

RFP 02/2022: Appointment of a VAT Refund Administrator

Non-Compulsory (Virtual) Briefing Session Question & Answers

Last updated: 05/08/2022

#	Question	Answer
Questions before the Briefing Session		
1	<p>Annexure A: Performance Standards and Penalties.</p> <p>The above document makes provision for a penalty percentage in respect of the non-compliance with a performance standard. On what amount is the penalty percentage calculated?</p>	<p>In the last column, the % penalty per quarter is provided. So, for example, if we take the second point: “Implement risk-based analysis to detect potential unlawful / fraudulent claims”, and the service provider did not implement the necessary/required risk-based analysis, as a result of which a fraudulent / unlawful claim/s is submitted to SARS, a 3 % penalty on the service provider’s fees/commission for the total quarter in which the incident occurred, will be deducted.</p>
2	<p>what dispute settlement process, if any, is envisage should the appointed service provider wish to contest the imposition of a penalty/penalties?</p>	<p>Annexure A: Performance Standards and Penalties will form part of the agreement which the Service Provider must sign. Signature of the agreement (including Annexure A) means that the Service Provider agrees to the penalties contained therein (otherwise the agreement cannot be concluded). If the Service Provider disputes the imposition of a particular penalty by SARS, it must be resolved in terms of the Dispute Resolution clause (clause 17) of the Services Agreement.</p>
3	<p>We would like to access information on the past or expected volume in numbers and financial amount of the transaction globally and/or as per country. If this statistics or data is available would be interesting to look at.</p>	<p>The historical claim numbers have been published on the SARS website. Kindly access the link below:</p> <p>RFP 02/2022: Appointment of a VAT Refund Administrator South African Revenue Service (sars.gov.za)</p>
4	<p>As per the complexity of the transaction we would like to inquire about the possibility of bidding as a JV in a partnership agreement which should include:</p>	<p>Bidders must refer to paragraph 12.3.2 & 13.4 of the published RFP document regarding requirements for a Joint Venture.</p>

	<ul style="list-style-type: none"> - Technology Partner - Payment service Partner - Bank or financial institution - Financial and Management Partner 	
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Questions During the Briefing Session		
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5	The required minimum B-BBEE status level is it only bidders who are level 4 or is it from level 1 to level 4?	The required B-BBEE status level is from level 1 to level 4.
6	Are bidders allowed to bid for all locations?	Yes, Bidders may submit proposals in respect of one (1) or more of the Ports of Entry listed in par. 9.2.6.1 of the RFP document, as well as for all land borders listed in par. 9.2.6.3.
7	If we want to bid for OR Tambo international Airport, must the office be inside or outside the Airport?	The office must be inside the Airport.
8	Must the letter of intent to rent office, include the quotation ?	The letter of intent from the landlord indicating that the company has intent to rent the office in a specified location for a specified period.
9	If the bidder is based in Zimbabwe must they be present in South Africa?	<p>If the bidder is selecting the location of OR Tambo International Airport, Cape Town International Airport, their office must be inside the specified Airport within the Republic of South Africa.</p> <p>If the bidder is selecting the location of land borders, their offices must be easily accessible to qualifying purchasers within the proximity of the border.</p> <p>Note: The appointed VAT Refund Administrator for land borders will provide VAT Refund administration services for SARS and not for neighbouring countries Revenue Authorities/Service.</p>

Questions Post Briefing Session		
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10	Is SARS willing to consider a different tax refund model to that which is in place today if that different model brings efficiencies, innovation and benefits for merchants, travellers and the authorities?	Yes, SARS requires a solution that delivers to the scope of work as per paragraph 9.2 of the RFP document and provided that the model will be in compliance with Part one (1) of the Value Added Tax (VAT) Export Regulation No. R. 316, Government Gazette No. 37580.
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11	<p>If it is intended that a new South African company is incorporated to be the Bidder, and if selected as the preferred Bidder, to be the VAT Refund Administrator, meaning the Bidder has no trading history, do audited financial statements need to be provided by all shareholders in the Bidder or just the majority shareholder of the Bidder?</p>	<p>Refer to paragraph 13.2 and 13.3 of the RFP document:</p> <p>Entities which are trading for less than three (3) financial periods must provide:</p> <ul style="list-style-type: none"> • A letter detailing that fact, signed by a duly authorised representative of the entity in terms of its Memorandum of Incorporation and the Company's rules; • The annual financial statements that the entity is able to provide, taking into account the period that it has been trading; and • Any other information or documentation which would provide more clarity on the financial history of the bidder. <p>Refer to paragraph 13.3 of the RFP:</p> <p>It is only in the event of a <u>subsidiary</u> being the bidding entity and it submits the <u>holding company's</u> financial statements for evaluation purposes, that 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 the bidder, in the event the bidder is awarded the RFP.</p>
12	<p>If it is intended that a new South African company is incorporated to be the Bidder, and if selected as the preferred Bidder, to be the VAT Refund Administrator, does the performance guarantee need to be provided by each shareholder in the Bidder or just the majority shareholder of the Bidder?</p>	<p>Refer to the answer in question 11 & 13.</p>
13	<p>If the Bidder is required to provide a performance guarantee, is the performance guarantee just to be in the form of a signed letter from the majority shareholder addressed to SARS which says "the majority shareholder will undertake to cover any and all risks associated with the Bidder if the Bidder is awarded the RFP". Is it expected that any bank guarantee or letter of credit will need to be provided in support of the performance guarantee?</p>	<p>Refer to paragraph 13.3 of the RFP:</p> <p>It is only in the event of a <u>subsidiary</u> being the bidding entity and it submits the <u>holding company's</u> financial statements for evaluation purposes, that 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 the bidder, in the event the bidder is awarded the RFP.</p>

	<p>If so, what would be the expected value of that bank guarantee or letter of credit?</p>	<p>It is therefore not just any company which needs to submit a performance guarantee – only if a subsidiary company is the bidding entity.</p> <p>A performance guarantee usually comes from a third party like a financial service provider, so that we can call upon it when necessary (see template attached to be completed after award).</p>
14	<p>When does SARS consider the Bid to be in the form of a registered joint venture? If a South African company has been incorporated to be the Bidder with shareholders, does SARS consider this to be a registered joint venture or a rather simply a single Company in South Africa contracting with SARS? Under the circumstances, would the Company be required to provide a JV Agreement to SARS or formal statutory documentation confirming the percentage ownership of each Shareholder in the Company?</p>	<p>SARS considers a JV when there is a legal agreement submitted between the entities indicating the roles and percentages of the ownership.</p> <p>Refer to paragraph 13.4 of the RFP document:</p> <p>“In the event of the bid being in the form of a Joint Venture (JV), the following is required:</p> <ul style="list-style-type: none"> • Annual financial statements of the JV for a registered JV and for unincorporated JV annual financial statements of each company; <ul style="list-style-type: none"> • A JV legal agreement detailing the percentage ownership of each entity; and • A consolidated B-BBEE Certificate.”
15	<p>Clause 9.2.6.3 of the RFP says the Service Provider will be required to have “accessible remote offices within the proximity of the land borders”. Please kindly advise what SARS means by “accessible remote offices within the proximity of the land borders”? Does the VRA need to have an office at the border co-located within the Customs section or an office outside of the Land Borders, in close proximity?</p>	<p>The VRA must have an office outside the land borders in close proximity and easily accessible to Qualifying Purchasers.</p> <p>Having a VRA office within the Customs border causes congestion in the border and this is not advisable.</p> <p>SARS did not specify the proximity of land borders to allow flexibility for Service Providers.</p>
16	<p>Clause 10.4 of the RFP requires the Bidder to provide letters of intent to rent offices in the three Ports of Exit and for remote offices in the proximity of the borders for all other designated ports. Does SARS mean that it expects the Bidder to negotiate and agree to Letters of Intent with landlords prior to the RFP submission date? This would be very</p>	<p>Please refer to question no 8 above.</p> <p>The letter of intent from the landlord will be indicating that the company has intent to rent the office in a specified location for a specified period should they become the successful bidder.</p> <p>The bidder should be able to determine the office requirement specifications per location based on the prior year claims data</p>

	<p>difficult, if not impossible for the Bidder to provide SARS as part of its Tender response on or prior to the Tender submission date given the time constraints. Further, the actual location, size of the space needed and associated utilities, would only be known once certain matters are agreed to with SARS. Therefore, please kindly advise what SARS would like the letter of intent to say? Alternatively, does SARS mean that the Bidder must provide a letter of intent which states that if the Bidder is selected as the Preferred Bidder, that it agrees at this point that it will rent offices at the exit points?</p>	<p>supplied, this should inform the office space and number of resources required.</p>
17	<p>Clause 12.3 of the RFP says all bidders will be invited for presentations. Can SARS please kindly elaborate on the details for the presentation including when this is likely to be, whether that will be in person or virtual, the time permitted for the presentation and what is to be covered as part of the presentation?</p>	<p>Paragraph 10.5 of the RFP document states that all bidders will be invited to present a demonstration for paragraph 10.5 & 10.6 of the RFP document.</p> <p>Only Bidder(s) that have met the Pre-Qualification Criteria in Gate 0 and B-BBEE mandatory requirements in Gate 1, will be evaluated in Gate 2 for Functionality (Technical Evaluation, both desktop and Presentation) out of 100 points. Bidders will be invited to a virtual meeting a week before the presentation, date and time to be confirmed with the bidders.</p> <p>Paragraph 12.3 of the RFP document provides as follows:</p> <ul style="list-style-type: none"> • “Presentation Evaluation – All bidders will be invited for presentations which will be evaluated out of 54 points”. <p>Bidders should therefore refer to Annexure A3(B) for the detailed technical evaluation criteria applicable to Presentation.”</p>
18	<p>Clause 12.3.1a. provides the Price Evaluation Formula. Can SARS please kindly explain what the “Rand value of Bid under consideration” means and how this is calculated? Likewise, can SARS</p>	<p>A response will be published to this by no later than Wednesday 10 August 2022.</p>

	please kindly explain what the “Rand value of lowest acceptable Bid” means and how this is calculated?	
19	Can SARS please kindly list the Government systems the VRA needs to integrate with and provide the technical specifications for these integrations?	<p>Refer to paragraph 9.2.2.7 of the RFP document, the systems are as follows:</p> <ul style="list-style-type: none"> - Value-Added Tax (VAT); and - Customs Export Border Management <p>Both these systems operate from Service Manager.</p> <p>This is for the purpose of viewing the South African Vendors VAT registration numbers and export declaration of Qualifying Purchasers.</p> <p>Refer to third party data process information as well.</p>
20	Is SARS considering using its own Customs validation system or can a new state of the art Customs validation system be provided by the VRA?	<p>Refer to paragraph 9.2.2.7 to 9.2.2.8 of the RFP document</p> <ul style="list-style-type: none"> - Provide automation ability to capture and submit claims directly to SARS electronically in a secure electronic platform that can integrate with SARS document management systems and other prescribed related systems such as Value Added Tax (VAT) and Customs Export Border Management for the purpose of viewing the South African vendors VAT registration numbers and export declaration of qualifying purchasers. - Ensure automated validation of claimant’s credentials and identity. <p>Note: The VRA system will not replace SARS customs validation process but will be synchronised with SARS system to enhance the VAT Refund administration process.</p>
21	Kindly advise what documents are provided by Customs to the Qualifying Purchaser at the 1st inspection for a standard refund?	<p>The following documents are provided by Customs to the Qualifying Purchasers:</p> <ul style="list-style-type: none"> - Passenger goods: Customs endorsed invoice / passenger declaration card - Commercial goods: SAD 500 processed by Customs with an MRN / LRN <p>Refer to the Customs clearance declaration policy/ SF-CF-55 accessible on the below link and available on SARS website:</p>

		https://www.sars.gov.za/sc-cf-55-clearance-declaration-external-policy/
22	Kindly advise what documents are provided by Customs to the Qualifying Purchaser when the goods are being exported to Lesotho and eSwatini?	Refer to the Lesotho and eSwatini MOU, the following are the documents: <ul style="list-style-type: none"> - Personal / passenger goods: Lesotho authority and Eswatini Revenue services endorse the invoice - Commercial goods: SAD 500 processed by Customs with an MRN / LRN
23	In relation to the goods exported to Lesotho and eSwatini, does the VRA apply its commission on the refund claims handled for Lesotho and eSwatini?	The VRA will apply a commission as stated on paragraph 12.3.1 of the RFP document.
24	In relation to the goods exported to Lesotho and eSwatini, kindly advise, is the payment for refund claims paid by SARS to the VRA who in turn pays the tax authority in Lesotho and eSwatini respectively or does SARS pay the VAT refund directly to the tax authority in Lesotho?	In terms of the MOU, SARS will pay the refund of claims to the VRA, who in turn pay the Tax authority / services or their refund manager.
25	In the MoUs with the Lesotho Revenue Authority and the Swaziland Revenue Authority, it contemplates that appointment of a Claims and Refunds Manager. Is the VRA considered to be the Claims and Refunds Manager appointed by SARS under the circumstances?	Yes, the SARS VRA is appointed by the Commissioner to administer the refund of tax contemplated in Part one of the VAT VAT Regulation No. R. 316 Lesotho Revenue Authority / eSwatini Revenue Services claims / refunds Manager is appointed by the Lesotho Revenue Authority / eSwatini Revenue Services.
26	Is SARS open to other suggestions of non-cash refund targets such as credit cards and mobile wallets (which are being utilised by Tax Authorities / VRA's across the globe), than the ones mentioned in the Part 1 of the Value Added Tax (VAT) Export Regulation No. R. 316 such as bank cheques and pre-paid cards?	The following options of non-cash refunds targets are acceptable: <ul style="list-style-type: none"> - EFT - Master debit card - Credit Card See Paragraph 6 (1) of Part one of the VAT Regulation No. R. 316 <ul style="list-style-type: none"> - VRA Discretion for payment method should comply with the requirements of the common monetary area and

		<p>subject to the approval of South African Reserve Bank (SARB).</p> <p>It becomes the responsibility of the Service Provider to consult with the SARB subject to SARS approval.</p>
27	<p>What does SARS mean by the question in the Invitation to Bid document SBD 1: 'Are you an Accredited Representative in South Africa for the Goods/Services/Works offered?' When would SARS consider the Bidder to be an 'Accredited Representative'? Also, if you do answer 'Yes' to this question, what is SARS expecting in terms of the Proof? What does the Bidder need to provide for the Proof?</p>	<p>SBD 1 is a standard document from National Treasury. This question is only applicable where the services are accredited, in this case there is no accreditation required.</p>
28	<p>In terms of Commission, SARS has imposed a narrow band of between 1.3% to 1.5% of VAT (inclusive of VAT), with a maximum Commission of Rand 500 per refund, for which the Bidder must nominate its proposed Commission. This amount of Commission may limit the ability of the VRA to make future investments in, and improvements to, the VEIS; particularly given the RFP requires offices, and therefore substantial personnel, at 20 land borders and at the Airports, which will bring significant operational expense to the VRA. Is SARS open to a Bidder submitting different proposals in relation to the Commission model that is more aligned with other countries where tax free shopping is in place, and which would give greater scope for the VRA to make further investments in improving the VEIS and bringing innovation to the current VEIS? For example, Commission being calculated as a fixed percentage of the VAT without caps which is</p>	<p>The current approved commission by the Commissioner is within 1.3 and 1.5% with a maximum commission of R500 per refund, SARS reserves the right to negotiate with Service Providers who will make it to Price and B-BBEE Evaluation stage.</p> <p>It will be the successful bidders responsibility to cover their own operational cost from the commission that will be obtained.</p> <p>SARS has published its own requirements that the Bidders should comply with.</p>

	more common in other countries with successful and leading tax refund schemes.	
	General & Important	
29	Bidders must carefully read the RFP document and its annexures.	
30	Bidders must carefully complete Annexure A5 to select the location they are bidding for, which must be aligned to Annexure B	
31	Bidders are advised to regularly visit the SARS website for any up-dates	