

SARS SUPPLY CHAIN MANAGEMENT POLICY

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1 SCOPE

- a) This policy in its design, development, implementation and review is guided and underpinned by the South African Revenue Service (SARS) strategic objectives, intent, values, code of conduct, and applicable legislation. Should any aspect of this policy be in conflict with the SARS Act, any regulations or other applicable legislations, the Constitution of the Republic of South Africa shall take precedence.
- a) This policy applies without exception to all SARS employees and all suppliers that interact with SARS when procuring goods and services.
- b) All procurement of goods, services and infrastructure must be channelled through the SARS Procurement Unit, except for purchases which should be channelled through the Petty Cash System and exclusions listed in SARS's Policy for Accounts Payable.
- c) SARS views resource stewardship as an important strategic objective and the consistent and continuous adherence and application of the Supply Chain Management (SCM) Policy is a minimum requirement for all staff members. Failure by any employee or supplier to adhere to this Policy constitutes misconduct and will result in disciplinary action against the employee(s) and termination of contract with the supplier.
- d) SARS is a public entity listed in Schedule 3 A of the Public Finance Management Act, Act 1 of 1999 (PFMA). Although SARS's procurement activities are commercial in nature, it is executed within the ambit of the PFMA and SCM regulations, instructions and prescripts.
- e) SARS's mandate is to collect all tax and related revenue due to government, ensure optimal compliance with tax and customs legislation and provide a customs service to optimise revenue, border protection and facilitate legitimate trade.
- f) In support of SARS's strategic intent and to give effect to SARS's compliance philosophy, SARS has identified and is committed to maintain a strong focus on cost management, productivity optimisation and responsible procurement, in line with Government's transformation imperatives.
- g) SARS adopted a centre-led procurement operating model to ensure standardisation across SARS business units to increase compliance, budget control, give rise to savings, reduce business costs, prevent procurement duplication and maverick spend, and enable category and commodity strategies to serve SARS's needs.

1.1 Purpose

- a) The purpose of this policy is to:
 - i) Enable business units in SARS to achieve strategic and operational objectives by procuring goods, services and infrastructure in a timely, cost effective and compliant manner;
 - ii) Ensure that SARS procures goods, services and infrastructure in accordance with a procurement system that complies with the provisions of Section 217 of the Constitution of the Republic of South Africa which requires all organs of state, including SARS, to contract for goods and assets or services in accordance with a system that is fair, equitable, transparent, competitive and cost effective;
 - iii) Regulate supply chain management activities in a standardised manner within SARS operations;
 - iv) Prevent irregularities in the procurement of goods and services;
 - v) Ensure that there is accountability in the supplier management process; and
 - vi) Ensure suppliers deliver high quality products and services by generating strong contractual relationships based on clear performance expectations.

2 POLICY

2.1 Procurement Principles

2.1.1 Conditions for the procurement of goods, services and infrastructure

- a) Only goods, services **and infrastructure** budgeted for and approved by the relevant authority may be procured.
- b) National Treasury thresholds and applicable SARS **SCM** delegation of authority must be adhered to when procuring goods, services **and infrastructure**.

2.1.2 Ethical standards and conflict of interest

- a) SARS has the obligation to treat, and to be seen to be treating, all citizens objectively and fairly. SARS procurement and supply chain management activities must demonstrate **a high degree of integrity with a view to be congruent with SARS's intent to build credibility, public confidence and trust**.
- b) All procurement transactions and interactions with suppliers, including supplier selection and evaluation, are subject to the provisions outlined in the SARS internal policies.
- c) No SARS employee may accept any gift, hospitality or other inducement that may influence them in their decision-making responsibilities, or that may be seen to influence them in their decision-making. Any such attempted inducements must immediately be reported to the Chief Procurement Officer and / or the SARS Integrity Unit.
- d) **All employees that have left the employment of SARS, may only respond to SARS bid invitations twelve (12) months after the termination of their employment with SARS.**

2.1.3 Declaration of interest

- a) All procurement committee members, and any person involved in the procurement, evaluation, adjudication or negotiation process, must complete and sign the applicable declaration of interest form.
- b) Any person with an interest that may affect or could be seen to affect their impartiality should immediately declare the conflict of interest, in writing and withdraw entirely from the process.
- c) All employees involved in procurement activities other than evaluation, adjudication, or negotiation, will only be required to declare an interest if they in fact have an interest in a particular matter. Should such an employee not make any declaration in a particular matter, he / she will be deemed not to have an interest in the matter. If it is later discovered that an employee did have an interest which he / she failed to declare, such employee will be found to have failed to comply with the duty to declare conflicts of interests **and must be subjected to the SARS Disciplinary Code and Procedure**.
- d) SARS reserves the right to conduct the necessary due diligence on employees, suppliers and bidders for procurement related matters and take the necessary steps to ensure compliance.

2.1.4 Confidentiality and accuracy of information

- a) The confidentiality of information received in the procurement process should be respected.
- b) Specific details of suppliers' bids must not be divulged, unless it is in accordance with the Promotion of Access to Information Act, 2000 (Act 2 of 2000), court order or through the consent of the respective supplier. The disclosure can only be made in consultation with the SARS Corporate Legal Services.
- c) All employees of the SARS Procurement Unit, procurement committee members, and all officials attending procurement related meetings are bound by the SARS Confidentiality Agreement **and failure to do so will result in immediate disciplinary procedures taken against such employee**.

2.1.5 Suppliers doing business with SARS

- a) Suppliers doing business with SARS must always do so in good faith together and have the best interest of SARS at heart.
- b) All bidders are bound by the bid conditions when submitting proposals. SARS reserves the right to disqualify bidders due to non-adherence to such conditions.
- c) All bidders are bound by the provisions of the Protection of Personal Information Act, 2013.
- d) All suppliers are bound by the conditions of the SARS Oath / Affirmation of Secrecy notwithstanding refusal to take or supply the respective oath on request.
- e) Notwithstanding the full terms and conditions of contract, SARS reserves the right to withdraw an award, or cancel a contract concluded with a bidder should it be established, at any time that:
 - i) a supplier has been blacklisted with National Treasury by another government institution. No tender shall be awarded to a bidder (or any of its members, directors, partners or trustees) whose names appear on the Register of Tender Defaulters kept by National Treasury, or who have been placed on National Treasury's List of Restricted Suppliers.
 - ii) a supplier or any of its directors are government employees. SARS does not do business with government employees or entities owned by government employees. These would include beneficial ownership, where a public official may not necessarily be a director however benefits from a contract. However, there are instances where government employees are mandated or necessary approvals from their organisations have been received, and in such cases, SARS will approach these instances based on SARS' risk appetite before continuing with such cases.
 - iii) A bidder / supplier failed to declare any direct interest or potential interest in the respective bidding documents as soon as they became aware. It is the responsibility of all suppliers to ensure that they maintain their declaration to SARS on an ongoing basis and when necessary.

2.1.6 Preventing and combating abuse within SARS supply chain management

- a) SARS shall prevent and combat the abuse of supply chain management processes through the established fraud and corruption system embedded in the organisation.
- b) SARS hotline provides an anonymous reporting channel for unethical behaviour where all complaints are investigated, remedial action instituted, and outcomes reported.
- c) All SARS employees must report suspicion of fraud, corruption or unethical behaviour to the fraud line system immediately after it has become known.
- d) All other complaints may be registered through the Procurement One Point of Entry: (Proc.OPE@sars.gov.za).
- e) SARS utilises data available at its disposal for forecasting and predictability, in informing the demand planning process. SAR publishes reports on supply chain demand and performance.

2.1.7 No Payment without an official purchase order and or contract

- a) The SARS official purchase order and / or duly authorised contract is an acceptable and binding contract between SARS and its appointed suppliers.
- b) No payment will be made to any supplier for goods delivered or services rendered if not supported by an official purchase order. It is the responsibility of the supplier to ensure that any additional work to be carried out outside of the official purchase order is duly authorised and that a new purchase order is generated prior to the delivering of the goods or services.
- c) A purchase order must be generated prior to the purchasing of goods or services. If an employee does not adhere to this provision, disciplinary action may be taken with a possible sanction of such employee being held personally responsible for these expenses.

2.1.8 **SCM Delegation of authority**

- a) The Commissioner is the Chief Executive Officer and the Accounting Authority in terms of the SARS Act and the PFMA and is responsible for SARS performance of its functions, takes all decisions in SARS exercise of its powers and any such powers assigned to him/her in terms of any legislation or agreement.
- b) The Commissioner may, in terms of Section 56(3) of the PFMA, confirm or revoke any decision taken by an official as a result of a delegation or instruction in terms of sub-section 56(1), subject to any rights that may have become vested as a consequence of the decision.
- c) All procurement activities are executed in accordance with the latest Commissioner's delegation of authority and any activity to be executed must be done in accordance with a delegation.
- d) Expenditure resulting from non-adherence to SARS SCM delegations of authority constitutes an irregular expenditure.

2.2 **Procurement Objectives**

- a) All costs and benefits of procurement must be taken into account in order to obtain the best value for money.
- b) SARS must do business with entities who can demonstrate that they can supply goods or deliver services that meet the required standards.
- c) SARS procurement activities must be aligned to and be integrated with national development goals, enabling legislation, and government supply chain management practices that are cost effective.
- d) SARS receives the benefits expressed in contracts and contractual relationships through their enforcement and management throughout their life cycle, management of supplier performance and risks posed by such suppliers.
- e) SARS staff manages suppliers in a manner which facilitates SARS responsibilities and minimises related risk.

2.3 **Broad-Based Black Economic Empowerment**

- a) SARS fully endorses and supports the Government's Broad-Based Black Economic Empowerment (B-BBEE) programme.
- b) SARS prefers to do business with local business enterprises who share its values and who are prepared to contribute to meaningful B-BBEE initiatives (including, but not limited to subcontracting and Joint Ventures) as part of their request for proposal responses.
- c) SARS **applies a system of preferential** procurement in accordance with the Preferential Procurement Policy Framework Act No. 5 of 2000 and its regulations to companies who provide a verifiable B-BBEE Accreditation Certificate, **including valid Affidavits**.
- d) SARS may, in the case of sectors that are designated by the Department of Trade and Industry, where in the award of bids, local production, or specific goals that are of critical importance, advertise such bids with a specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- e) Where respondents wish to enter into a Joint Venture or subcontract portions of the contract to B-BBEE companies, their response must state the percentage of the total contract value to be allocated to such B-BBEE companies should they be awarded any business.
- f) Where applicable, a rating certificate in respect of such B-BBEE Joint Venture partners or subcontractor(s), as well as a breakdown of the distribution of the aforementioned percentage must also

be furnished with the response to enable SARS to evaluate and adjudicate all bids received on a fair basis.

2.4 Sourcing

- a) The Procurement Unit must apply a strategic sourcing approach when it receives a request from a SARS business unit.
- b) When procuring goods and services SARS must adopt optimum sourcing techniques by taking into consideration the nature of the commodity or service required, the conditions of delivery, just-in-time delivery, the prospective supplier and the goals to be promoted as contemplated in the Preferential Procurement Policy Framework Act No. 5 of 2000 and its regulations.
- c) **Local procurement is one of the sourcing criteria that SARS utilises in assessing bids, in encouraging and promoting business and industry. These includes being specific on locally sourced material, services, and labour on bid documents.**
- d) The following sourcing options must be considered, among others, when a decision to procure is taken:
 - i) Utilising existing SARS contracts that are already in place;
 - ii) Utilising National Treasury or SITA transversal term contracts;
 - iii) Participating in other state organs existing contract;
 - iv) Local versus international sourcing;
 - v) Utilising a paper-based bidding system, which may include obtaining quotations, inviting competitive bids, pre-qualification of bidders, two-stage bidding, **and deviations**;
 - vi) Utilising E-procurement **including reversed auctioning, market place functions**;
 - vii) **Utilising a dynamic purchasing approach and systems**, and
 - viii) Negotiations.
- e) **SARS does not accept unsolicited bids as a procurement method.**
- f) Various procurement mechanisms may be applied where:
 - i) SARS invariably employs different procurement mechanisms as detailed from paragraph 2.4.1 to 2.4.10 depending on the circumstances of each case.
 - ii) Procurement assesses all requests and advice on the appropriate procurement mechanisms for procuring of goods and services.
 - iii) Sufficient justification and proper motivation must be provided for any chosen procurement path.

2.4.1 Transversal term contracts

Unless exempted by National Treasury, SARS shall, for purposes of acquiring common goods and services, procure goods and services through National Treasury transversal term contracts in order to promote uniformity in supply chain management practices. **SARS may assess and consider to participate in available transversal term or framework agreements provided to government institutions by the State Information Technology Agency (SITA).**

2.4.2 Participation in other organs of state-initiated contracts

Where other organs of state have existing contracts with relevant suppliers arranged by means of a competitive bidding process, SARS Accounting Authority or duly delegated officer may, where it is cost-effective, opt to utilise such contract by obtaining approval from the Accounting Authority / Officer or duly delegated officer of a particular organ of state, in accordance with Treasury Regulation 16A6.6. Should approval be granted, SARS may wish to contract under the same terms and conditions or agree to enter into a new contract with the supplier. SARS must confirm that the initial procurement of such goods and services had been through an open and fair process.

2.4.3 Request for information (RFI)

- a) Where information on the procurement requirement is insufficient or is not readily available, SARS may issue an RFI as a solicitation sent to a broad base of potential suppliers for purposes of conditioning, gathering information, preparing for an RFP or RFQ, developing strategy, or building a database.
- b) The RFI is used to gather information, and not to make a selection or an award. The information collected in this fashion may not be used to lead to sourcing from one supplier only nor may it be used to write the ultimate specification in a manner that would suit just one specific supplier.
- c) The RFI may be published in the media to research or determine inter alia:
 - i) What products are available in the market;
 - ii) What specifications the products have;
 - iii) What the availability of the product is in the market place; and
 - iv) What the possible rates / indicative pricing and timing of delivery may be.
- d) The RFI is merely focused market research and not a competitive bid and cannot be used for placing a contract or purchase order and does not constitute a commitment. **The subsequent request for proposal (RFP) may be restricted to respondent suppliers of the RFI, provided that it was so specified in the RFI document.**

2.4.4 Request for quotation (RFQ)

- a) A request for quotation may be used where SARS wishes to procure goods and services for less than the amount prescribed by the National Treasury. If all quotes received are above the prescribed threshold as determined by the National Treasury, SARS will not proceed to award on the RFQ.
- b) All goods and services procured through quotations should be sourced from suppliers registered on the Central Supplier Database (CSD) administered by the National Treasury. If it is not possible to obtain price quotations from the list of prospective suppliers recorded in the CSD, the Procurement Unit must conduct a market analysis to identify possible supplier(s), record the process and submit to the relevant authority for approval. Before purchase orders are processed the identified supplier(s) should be registered on the CSD.
- c) **The following prescribes the process followed for the invitation of price quotations:**
 - i) **Procurement together with the requesting business unit is responsible for drafting the specifications.**
 - ii) **SARS selects suppliers for inviting price quotations on the CSD based on the commodity and geographical location.**
 - iii) **A minimum of three (3) suppliers are required per legislative requirements. However, for purposes of increased competition, SARS will endeavour to invite a minimum of five (5) suppliers.**
 - iv) **The minimum validity period of price quotations after the closing date is 30 days. In instances where the quotations are valid for less than 30 days, SARS will consider them on an ad hoc basis depending on the commodity and market availability thereof.**
 - v) **The period for which price quotations will be invited is a minimum of three (3) working days. In cases where there is a need to reduce the advertising period it will be approved by the delegated authority.**
 - vi) **All quotations (from local and foreign suppliers) must be invited and received through the Procurement One Point of Entry.**
 - vii) **SARS does not accept late quotations.**
 - viii) **Procurement is responsible for the evaluation of price quotations, together with the relevant expertise from the requesting business unit and adjudicated according to the delegation of authority.**
- d) **Procurement of goods and services may not be deliberately split into parts or items of a lesser transaction value in order to circumvent the prescribed procurement process. When determining transaction values, where required goods and services consist of different parts or items, said parts or**

items must as far as possible be treated as a single transaction for the purposes of determining which procurement process to follow.

2.4.5 Request for proposal (RFP)

- a) A request for proposal is a competitive bidding process and may be used where SARS wishes to procure goods and services which are in excess of the amount prescribed by the National Treasury.
- b) SARS may use an RFP if it faces a challenge which it would like to approach with flexibility and innovation by using the expertise available in the marketplace.
- c) Where required, a site meeting may be requested and conducted in order to share information and to inspect the proposed solution or product.

2.4.6 Limited bidding

- a) SARS may use a closed selection process where there are a limited number of potential suppliers of the goods and services or where the open tender is unlikely to provide significant benefits for SARS or potential suppliers.
- b) The limited bid is distributed to selected suppliers inviting them to respond to a request for information, credentials, quotes or proposals. SARS will not advertise limited bidding to the general public and may also request a shorter period of responses from the respective suppliers.
- c) Limited bidding shall be based on thorough analysis and market research.
- d) Procurement will obtain the necessary approvals from the relevant governance structures to participate in a limited bid to comply with its own internal procurement procedures. The business unit procuring the goods and services must submit a well-motivated request to the Procurement Unit for conducting due diligence before the request to go on limited bidding is submitted to the relevant approving body.

2.4.7 Deviation

- a) Should it be impractical to invite competitive bids for specific procurement, SARS may procure the required goods and services by other means other than through the invitation of competitive bids in accordance with Treasury Regulation 16A6.4 **read together with supporting instruction notes that National Treasury issues from time-to-time pertaining to deviations.**
- b) All motivations for deviation shall be written by the Procurement Unit for approval by the relevant authority prior to procuring the required goods and services.
- c) All deviation requests must be signed by the appropriate business unit in terms of the delegation of authority.
- d) All repetitive deviation requests must be evaluated, monitored and reported to the Chief Procurement Officer and the Business Unit Head of the procuring business unit.

2.4.8 Condonation

- a) In instances where goods or services were procured in contravention of **or that is not in accordance with a requirement of any applicable legislation**, including the PFMA, Treasury Regulations, National Treasury Instructions issued in terms of section 76 of the PFMA, or any other applicable legislation, the non-compliance must be investigated to establish the facts about the transaction, to determine the loss(es) related to the transaction, and whether a condonation of the irregular expenditure is required from the relevant authority to regularise the expenditure, and enable payment to the supplier.
- b) Any condonation request must be supported by the relevant business owner in terms of the delegation of authority, prior to submission for approval by the relevant authority. All requests must be submitted to the relevant authority through the Procurement Unit and must be accompanied by an investigation or enquiry into the alleged irregular expenditure.

- c) If the business owner in terms of the delegation of authority does not approve the expenditure as well as the process followed to procure the goods or services, the expenditure will remain irregular.
- d) The investigation into the irregular expenditure should determine the appropriateness of disciplinary steps against the responsible individual(s) in line with SARS human resource prescripts.
- e) SARS Internal Policy and Procedures pertaining to Irregular Expenditure is applicable to condonation of irregular expenditure.

2.4.9 Expansion or variation of orders against original contract

- a) It is recognised that, in exceptional cases, SARS may deem it necessary to expand or vary orders against the original contract.
- b) Expansions or variation orders against original contracts are when the scope of the contract is increased resulting in additional costs being incurred or the value of the original contract being increased. The expansion or variation must not amount to the material alteration of the original contract in a manner that constitutes a new award of a contract.
- c) Any variation or expansion of a contract must be done in accordance with the applicable thresholds as prescribed and the relevant delegation of authority.
- d) Any increase in the contract period or contract sum that may become necessary as a result of exceptional circumstances, or which are considered to be in SARS' and the public's interest, may be approved by the relevant authority. Such approval must be obtained prior to the contract period expiring or contract value being exceeded.
- e) Any unapproved increases in the contract value that have become necessary as a result of exceptional circumstances, or which have been considered to be in SARS' and the public's interest, must be explained in a report to the relevant authority requesting condonation and approval for such unapproved increase.

2.4.10 Emergency procurement

- a) An emergency procurement occurs when there is a serious and unexpected situation that poses an immediate risk to the:
 - i) Health and safety;
 - i) Life; and/or
 - ii) Property or environment.
- b) Serious and unexpected emergencies must have already materialised or will materialise within the next twenty-four (24) hours.
- c) The Business Unit approval of the emergency incident must be reported to the Procurement Unit within 24 working hours after the incident occurred, and required documentation must be submitted within three (3) working days through the Procurement One-Point-of-Entry (OPE), to allow for the commencement of the procurement recommendation and ratification process. In cases of the emergency occurring on a weekend or public holiday, this must be reported on the first working day thereafter.
- d) The Procurement Unit will regard the case of emergency as a deviation as detailed in paragraph 2.7 but will follow the authorisation levels of emergency procurement.
- e) To the extent that the Procurement Unit determines that the procurement was not warranted by a case of emergency as defined, a condonation must be sought for the procurement as detailed in paragraph 3.5.8.

2.5 Industry, market and supplier engagement

- a) SARS may engage the market for purposes of collaboration in an open, transparent and ethical manner. Bidders must consider paragraph 2.1.2 and 2.1.5 regarding all engagements with SARS.
- b) This provides SARS an opportunity to understand the capability and capacity of suppliers within the market and gathering sufficient information about the items to be procured before developing the strategy, business case and requirements.
- c) Industry, market and supplier engagement are specifically utilised for obtaining technical knowledge and insight into products, services and industry trends. SARS officials are prohibited from making any verbal agreements, commitments, false promises, or making any other inappropriate undertaking to a supplier during exploratory phases of strategy and business case formulation. Only approved procurement methods contained in this policy resulting in an official purchase order will constitute a commercial commitment to a supplier.
- d) Suppliers and SARS officials are bound by the following to ensure that such engagements are within the principles of Supply Chain Management. This should include ensuring that:
 - i) A cross functional SARS team participate in the process and attend all meetings, including a procurement official;
 - ii) Suppliers sign the SARS oath of secrecy;
 - iii) The approach undertaken is logical, defensible and would withstand public scrutiny;
 - iv) A good sample of suppliers are engaged, both incumbent and those not currently under contract, and that a consistent approach is taken with each supplier;
 - v) No undertakings or commitments are made to suppliers as part of the process;
 - vi) No "inside information" is disclosed; and
 - vii) Any engagement is appropriately documented and recorded.

2.6 Digitalisation of Supply Chain Management

- a) SARS may opt to utilise digital mechanisms and platforms which are available at its disposal, to facilitate, optimise certain area of spend during its procurement processes. These may include amongst others:
 - i) E-procurement, which is an electronic procurement for the purchase and sale of goods and services, and may include electronic systems to facilitate the RFQ, RFI, RFP, or any other procurement processes.
 - ii) Reverse auctioning, also known as a buyer-determined auction, where the traditional roles of the buyer and seller are reversed. In this case one buyer, i.e. SARS, offers a contract out for bidding to many potential sellers, and the suppliers compete with one another and offer bids to win the contract from SARS in line with the approved specifications, and the prices trend downwards as the bidding process goes on.
 - iii) A dynamic purchasing system, which is an electronic system that is open for suppliers to join at their discretion, and allows SARS access to a pool of pre-qualified suppliers at any given time, to afford the suppliers with increased market opportunities.
- b) SARS must ensure that the regulatory requirements are complied with during its procurement processes, irrelevant of the mechanisms utilised.

2.7 Bid Specification

2.7.1 Determining Specifications

- a) All bid specifications and bid documentation must be compiled by an ad-hoc Bid Specification Committee constituted for each procurement activity.
- b) **The Bid Specification Committee is comprised of a Cross Functional Sourcing Team (CFST), made up of internal, or where appropriate, external subject matter experts, and is constituted for the purposes of compiling and approving specifications before they are published. SARS has preference for the**

segregation of duties between the members of the Bid Specification Committee and the Bid Evaluation Committee, unless where such segregation is not practically possible.

- c) No person, advisor or corporate entity involved with the Bid Specification Committee, or director of such corporate entity, may bid for any resulting contracts.
- d) It is the responsibility of the Bid Specification Committee to compile detailed, clear and unambiguous specifications with which to source proposals. The specifications must be prepared free of interference by bidders and should be written in an unbiased manner to allow all potential bidders to offer their goods and services or infrastructure.

2.8 Evaluation

2.8.1 Pre-qualification of bidders

- a) The pre-qualification and mandatory/pre-technical (where applicable) evaluation criteria must be approved by the Bid Specification Committee before the bids are opened.
- b) After the closing date and time of the bids, the Procurement Tender Office must open and record all bids received. The recording is followed by qualifying or disqualifying bidders based on the minimum criteria approved upfront.
- c) SARS will not accept late bids.
- d) Where the Bidder and/or the Bidder's Proposal fails to comply fully with any of the pre-qualification criteria or SARS is for any reason unable to verify whether the pre-qualification criteria are fully complied with, SARS will have the right to either:
 - i) Entirely reject the Proposal in question and not to evaluate it at all;
 - ii) Give the Bidder an opportunity to submit and/or supplement the information and/or documentation provided by the Bidder in its Proposal so as to achieve full compliance with the pre-qualification criteria provided that such information and/or documentation can be submitted within a period of 5 (five) days, or such alternative period as SARS may determine, and is purely administrative in nature; or
 - iii) In any event permit the Proposal to be evaluated subject to the outstanding information and/or documentation being submitted prior to the award of the tender.
- e) The Bidder's attention is drawn to the documents required as part of a Bidder's Proposal and which, if omitted, may at SARS's sole discretion result in that tender being disqualified.

2.8.2 Technical evaluation

- a) The need to invite and evaluate bids on the basis of functionality depends on the nature of the commodity or service that is required. Where functionality is an evaluation criterion, this must be communicated to the bidders. The bids should indicate the following:
 - i) The evaluation criteria for measuring functionality; and
 - ii) The applicable value as well as the minimum threshold set for functionality.
- b) Bids that do not meet the minimum threshold on functionality shall be disqualified.

2.8.3 Pricing and B-BBEE evaluation

- a) Bidders that meet the minimum threshold on functionality must be evaluated on the 80/20 or 90/10 principle in accordance with the Preferential Procurement Policy Framework Act No. 5 of 2000 and its regulations, where 80 or 90 points must be used for price, and 20 or 10 points are used for Broad-Based Black Economic Empowerment (B-BBEE). National Treasury may from time to time amend the proportions and the points.
- b) The formulae prescribed from National Treasury shall be used to calculate the points awarded for pricing.

- c) SARS is not obliged to accept the lowest price, as price is not the only consideration.
- d) Where necessary, SARS may invoke s2(1)(f) of the Preferential Procurement Policy Framework Act No. 5 of 2000.

2.8.4 Supplier development

The supplier development programme is an initiative of the Department of Small Business Development and is supported by SARS. The aim of the supplier development programme is to increase competition, capability, and capacity of the South African supplier base where there are comparative advantages and potential for local and regional supply.

2.8.5 Rights reserved by SARS regarding bids

- a) SARS reserves the following rights regarding the acceptance of bids:
 - i) To accept, at its sole discretion, any bid in its entirety or only partly;
 - ii) To accept any bid, irrespective of whether or not it is the lowest bid; and
 - iii) Not to award a bid.
- b) SARS reserves the right to disqualify a bidder whose bid contains a misrepresentation which is materially incorrect or misleading.
- c) SARS will not be liable for any financial expenditure incurred in drawing up the bid, or in respect of any steps taken by the bidder in drawing up such bid.

2.9 Adjudication

Bids are adjudicated by the Bid Adjudication Committee appointed by the Accounting Authority, or by the delegated approving authority in line with the delegation of authority.

2.10 Cancellation of bid before award

- a) SARS may cancel a bid at any time after the bid has been published to the market and before the awarding process in line with the Procurement Policy Framework Act No. 5 of 2000 and its regulations.
- b) Competitive bids cannot be cancelled with the purpose to re-issue in order to influence the outcome that would have arisen from valid responses to the original bid.
- c) Should it be necessary for a formal bid to be cancelled, approval needs to be obtained from the relevant authority. After approval has been obtained, the Procurement Unit must inform all participating suppliers of the cancellation.
- d) Where the invitation to bid was to a closed list of suppliers, then written notification of the cancellation must be sent to each of the invited suppliers.

2.11 Exclusion of bidder from further business

SARS may, at its discretion, decide to exclude a bidder from further procurement processes in line with the Procurement Policy Framework Act No. 5 of 2000 and its regulations **and applicable National Treasury Instructions issued from time-to-time.**

2.12 Communication of tender decision

- a) All tenders that were awarded will be published on the SARS website.
- b) The successful supplier(s) will be notified in writing through a letter of acceptance signed by the relevant delegated authority of the award within the original validity period of the tender. The correspondence shall be provided as per the details submitted with the initial tender.

- a) Once the successful supplier(s) has **accepted** the award, the Procurement Unit will inform the unsuccessful supplier(s) in writing that their tender(s) were unsuccessful. On written request, any supplier should be provided with the reasons why their own tender was unsuccessful, without disclosing any of the other tenderers information.
- b) The end-user may not engage with suppliers in the absence of an official from the Procurement Unit prior to a contract being awarded. Post-contract award end-user engagements with suppliers must be in strict accordance with the provisions of the relevant contract.

2.13 Signing of contracts

Contracts may only be signed by authorised SARS employees who have been delegated the authority to do so by the Accounting Authority in accordance with the various levels of signing authority set out in the SCM delegation of authority.

2.14 Disposal management

- a) **Assets, surplus stock, and low value scrap will be disposed as follows:**
 - i) **Relocation of an asset which can be used in another area of SARS;**
 - ii) **Trade-in on new assets;**
 - iii) **In relation to computer equipment, a donation to a state institution involved in education and/or training must first be approached. If such an institution does not indicate an interest in available computer equipment, disposal through sale of auction will ensue;**
 - iv) **Sale by auction;**
 - v) **Open invitation to tender or quote to the public through advertisements in the media; or**
 - vi) **Open invitation for staff to quote in specific circumstances, for the disposal of obsolete equipment/assets that has no significant market value.**

2.15 Tax status

- a) It is necessary to ensure that a supplier conducting business with the SARS is tax compliant at the date of submission and award of a bid, as well as for the full duration of their respective contracts. **The bidder's tax compliance status of bidders must be verified on the CSD for all price quotation and competitive bidding.**
- b) No bid may be awarded to a bidder whose tax matters have not been declared by the SARS to be 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.
- c) **Where the recommended bidder is not tax compliant, the bidder must be notified in writing of their non-compliant status and granted the supplier a minimum of seven (7) working days to rectify their tax compliance status with SARS. Thereafter the bidder is responsible to provide SARS with proof of its tax compliance status which must be verified through CSD and/or Tax Compliance System.**
- d) **SARS must also verify tax compliance status of directors/owners of the bidding entity for purposes of adjudicating a bid. Should directors/owners not be tax compliant, the award may be made with a suspensive clause for directors/owners of the entity to become tax complaint within 21 working days of date of submission and award of the bid.**

2.16 Central Supplier Database

- a) Suppliers have to register on the National Treasury CSD, and National Treasury will maintain the database for all suppliers for Government and its institutions.
- b) All SARS tenders will be published on the National Treasury's e-Tender Publications Portal.

2.17 Contract management

2.17.1 SARS contract management objective

- a) SARS receives the benefits expressed in contracts and contractual relationships through contract enforcement and management throughout the contract life cycle, management of suppliers' performance and risks posed by such suppliers. This is to ensure that there is accountability in the supplier management process, and that suppliers deliver high quality products and services by generating strong contractual relationships based on clear performance expectations.
- b) The contract management approach and engagement processes should be shared with all SARS suppliers, both during the commercial process and as part of the supplier engagement.
- c) Suppliers are classified according to a SARS defined approach and supplier interaction will be shaped according to this classification.
- d) Suppliers do not assist in developing business requirements unless through a competitive procurement process. Suppliers may only share product capabilities and use-cases to demonstrate capability.
- e) No budget information will be shared with suppliers.

2.17.2 Contract / sub-contracting

A contract is entered into only with the bidder and the contract, or any portion thereof, or any share or interest therein, may not be transferred, assigned, ceded or granted to someone else without the specific written permission and conditions of SARS.

2.17.3 Screening and vetting of suppliers

Suppliers may be subject to the condition that both the contracting supplier and its personnel providing the service may be screened and cleared by the appropriate authorities to the grade of clearance in line with 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 contracting supplier concerned. If the principal contractor appoints a subcontractor, the same provisions and measures will apply to the subcontractor.

2.17.4 Unsatisfactory performance and breach of contract

- a) Unsatisfactory performance occurs when performance is not in accordance with the contract conditions.
- b) The business unit procuring the goods or services must identify unsatisfactory performance in terms of the contract timeously and must, in consultation with the Procurement Unit and Corporate Legal Services assistance bring unsatisfactory performance to the attention of the supplier in writing.
- c) The supplier must be afforded a reasonable period in terms of the contract to rectify its performance. If the performance is not rectified, the business unit procuring the goods or services must inform the Procurement Unit of this fact.
- d) The Procurement Unit, with Corporate Legal assistance, shall give notice to the contractor of action to be taken in line with the contract due to non-performance.
- e) **SARS reserves the right to cancel or terminate a contract in the event of material irregularity.**

2.18 General

- a) The following can be applied in terms of procurement governance to determine whether the officer is complying with legislation and regulations:
 - i) Never allow a supplier to deliver goods or render a service without a valid purchase order number.
 - ii) Buyers have been trained to only create a purchase order if due process has been followed.
 - iii) Only SARS Procurement staff members who have the required training are allowed to facilitate the evaluation processes. This process is done through cross functional teams involving the relevant business owners.
 - iv) All procurement processes and related documentation can be found on the Procurement Portal on the SARS intranet.

2.19 Protection of information

- a) SARS will promote the protection of personal information during this process by ensuring that the information collected is specific, explicitly defined and for lawful purposes in accordance to the provisions of the Protection of Personal Information Act, No. 4 of 2013 (POPI Act).
- b) If, during the course of implementing this policy, information becomes available that is personal in nature, such information shall be kept confidential and only be used for the purposes for which it is intended.

2.20 Records Management and Maintenance

- a) All records created or received by employees and independent contractors during the course of their duties are the property of the SARS and subject to its overall control.
- b) All records (whether digital or non-digital) must be managed and stored in a secure manner that ensures integrity, authenticity and accessibility requirements of the records in accordance with the SARS File Plan, Information Security Policies and the Records Management Policy.
- c) All original records are to be retained for the period stipulated in the SARS Records Retention Policy.
- d) Records should only be disposed of when:
 - i) All governance processes have been followed as outlined in the Records Management Policy and SOP;
 - ii) The records have reached the end of their retention period; and
 - iii) The records are not required for administrative, operational, investigative, and financial or audit processes.
- e) All Records Management enquiries must be sent to RecordsManagement@sars.gov.za.

2.21 Compliance, Monitoring and Evaluation

- a) Non-compliance with the SCM Policy may result in disciplinary action being instituted against the responsible employee(s) in terms of the SARS Disciplinary Code and Procedure.
- b) In the event of the identification of irregular expenditure and/or fruitless and wasteful expenditure, the head of the business unit in which the transaction occurred, is required to, after consultation with Human Resources/Employee Relations and Labour, and in terms of the Disciplinary Code and Procedure, take disciplinary action against the responsible employee(s) whose conduct, behaviour and/or performance falls below acceptable standards or regulatory requirements and lead to non-compliance.
- c) The head of the business unit in which the transaction was incurred, must take remedial actions in relation to identified irregular expenditure and/or fruitless and wasteful expenditure. The head of business unit in which the transaction occurred may, over and above the disciplinary action, consider taking further remedial actions, which may include training interventions and legal proceedings.

- d) The recovery of losses or damages resulting from irregular or fruitless and wasteful expenditure must be dealt with in accordance with Treasury Regulation 12 and supporting instruction notes that National Treasury issues from time-to-time pertaining to irregular expenditure, fruitless and wasteful expenditure and financial misconduct and be applied in accordance with applicable SARS internal policies for irregular expenditure and relevant Human Resource policies.
- e) All irregular, fruitless and wasteful expenditure and instances of financial misconduct must be disclosed as a note to the annual financial statements.
- f) This policy shall be reviewed from time-to-time to ensure its continued relevance, effectiveness and alignment to applicable legislation and regulations.
- g) Compliance breaches will be reviewed by Internal Audit and SARS Procurement in conjunction with line management. Action plans to ensure that the risks associated with a breach are adequately mitigated must be submitted, with a breach report, to the Compliance Risk Committee for acceptance.
- h) The Procurement Department will submit a report to the Accounting Authority on a quarterly basis to review the effectiveness and efficiency of the SCM system in SARS.

3 REFERENCES

3.1 Legislation

| TYPE OF REFERENCE | REFERENCE |
|---|---|
| Legislation and Rules administered by SARS: | South African Revenue Service Act No. 46 of 2002 |
| Other Legislation: | Constitution of the Republic of South Africa 1996: Sections 9(2) and 217 Broad-Based Black Economic Empowerment Act No. 53 of 2003: Sections 9 and 11 Code of Good Practice under section 9(1) of the Broad-Based Black Economic Empowerment Act No. 53 of 2003: All Preferential Procurement Policy Framework Act No. 5 of 2000: All Preferential Procurement Regulations, 2017 Public Finance Management Act No. 29 of 1999: Sections 44; 49; 50; 51(1) (a) to (d); 56; 57 and 76 and 77 Government of the Republic of South Africa General Procurement Guidelines: All Treasury Regulations issued in terms of PFMA, 1999 Regulations in terms of the PFMA, 1999 - Framework for Supply Management Chain: All Companies Act No. 71 of 2008: Sections 30 and 75 Promotion of Access to Information Act, 2000 (Act 2 of 2000) |
| International Instruments: | None |

3.2 Cross References

- a) N/A.

4 DEFINITIONS AND ACRONYMS

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|--------------------------|--|
| B-BBEE | Broad-Based Black Economic Empowerment |
| Original Contract | Original contract means a contract that is still valid, has not expired and the funds have not been depleted. |
| PFMA | Public Finance Management Act |
| PPPFA | Preferential Procurement Policy Framework Act |
| RFI | Request For Information |
| RFP | Request For Proposal. An RFP is a document setting out the desired outcome in as much detail as possible, without unnecessary limitations in terms of a possible solution. The suppliers are requested to propose a solution or viable alternatives that |

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| | might result in a solution, based on the available information. |
| RFQ | Request For Quotation. An RFQ is a solicitation sent to potential suppliers containing in detail a list or description of all relevant parameters of the intended purchase. |
| SARS | The South African Revenue Service |
| SCM | Supply Chain Management |
| VAT | Value-Added Tax |