and signed.		
8.	Proof of registration on the Central Supplier Database (CSD) has been submitted.		
9.	General Condition of Contract (GCC) has been completed and signed.		
10.	A complete set of three (3) most recent audited / independently reviewed financial statements has been included.		
11.	All the mandatory evaluation requirements have been submitted with this bid.		
12.	All the technical evaluation requirements have been submitted with this bid.		
14.	All the pricing evaluation requirements have been submitted with this bid and the pricing template / Bill of Quantities has been completed in full and signed.		
15.	All the B-BBEE evaluation requirements have been submitted with this bid.		