

# A PANEL OF LEGAL ADVISORS / ATTORNEYS

- Briefing Session : 28 July 2016, 11h00
- RFP No. : RFP 06/2016
- Closing Date : 24 August 2016, 11h00

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# Welcome and Introduction: Bid Evaluation Committee

## Procurement

Project Manager – Professional Services

Commodity Leader – Professional Services

B-BBEE Specialist – Support Services

Ops Specialist – Compliance, Risk & Governance

Graduate Trainee - Professional Services

## SARS – Legal Counsel

Senior Manager – Corporate Legal Service

Manager - Legal Delivery Support

Sen. Specialist – Customs & Exercise

Specialist - Higher Court

Sen. Manager – HR Workplace Relations

## Corporate Legal Services

Senior Legal Specialist

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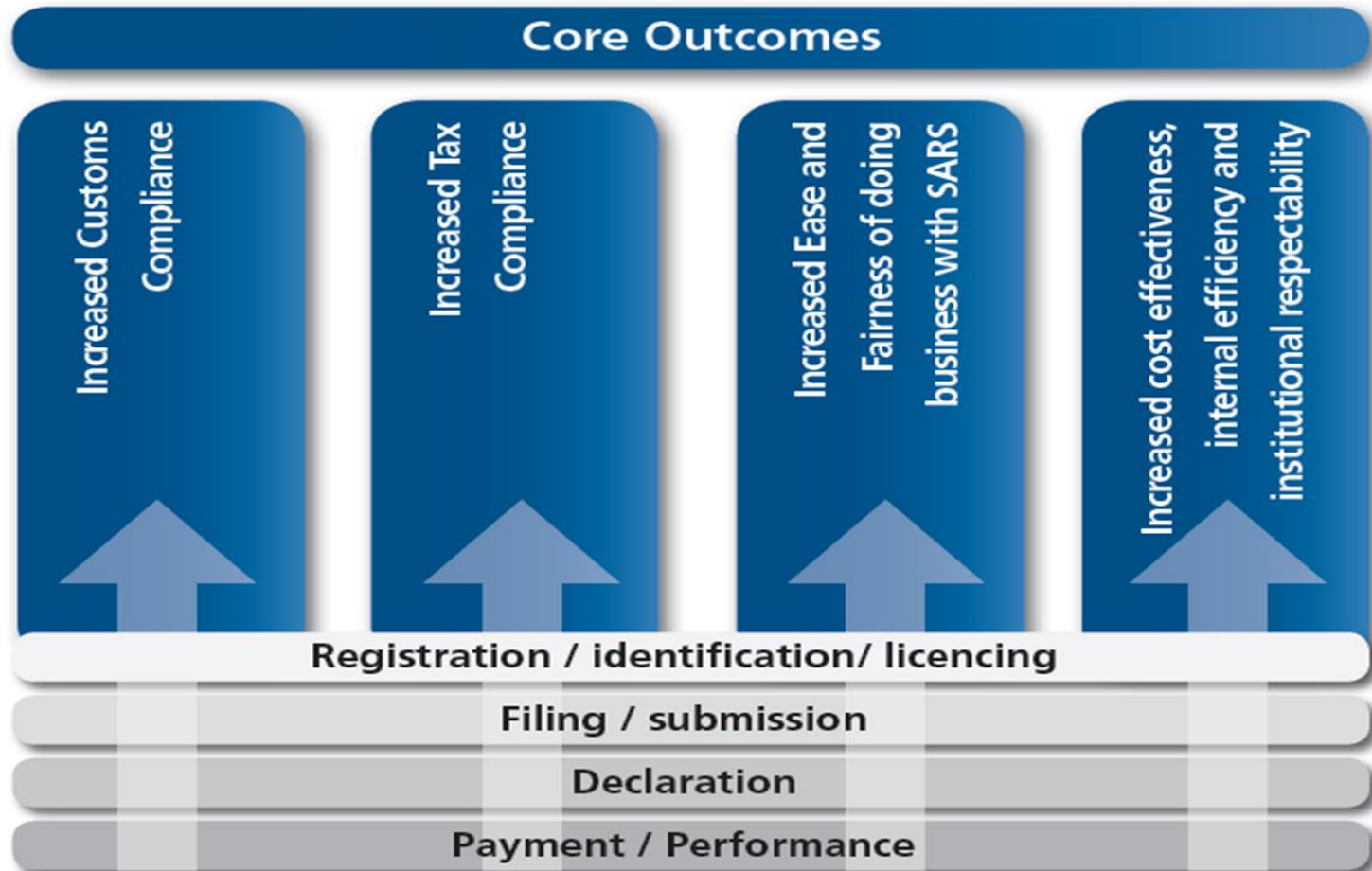
**6. Pricing Schedule and BBBEE**

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# Background

*As an organ of state, SARS's mandate outlines its obligations towards the state and its people by:*



## ❑ PURPOSE OF THE RFP

- The purpose of this RFP is to solicit proposals from potential Bidder(s) to enable SARS to appoint a SARS Panel of Legal Advisors / Attorneys, hereafter referred to interchangeably as “Bidders” or “Service Providers”.
- The objectives and scope of work are set out in more detail in clause 7 of the RFP.
- This Bid 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.

## ❑ DURATION OF CONTRACT

- The service providers will be appointed to the Panel for a period of forty eight (48) months.

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## Scope of Work: Background (Refer to 7 of the RFP doc)

- ☐ BACKGROUND (Refer to 7.1)
- ☐ APPOINTMENT TERMS (Refer to 7.2)
- ☐ CONFIDENTIALITY (Refer to 7.3)
- ☐ EXPERTISE REQUIRED (Refer to 7.4)
- ☐ MINIMUM REQUIREMENTS FROM THE BIDDER(S) (Refer to 7.5)
- ☐ DOCUMENTATION REQUIRED - ONCE OFF: ANNEXURE A (Refer to 7.6)
- ☐ DOCUMENTATION REQUIRED PER CATEGORY (Refer to 7.7)
- ☐ TARIFFS (Refer to 7.8)
- ☐ REFERENCES (Refer to 7.9)
- ☐ CONDITIONS APPLICABLE TO APPOINTMENT (Refer to 7.10)



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# RFP Timelines

ACTIVITY	DUE DATE
RFP Advertisement in De Rebus	22 July 2016
Tender documents on SARS website	25 July 2016
RFP Advertisement in Government Bulletin	22 July 2016
<b>Non – compulsory briefing session</b>	<b>28 July 2016, 11H00</b>
Questions relating to RFP	25 July - 15 August 2016
RFP Closing Date	24 August 2016, 11H00
Notice to bidders	October/November 2016*

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# Bid Evaluation Process Gate 0: Pre-Qualification Criteria

Gate 0

Pre-Qualification

Name of Document that must be submitted	Non-submission may result in disqualification?
Central Supplier Database (CSD) Registration Report (preferably the CSD report in PDF format) from National Treasury	YES
SARS' s Oath of Secrecy	YES
Invitation to Bid – SBD 1	YES
Pricing Schedule – Annexure C	YES
Declaration of Interest – SBD 4	YES
Preference Point Claim Form - SBD 6.1	NO
Declaration of Bidder's Past Supply Chain Management Practices – SBD 8	YES
Certificate of Independent Bid Determination – SBD 9	YES
Bidder Compliance form for Technical evaluation – Annexure A	YES

# Bid Evaluation Process Gate 1

## Gate 1

Desktop Technical  
Evaluation

75 points

- Respective backgrounds, fields of specialisation and relevant experience of Key Personnel
- Backgrounds and experience of staff members assisting Key Personnel
- Resources and Infrastructure
- Support Staff
- References/testimonials from clients

[Annexure A – Technical Scorecard](#)

Only Bidders that have met the Pre-Qualification Criteria (Gate 0) will move to Gate 1 for evaluation based on the prescribed Technical Criteria. In the Technical Evaluation phase (Gate 1), Bidders will need to attain a minimum of 75 out of 100 points per category they are bidding for.

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# Bid Evaluation Process Gate 2: Stage 1 – Price Evaluation (0 Points)

## Gate 2

### Price Evaluation

0 points

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

- A Schedule of SARS's Proposed Tariffs is attached as Annexure B.
- Bidders must clearly indicate their respective tariffs in the Pricing Schedule attached as Annexure C, taking into account SARS's Schedule of Proposed Tariffs as well as the pre-determined maximum percentages for deviation allowed in the five tiers, as set out in paragraph 7.2 above.
- Bidders must note that deviations apply and must be calculated per line item. Deviations may thus not be calculated based on the total fees payable in terms of a specific attorney tier, nor on the total overall fees payable in terms of such bidder's Pricing Schedule.
- Bidders must complete the Pricing Schedule which is attached as Annexure C in full, regardless of whether the bidder employs Legal Advisors / Attorneys who fall in each tier or not. Should a bidder fail to provide SARS with a 100% completed Pricing Schedule [i.e. in respect of all 8 (eight) attorney tiers], the SARS Proposed Tariffs set out in Annexure B will be applicable to all cells left blank in such bidder's Pricing Schedule.
- Where "N/A" appears in any cells in SARS's Proposed Schedule of Tariffs, the bidder is not allowed to charge more than the maximum fee proposed for such line item, despite the Legal Advisor / Attorney attending to such item perhaps falling in a higher attorney tier.
- Fees above the maximum deviation allowed in respect of a specific attorney tier may be negotiated with SARS on a case by case basis in the following instances, namely where –
  - instructions are received from SARS to attend to a very urgent matter on extremely short notice;
  - instructions are received from SARS to attend to a highly complex matter; or
  - the services of a specific, highly skilled attorney is requested by SARS (i.e. by name).
- Bidders must disclose to SARS upfront, before an instruction is accepted, that such acceptance is subject to an increased fee being negotiated with SARS. Approval of a bidder's request for an increased fee will be subject to SARS's sole discretion

# Bid Evaluation Process Gate 2: B-BBEE Evaluation (Refer to 9.3.2)

## Gate 2

Adjudication Criteria	Points
A duly completed Preference Point Claim Form: Standard Bidding Document (SBD 6.1) and a B-BBEE Certificate  (B-BBEE Certificate and/or submission of SBD 6.1)	10

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

Turnover	Classification	Submission Requirement
<b>Exempted Micro Enterprise (EME)</b>	Below R10 million p.a.	Certified Copy of B-BBEE Rating Certificate from a SANAS Accredited rating agency or a Registered Auditor approved by the Independent Regulatory Board for Auditors ("IRBA") or a letter from an Accounting Officer as contemplated in the CCA.
<b>Qualifying Small Enterprise (QSE)</b>	Between R10 million and R50 million p.a.	Certified Copy of B-BBEE Rating Certificate from a SANAS Accredited rating agency or a Registered Auditor approved by IRBA.
<b>Large Enterprise (LE)</b>	Above R50 million p.a.	Certified Copy of B-BBEE Rating Certificate from a SANAS Accredited rating agency or a Registered Auditor approved by IRBA.



# Bid Evaluation Process Gate 2: B-BBEE Evaluation (cont.....)

Bidders who do not claim Preference Points will be scored zero for BEE and cannot be excluded from the tender process.

SARS will accept B-BBEE Certificate issued on the revised B-BBEE Codes.

## ❑ Use and acceptance of Affidavits

- All companies will need to request the information which proves Black Ownership and Turnover in addition to the Affidavit, or request that their EME/QSE suppliers be verified and have this confirmed on the Affidavit.
- SARS reserves the right to request that bidders submit their Black ownership and turnover information in support of their Affidavits.

## ❑ Joint Ventures and Consortiums

- Incorporated JVs must submit the B-BBEE status of the entity. Unincorporated JVs must submit a consolidated B-BBEE scorecard as if they were a group structure for every separate tender.

## ❑ Sub-contracting

- Bidders who want to claim Preference points will have to comply fully with regulation 11(8) and 11(9) of the PPPFA Act with regard to sub – contracting

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

- Bidders must submit concrete proof of the existence of joint ventures and/or sub-contracting arrangements. SARS will accept signed agreements as acceptable proof of the existence of a joint venture and/or sub-contracting arrangement.
- The joint venture and/or sub-contracting agreements must clearly set out the roles and responsibilities of the Lead Partner and the joint venture and/or sub-contracting 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 and/or sub-contracting arrangement

# B-BBEE Key Sections to complete in SBD

## 6 BID DECLARATION

6.1 Bidders who claim points in respect of B-BBEE Status Level of Contribution must complete the following:

## 7. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 5.1

7.1 B-BBEE Status Level of Contribution: ..... = .....(maximum of 10 or 20 points)

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 5.1 and must be substantiated by means of a B-BBEE certificate issued by a Verification Agency accredited by SANAS or a Registered Auditor approved by IRBA or a sworn affidavit).

## 8 SUB-CONTRACTING

8.1 Will any portion of the contract be sub-contracted?

(***Tick applicable box***)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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8.1.1 If yes, indicate:

- (i) what percentage of the contract will be subcontracted?.....%
- (ii) the name of the sub-contractor? .....
- (iii) the B-BBEE status level of the sub-contractor? .....
- (iv) whether the sub-contractor is an EME?

(***Tick applicable box***)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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# Points Awarded for B-BBEE Contribution

<b>B-BBEE Contributor Level</b>	<b>Number of Points (80/20 system)</b>	<b>Number of Points (90/10 system)</b>
1	20	10
2	18	9
3	16	8
4	12	5
5	8	4
6	6	3
7	4	2
8	2	1
Non-Compliant Contributor	0	0

# Bid Evaluation Process Gate 2: Financial Statement Analysis (Refer to 9.4)

- ❑ Bidders must submit 3 (three) years of audited/reviewed financial statements which provide a comprehensive view of their financial viability. Financial statement analysis will be used to determine the financial stability of the recommended bidder(s). Submission of financial statements for any lesser period must be accompanied by a detailed explanation
  - The annual financial statements must contain:
    - Statement of Profit and Loss and Other Comprehensive Income
    - Statement of Financial Position
    - Statement of Cash Flows
    - Accompanying Notes
  - Entities which are trading for less than 3 (three) financial periods should provide:
    - A letter detailing the 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 Joint Venture (JV), the following is required:
    - Annual financial statements of the JV; and
    - JV legal agreement detailing the percentage ownership of each entity

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# Bid Submission

Bidders must submit copies of each file (Original and Duplicate) and a CD-ROM with content of each file by the **24 August 2016 at 11:00**



## TENDER BOX

SARS Brooklyn Bridge, 570 Fehrsen Street, Linton  
House, Brooklyn

Any enquiries must be referred, in writing via email to:  
[rft-professionalservices@sars.gov.za](mailto:rft-professionalservices@sars.gov.za) or [tenderoffice@sars.gov.za](mailto:tenderoffice@sars.gov.za)

# File 1: Prequalification and Technical Response

## Section1

Pre-qualification (SBD documents)



Name of the document that must be submitted	Non-submission may result in disqualification?
Proof of Central Supplier Database (CSD) Registration Report (preferably the CSD report in PDF format) from National Treasury	<b>YES</b> – Please submit the CSD Registration Report as confirmation of registration.
SARS's Oath of Secrecy	<b>YES</b> – Please complete and sign the supplied pro forma document in the presence of Commissioner of Oaths and initial every page.
Invitation to bid – SBD 1	<b>YES</b> – Please complete and sign the supplied pro forma document.
Pricing Schedule - Annexure C	<b>YES</b> – Please submit full tariff details to SARS as per Annexure C.
Declaration of Interest – SBD 4	<b>YES</b> - Please complete and sign the supplied pro forma document.
SBD 6.1 – Preference Point Claim Form	<b>No</b> – Non-submission will lead to a zero score on BEE.
Declaration of Bidder's Past Supply Chain Management Practices – SBD 8	<b>YES</b> - Please complete and sign the supplied pro forma document.
Certificate of Independent Bid Determination – SBD 9	<b>YES</b> - Please complete and sign the supplied pro forma document

# File 1: Prequalification and Technical Response (cont....)

Exhibit 2	Technical Response to Annexure A	
Exhibit 3	<input type="checkbox"/> <b>Category 1: Tax Law</b> <ul style="list-style-type: none"><li>▪ Technical Response</li><li>▪ Supporting documents for technical response</li><li>▪ References/testimonials</li></ul>	
Exhibit 4	<input type="checkbox"/> <b>Category 2: Commercial Law; Company Law and Banking Law</b> <ul style="list-style-type: none"><li>▪ Technical Response</li><li>▪ Supporting documents for technical response</li><li>▪ References/testimonials</li></ul>	
Exhibit 5	<input type="checkbox"/> <b>Category 3: Constitutional Law; Administrative Law and Public Procurement Law</b> <ul style="list-style-type: none"><li>▪ Technical Response</li><li>▪ Supporting documents for technical response</li><li>▪ References/testimonials</li></ul>	
Exhibit 6	<input type="checkbox"/> <b>Category 4: Information Law and Intellectual Property Law</b> <ul style="list-style-type: none"><li>▪ Technical Response</li><li>▪ Supporting documents for technical response</li><li>▪ References/testimonials</li></ul>	



## File 2: Technical Response

Exhibit 7

- ☐ **Category 5: Customs & Excise Law**
  - Technical Response
  - Supporting documents for technical response
  - References/testimonials



Exhibit 8

- ☐ **Category 6: Property Law and Insolvency Law**
  - Technical Response
  - Supporting documents for technical response
  - References/testimonials



Exhibit 9

- ☐ **Category 7: Labour Law**
  - Technical Response
  - Supporting documents for technical response
  - References/testimonials



Exhibit 10

- ☐ **Category 8: General Legal Assistance (such as general litigation, damages claims, debt collection etc.)**
  - Technical Response
  - Supporting documents for technical response
  - References/testimonials



## File 3: B-BBEE and Financial Statements

### Exhibit 1

☐ BEE Certificate



### Exhibit 2

☐ 3 years audited/reviewed financial statements (a detailed explanation is required if statements are furnished for any lessor period)



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## Main problem experienced with the last tender (RFP 20/2012) bidders' proposals:

### ❑ Poor quality of proposals

- Bidders did not study the tender documentation (especially the technical scorecard) prior to submitting their proposals;
- Some bidders merely submitted company profiles used for marketing purposes as their bid proposals, without **aligning** same to the **information** specifically requested by SARS in its tender documentation;
- Such bidders would not have been able to achieve the minimum technical threshold of 75 points out of a possible 100 points in order to move on to the B-BBEE's and Financial Statement Analysis gate 2;
- Failure to submit **mandatory documentation and/or information** specifically requested by SARS under this tender resulted in a number of very reputable firms not qualifying to be appointed to the SARS' panel;
- The people tasked to complete the tender – how good is the person? and
- Please register in the Central Supplier Database (CSD) and submit proof of registration in a PDF format.

