



SARS SUPPLY CHAIN MANAGEMENT

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1 PURPOSE

- a) The purpose of this policy is to:
- i) Enable business units in the **South African Revenue Service (SARS)** to achieve strategic and operational objectives by procuring goods and services in a timely, cost effective and compliant manner;
 - ii) Ensure that SARS procures goods and services 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.
- b) This policy applies without exception to all **the** SARS employees and all suppliers that interact with SARS when procuring goods and services.
- c) All procurement of goods and services 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.
- d) SARS views resource stewardship as an important strategic objective and the consistent and continuous adherence to and application of the Supply Chain Management (SCM) Policy is a minimum requirement for all **employees**. 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.
- e) SARS is a public entity listed in Schedule 3A of the Public Finance Management Act, 1999 (Act No. 1 of 1999) ("the PFMA"). Although SARS's procurement activities are commercial in nature, it is executed within the ambit of the PFMA, SCM and National Treasury regulations, instructions, circulars, and other relevant prescripts.
- 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 achieve pertinent compliance, value for money, and enable category and commodity strategies to serve SARS's needs.

2 POLICY STATEMENT

2.1 Procurement Principles

2.1.1 Conditions for the procurement of goods and services

- a) Only goods and services 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 and services.

2.1.2 Ethical standards and conflict of interest

- a) SARS has the obligation to treat, and to be seen to be treating, all **persons (i.e., natural persons, companies or other entities with legal rights and obligations)** 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.
- a) No SARS employee may **receive, solicit, or** accept any gift, hospitality or other inducement **from any employee or any other person in return for performing or not performing their official duties** or 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 **in accordance with the SARS internal policies to the Chief Procurement Officer and / or the SARS Integrity Unit.**
- b) **Any** employee that has left the employment of SARS, may only respond, or participate in 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, **they** will be deemed not to have an interest in the matter. If it is later discovered that an employee did have an interest which **they** failed to declare, such employee will be deemed to have failed to comply with the duty to declare conflicts of interests and will be subjected to the SARS Disciplinary Code and Procedure.

2.1.4 Confidentiality and **protection** of information

- a) **All information relating to the procurement process must be treated in a confidential manner and must be respected and may not be shared with any unauthorised official or external party. This includes all procurement related information obtained during all Procurement Committee meetings, and all other procurement related meetings.**
- b) SARS **promotes** the protection of personal information during **its procurement** processes by ensuring that the information **is collected for a specific**, explicitly defined and for lawful purposes in accordance with the provisions of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). **Further, personal information will be processed lawfully and in a reasonable manner that does not infringe the privacy of the supplier / bidder. By submitting any personal information to SARS, current and prospective suppliers / bidders automatically consent to the processing of such information.**
- c) **Information pertaining to suppliers' bids or any personal information pertaining to suppliers may not be divulged, unless it is in accordance with the applicable law (including the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) and / or the Protection of Personal Information Act, 2013 (Act No. 4 of 2013). The disclosure can only be made after consultation with the SARS Corporate Legal Services.**

2.1.5 Preventing and combating abuse within SARS supply chain management

- a) SARS shall prevent and combat the abuse of SCM processes through the established fraud and corruption prevention and combatting systems embedded in the organisation.
- b) SARS hotline provides an anonymous reporting channel **where all suspicious or fraudulent activities, corruption or unethical behaviour should be reported by all SARS employees and external suppliers or parties.**
- c) All other complaints **and allegations of abuse in the SCM system** may be registered through the Procurement One Point of Entry (OPE): Proc.OPE@sars.gov.za.

2.1.6 SCM Delegation of authority

- a) The Commissioner is the Accounting Authority of SARS in terms of the PFMA. **In terms of section 9(1) of the SARS Act, the Commissioner is responsible for the performance of SARS functions; takes all decisions in the exercise by SARS of its powers; performs any function and exercises any power assigned to him in terms of any legislation or agreement referred to in section 4(1)(a); and is the Chief Executive and the accounting officer of SARS.**
- 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 Commissioner's latest delegation of authority and any activity to be executed must be done in accordance with a delegation, **instruction, or assignment.**
- d) Expenditure resulting from non-adherence to SARS's SCM delegations of authority constitutes irregular expenditure.

2.2 Procurement Objectives

- a) All costs and benefits of procurement must be considered 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.

2.3 Preferential Procurement

- a) **SARS is committed to a transformational procurement environment. The SARS has developed and implemented its internal Preferential Procurement policy, which is reviewed from time to time so as to align with legislative requirements.**
- b) SARS fully endorses and supports the Government's Broad-Based Black Economic Empowerment (B-BBEE) programme **and enterprise development.**
- c) SARS applies a system of preferential procurement in accordance with the Preferential Procurement Policy Framework Act (Act No. 5 of 2000) ("PPPPFA") and its regulations to suppliers who provide a verifiable B-BBEE Accreditation Certificate, including valid Affidavits.
- d) **SARS supports conducting business with local business enterprises who share its values and who are prepared to contribute to meaningful empowerment initiatives (including, but not limited to subcontracting and Joint Ventures) as part of their request for proposal responses.**
- e) SARS may, in the case of sectors that are designated by the Department of Trade and Industry, advertise such bids with a specific bidding condition that, *inter alia*, only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered for evaluation and award.
- f) **Enterprise and** supplier development programmes are 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.
- g) Where respective suppliers to SARS wish to enter into a Joint Venture or subcontract portions of the contract, their response must state the percentage of the total contract value to be allocated to such entities should they be awarded any business.

- h) Where applicable, a rating certificate in respect of such B-BBEE Joint Venture partners or sub-contractor(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 Supply Chain Management processes

- a) The Procurement Unit must apply a strategic sourcing approach when it receives a request from a SARS business unit.
- b) SARS procurement must facilitate the consolidation of the procurement plan by incorporating all planned procurement activities. Where possible this must be done in alignment with the relevant stakeholders' SARS annual performance plan and preliminary budgets.
- c) When procuring goods and services SARS must adopt optimal 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 national legislation and regulations.
- d) Local procurement is one of the sourcing criteria that SARS utilises in assessing bids, in encouraging and promoting local business and industry. This includes being specific on locally sourced material, services, labour, in bid documents.
- e) The following sourcing options must be considered, amongst others, when a decision to procure is taken:
 - i) Utilising existing SARS contracts that are already in place;
 - ii) Utilising National Treasury or State Information Technology Agency (SITA) transversal term contracts;
 - iii) Participating in other state organs' existing contracts;
 - iv) Local versus international sourcing;
 - v) Utilising a bidding system, which may include obtaining quotations, inviting competitive bids, prequalification of bidders, two-stage bidding, and procurement by other means (deviation from normal bidding process);
 - vi) Utilising E-procurement including reversed auctioning, and digital marketplace functions; and
 - vii) Utilising a dynamic purchasing approach and systems.
- f) SARS does not accept unsolicited bids as a procurement method.
- g) SARS invariably employs different procurement mechanisms as detailed from paragraph 2.4.1 to 2.4.7 depending on the circumstances of each case. The Procurement Unit initiates an in-depth sourcing strategy and assesses all requests and advises on the appropriate procurement mechanisms for procuring of goods and services. Sufficient justification and proper motivation must be provided for any chosen procurement path.

2.4.1 Request for Information (RFI)

- a) Where information on the procurement requirement is insufficient or is not readily available, SARS may issue a RFI as a solicitation sent to a broad base of potential suppliers for purposes of gathering information, preparing for a Request for Proposal (RFP) or Request for Quotation (RFQ), developing strategy, or building a database.
- b) The RFI is used for purposes of gathering and understanding of 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 a supplier(s), nor may it be used to write the ultimate procurement specifications in a manner that would suit a specific supplier(s).
- 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 marketplace; 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 specified as such in the RFI document.

2.4.2 Request for Quotations (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 **and as per SARS's Delegation of Authority**.
- 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 thirty (30) days. In instances where the quotations are valid for less than thirty (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 **OPE**;
 - vii) SARS does not accept late quotations; **and**
 - 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 will conduct a Comparative Market Analysis (CMA) and in instances where prices are unjustifiably inflated to the market price, the RFQ will be cancelled.**
- e) Procurement of goods and services may not be deliberately split into parts or items of a lesser transaction value 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.

2.4.3 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 for quotations 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 to share information and to inspect the proposed solution or product.

2.4.4 Bid Specifications and Evaluations

- a) All bid specifications, **evaluation criteria** and bid documentation must be compiled **and approved** by a Bid Specification Committee (BSC) constituted for each procurement activity. **The subsequent evaluation of the bids received is performed by the Bid Evaluation Committee (BEC).** SARS has preference for the segregation of duties between the members of the BSC and the BEC, unless where such segregation is not practically possible.
- b) No person, advisor or corporate entity involved with the BSC **or BEC**, or director of such corporate entity, may bid for any resulting contracts.
- c) It is the responsibility of the BSC to compile detailed, clear, and unambiguous specifications. The specifications must be prepared free of interference by potential bidders and should be written in an unbiased manner to allow all potential bidders to offer their goods and services.

2.4.5 Soliciting of market responses

- a) 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.
- b) SARS will not accept late bids **or bids submitted at a place other than the one indicated in the solicitation documents.**

2.4.6 Prequalification of bidders

- a) Where a bidder's proposal fails to comply fully with any of the prequalification criteria, **SARS may at its discretion allow the bidder** an opportunity to submit and / or supplement the information and / or documentation provided within a **grace period of seven (7) working days** or such alternative period as SARS may determine **to achieve full compliance with these criteria.**
- b) **SARS will disqualify a bidder who does not achieve full compliance of the prequalification Standard Bidding Documents (SBD) after the grace period provided by SARS.**

2.4.7 Evaluation on functionality

- a) **Where applicable, SARS will issue mandatory (pre-technical) evaluation criteria. Where bids do not meet any of the mandatory evaluation criteria (where applicable), the bidder will be disqualified, and the bidder's proposal will not be evaluated further.**
- b) The need to invite and technically evaluate bids on the basis of functionality **and capability** depends on the nature of the commodity or service that is required. Bids that do not meet the minimum threshold **will be disqualified, and the bidder's proposal will not be evaluated further.**

2.4.8 Pricing and **preference points** evaluation

- a) **Bidders must be evaluated for pricing and preference points in accordance with SARS's applicable policies together with the PPPFA and its regulations.**
- b) SARS is not obliged to accept the lowest price, **as awards are based on the highest number of points a prospective bidder scores based on a calculation prescribed in the PPPFA and regulations.**
- c) Where necessary, SARS may invoke s2(1)(f) of the PPPFA, **which provides that a contract must be awarded to a tenderer who scores the highest points, unless certain objective criteria justify the award to another tenderer.**

2.4.9 Bid adjudication

- a) 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.

- b) SARS reserves the right to consider awarding to the second ranked bidder in instances where the recommended bidder(s) decline(s) the award during contracting stage, with the condition that the required due diligence procedures will be performed on the second ranked bidder.

2.4.10 Communication of tender decision

- a) The outcome of all bids that were awarded will be published on the SARS website.
- b) The successful bidders(s) will be notified in writing through a letter of award signed by the relevant delegated authority of the award within the validity period of the tender. The correspondence shall be transmitted by SARS as per the contact details submitted with the tender.
- c) Once the successful bidder(s) has accepted the award, the Procurement Unit will inform the unsuccessful bidder(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 bidders' information.

2.4.11 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 award of the bid, under the following circumstances:
 - i) Due to changed circumstances where there is no longer a need for the goods or services specified in the invitation;
 - ii) Funds are no longer available to cover the total envisaged expenditure;
 - iii) No acceptable bid is received;
 - iv) There is a material irregularity in the tender process, or
 - v) If it is established that the conduct of a bidder constitutes a transgression of the Prevention and Combating of Corrupt Activities Act (Act No. 12 of 2004), of the Competition Act (Act No. 89 of 1998), of the PPPFA and its regulations, or of the SARS policies.
- b) Competitive bids cannot be cancelled with the purpose to re-issue in order to influence the outcome of a procurement bidding process.
- c) Should it be necessary for a 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, and the decision to cancel a bid invitation must be published in the same manner in which the original bid invitation was advertised.

2.4.12 Procurement by "other means" (Deviation from normal bidding process)

- a) If in a specific case it is impractical to invite competitive bids, SARS may procure the required goods and services by other means, in accordance with Treasury Regulation 16A6.4 (read together with supporting instruction notes that National Treasury issues from time-to-time), provided that the reasons for deviating from inviting competitive bids must be recorded and approved in line with the delegation of authority.
- b) Procurement by "other means" includes:
 - i) Limited bidding;
 - ii) Written price quotations, not within the threshold determined by National Treasury (Request for Quotation); and
 - iii) Procurement that occurs in emergency situations and urgent cases.
- c) All procurement by "other means" requests must be signed by the appropriate business unit in terms of the delegation of authority, and all motivations for procurement by "other means" shall be written by the Procurement Unit for approval by the relevant authority prior to procuring the required goods and services.
- d) When procuring goods or services by "other means", SARS must comply with all other applicable SCM prescripts. All requests to secure goods and services through "other means" must be signed by the appropriate business unit in terms of the delegation of authority.

- e) SARS will annually, as part of the category and strategy formulation, incorporate measures to favour competitive procurement, and to curtail reliance on the procurement by “other means”. The Procurement Unit compiles a sourcing strategy for procurement requests received, which includes market analysis, and based on the findings, an optimal sourcing methodology is proposed.
- f) SARS predominantly transacts in commodities or categories related to Information and Communications Technology (ICT), commercial real estate, and professional services. At a principal level, SARS endeavours to use the procurement by “other means” as a last resort, and the following are examples of circumstances where procurement by “other means” may be employed to enable the operational requirements of SARS:
 - i) When the goods or services are only available from an Original Equipment Manufacturer (OEM), single proprietor, or accredited resellers or distributors;
 - ii) The operating model of an OEM dictates a system of distribution of resellers, distributors, or country representatives;
 - iii) In cases of impracticality that would result in huge financial detriment to SARS, for example relocation of office space, and where competitive bidding would undermine the operational requirements of SARS and its physical presence;
 - iv) Where substantial investment has been made in the standardisation of SARS’s systems and technology capabilities, and organisational enhancement products;
 - v) To ensure security of proprietary information, or where a competitive process may expose SARS to security risks or exposure to unacceptable vulnerabilities;
 - vi) Shared infrastructure with other government entities, for example the Department of Home Affairs, Agriculture, Health, etc. under the premises of the Border Management Agency;
 - vii) In cases of international and industry practices and requirements, and the standardization of norms and standards set by regulatory and international bodies;
 - viii) Security at airports, where the aviation centres use specialised security services and SARS has no option but to utilise the same list of security services, as the airports won’t allow other security companies on their premises;
 - ix) Department of Public Works buildings, where SARS must comply to their rules and requirements;
 - x) Security clearance procedures which cannot be published to open market due to confidentiality; and
 - xi) Transactions to develop suppliers and enhancing transformation, for example development and on-boarding programs.
- g) The processes to be followed to identify prospective suppliers for, and recording and approval of, procurement by “other means”, will include for example; various types of research including market research and desktop exercises to identify prospective suppliers in the market and recording the criteria used to select those suppliers; physical site visits for commodities that require physical location, and independent value delivery analysis to guide and support the sourcing strategy and the desktop exercises performed. The processes to identify prospective suppliers will be conducted by the Procurement Unit with minimal involvement of the Business Unit.
- h) The assessment of all instances that gave rise to procurement by “other means” is incorporated in the quarterly reporting of all procurement transactions, and SARS reviews the category and commodity strategies annually, or from time to time as required.

2.4.13 Limited bidding

- a) Limited bidding means a bidding process reserved for a specific group or category of possible suppliers through procurement by:
 - i) Sole source: where there is no competition in the market and only one (1) supplier is able to provide the goods or services. SARS regards a sole supplier as a sole source;
 - ii) Single source: where a thorough analysis of the market and a transparent and equitable pre-selection process is used to decide on one supplier among a few prospective bidders to make a proposal. This process is utilised as part of an approved strategy and objectives for a specific product, to maximise its return on investment and cost reduction; and
 - iii) Multiple source: where a thorough analysis of the market indicates that there is limited competition and only a few prospective bidders are requested to make a proposal. SARS will regard multiple source as a competitive “limited bidding” process.

- b) Limited bidding shall be based on thorough analysis and market research. SARS will not advertise limited bidding to the general public and may also request a shorter period of responses from the respective supplier(s).
- c) The following must be considered when using accredited resellers and distributors prescribed by the OEM:
 - i) Whether SARS has standardised its operating model to align to a specific product;
 - ii) When there are other products internationally, but due to local content requirements, SARS will only use the established reselling distributors in South Africa;
 - iii) Instances where SARS requirements have cross functional application, e.g., Border Management Agency;
 - iv) Instances of shared infrastructure, for example the maintenance of a shared generator of SARS offices at the border post; and
 - v) Health and safety considerations.
- d) The following governance will be considered prior to approval:
 - i) The Business Unit has an approved long-term strategy clearly indicating its overall leverage for quality, service, value for money, and strategic outcomes linked to SARS;
 - ii) The reasons and rationale for not considering a competitive bidding process;
 - iii) Security considerations, compromising confidentiality, or in the public's best interest; and / or
 - iv) A defined project plan with a defined term or arrangement.

2.4.14 Written price quotations not within the threshold determined by National Treasury (Request for Quotation)

- a) If a written quotation is above the prescribed quotation threshold as determined by the National Treasury, and was therefore within the competitive bidding threshold, and yet the institution continues to procure the required goods or services through the price quotation, then that transaction constitutes procurement by "other means" i.e., a deviation from inviting competitive bids.
- b) SARS will not support the intentional misuse of approving requests for written quotations which are above the threshold as determined by the National Treasury.
- c) Approval of requests for written quotations which are above the threshold as determined by the National Treasury will only be applicable to certain commodities that are standardised goods and will not be applicable to services.

2.4.15 Procurement that occurs in emergency situations and urgent cases

- a) An emergency situation occurs when there is a serious and unexpected situation that poses an immediate risk to the health and safety, life, and / or property or environment, **which calls for urgent action and there is insufficient time to follow a competitive bidding process.**
- b) Urgent cases are defined as cases where early delivery is critical and the invitation of competitive bids is either impossible or impractical, and not due to improper planning.
- c) Serious and unexpected emergencies must have already materialised or will materialise within the next twenty-four (24) hours, **and which may result in damage to property, threat to life or serious financial loss to SARS.** The Business Unit approval of the emergency incident must be reported to the Procurement Unit within **three (3) working days** after the incident occurred.
- d) The required **request for ratification** documentation must be submitted through the Procurement One-Point-of-Entry (OPE), to allow for the commencement of the procurement recommendation and ratification process.
- e) The Procurement Unit will regard the case of emergency as a **procurement by "other means" (deviation from normal bidding process)** but will follow the authorisation levels of emergency procurement.
- f) To the extent that should the Procurement Unit determine that the procurement was not warranted by a case of emergency as defined, a condonation must be sought for the procurement.

2.4.16 National Treasury Transversal / SITA / Participating in other state organ existing contracts

- a) 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 accordance with Treasury Regulation 16A6.5, to promote uniformity in supply chain management practices. SARS may assess and consider participating in available transversal term or framework agreements provided to government institutions by the SITA.
- b) 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 is obliged to contract on the same terms and conditions and enter into a new contract on the same terms and conditions, with the supplier. SARS must confirm that the initial procurement of such goods and services was done through a competitive bidding process.

2.4.17 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) If an expansion or variation in the scope of work requires an extension in the period of the contract, the motivation must distinguish between the change in the scope of work and the period for which the contract is extended.
- d) SARS only considers an expansion or variation against a contract prior to the contract period expiring or contract value being exceeded.
- e) Any expansion or variation of a contract must be approved by the relevant delegation of authority. Unapproved increases in a contract will be regarded as a condonation request. Expansions and variations must be reported in line with the SCM prescripts.
- f) Suppliers doing business with SARS need to ensure that they have an official varied purchase order prior to executing or engaging in additional work, as this may be regarded as unauthorised, and as such SARS will have to conduct its determination test prior to considering any further payment for the goods or services rendered.

2.4.18 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, the non-compliance must be investigated.
- 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 Disciplinary Code and Procedure.
- e) SARS Internal Policy and Procedures pertaining to Irregular Expenditure is applicable to condonation of irregular expenditure.

2.5 Contract management

2.5.1 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.
- c) Suppliers are classified according to a SARS defined approach and supplier interaction will be shaped according to this classification.
- d) Suppliers **should** not assist in developing business requirements unless **appointed for that specific purpose** through a competitive procurement process.
- e) No budget information may be shared with suppliers.

2.5.2 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.

2.5.3 Contract / sub-contracting / **cession / assignment**

A contract is entered into only with the **successful** bidder and **neither the contract, nor** any portion thereof, or any share or interest therein, may be transferred or assigned. **Subject to Applicable Law, a Service Provider may not cede or in any other manner transfer any benefit or right arising from an Agreement, without the prior written consent of SARS.**

2.5.4 Screening and vetting of suppliers

Suppliers will be subject to the **screening and vetting process in line with the SARS Screening and Vetting Policies as may be amended from time to time.** If the principal contractor appoints a subcontractor, the same provisions and measures will apply to the subcontractor.

2.5.5 Unsatisfactory performance and breach of contract

- a) Unsatisfactory performance occurs when performance is not in accordance with the contract terms and conditions.
- b) **In consultation with the SARS Corporate Legal Services Department, SARS reserves the right to cancel or terminate a contract in the event of breach, fraud, corruption or any wrongdoing, material irregularity, unsatisfactory performance, misrepresentation, or unsatisfactory compliance to stipulated monitoring measures.**
- c) **SARS will consider any past unsatisfactory performance and any breach of contract previously had with the supplier, should the bidder be again recommended for a future bid, and may take necessary steps in an unbiased manner to exclude this bidder from further participation prior to award.**

2.6 Disposal management

- a) Assets will be **retired and / or** disposed of **in terms of the internal policies and operating procedures, which may include redeployment, donations, sale, and destruction.**
- b) **Disposal management will be performed in line with applicable policies together with the PPPFA and its regulations.**

2.7 Suppliers doing business with SARS

2.7.1 Suppliers doing business with SARS

- a) Suppliers doing business with SARS must always do so in good faith and have the best interest of SARS as a public entity.
- b) Suppliers that bid on procurement related requests must be committed in offering quality goods and services and value for money, opportunities for local employment, training and effectively contributing to the economy.
- c) All bidders are bound by the bid terms and conditions when submitting proposals. SARS reserves the right to disqualify bidders due to non-adherence to such terms and conditions.
- d) All bidders are bound by the provisions of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013).
- e) The successful bidder; key personnel or any other personnel as may be determined by SARS, will be required, upon award, to individually take a mandatory oath / declaration / affirmation of secrecy. All suppliers are bound by the conditions of the oath / declaration / affirmation of secrecy notwithstanding refusal to take or supply the respective oath/affirmation on request after award.
- f) SARS reserves the right to withdraw an award, or cancel a contract concluded with a bidder/supplier should it be established, at any time that:
 - i) A supplier has been placed on the National Treasury List of Restricted Suppliers or the Register for Tender Defaulters. 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 as 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's 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 during the tender stage, or as soon as they became aware of it. It is the responsibility of all suppliers to ensure that they update and maintain the status of their declarations to SARS on an ongoing basis;
 - iv) There is evidence that the bidder / supplier has been engaged in collusive bidding;
 - v) The supplier / bidder has misrepresented certain facts in the proposal which is the subject of the award or contract;
 - vi) SARS and the supplier are unable to negotiate on market related prices per commodity or on annual escalations; or
 - vii) The supplier fails or is unable to fulfil or satisfy a condition of award within timelines stipulated by SARS.
- g) The restriction of suppliers of SARS must be done in accordance with applicable legislation.

2.7.2 Industry, market, and supplier engagement

- a) SARS may engage a particular supply market for purposes of collaboration in an open, transparent, and ethical manner. Bidders must consider paragraphs 2.1.2 and 2.1.5 regarding all engagements with SARS. 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.
- b) 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, or any other inappropriate undertaking to a supplier during exploratory phases of strategy, business case formulation and during any procurement process. Only

approved procurement methods contained in this policy resulting in an official purchase order will constitute a commercial commitment to a supplier.

- c) Suppliers and SARS officials are bound by the following to ensure that such engagements are within the principles of SCM. This should include ensuring that:
 - i) A cross functional SARS team, including a procurement official, participating in the process; and attending all meetings;
 - ii) Engagements are conducted in good faith, that will withstand public scrutiny, with due sensitivity to applicable law;
 - iii) 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;
 - iv) No undertakings or commitments are made to suppliers as part of the process;
 - v) Any engagement is on the understanding that none of the SARS cross functional team members have been authorised or mandated to sign any document on behalf of SARS, regardless of the nature or the legal status thereof;
 - vi) No confidential or otherwise "privileged information" is discussed; and
 - vii) Any engagement is appropriately documented and recorded.

2.7.3 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. Suppliers are not authorised to deliver goods or render a service without a valid purchase order number. 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 liable for these expenses.

2.7.4 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.

2.7.5 Tax status and compliance

- a) It is a requirement that any supplier conducting business with SARS is tax compliant at the date of award of a contract / bid and remains tax compliant throughout the duration of their contracts with SARS. All suppliers' tax compliance status must be verified on the CSD for all bid processes, i.e., price quotation, competitive bidding, and procurement by "other means".
- b) No contract / bid may be awarded to a supplier who is not tax compliant. SARS reserves the right to withdraw an award made, or cancel a contract concluded with a supplier / successful bidder in the event that it is established that such supplier / bidder was in fact not tax compliant at the time of the award. SARS further reserves the right to cancel a contract with a supplier / successful bidder in the event that such supplier/bidder does not remain tax compliant for the full term of its contract.
- c) Where the recommended supplier / bidder is not tax compliant, it must be notified in writing of their non-compliant status and be granted a minimum of seven (7) working days to rectify their tax compliance status with SARS. Thereafter the supplier / 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) In line with SARS's strategic objectives, the directors / owners of the bidding entity who are not tax compliant may be referred to the SARS tax compliance unit for further investigation in order to achieve full tax compliance.

2.7.6 Supplier due diligence and risk assessment

- a) SARS reserves the right to conduct the necessary due diligence and risk assessment on suppliers and bidders prior and post award for procurement related matters and take the necessary steps to ensure compliance.
- b) The due diligence and risk assessment will consider, amongst others, the following:
 - i) Performing research on the supplier / bidder and its legal set-up;
 - ii) Determining that no B-BBEE fronting is taking place to secure a contract or bid, with the intention to subcontract majority or key elements of the bid;
 - iii) Ensuring the supplier / bidder is financially sound by checking their financial history;
 - iv) Investigating any corruption indicators;
 - v) Determining whether or not a person within the contracting/bidding entity is an employee of the State;
 - vi) Verifying that the supplier / bidder has the capacity, capability, and expertise to deliver, based on past performance;
 - vii) Verifying that the supplier / bidder has the right systems and processes to be able to deliver on SARS requirements;
 - viii) Verifying that the supplier / bidder is able to deliver as per SARS's requirements on the price quoted, to ensure that the supplier / bidder did not underquote in its proposal; and
 - ix) Understanding the contract deliverables, requirements, and obligations.
- c) SARS reserves the right to disqualify a recommended supplier / bidder from its process based on the merits of the outcomes of the due diligence risk(s) identified.

2.7.7 Financial risk analysis of bidders and suppliers

- a) SARS may conduct a financial risk assessment on suppliers / bidders as part of due diligence prior to adjudication, as well as on an ongoing basis on its existing suppliers.
- b) Preliminary review of the bidder's financial capability may be conducted (for example bidder's pricing proposal in comparison with their annual turnover) for the sole purpose of understanding SARS's risk exposure to form the basis for the bidder to determine any mitigations of financial risk or financial security that will be required i.e., bid bond, deposits or other security as deemed necessary.
- c) The financial analysis may include measures to ensure that the bidder has the financial capability to fulfil SARS's requirements. This may include further requests of management accounts, most recent signed financial statements as required by the Companies Act, 2008 (Act No. 71 of 2008), and / or signed letters from recognised financial institutions, bank statements and credit rating reports from independent companies confirming capital availability or access to capital, as part of determining its mitigation strategies.
- d) If a supplier / bidder submits a bid which does not include sufficient security as required by SARS, or its financial assessments and credit rating is assessed as a high risk to SARS, the bid may be considered as non-responsive.

2.8 Rights reserved by SARS regarding bids

- a) SARS reserves the following rights regarding the acceptance of bids:
 - i) **To make no award, or to accept part of a proposal rather** than the whole; and
 - ii) Award a proposal based on which bidder is offering the best value for money, even if such proposal is not scored the highest points during the evaluation.
- b) SARS reserves the right to disqualify a bidder whose bid contains a misrepresentation.
- 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 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; and
 - 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 prequalified 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.

2.10 Compliance, Monitoring and Evaluation

- a) This policy shall be reviewed at least once every three (3) years or as often as required to ensure its continued relevance, effectiveness and alignment to applicable legislation and regulations and in satisfying the business needs of SARS. Any approved revised version of this policy shall supersede any previous version.
- b) Compliance breaches will be reviewed by 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.
- c) 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 within SARS.

3 REFERENCES

3.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	South African Revenue Service Act, 1997 (Act No. 34 of 1997)
Other Legislation:	Constitution of the Republic of South Africa, 1996: Sections 9(2) and 217 Broad-Based Black Economic Empowerment Act, 2003 (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: All Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000): All Public Finance Management Act, 1999 (Act No. 1 of 1999) (PFMA): 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 the PFMA Regulations in terms of the PFMA: Framework for Supply Management Chain: All Companies Act, 2008 (Act No. 71 of 2008): Sections 30 and 75 Promotion of Access to Information Act, 2000 (Act No. 2 of 2000) Protection of Personal Information Act, 2013 (Act No. 4 of 2013) Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004)
International Instruments:	None.

4 DEFINITIONS AND ACRONYMS

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