

REFERENCE: RFP 02/2021
REQUEST FOR PROPOSAL

DESCRIPTION:

**APPOINTMENT OF A CHAIRPERSON FOR THE SARS NATIONAL
BARGAINING FORUM**

DATE ISSUED: 29 APRIL 2022

CLOSING DATE: 19 MAY 2022 at 11H00

TENDER BOX:

LEHAE LA SARS, PRETORIA HEAD OFFICE,
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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.

2. OVERVIEW OF SARS

Our Mandate

The SARS Act, 1997, enables SARS to:

- Collect all revenue due;
- Ensure optimal compliance with Tax and Customs legislation; and
- Provide a Customs service that optimises revenue collection, protect our borders and facilitate legitimate trade.

The primary legislation that SARS administers includes:

- Income Tax Act, 1962;
- Customs and Excise Act, 1964;
- Value-Added Tax Act, 1991;
- Tax Administration Act, 2011; and
- Employment Tax Incentive Act, 2013.

SARS Higher Purpose

Our work enables Government to build a capable State, to foster sustainable economic growth and social development that serves the wellbeing of all South Africans.

Our Strategic Intent

Our mandate is to collect all revenue due; ensure optimal compliance with tax and customs legislation; provide a customs service to optimise revenue, border protection and facilitate legitimate trade. To give effect to our mandate, our Strategic Intent is to develop a Tax & Customs system based on Voluntary Compliance.

Our Vision

It is our Vision to build a smart modern SARS with unquestionable integrity that is trusted and admired.

Our Strategic Objectives

In support of our Strategic Intent and to give effect to our compliance philosophy, we have identified and committed to achieving nine (9) Strategic Objectives to guide and inform our efforts and decisions and focus our resources over the course of this planning cycle. Our nine (9) Strategic Objectives are as follows:

- Provide clarity and certainty for taxpayers and traders of their obligations;
- Make it easy for taxpayers and traders to comply with their obligations;
- Detect taxpayers and traders who do not comply, and make non-compliance hard and costly;
- Develop a high performing, diverse, agile, engaged and evolved workforce;
- Increase and expand the use of data within a comprehensive knowledge management framework to ensure integrity, derive insight and improve outcomes;
- Modernise our systems to provide digital and streamlined online services;
- Demonstrate effective resource stewardship to ensure efficiency and effectiveness in delivering quality outcomes and performance excellence;
- Work with and through stakeholders to improve the tax ecosystem; and
- Build public trust and confidence in the tax administration system.

Our Values

Endeared by a sense that we serve a Higher Purpose in the service of South Africans, and committed to the fulfilment of our Mission & Mandate, we hold the following values dear:

- Uncompromising regard for Taxpayer Confidentiality;
- Unquestionable Integrity, Professionalism and Fairness;
- Exemplary Public Service; and
- Incontestable insights from Data & Evidence.

3. PURPOSE OF THIS REQUEST FOR PROPOSAL (RFP)

The purpose of this Request for Proposal (RFP) is to solicit proposals from potential sole proprietors, independent contractors or firms for the appointment of a Chairperson to the SARS National Bargaining Forum (NBF) for a period of thirty - six (36) months as and when required.

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.

4. LEGISLATIVE FRAMEWORK OF THE BID

4.1 TAX LEGISLATION

When submitting a bid to SARS, Service Provider(s) must be compliant and remain compliant with all applicable tax legislation for the entire contract term, including but not limited to the Tax Administration Act, 2011 (Act No. 28 of 2011), Income Tax Act, 1962 (Act No. 58 of 1962) and Value-Added Tax Act, 1991 (Act No. 89 of 1991).

4.2 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 Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003), as well as the SARS Preferential Procurement Internal Policy.

4.3 TECHNICAL LEGISLATION AND/OR STANDARDS

Service Provider(s) should be cognisant of all legislation and/or standards specifically applicable to the services.

5. BRIEFING SESSION

A non-compulsory virtual briefing session will be facilitated. Interested parties will find the details / link of the meeting on the SARS website three (3) days prior to the briefing session date, as indicated in Table 7A below.

6. DURATION OF CONTRACT

The successful Bidder will be appointed for a period of thirty-six (36) months.

7. TIMELINE OF THE BID PROCESS

The validity period of the tender and the withdrawal of offers, after the Closing Date and time, is one hundred

and eighty (180) days.

The project timeframes of this Bid are set out below:

Activity	Date Due
Advertisement of Bid in the: - SARS Website; - e-Sourcing; and - National Treasury Tender Portal.	29 April 2022
Distribution of Bid documents on SARS website	29 April 2022
Non-Compulsory Virtual Briefing Session	10 May 2022 at 11H00
Last date for questions relating to the bid from Service Provider(s)	16 May 2022
Bid Closing Date	19 May 2022 at 11H00
Notice to Service Provider(s)*	July 2022
Contract commencement date*	August 2022

All the times given in this bid are South African Standard Time.

Any time or date in this bid is subject to change at SARS' discretion. A reference to a time or date in this bid does not create an obligation on the part of SARS to take any action, or create any right in any way for any Bidder to demand that any action be taken on that specific date or at that specific time. The Bidder accepts that, if SARS extends the deadline for bid submission (the Closing Date) for any reason, the requirements of this Bid will otherwise apply equally to the extended deadline.

8. CONTACT

A nominated official of the Bidder(s) can make enquiries only in writing, to the specified person, Mr Andre Taljaard (Procurement Tender Office) via email TenderOffice@sars.gov.za and copy rf-professionalservices@sars.gov.za. Bidders must make all enquiries in writing and send them to the email addresses listed above.

9. SCOPE OF SERVICES

9.1. BACKGROUND

The appointment of the Chairperson to the SARS National Bargaining Forum (NBF) and sub-structures is governed by the constitution of the NBF which is a collective agreement entered into between SARS and the recognized trade unions namely, Public Servants Association of South Africa (PSA) and National Health and Allied Workers Union (NEHAWU), in 2012.

The Chairperson plays a critical and pivotal role in maintaining sound and conducive relationships between SARS and its recognized trade unions, whilst dealing with employment issues and issues of mutual interest.

9.2. SCOPE OF WORK

9.2.1. The powers and functioning of the Chairperson

- 9.2.1.1. Presiding over and conducting all meetings of the National Bargaining Forum (NBF) and National Consultative Forum (NCF), including sub-forums, multilateral meetings and regional forums (will be referred to as forums);
- 9.2.1.2. Facilitating the effective functioning of the NBF and NCF, including sub-forums and the implementation of procedures set out in the Constitution of the National Bargaining Forum;
- 9.2.1.3. Facilitating engagements and negotiations at the NBF by promoting consensus and conclusion of collective agreements;
- 9.2.1.4. Facilitating consultations and discussions at the NCF and promoting consensus between the parties;
- 9.2.1.5. Approving and signing off the minutes of meetings after approval thereof by the National Forums;
- 9.2.1.6. Drawing up an annual report of activities of the National Forums for submission to the parties after the end of the financial year; and
- 9.2.1.7. Performing such duties as may be requested of him/her by the parties.

9.2.2. Administration of the National Forums

The forums will be administered by the Secretariat of the NBF and it will be responsibility of SARS.

This will include but not limited to:

- Ensure that minutes of all NBF meetings are recorded.
- Scheduling of meetings.
- Attend all meetings.
- Ensuring meetings are effectively organised.

- Liaising with the Chair to plan meetings.
- Maintaining effective records and administration.
- Communication and correspondence.

9.2.3. Projected number of sessions, engagements and meetings

The table below shows the projected number of hours and days of contact sessions, engagements and meetings over the duration of the contract. Bidders must note that the information in Table 9A is based on experience, as services are acquired virtually or on-site “as and when required” and on a “time and material” basis.

Table 9A: Indicative number of sessions

Description of services	FY 2022/23	FY 2023/24	FY 2025/26	Total Days / Hours
NBF sessions (1 day per month)	12	12	12	36 days
NCF sessions (1 day per month)	12	12	12	36 days
Special NBF/NCF sessions and Wage negotiations	6	26	6	38 days
Bilateral / Special sessions (1 per month)	12	12	12	36 days
Meetings / consultations (2 times per month for 3 hours)	72	72	72	216 hours
Relationship By Objectives (RBO) / Dispute facilitations (5 times for 1 days per event)	5	5	5	15 days

9.2.4. Turnaround times

The successful Bidder must comply with the turnaround times, as indicated below:

Table 9B: Turnaround times

Description	Frequency	Due
Signing of minutes in line with paragraph 6.1(e) of the NBF Constitution.	As per schedule in Table 9A, where applicable.	Three (3) business days from meeting date. NBF minutes are read and adopted at the next NBF meeting.
Drawing up annual reports in line with paragraph 6.1(f) of the NBF Constitution.	As per schedule in Table 9A, where applicable.	Thirty (30) calendar days after SARS financial year end (31 March).
Dispute Resolution.	As and when disputes are declared.	In terms of paragraph 9 of the NBF Constitution.
Outcomes or decisions from forums.	As and when required.	As per the NBF Constitution.

9.3. BIDDERS' RESPONSES / DOCUMENTATION REQUIRED

Bidders must respond to all the information required in this paragraph in their bid proposals. Bidders should also refer to paragraph 9, which details the background, scope of service and technical requirements.

9.3.1. Company Profile

- 9.3.1.1. A company profile detailing structure, service offering and infrastructure to render the services; and
- 9.3.1.2. Details of the key contact person / key account manager including his/her role and responsibilities and a comprehensive Curriculum Vitae (CV), which must be signed by both the Bidder's authorised representative and the resource concerned, in order to confirm that it is accurate and complete.

9.3.2. Resources

- 9.3.2.1. A detailed CV of the recommended Chairperson to SARS, with a minimum of ten (10) years' experience, who has sound knowledge and experience of labour legislation, labour relations and

application of the disputes resolution mechanism through mediation and conciliation, which must be signed by both the Bidder's authorised representative and the resource concerned, in order to confirm that it is accurate and complete. The information in the CV must include but not be limited to:

- Bachelor's Degree and/ or B tech and/or Advanced Diploma or equivalent; and
Specifically in one of these areas: Human Resource Management, Labour Relations, Industrial Relations, Employment Relations, Labour Law or Industrial Sociology.
- Diploma and Advanced Certificate or equivalent; and
Specifically in one of these areas: Human Resource Management, Labour Relations, Industrial Relations, Employment Relations, Labour Law or Industrial Sociology
- One year or more years Certificate or equivalent.
Specifically in one of these areas: Human Resource Management, Labour Relations, Industrial Relations, Employment Relations, Labour Law or Industrial Sociology

Note: SARS reserves the right to validate and verify the accuracy of the information provided.

9.3.2.2. A detailed CV of the alternative Chairperson to SARS, with a minimum of ten (10) years' experience, who has sound knowledge and experience of labour legislation, labour relations and application of the disputes resolution mechanism through mediation and conciliation, which must be signed by both the Bidder's authorised representative and the resource concerned, in order to confirm that it is accurate and complete. The information in the CV must include but not be limited to:

- Bachelor's Degree or B tech or Advanced Diploma or equivalent; and
Specifically in one of these areas: Human Resource Management, Labour Relations, Industrial Relations, Employment Relations, Labour Law or Industrial Sociology.
- Diploma, Advanced Certificate or equivalent; and
Specifically in one of these areas: Human Resource Management, Labour Relations, Industrial Relations, Employment Relations, Labour Law or Industrial Sociology
- One year or more years Certificate or equivalent.
Specifically in one of these areas: Human Resource Management, Labour Relations, Industrial Relations, Employment Relations, Labour Law or Industrial Sociology

Note: SARS reserves the right to validate and verify the accuracy of the information provided.

9.3.3. Reports

Bidder must submit to SARS proof/examples of previously generated ad hoc, monthly, quarterly and annual reports for national bargaining forum. The reports must include the following

- Statistics on Cases
- Challenges
- Matters referred to the NBF
- Wage agreements
- Outstanding matters
- Conclusion

9.3.4. Document Management and Record Keeping

A detailed description of how the Bidder:

- Ensures that electronic, as well as paper-based, confidential client information, will be stored and maintained safely;
- Administrative process / procedure for audit purposes and managing all records, is efficient and effective; and
- Ensures that document management processes and procedures (i.e. retention of records and destruction) are in place.

9.3.5. Reference Letters

Reference letters from at least three (3) contactable clients, to whom similar services have been provided to in the past five (5) years. The reference letters must include company name, contact person name and designation, phone number, email address, duration of the contract, a brief description of the services rendered and the level of satisfaction with the services rendered.

Note: SARS reserves the right to contact the clients for a reference check. It is therefore important to ensure that the clients are contactable.

9.3.6. Capability

The Bidder should refer to the scenarios listed below and prepare a proposal as per the criteria's below:

9.3.6.1. Bidder has demonstrated a negotiation / bargaining strategy and planning to deliver mediation and conciliation on a dispute meeting between the parties (Organised Labour and the Employer. Bidder to demonstrate the following:

- Demonstrate the role of the mediator and the conciliator?
- Indicate the root cause of the dispute in these scenarios.
- Demonstrate how they will engage the parties and find a solution.
- Demonstrate a solution if the parties reject the approach.

- 9.3.6.2. Bidder has clearly demonstrated top three (3) key challenges experienced during the process of presiding over the disputes.
- 9.3.6.3. Bidder has clearly demonstrated lessons learned during the process of presiding over the disputes.
- 9.3.6.4. Bidder has clearly demonstrated resolutions taken in detail and in accordance with the provided scenarios.

Scenario 1

The employer is presenting to the unions that they will not honour the terms, conditions and implementation of a collective wage agreement entered into by them with the two recognised unions within the organisation. Disputes from both the unions are imminent and declared as per the National Bargaining Forum (NBF) Constitution. The appointed chairperson is required to mediate a first dispute meeting between the parties (Organised Labour and the Employer) and chair the National Bargaining forum.

Scenario 2

The parties agree to renegotiate the terms and conditions of the collective agreement. The appointed chairperson is required to facilitate this process and ensure that the matter is purposely steered towards resolution and conclusion.

Scenario 3

The parties indicate no willingness to renegotiate the terms and conditions of the collective agreement. The appointed chairperson is required to advise the parties and attempt to take the mediation process forward towards resolution.

10. INSTRUCTIONS TO SERVICE PROVIDER(S)

10.1. Registration on Central Supplier Database

Foreign Suppliers who have no presence in South Africa currently are not required to register on CSD however should such entities be successful in winning the award, they will be expected to register on the Central Supplier Database. All other local suppliers or foreign suppliers that have local presence at the time of tendering are expected to abide by the following provisions. CSD can be accessed via the following link: <https://secure.csd.gov.za/>

Service Provider(s) who wish to render services to SARS will no longer register at SARS directly. Service Providers will have to register on National Treasury Central Supplier Database (CSD) as per National Circular No. 4A of 2016/2017 – Central Supplier Database

National Treasury will maintain the database for all suppliers for Government and its institutions; and all existing and prospective suppliers are requested to register on the CSD by accessing the National Treasury website at www.CSD.gov.za.

10.2. Registration on e-Sourcing

Bidders are required to register on the SARS e-Sourcing portal, go to the SARS website to access the link and register on <https://www.sars.gov.za/procurement/esourcing/>.

10.3. Bids must be properly packaged and deposited in the below mentioned tender box on or before Closing Date and time at the SARS Tender Office situated at:

Lehae La SARS
Pretoria Head Office
299 Bronkhorst Street
Nieuw Muckleneuk
Pretoria
0181

10.4. Bid documents may also be posted to the Tender Office - SARS Procurement Department, 299 Bronkhorst Street, Nieuw Muckleneuk, Pretoria, 0181.

10.5. Bid documents 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 to SARS and Bid documents must also be uploaded on the SARS e-Sourcing portal, go to the SARS website to access the link and register on <https://www.sars.gov.za/procurement/esourcing/>. Bidders are required to deposit their properly packaged bids in the SARS tender box mentioned above and not to rely only on e-Sourcing.

10.6. Late bids will not be accepted and shall be returned to Service Provider(s).

10.7. The Service Provider(s) are required to submit one (1) copy of each file (original and duplicate) and one (1) USB with the contents of each file by the Closing Date and time.

10.8. Each file and USB must be **marked correctly and sealed separately** for ease of reference during the

evaluation process. Pricing information should not be included in the Technical File. Furthermore, the file and information in the USB must be labelled and submitted in the following format:

FILE 1 (ONLY TECHNICAL PROPOSAL)	
Exhibit 1 <ul style="list-style-type: none"> • Pre-qualification documents (SBD documents) • Central Registration Report (Central Database System) from National Treasury 	Exhibit 2 <ul style="list-style-type: none"> • Service Provider Compliance Checklist for the Technical Evaluation • Response to Technical Requirements, as per paragraph 9.3 of this RFP document. • Supporting documents for the technical responses, as per paragraph 9.3 of this RFP document.
Exhibit 3 <ul style="list-style-type: none"> • General Conditions of Contract (GCC) • Draft Services Agreement 	
FILE 2 (PRICE, BEE & FINANCIAL STATEMENTS)	
Exhibit 1 <ul style="list-style-type: none"> • B-BBEE Certificate • Preference Points Claim Form 	Exhibit 2 <ul style="list-style-type: none"> • Pricing Schedule – Annexure B
Exhibit 3 Three (3) years audited / reviewed financial statements	
Note: SARS requests that Bidders use Lever Arch files to package their proposals.	

11. EVALUATION AND SELECTION CRITERIA

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

- **Pre-Qualification Criteria (Gate 0)** – Bidder(s) must submit all Standard Bidding Documents as outlined in paragraph 11.1 below.
- **Technical Evaluation Criteria (Gate 1)** – Bidder(s) will be evaluated out of hundred (100) points during Technical Evaluations and the minimum threshold of seventy percent (70%) must be achieved in order to proceed to Gate 3. The process is outlined in paragraph 11.2 below.
- **Price and B-BBEE Evaluation (Gate 2)** – Price will be evaluated out of eighty (80) points and B-BBEE

out of twenty (20) points. The process is outlined in paragraph 11.2.4 below.

PRE-QUALIFICATION CRITERIA – GATE 0

Without limiting the generality of SARS' other critical requirements for this Bid, a Bidder must submit the documents listed in **Table 11A** below. Documents must be completed and signed by the duly authorised representative of the prospective Bidder. The Bidder's proposal may be disqualified for non-submission of any of the documents.

Table 11A: Documents that must be submitted for Pre-Qualification

Name of the document that must be submitted	Non-submission may result in disqualification
Central Registration Report (Central Database System) from National Treasury	YES – Service Providers must register on Central Database System and submit the report as confirmation of registration.
SARS's Oath / Affirmation of Secrecy	YES – Complete and sign the supplied pro forma document in the presence of a Commissioner of Oaths and initial every page.
Invitation to Bid – SBD1	YES – Complete and sign the supplied pro forma document.
Standard Bidding Documents (SBD 4)	YES – Complete and sign the supplied pro forma document.
SARS Preference Point Claim Form New	NO – Non-submission will lead to a zero score on B-BBEE.
General Conditions of Contract (GCC)	YES – Sign the supplied GCC.
Supplier Risk Questionnaire	YES – Complete and sign the supplied pro forma document.
Bidder Compliance Checklist Form for Technical Evaluation (Annexure A2)	NO – Complete to assist with ease of reference during evaluation.
A complete set of audited / reviewed annual financial statements for three (3) most recent financial periods in the name of the bidding entity.	YES – Please submit.

TECHNICAL EVALUATION (GATE 1)

Only Bidder(s) that have met the Pre-Qualification Criteria in Gate 0 will be evaluated in Gate 1 for functionality.

- 11.2.1 Desktop Technical Evaluation – All Bidder(s) will be evaluated out of 44 points during desktop Evaluation.
- 11.2.2 The presentation – All the Bidder(s) will be invited and will be evaluated out of 56 points. Presentation must be prepared according to section 9.3.6 of the RFP document.
- 11.2.3 The overall combined score must be equal or above 70 points in order to proceed to Gate 2 for Price and BEE evaluations.

Only Bidders that have obtained a minimum threshold of 70 out of 100 points will proceed to Gate 2: Price and B-BBEE evaluations.

Table 11C: Breakdown for Technical Evaluation points

Functionality	Maximum points achievable	Minimum Threshold
Desktop Technical Evaluation Details found in Annexure A – Technical Scorecard	44	N/A
Presentation	56	N/A
OVERALL COMBINED POINTS	100	70

Refer to **Annexure A1** for the detailed Technical Evaluation Criteria.

11.2.4 PRICE AND B-BBEE EVALUATION (GATE 2) (80 + 20) = 100 POINTS

11.2.5 Stage 1 – Price Evaluation (80 points)

Table 11D: Price evaluation formula

Adjudication Criteria	Points
Price Evaluation $P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$	80

Where

P_s = Points scored for price of Bid under consideration
 P_t = Price of Bid under consideration
 P_{min} = Price of lowest acceptable Bid

11.2.6 Stage 2 – B-BBEE Evaluation (20 points)

a. B-BBEE Requirements

In line with SARS Preferential Procurement - Internal Policy read with the SARS Application of Preference Point System – Internal Annexure and SARS Supply Chain Management Policy, tenders that have achieved a minimum qualifying score for functionality will be evaluated out of 20 points for BBEE as per the SARS Preferential Procurement - Internal Policy.

b. Bid Evaluation Process Gate 2: B-BBEE EVALUATION

B-BBEE points may be allocated to bidders on submission of the following documentation or evidence:

Table 11E: B-BBEE points allocation and required documents

Adjudication Criteria	Points
A duly completed Preference Point Claim Form	20

The checklist below indicates the B-BBEE documents that must be submitted for this tender. Failure to submit the required documents will result in scoring zero for B-BBEE.

Table 11F: Points Awarded for B-BBEE Status Level

B-BBEE Status	Number of points (80/20 system)
EME/QSE/LE 100%BO	20
EME/QSE=>51%BO	18
Level 1	10

Level 2	9
Level 3	8
Level 4	6
Level 5	4
Level 6	3
Level 7	2
Level 8	1

Table 11F: B-BBEE Checklist

Classification	Turnover	Submission Requirement
Exempted Micro Enterprise (EME)	Below R10 million p.a.	A sworn affidavit (Preferably a Department of Trade and Industry [DTI] Affidavit) or a Certificate from the Companies and Intellectual Property Commission (CIPC) or a B-BBEE Rating Certificate from a SANAS Accredited Rating Agency.
Qualifying Small Enterprise (QSE)	Between R10 million and R50 million p.a.	Certified copy of B-BBEE Rating Certificate from a SANAS Accredited Rating Agency, or a sworn affidavit (Preferably a DTI Affidavit). This is only applicable to QSEs with 51% Black Ownership and above.
Large Entity (LE)	Above R50 million p.a.	Certified copy of B-BBEE Rating Certificate from a SANAS Accredited Rating Agency.

Failure on the part of a Bidder to submit a B-BBEE Verification Certificate from a verification agency

accredited by the South African Accreditation System (SANAS), a Certificate from the Companies and Intellectual Property Commission (CIPC) or a sworn affidavit confirming annual turnover and level of black ownership in case of an EME and QSE together with the bid, will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

Use and acceptance of Affidavits

SARS reserves the right to request that Service Providers submit their Black Ownership and turnover information in support of their affidavits.

Bidders will need to provide information which proves Black Ownership and turnover, in addition to the sworn affidavit, or request that their EME/QSE suppliers be verified and have this confirmed in the affidavit.

Joint Ventures and Consortiums

A trust, consortium or joint venture (including unincorporated consortia and joint ventures), will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their consolidated B-BBEE status level Verification Certificate scorecard and that such a consolidated B-BBEE scorecard is prepared for every separate bid.

Proof of Existence: Joint Ventures and/or Sub-Contracting

Bidders must submit concrete proof of the existence of joint ventures arrangements. SARS will accept signed agreements as acceptable proof of the existence of a joint venture arrangement.

The above-mentioned joint venture agreement must clearly set out the roles and responsibilities of the Lead Partner and the joint venture party. The agreement must also clearly identify the Lead Partner, who shall be given the power of attorney to bind the other party/parties in respect of matters pertaining to the joint venture arrangement.

Subcontracting

Bidders may not subcontract the provision of services contemplated in this Request for Proposal.

11.2.7 Stage 3 (0 + 10 = 10 points)

SARS aspires to drive transformation by appointing Service providers that are within the BBBEE level

one (1) to four (4) or that are > 51% Black Owned or Black Women Owned.

12. FINANCIAL STATEMENTS

Bidders are required to submit complete sets of audited or reviewed annual financial statements for the three (3) most recent financial periods in the name of the bidding entity. The financial statement analysis will be conducted on the shortlisted Bidders.

- The annual financial statements must contain:
 - Statement of Financial Performance;
 - Statement of Financial Position;
 - Cash Flow Statement; and
 - Notes to the Financial Statements.
- Entities which are trading for less than three (3) financial periods should provide:
 - A letter detailing that fact, signed by a duly authorised representative of the entity; and
 - Any other information or documentation which would provide more clarity on the financial history of the Bidder.
- In the event that the subsidiary is the bidding entity and submits the financial statements of the holding company for financial evaluation purposes, the holding company must furnish a Performance Guarantee that is signed by a duly authorised representative of the entity.
- In the event of the bid being in the form of a JV, the following is required:
 - Annual financial statements of the JV; and
 - A JV legal agreement detailing the percentage ownership of each entity.

Note: SARS reserves the right to request further information with regards to the annual financial statements of a Bidder at a later stage.

13. AGREEMENTS

13.1 GENERAL CONDITIONS OF CONTRACT

Any award made to a Bidder under this bid is conditional, amongst others, upon:

- 13.1.1 such Bidder as a minimum accepting the terms and conditions set out in the General Conditions of Contract (GCC), as the minimum terms and conditions upon which SARS is prepared to enter into a

contract with the successful Bidder; and

- 13.1.2 such Bidder submitting the GCC to SARS together with its bid, duly signed by an authorised representative of the Bidder.

Note: Pending the conclusion and signing of the Services Agreement, the successful Bidder will be bound by the terms and conditions of the GCC.

13.2 SERVICES AGREEMENT

- 13.2.1 Upon award, SARS and the successful Bidder will conclude a supplementary agreement regulating the specific terms and conditions applicable to the services being procured by SARS, more or less in the format of the draft Services Agreement included in this tender pack.
- 13.2.2 SARS reserves the right to vary the proposed terms and conditions of the draft Services Agreement during the course of negotiations with the successful Bidder by amending or adding thereto (including for purposes of better giving effect to the objectives in paragraph 2 above).
- 13.2.3 Bidders are requested to:
- 13.2.3.1 Comment on the terms and conditions set out in the draft Services Agreement and where deemed necessary, make proposals to the terms and conditions;
 - 13.2.3.2 Each comment and/or amendment must be explained; and
 - 13.2.3.3 All changes and/or amendments to the draft Services Agreement must be in an easily identifiable colour font and tracked for ease of reference.
- 13.2.4 SARS reserves the right to accept or reject any or all amendments or additions proposed by the successful Bidder, if such amendments or additions are unacceptable to SARS or pose a risk to the organisation.
- 13.2.5 Bidders are not required to sign the draft Services Agreement when submitting the Bidder's proposal.

13.3 INSURANCE

The successful Bidder will be required, on or before the effective date of the Services Agreement and for the duration thereof, 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.

14. SPECIAL CONDITIONS OF THIS BID

14.1 SARS reserves the right:

- 14.1.1 Not to award or to cancel this bid at any time and shall not be bound to accept the lowest or any bid;
- 14.1.2 To negotiate with one or more Preferred Bidder(s) identified in the evaluation process, regarding any terms and conditions, including price without offering the same opportunity to any other Bidder(s) who has not been awarded the status of the Preferred Bidder(s);
- 14.1.3 To accept part of a Bid rather than the whole Bid;
- 14.1.4 To cancel and/or terminate the Bid process at any stage, including after the Closing Date and/or after presentations have been made, and/or after Bids have been evaluated and/or after the Preferred Bidder(s) have been notified of their status as such;
- 14.1.5 To correct any mistakes at any stage of the Bid that may have been in the Bid documents or that occurred at any stage of the Bid process; and/or
- 14.1.6 To disqualify a Bidder whose bid contains a misrepresentation, which is materially incorrect or misleading.

14.2 SARS requires Bidder(s) to declare

In the Bidder's Technical response, Bidder(s) are required to declare the following:

Confirm that the Bidder(s) is to:

- 14.2.1 Act honestly, fairly, and with due skill, care and diligence, in the interests of SARS;
- 14.2.2 Have and employ effectively the resources, procedures and appropriate technological systems for the proper performance of professional activities;
- 14.2.3 Act with circumspection and treat SARS fairly in a situation of conflicting interests;
- 14.2.4 Comply with all applicable statutory or common law requirements applicable to the conduct of business;
- 14.2.5 Make adequate disclosures of relevant material information including disclosures of actual or potential own interests, in relation to dealings with SARS;
- 14.2.6 Avoid fraudulent and misleading advertising, canvassing and marketing;
- 14.2.7 Conduct its business activities with transparency and consistently uphold the interests and needs of SARS as a client before any other consideration; and
- 14.2.8 Ensure that any information acquired by the Bidder(s) from SARS will not be used or disclosed unless the written consent of the client has been obtained to do so.

14.3 CONFLICT OF INTEREST, CORRUPTION AND FRAUD

SARS reserves its right to disqualify any Bidder who either itself or any of whose members (save for such members who hold a minority interest in the Bidder through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the Bidder other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of SARS or any other government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity"):

- 14.3.1 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 Bid;
- 14.3.2 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;
- 14.3.3 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;
- 14.3.4 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;
- 14.3.5 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;
- 14.3.6 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;
- 14.3.7 Has in the past engaged in any matter referred to above; or
- 14.3.8 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.

14.4 BIDDER'S OWN TERMS AND CONDITIONS OR BID QUALIFICATIONS

This document contains the terms and conditions of this bid and Bidders must not qualify the specifications or come up with their own terms and conditions. SARS reserves the right to disqualify a bid which seeks to modify or depart from the specified conditions.

14.5 MISREPRESENTATION DURING THE TENDER PROCESS AND LIFECYCLE OF THE CONTRACT

The Bidder should note that the terms of its Tender will be incorporated in the proposed contract by reference and that SARS relies upon the Bidder's Tender as a material representation in making an award to a successful Bidder and in concluding an agreement with the Bidder.

It follows therefore that misrepresentations in a Tender may give rise to service termination and a claim by SARS against the Bidder notwithstanding the conclusion of the Services Agreement between SARS and the Bidder for the provision of the Service in question.

14.6 PREPARATION COSTS

The Bidder will bear all its costs in preparing, submitting and presenting any response or tender to this Bid and all other costs incurred by it throughout the Bid process. Furthermore, no statement in this Bid 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 Bid.

14.7 INDEMNITY

If a Bidder breaches the conditions of this Bid 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 Bid 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.

14.8 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.

14.9 LIMITATION OF LIABILITY

A Bidder participates in this Bid process entirely at its own 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 the Bidder's participation in this Bid process.

14.10 TAX COMPLIANCE

No tender shall be awarded to a Bidder whose tax affairs are not in order. SARS reserves the right to withdraw an award made, or cancel a contract concluded with a successful Bidder in the event that it is established that such Bidder was in fact not tax compliant at the time of the award. SARS further reserves the right to cancel a contract with a successful Bidder in the event that such Bidder does not remain tax compliant for the full term of the contract.

14.11 NATIONAL TREASURY

No tender shall be awarded to a Bidder whose name (or any of its members, directors, partners or trustees) appears 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, or cancel a contract concluded with a Bidder should it be established, at any time, that a Bidder has been blacklisted with National Treasury by another government institution.

14.12 GOVERNING LAW

South African law governs this Bid and the Bid response process. The Bidder agrees 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 Bid, the Bid itself and all processes associated with the Bid.

14.13 RESPONSIBILITY FOR SUB-CONTRACTORS AND BIDDER'S PERSONNEL

A Bidder is responsible for ensuring that its personnel (including agents, officers, directors, employees, advisors and other representatives), its sub-contractors (if any) and personnel of its sub-contractors comply with all terms and conditions of this Bid and in particular the provisions of paragraph 11.2.6 above. In the event that SARS allows a Bidder to make use of sub-contractors, such sub-contractors 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 or caused by such sub-contractors.

14.14 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 or relating to this Bid or a Bidder's Tender(s) will be disclosed by any Bidder or other person not officially involved with SARS' examination and evaluation of a Tender.

Throughout this Bid 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 Bid relates; or (ii) the process which follows this Bid. Failure to adhere to this requirement may result in disqualification from the Bid process and civil action.

No confidential information relating to the process of evaluating or adjudicating Tenders or appointing a Bidder will be disclosed to a Bidder or any other person not officially involved with such process.

14.15 INTELLECTUAL PROPERTY

SARS retains ownership of all Intellectual Property rights in the tender information documents that form part of this RFP. Bidders will retain the Intellectual Property rights in their tender responses, but grant SARS the right to make copies of, alter, modify or adapt their responses, or to do anything which in its sole discretion is necessary to do for reasons relating to the RFP process.

14.16 SARS PROPRIETARY INFORMATION

A Bidder must make a declaration on their Bid covering letter that they did not have access to any SARS proprietary information or any other matter that may have unfairly placed that Bidder in a preferential position in relation to any of the other Bidders.

14.17 SCREENING AND VETTING OF SERVICE PROVIDER

Acceptance of this tender is subject to the condition that both the successful Bidder and its personnel providing the service must be screened and cleared by the appropriate authorities to the grade of clearance in line to classified information, intelligence in the possession of SARS and areas designated as National Key points that they may have. Obtaining a positive recommendation is the responsibility of the successful Bidder concerned. If the successful Bidder appoints a subcontractor, the same provisions and measures will apply to the subcontractor.

15. **ANNEXURE A1 – TECHNICAL EVALUATION CRITERIA**
16. **ANNEXURE A2 – TECHNICAL COMPLIANCE CHECKLIST**
17. **ANNEXURE B – PRICING SCHEDULE**

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