

REFERENCE: RFI 02/2015

REQUEST FOR INFORMATION

**DESCRIPTION:
A PANEL OF RECOMMENDED INSOLVENCY
PRACTITIONERS**

DATE ISSUED: 06 NOVEMBER 2015

CLOSING DATE: 19 JANUARY 2016

**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**”), **not Companies / Corporations, for nomination of Insolvency Practitioners “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 paragraph 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 second non-compulsory briefing session will be held at Brooklyn Bridge, Linton House, 570 Fehrsen Street, Brooklyn, Pretoria, on the **11 December 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 individual Applicants/Bidders ("**Panel Members**") will be appointed to the Panel for a period of 36 months. SARS reserves the right to extend the term of the Panel for 2 successive periods of 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 nominated to the Master of the High 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	06 November 2015
Erratum published on SARS website	30 November 2015
Erratum published on Government Tender Bulletin	4 December 2015
Erratum published on Sunday Times	6 December 2015
Distribution of RFI documents on SARS website and advertisement in newspaper/s	09 November 2015
	Revised document uploaded on 30 November 2015

Activity	Date Due
First Briefing session	17 November 2015
Second Briefing session	11 December 2015
Questions relating to RFI from prospective Bidders	Extended to 18 December 2015
RFI closing date	Extended from 7 December 2015 to 19 January 2016 at 11h00
Notice to Panel Members	March / April 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 information 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 Procurement Tender Office at tenderoffice@sars.gov.za with a copy to rfi-professionalservices@sars.gov.za. No telephonic enquiries will be entertained.

8. BUSINESS REQUIREMENTS

8.1. BACKGROUND

SARS must take reasonable steps to preserve and safeguard the assets of an estate and, in order to do so, will require the services of competent and experienced insolvency practitioners who will protect the rights and interests of the *concursum creditorium* as a whole but also to protect the rights and interest of SARS and the Government through proper administration of the winding up process as set out in the Insolvency Act 24 of 1936, the Companies Act 61 of 1963, the Companies Act 71 of 2008 and the Close Corporations Act 69 of 1984 (as amended).

In order to ensure uniformity and conformance by SARS when considering the nomination of insolvency practitioners in insolvent estates to the Master of the High Court, it is critical that SARS recommends its own list of insolvency practitioners through this RFI process.

8.2. DOCUMENTATION REQUIRED

As part of their response, Bidders are required to complete and submit the required documents –

- 8.2.1 Annexure B: A duly completed Questionnaire/Application Form;
- 8.2.2 Annexure C: SBD 2, SBD 4, SBD 8, SBD 9; Valid BBBEE certificate and SARS' Oath of Secrecy;
 - SBD 2 – A valid TCC of the Company
 - SBD 4 must be completed by the Company
 - BBBEE certificate of a Company
 - SBD 9 must be completed by the Applicant/Bidder
 - Oath of secrecy must be completed by the Applicant/Bidder
- 8.2.3 Annexure D: Tax Clearance Certificate and Certified copy of Identity Document of Applicant/ Bidder;
- 8.2.4 Annexure E: Proof of academic and professional qualifications;
- 8.2.5 Annexure F: Applicant/Bidder membership;
- 8.2.6 Annexure G: Certificates of appointment for experience;
- 8.2.7 Annexure H: Testimonials;
- 8.2.8 Annexure I: Company Registration Documents;
- 8.2.9 Annexure J: Qualifications of the Employees;
- 8.2.10 Annexure K: Utility Bills for each address provided in table 9D. (infrastructure);
- 8.2.11 Annexure L: Financial Statements of Company (most recent reviewed/audited); and
- 8.2.12 Annexure M: Declaration of Good Standing.

The response must be as comprehensive as possible. Non-completion and non-submission of the required documents may render the applicant/bidder's submission as non-responsive.

8.3. CONDITIONS APPLICABLE TO BEING LISTED ON THE PANEL:

- 8.3.1 Any inclusion of a Bidder on the panel in terms of this RFI is conditional upon –
 - The Bidder being on the Master of the High Court's Panel of Insolvency Practitioners;
 - Presentation of a valid TCC by the Individual; and
 - Bidder accepting all terms and conditions contained in this RFI.

Misrepresentations in information may result in a Panel Member's removal from the Panel and a claim by SARS against the Bidder;

- A Panel Member being prepared to transfer knowledge and skills to SARS personnel during the periods of appointment; and
- The Bidder being in good standing as set out in **Annexure M**.

- 8.3.2 The Bidder shall not be included on the panel if the Declaration of Good Standing does not confirm their good standing and SARS reserves the right to remove such Bidder from the Panel in the event that it is established that such Panel Member –
- was in fact not in good standing at the time of the award;
 - has submitted a fraudulent Declaration of Good Standing to SARS; or
 - 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 –
- profile of the new company / business including annual financial statements; and
 - 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 nominate an insolvency practitioner outside the approved Panel.

9. EVALUATION AND SELECTION CRITERIA

SARS has set minimum standards 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** – Bidders must comply with paragraph 9.1 herein under.
- **Technical Evaluation Criteria** – Bidders must submit all the documents as outlined in paragraph 8.2.

9.1. PRE-QUALIFICATION CRITERIA

Without limiting the generality of SARS' other critical requirements for this RFI, an Applicant/Bidder must comply with the following criteria. He/she must:

- Be listed on the Master's panel of Insolvency Practitioners;
- Not have a criminal record; and
- May not be un-rehabilitated insolvent.

The Applicant/Bidder must complete and submit the following:

- Section 1 of the Questionnaire/Application Form;
- Annexure D: A valid Tax Clearance Certificate of Applicant/Bidder & Certified copy of Identity Document; and
- Annexure M: Declaration of Good Standing.

9.2. TECHNICAL EVALUATION = 100 POINTS

- 9.2.1 Only Bidders who have met the Pre-Qualification Criteria will be evaluated for functionality.
- 9.2.2 Bidders who have submitted all the required documents as outlined in paragraph 8.2 documents be listed on the panel.
- 9.2.3 Bidders will be evaluated out of 100 points. This criteria will however not prevent a Bidder from being listed on the panel, but will only be used in the process of nominating an Insolvency Practitioner to the Master of the High Court for appointment in respect of a specific estate.
- 9.2.4 Refer to Annexure A: Technical Evaluation Scorecard.

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 information;
- 10.1.2 to cancel and / or terminate the RFI process at any stage, including after the closing date for Information submission and / or after presentations have been made, and / or after information 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 information; 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 an information will be disclosed to any person not officially involved with SARS’ examination and evaluation of the information.

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 information. 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 Information 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 Information cover letter make a declaration that neither they nor any of their company / business' personnel (including agents, officers, directors, employees, advisors and other representatives) has 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.** Information must be properly packaged in accordance with section 11.5 below 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.** Information may also be posted to the Tender Office - SARS Procurement Department, Linton House, 570 Fehrsen Street, Brooklyn Bridge, Brooklyn, Pretoria, 0181.

- 11.3.** Information 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 information will not be accepted and shall be returned to sender.

- 11.5.** 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 CD-ROM / USB containing the content of the file by no later than **19 January 2016** at 11H00. The files, documents as well as the CD-ROM / USB must be properly labelled **and contain all the documents listed in paragraph 8.2.**

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