

## **REQUEST FOR PROPOSAL**

**RFP 31/2018**

### **THE PROVISION FOR THE RENEWAL OF LICENSING, SUPPORT AND MAINTENANCE OF MICRO FOCUS TESTING TOOLS**

**RFP MAIN DOCUMENT**

**SUMMARY, GUIDELINES, CONDITIONS AND INSTRUCTIONS**

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### Summary, Guidelines, Conditions and Instructions

The South African Revenue Service (“**SARS**”) invites suitable qualified service providers (“**Bidders**”) to submit proposals (“**Tenders**”) in accordance with the rules set out in this Request for Proposal (RFP) for the :

- The Provision for the Renewal of Licensing, Support and Maintenance of Micro Focus Testing Tools for the South African Revenue Service summary Guidelines Instructions and Conditions for SARS.

## 1 STRUCTURE OF THE RFP PACK

### 1.1 Structure

This RFP Pack is organised in five (5) sections consisting of one or more documents in each section.

Section	Description of section contents
1	The Provision for the Renewal of Licensing, Support and Maintenance of Micro Focus Testing Tools Guidelines Instructions and Conditions.
	Standard Bidding Documents (SBD's).
2	The Provision for the Renewal of Licensing, Support and Maintenance of Micro Focus Testing Tools Business Requirements Specification (BRS).
3	Service Level Agreement (SLA)
	Oath of Secrecy.
4	Pricing Template.
5	Pre- Qualification Response Template

### 1.2. RFP Pack Contents

Section	Description of section contents	Description of Contents
1	SARS RFP 31/2018 1-1: The Provision for the Renewal of Licensing, Support and Maintenance of Micro Focus Testing Tools Summary Guidelines Instructions and Conditions.doc	<ul style="list-style-type: none"> <li>• Main Document</li> </ul>
	SARS RFP 31/2018 1-2: Standard Bidding Documents (SBD')	<ul style="list-style-type: none"> <li>• SBD'S</li> </ul>
2	SARS RFP 31/2018 2-1: The Provision for the Renewal of Licensing, Support and Maintenance of Micro Focus Testing Tools Business Requirements Specification (BRS)	<ul style="list-style-type: none"> <li>• Business Requirements Specification (BRS)</li> </ul>
3	SARS RFP 31/2018 3-1: Service Level Agreement (SLA)	<ul style="list-style-type: none"> <li>• Service Level Agreement (SLA)</li> </ul>

	SARS RFP 31/2018 3-2: Services Agreement	• Services Agreement
	SARS RFP 31/2018 3-3: Oath of Secrecy	• Oath of Secrecy
4	SARS RFP 31/2018 4-1: Pricing Template	• Pricing Template
5	SARS RFP 31/2018 5-1: Pre-Qualification Template	• Pre- Qualification Template

## 2 KEY DATES AND ACTIVITIES

The table below lists certain key dates and activities relevant from time of issuance of the RFP up to and until the Closing Date:

No	Description	Start Date/Time	End Date/Time
1.	RFP is published	18 May 2018	21 June 2018 at 11:H00
2.	Bidders to submit written questions	23 May 2018 2018	13 June 2018
3.	SARS response to bidder's written questions	24 May 2018	15 June 2018
4.	Tenders due (the "Closing Date")	21 June 2018 at 11:H00	21 June 2018 at 11:H00

All dates and times in this RFP are South African Standard Time.

Any time or date in this RFP is subject to change at SARS's discretion. The establishment of a time or date in this RFP does not create an obligation on the part of SARS to take any action, or create any right in any way for any Bidder to demand that any action be taken on the date established, or on any other date. The Bidder accepts that; if SARS extends the deadline for RFP submission for any reason, the requirements of this RFP otherwise apply equally to the extended deadline.

## 3. CONTACT PERSONS

All communications to SARS must be addressed to Tender Office at:

- E-mail: [tenderoffice@sars.gov.za](mailto:tenderoffice@sars.gov.za)
- Tel number: (012) 647 9569

Communications sent by SARS regarding this tender will only be regarded as official communication if sent from [tenderoffice@sars.gov.za](mailto:tenderoffice@sars.gov.za), or a communication accompanied by a letter of authorisation signed by the SARS Executive: Procurement.

## **4. SARS'S REQUIREMENTS**

### **4.1 Introduction**

SARS's mandate under the South African Revenue Service Act 34 of 1997 includes the collection of all revenues that are due, ensuring maximum compliance with revenue legislation and providing a customs service that will maximise revenue collection, facilitate trade and protect the borders of South Africa. SARS's vision is to be an innovative revenue and customs agency that enhances economic growth and social development and supports South Africa's integration into the global economy in a way that benefits all citizens. SARS strives to exercise its mandate in an efficient and cost effective manner.

### **4.2 Overview of SARS's Requirements**

Details of the required services are contained in the *SARS Business Requirements Specification (BRS)* document.

## **5 SARS'S APPROACH TO THIS RFP**

### **5.1 Objectives**

SARS's primary objective in issuing this RFP is to conclude one or more service agreements with successful Bidder(s) that will achieve the following:

- 5.1.1** best value for money;
- 5.1.2** the meeting of SARS's current requirements (at a minimum) and providing for flexibility to meet SARS's future needs as they relate to the scope;
- 5.1.3** A successful contractual relationship between the parties that is flexible and high responsive to SARS's changing requirements over the Term;
- 5.1.4** Provision to SARS the services in a manner that is intended to create and maintain a high level of client satisfaction, in line with agreed service levels;
- 5.1.5** Provision of opportunities to small and medium-sized businesses which are compliant with the Broad-Based Black Economic Empowerment, 2003 (Act No.53 of 2003) its Regulations and Practice Codes.

### **5.2 5.2. Proposed Agreement**

Details of the Proposed Agreement are contained in the *Service Level Agreement (SLA)*.

## **6 BIDDING QUALIFICATION**

### **6.1 Introduction**

SARS has a detailed evaluation methodology premised on Treasury Regulation 16A3 of the Public Finance Management Act 1 of 1999, which prescribes that SARS's procurement processes be:

- 6.1.1** economical, efficient, fair, equitable, transparent, competitive and cost effective;
- 6.1.2** consistent with the Preferential Procurement Policy Framework Act 5 of 2000, read together with the Preferential Procurement Regulations, 2017; and
- 6.1.3** consistent with the Broad-Based Black Economic Empowerment Act, 2003 ( Act No.53 of 2003);
- 6.1.4** consistent with the prescripts of National Treasury relating to Supply Chain Management ("SCM").

In furtherance of this evaluation methodology, the following bidding qualifications set out further in this paragraph 6.3 will apply.

### **6.2 Central Supplier Database ("CSD")**

- 6.2.1** Service Providers and suppliers who wish to render services to SARS will no longer register at SARS directly. Suppliers will have to register on National Treasury Central Supplier Database ("CSD") as per National Treasury Circular No 4A of 2016/2017 – Central Supplier Database.
- 6.2.2** National Treasury will maintain the database for all suppliers for Government and its institutions, and all existing and prospective suppliers are requested to register on the CSD by accessing the National Treasury website at [www.CSD.gov.za](http://www.CSD.gov.za).
- 6.2.3** As part of the bid submission, bidders are required to submit their CSD registration number with their tender submission.

### **6.3 Bidding Qualification**

- 6.3.1** Prospective Bidders who cannot, or do not, satisfy all of the conditions contained in paragraphs 6.3.1.1 to 6.3.1.3 should not submit bid proposals. If a Bidder is found not to meet any one of the requirements listed in paragraphs 6.3.1.1 to 6.3.1.3 then that Bidder's Tender will be rejected without any further consideration, at SARS's sole discretion.

- 6.3.1.1** SARS is only interested in organisations that take accountability for service

delivery. To avoid issues encountered where a single entity cannot provide the warranties of performance required or be held accountable for performance, SARS will not consider Tenders submitted by a consortium or a special purpose vehicle constituted only for the purpose of responding to this RFP.

- 6.3.1.2** A Bidder must be a South African entity (Company, Close Corporation, Sole Proprietor or individual) or have a local branch office in South Africa.
- 6.3.1.3** No bid may be awarded to a bidder whose tax matters have not been declared by the SARS to be in order. The Bidder's attention is further drawn to the requirement that the successful Bidder must ensure that it remains compliant with all South African Tax and Customs laws and regulations throughout the Term, and a failure to do so will be a material breach of the Agreement.
- 6.3.1.4** The Bidder must comply with all applicable legislation in the Republic of South Africa in the performance of its daily activities, including but not limited to labour legislation and bargaining council agreements, health and safety regulations and environmental laws.
- 6.3.2** Subject to sub-paragraph 6.3.3 below, SARS will disqualify any Bidder who either itself or any of whose members (save for such members who hold a minority interest in the Bidder through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the Bidder other than in the context of shares listed on a recognised stock exchange), directors or members of senior management, whether in respect of SARS or any other government organ or entity and whether from the Republic of South Africa or otherwise ("Government Entity"):
  - 6.3.2.1** engages in any collusive tendering, anti-competitive conduct, or any other similar conduct, including but not limited to any collusion with any other Bidder in respect of the subject matter of this RFP;
  - 6.3.2.2** seeks any assistance, other than assistance officially provided by a Government Entity, from any employee, advisor or other representative of a Government Entity in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;
  - 6.3.2.3** makes or offers any gift, gratuity, anything of value or other inducement, whether lawful or unlawful, to any of SARS's officers, directors, employees, advisors or other representatives;
  - 6.3.2.4** makes or offers any gift, gratuity, anything of any value or other inducement, to any Government Entity's officers, directors, employees, advisors or other representatives in order to obtain any unlawful advantage in relation to procurement or services provided or to be provided to a Government Entity;
  - 6.3.2.5** accepts anything of value or an inducement that would or may provide financial gain, advantage or benefit in relation to procurement or services provided or to be provided to a Government Entity;
  - 6.3.2.6** pays or agrees to pay to any person any fee, commission, percentage, brokerage fee, gift or any other consideration, that is contingent upon or

results from, the award of any tender, contract, right or entitlement which is in any way related to procurement or the rendering of any services to a Government Entity;

**6.3.2.7** has in the past engaged in any matter referred to in sub-paragraphs 6.3.2.1 to 6.3.2.6 foregoing; or

**6.3.2.8** has been found guilty in a court of law on charges of fraud and/or forgery, regardless of whether or not a prison term was imposed; or

**6.3.2.9** is listed on the National Treasury's List of Tender Defaulters or the National Treasury's Database of restricted suppliers.

**6.3.3** SARS in its sole discretion will be entitled (but not obliged) to exempt, in writing, a Bidder from disqualification in terms of sub-paragraph 6.3.2.7 foregoing. A Bidder that stands to be disqualified in term of sub-paragraph 6.3.2.7 foregoing may, prior to submitting a Tender, approach SARS in writing for an exemption as foresaid, in which event:

**6.3.3.1** the Bidder is required to provide SARS with full information to enable SARS to consider such application for exemption; and

**6.3.3.2** SARS will not be obliged to consider any such application or to grant any exemption, such consideration or granting of exemption being solely within SARS's discretion.

**6.3.4** By submitting a Tender the Bidder represents to SARS that it does not stand to be disqualified in terms of paragraph 6.3.1 foregoing, unless it has otherwise applied for exemption or been exempted in terms of paragraph 6.3.3 foregoing.

**6.3.5** SARS will reject a Bidder's Tender without any further consideration where that Bidder makes culpable misrepresentation to SARS in its Tender or at any stage during this RFP process.

**6.3.6** SARS may disqualify a Bidder:

**6.3.6.1** whose Tender contains a misrepresentation;

**6.3.6.2** in respect of whom any of the members (save for such members who hold a minority interest in the Bidder through shares listed on any recognised stock exchange), indirect members (being any person or entity who indirectly holds at least a 15% interest in the Bidder other than through shares listed on a recognised stock exchange), directors or members of senior management are not in full compliance with all applicable laws relating to taxation in South Africa, in which regard SARS further reserves the right to require the Bidder to submit a valid tax clearance certificate in respect of any one or more such persons;

**6.3.6.3** whom SARS considers to be directly or indirectly owned, controlled or managed by persons who are not acceptable to SARS from an ethical, business or governance perspective;



- 6.3.6.4** who, or whose subcontractor, unlawfully had access to any of SARS's proprietary information or any other matter that may have unlawfully placed that Bidder in a preferential position in relation to any of the other Bidders;
- 6.3.6.5** who fails to comply with any conditions or requirements of this RFP;
- 6.3.6.6** who in SARS's opinion has either materially failed to comply with any of the conditions of any existing or past agreement between such Bidder and SARS or who has performed unsatisfactorily under any such agreement; or
- 6.3.6.7** who fails to respond as required to written notices given by SARS in connection with its Tender under this RFP.

## **7 BID PREPARATION AND SUBMISSION**

- 7.1.1** Bids must be properly received and deposited in the below mentioned tender box on or before the closing date and before the closing time at the Tender Submission Office situated at:

**SARS Procurement Centre**

**Brooklyn Bridge**

**Linton House - Ground Floor**

**570 Fehrsen Street**

**Brooklyn, Pretoria**

- 7.1.2** Bid documents may either be posted to The Tender Office - SARS Procurement Department, Linton House, 570 Fehrsen Street, Brooklyn Bridge, Brooklyn, Pretoria, 0181 OR placed in the tender box at the main entrance at the aforesaid address
- 7.1.3** Tender documents will only be considered if received by the Tender Office before the Closing Date and time, regardless of the method used to send or deliver such documents to SARS.
- 7.1.4** Late tenders will not be accepted.
- 7.1.5** In this RFP document the terms "shall" and "must" indicate a mandatory requirement. Bidder compliance with mandatory requirements are essential. Failure to comply with such requirements can lead to the disqualification of a Bidder. The terms "should" or "may" indicate desirable or advisory requirements. Bidder compliance with such terms may lead to an increase in a Bidder's technical score.
- 7.1.6** All tenders and supporting documentation must be submitted in English.
- 7.1.7** All costs incurred during the preparation and compilation of a Bidder's proposal, as well as the delivery of a Bidder's tender documents to SARS will be borne exclusively by the Bidder

7.1.8 Tenders must be valid for a minimum of 180 days from the Closing Date.

## 7.2 PROPOSAL COMPLIANCE

The bidder must ensure that all provisions and instructions in table 1 for the completion and submission of a proposal are followed in detail.

7.2.1 The Bidder's attention is drawn to the following documents which are required as part of a Bidder's Tender and which, if omitted, may at SARS's sole discretion result in that Tender being disqualified:

**Table 1**

	Name of the document that must be submitted	Non-submission may result in disqualification?
1	Invitation to bid – SBD 1	YES – Please complete and sign the supplied pro forma document.
2	Pricing Schedule –RFP 31/2018 4- 1: Pricng Template	YES – Please submit full details of pricing proposal to SARS on RFP 31/2018 4- 1: Pricng Template
3	Declaration of Interest – SBD 4	YES - Please complete and sign the supplied pro forma document.
4	SBD 6.1 – Preference Point Claim Form	No–Non-submission will lead to a zero score on B-BBEE.
5	Declaration of Bidder's Past Supply Chain Management Practices – SBD 8	YES - Please complete and sign the supplied pro forma document.
6	Certificate of Independent Bid Determination – SBD 9	YES - Please complete and sign the supplied pro forma document
7	SARS' s Oath of Secrecy	YES – Please complete and sign the supplied pro forma document in the presence of Commissioner of Oaths and initial every page.
8	Supplier cost and risk assessment questionnaire	YES - Please complete and sign the supplied pro forma document.
9	Central Supplier Database System Registration Report from National Treasury	YES – Bidders must register on the Central Supplier Database system and submit the report as confirmation of registration. The successful bidder will be expected to be registered on

		CSD before contracting.
10	B-BBEE certificate OR Sworn Affidavit (whichever applicable according to SBD 6.1)	No–Non-submission will lead to a zero score on B-BBEE.
11	Three (3) most recent Financial Statements	YES – Bidders are required to submit complete sets of audited / reviewed annual financial statements in the name of the bidding entity.
12	Three (3) most recent Financial Statements	YES – Bidders are required to submit complete sets of audited / reviewed annual financial statements in the name of the bidding entity.

### 7.3 Question and Answer Process

- 7.3.1** Between the dates given in paragraph 2, SARS will accept questions sent by Bidders by email to address: [tenderoffice@sars.gov.za](mailto:tenderoffice@sars.gov.za) . SARS will respond to these questions, provided that SARS will not be obliged to respond to a question should it choose not to do so. Where SARS responds to a question, it will do so by publishing the question and response on the SARS procurement website. The identity of a Bidder who has directed a question to SARS will not be disclosed by SARS in such responses.
- 7.3.2** SARS may issue updated versions of documents issued in the RFP pack and/or may issue additional documentation to form part of the RFP pack. Such re-issued or additional documentation will be published on the SARS procurement website. It is the Bidder's responsibility to visit the SARS procurement website at regular intervals to ensure that the Bidder uses the latest versions of documents in the RFP pack.
- 7.3.3** Depending on SARS' assessment of the nature and extent of Bidders' questions during the Question and Answer process, SARS may schedule additional compulsory or optional briefing sessions.
- 7.3.4** The SARS procurement website must be treated as primary means of communication by SARS to registered Bidders. Communications to registered Bidders made by email are made as a courtesy. In the event of any communication received by the Bidders that is in conflict with communications posted on the SARS procurement website, the SARS procurement website communication will prevail.

## 8 EVALUATION AND SELECTION

### 8.1 Process after Closing Date

After the Closing Date in paragraph 2:

- 8.1.1** SARS may request additional information, clarification or verification in respect of any information contained in or omitted from a Bidder's Tender, which SARS may do either in writing or at a meeting convened with the Bidder for that purpose;
- 8.1.2** SARS may conduct a due diligence on any Bidder or its Subcontractor, which may include interviewing customer references or performing other activities to verify a Bidder's submitted or other information and capabilities (including visiting the Bidder's or Subcontractor's various premises and/or production sites to verify certain stated facts or assumptions) and in which regard the Bidder will be obliged to provide SARS with all such access, assistance and/or information as SARS may reasonably request. The Bidder shall respond within the timeframes set by SARS, failing which SARS reserves the right not to consider the Bidder's Tender any further;
- 8.1.3** no material amendment/s may be made to a Tender, unless specifically permitted or requested by SARS;
- 8.1.4** SARS may shortlist Bidders and may request presentations from such short-listed Bidders. All costs relating to the preparation of such presentations will be borne by the Bidders;
- 8.1.5** SARS may enforce whatever measures it considers necessary to ensure the confidentiality and integrity of the contents of the respective Tenders;
- 8.1.6** SARS will evaluate the Tenders with reference to SARS's Evaluation Criteria. SARS reserves the right to employ subject matter experts to assist in performing such evaluations.

### 8.2 SARS's Pre-qualification Criteria – Gate 0

- 8.2.1.1** SARS has defined minimum pre-qualification criteria that must be met by the Bidder in order for SARS to accept a Tender for evaluation. In this regard a pre-evaluation verification will be carried out by SARS in order to determine whether a Tender complies with the provisions of paragraphs 6.3 and 7.2:
- 8.2.1.2** Where there is a failure 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:
  - 8.2.1.2.1 reject the Tender in question and not to evaluate it at all;
  - 8.2.1.2.2 give the Bidder an opportunity to supplement the information and/or documentation provided by it under its Tender so as to achieve full compliance with the pre-qualification criteria, provided that such

information and/or documentation can be provided within a period of 7 (seven) days and is purely administrative in nature;

- 8.2.1.2.3 in any event permit the Tender to be evaluated, subject to the outstanding information and/or documentation being submitted prior to the award of the tender.

### 8.3 SARS's Pre- Technical qualification Criteria- Gate 0

- 8.3.1 Bidder(s) must submit the documents listed in table below. Failure to submit proof of compliance with any of the mandatory requirements will result in the bidder being disqualified.

No	Pre- Technical Evaluation Criterion	Disqualification Non- Compliance	Ref
1.	<p>SARS requires that the bidder must submit an accreditation letter from Micro Focus, valid at the time of the closing of the tender, which must indicate that the bidder is an accredited Micro Focus Software Service Integrator (SVI), for all three of the following toolsets:</p> <ul style="list-style-type: none"> <li>- The Micro Focus Quality Centre Test Management Toolset (QC),</li> <li>- The Micro Focus Unified Functional Testing Test Automation Toolset (UFT), and</li> <li>- The Micro Focus LoadRunner Performance Testing Toolset (LR).</li> </ul>	Yes	Pre- Technical Response Template

### 8.4 SARS's Technical Evaluation Criteria – Gate 1

- 8.4.1 **There would be no Technical Evaluation;** henceforth all bidders that would have met the the pre-qualification criteria and pre-technical qualification criteria in gate 0 will proceed to the next stage, i.e. Price and B-BBEE (Gate 2);

### 8.5 SARS's Pricing and B-BBEE Evaluation – Gate 2

- 8.5.1 In the second stage of the evaluation, Tenders that have qualified after the technical evaluation will be evaluated in terms of the 80/20 preference points system under section 2 of the Preferential Procurement Policy Framework Act, 2000, read with the Preferential Procurement Regulations, 2017

Criterion	Points
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Price	80
B-BBEE status	20

**Stage 2 – Price Evaluation (80 points).**

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

Where

$P_s$	=	Points scored for price of bid under consideration
$P_t$	=	Rand value of bid under consideration
$P_{\min}$	=	Rand value of lowest acceptable bid

**Stage 2 – BBEE Evaluation (20 points)**

The checklist below indicates the B-BBEE documents that must be submitted for this Bid, failure to submit will result in scoring zero for B-BBEE.

Adjudication Criteria	Points
A duly completed Preference Point Claim Form: Standard Bidding Document (SBD 6.1) and a B-BBEE Certificate	20

CLASSIFICATION	Codes	SUBMISSION REQUIREMENT
Exempted Micro Enterprise (EME)	Below R10 million p.a.	Certified Copy of B-BBEE Rating Certificate from SANAS. A sworn affidavit
Qualifying Small Enterprise (QSE)	Between R10 million and R50 million p.a.	Certified Copy of B-BBEE Rating Certificate from a SANAS. A sworn affidavit
Large Entity (LE)	Above R50 million p.a.	Certified Copy of B-BBEE Rating Certificate from SANAS.

Failure on the part of a bidder to submit a B-BBEE Status level of contributor together with the bid will be interpreted to mean that preference points for B-BBEE status level of contribution are not claimed.

Bidders who do not claim preference points will be scored zero for BEE but cannot be excluded from the tender process.

### **Use and acceptance of Affidavits**

Please note that sworn affidavits must be signed by the bidder's representative and attested to by a Commissioner of Oaths.

SARS reserves the right to request that bidders submit their Black ownership and turnover information in support of their Affidavits.

### **Joint Ventures and Consortiums**

A trust, consortium or joint venture (including unincorporated consortia and joint ventures) must submit a consolidated B-BBEE Status Level Verification Certificate for every separate tender.

### **Tertiary Institutions and Public Entities**

Public entities and tertiary institutions must also submit B-BBEE Status Level Verification Certificates together with their tenders.

## **8.6 Financial Statements**

Bidders are required to submit a complete set of audited/independently reviewed annual financial statements for three (3) most recent financial periods in the name of the bidding entity. The financial statement analysis will be conducted on the shortlisted bidders. Bidder(s) must attain a satisfactory financial position.

The annual financial statements must contain:

- Statement of Profit and Loss and other Comprehensive Income
- Statement of Financial Position
- Statement of Cash Flows
- Statement of Changes in Equity/Net Assets
- Accompanying Notes

Entities which are trading for less than 3 (three) financial periods should provide:

- A letter detailing the fact, signed by a duly authorised representative of the entity; and
- Any other information or documentation which would provide more clarity on the financial history of the bidder.

In the event that the subsidiary is the bidding entity and submits the financial statements of the holding company for financial evaluation purposes, the holding company must furnish a Performance Guarantee that is signed by a duly authorised representative of the entity.

In the event of the bid being in the form of a Joint Venture (JV), the following is required:

- Annual financial statements of the JV; and
- JV legal agreement detailing the percentage ownership of each entity.
- Unincorporated JV's should submit separate financial statements for each party in the JV and a signed JV legal agreement.

**NB: SARS retains the right to request further information with regards to the annual financial statements, should the need arise.**

## **8.7 Acceptance of RFP conditions**

The Bidder's participation in the RFP process is deemed to constitute acknowledgement and acceptance by the Bidder of the terms and conditions contained in this RFP.

## **8.8 Reservation of rights**

SARS reserves the right in its discretion to:

- 8.8.1** make no award
- 8.8.2** withdraw, suspend or cancel this RFP or the RFP process at any time and without providing reasons;
- 8.8.3** not provide reasons for its rejection or the failure of any Bidder or Tender, save on application and in terms of applicable legislation;
- 8.8.4** change any of its requirements as set out in this RFP by giving Bidders reasonable notice;
- 8.8.5** change any condition, procedure or rule of the RFP by giving Bidders reasonable notice;
- 8.8.6** amend, vary, or supplement any of the information, terms or requirements contained in this RFP, any information or requirements delivered pursuant to this RFP, or the structure of the RFP process;
- 8.8.7** re-advertise for Tenders;
- 8.8.8** provide further information in respect of, and modify the provisions of, this RFP at any time prior to the Closing Date by notice to all prospective Bidders;
- 8.8.9** conduct site visits and/or perform audits whenever SARS deems it prudent to do so;
- 8.8.10** undertake further checks on Bidders, which may include information on public record or in the public domain, information contained in internal SARS records or information received from other government institutions;
- 8.8.11** no longer consider a Bidder's Tender where adverse information about the Bidder or its Tender submission has come to the attention of SARS, provided that such Bidder is informed accordingly and invited to comment;
- 8.8.12** to award a Tender based on which Bidder is offering the best value for money, even if such Tender is not the lowest priced tender; and
- 8.8.13** to make the award subject to the successful Bidder entering into a duly signed contract with SARS.
- 8.8.14** to disqualify a bidder whose bid contains a misrepresentation which is materially incorrect or misleading.

## **8.9 Validity of information**

SARS has made reasonable efforts to ensure the accuracy of the information contained in this RFP. However, neither SARS, nor its employees, officers, advisers or agents will be liable to the



Bidder or any third party for any inaccuracy, the omission of any information in the RFP or in respect of any additional information SARS may provide to the Bidder as part of the RFP process.

The Bidder is deemed to have examined this RFP and any other information supplied by SARS to the Bidder and to have satisfied itself before submitting any of its responses as to the correctness and sufficiency of such information.

#### **8.10 RFP not an offer**

This RFP does not constitute an offer to do business with SARS, but merely serves as an invitation to Bidders to facilitate a requirements-based decision process.

Nothing in this RFP or any other communication made between SARS (including its officers, directors, employees, advisers and representatives) is a representation that SARS will offer, award or enter into a contract with the Bidder.

#### **8.11 Preparation Costs**

The Bidder will bear all its costs in preparing, submitting and presenting any response or Tender to this RFP and all other costs incurred by it throughout the RFP process. Furthermore, no statement in this RFP will be construed as placing SARS, its employees or agents under any obligation whatsoever, including in respect of costs, expenses or losses incurred by the Bidders in the preparation of their response to this RFP.

#### **8.12 Conflict of Interest**

If at any time the Bidder identifies an actual or potential conflict of interest, the bidder must immediately notify SARS in writing. SARS reserves the right to exclude the Tender submitted by such Bidder from further consideration, unless the Bidder is able to resolve the conflict.

#### **8.13 Indemnity**

If a Bidder breaches the conditions of this RFP and, as a result of that breach, SARS incurs costs or damages (including, without limitation, the cost of any investigations, procedural impairment, repetition of all or part of the RFP process and/or enforcement of intellectual property rights or confidentiality obligations), then the Bidder indemnifies and holds SARS harmless from any and all such costs which SARS may incur and for any damages or losses SARS may suffer.

#### **8.14 Precedence**

This document will prevail over any information provided during any briefing session whether oral or written, unless such written information provided, expressly amends this document by reference.

#### **8.15 Responsibility for sub-contractors and Bidder's personnel**

A Bidder is responsible for ensuring that its sub-contractors (if any), personnel (including officers, directors, employees, advisors and other representatives of a Bidder) and personnel of its sub-contractors comply with all terms and conditions of this RFP and in particular the provisions of paragraph 8.16 below. In the event that SARS allows a Bidder to make use of sub-contractors, such sub-contractors will at all times remain the responsibility of the Bidder and SARS will not under any circumstances be liable for any losses or damages incurred by such sub-contractors,

### 8.16 Confidentiality

Except as may be required by operation of law, by a court or by a regulatory authority having appropriate jurisdiction, no information contained in or relating to this RFP or a Bidder's Tender(s) will be disclosed by any Bidder or other person not officially involved with SARS's examination and evaluation of a Tender.

No part of the RFP may be distributed, reproduced, stored or transmitted, in any form or by any means, electronic, photocopying, recording or otherwise, in whole or in part except for the purpose of preparing a Tender. This RFP and any other documents supplied by SARS remain proprietary to SARS and must be promptly returned to SARS upon request together with all copies, electronic versions, excerpts or summaries thereof or work derived therefrom.

Throughout this RFP process and thereafter, Bidders must secure SARS's written approval prior to the release of any information that pertains to (i) the potential work or activities to which this RFP relates; or (ii) the process which follows this RFP. Failure to adhere to this requirement may result in disqualification from the RFP process and civil action.

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

### 8.17 Intellectual Property

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

### 8.18 Limitation of Liability

A Bidder participates in this RFP process entirely at its own risk and cost. SARS shall not be liable to compensate a Bidder on any grounds whatsoever for any costs incurred or any damages suffered as a result of the Bidder's participation in this RFP process.

### 8.19 Tax Compliance

**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.**

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. SARS reserves the right to withdraw an award, or cancel a contract concluded with a Bidder should it be established, at any time, that a Bidder has been blacklisted with National Treasury by another government institution.

### 8.20 Governing Law

South African law governs this RFP and the RFP response process. The Bidder agrees to submit to the exclusive jurisdiction of the South African courts in any dispute of any kind that may arise out of or in connection with the subject matter of this RFP, the RFP itself and all processes associated with the RFP.

## 9 INSTRUCTIONS FOR SUBMITTING A RESPONSE TO THIS RFP

This paragraph 9 details the instructions to Bidders for preparing a Tender response to this tender. These instructions must be followed in detail to ensure that the information contained in the Bidder's Tender is correct, complete and well structured. All Tenders must comply with the requirements and instructions as set out in the RFP. Bidders must ensure that information and documentation supplied can be easily understood and thus, evaluated in a fair and consistent manner. Should a Tender be received that is not in the correct format, SARS reserves the right to reject the entire Tender or portions of the Tender depending on the extent of the deviation from the format described in this document. Information that has not been requested must not be submitted in the Bidder's Tender.

### 9.1 Organisation of a Tender response

9.1.1 The Bidder will be required to submit the following:

<b>Envelope 1- Technical Proposal</b>	<b>1. Section 1</b> 1.1. Pre-qualification documents (SBD documents) <b>2. Section 2 (Refer to page of the Technical Requirement)</b> 2.1. Pre- Qualification Response Template (Mandatory Requirements) and References <b>3. Section 3</b> 3.1. 3 years Audited /Reviewed Financial Statements
<b>Envelope 2- Pricing &amp; B-BBEE Proposal</b>	<b>1. Section 1 ((Refer to page of the Technical Requirement)</b> 1.1. Pricing proposal and B- BBEE
<b>Envelope 3- Software Maintenance and Support Services Agreement &amp; Service Level Agreement – Annexure B</b>	<b>1 Section 1</b> 1.1. Software Maintenance and Support Services Agreement & Service Level Agreement – Annexure B