

SARS RFP 08/2020

**Financial Assistance Benchmarking
Tool for Transfer Pricing**

Non-Compulsory Briefing Session

07 September 2020

Zoom

RFP 08/2020

**Financial Assistance Benchmarking Tool
for Transfer Pricing**

Welcome and Introduction

Agenda

<u>Start</u>	<u>End</u>	<u>Topic</u>
14:00 - 14:05		Welcome
14:05 - 14:10		Governance, Rules and Procedures
14:15 - 14:30		RFP Overview
14:30 - 15:00		Business Requirements (Refer to BRS presentation)
15:00 - 15:15		RFP Process
15:15 - 15:30		Pricing Templates
15:30 - 15:40		B-BBEE Overview
15:40 - 15:45		Bidder's Proposal
15:45	16:00	Responses to questions

Governance, Rules and Procedures

SARS Procurement

Non- Compulsory Briefing Session

- **Purpose**
 - explain selected concepts, procedures and other aspects of the RFP
 - confirm formal registration of Bidders for notices and other communications
- **It may contain**
 - additional information
 - additional rules that must be adhered to
- **It does not**
 - cover every item in the RFP
 - replace any of the issued RFP material
 - change any of the RFP rules unless explicitly communicated in writing
- **The briefing session slides will be posted on the SARS website**
- **The RFP pack remains the primary source of information for the Bidder to respond.**

Procedures during conference

- **Questions during the session.**
 - SARS will take written questions submitted during the session
 - SARS will review and focus on most pertinent themes arising from the questions and provide answers where possible.
 - All questions and answers will be published as part of the wider Q & A process
 - The published answers will take precedence over any verbal response given in the briefing session.
- **The session is being recorded.**

Governance requirements

- **Strict communication channels**
 - **Bidders will be disqualified for non-compliance**
- **No solicitation of information will be allowed other than by prescribed channels**
- **Deadlines to be strictly met**
- **Adhere to prescribed submission format to ensure queries are properly dealt with.**

RFP Pack content

RFP Pack Contents

Section 1	Financial Assistance Benchmarking Tool for Transfer Pricing for the South African Revenue Service Summary Guidelines Instructions and Conditions for SARS
Section 2	Standard Bidding Documents (SBD's)
Section 3	Business Requirements Specification (BRS) documents for the Financial Assistance Benchmarking Tool for Transfer Pricing
Section 4	Mandatory Response Templates for the Financial Assistance Benchmarking Tool for Transfer Pricing
Section 5	Pricing Template for the Financial Assistance Benchmarking Tool for Transfer Pricing
Section 6	Software Licence Maintenance and Support Services Agreement for the Financial Assistance Benchmarking Tool for Transfer Pricing

RFP Pack – Points to note

- **The SARS website may indicate the use of Standard Bid documents not included in the RFP pack.**
 - DO NOT SUBMIT THESE.
 - SUBMIT THE DOCUMENTS AS PER THE INSTRUCTIONS AND THE TEMPLATES INCLUDED IN THE RFP PACK.

RFP Overview

Background

- **SARS's Mandate**

- South African Revenue Service Act, 1997 (Act No 34 of 1997)
- collection of all revenues that are due, ensuring maximum compliance with revenue legislation
- providing a customs service that will maximise revenue collection, facilitate trade and protect the borders of South Africa.

- **SARS's vision**

- innovative revenue and customs agency that enhances economic growth and social development
- 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.

Background 1/3

- **Currently**

- SARS is conscious of prevailing global tax concerns, many of which also affect South Africa's tax environment, such as Base Erosion and Profit Shifting. Base Erosion and Profit Shifting ("BEPS") are currently a hot topic of conversation within multinational companies, tax advisors and Revenue Services around the world.
- BEPS has been raised by various spheres of Government over the last number of years with current and ex Ministers raising this as a significant stumbling block to growing the economy. BEPS covers a variety of forms including financial transactions.

Background 2/3

- Given the significant need for Foreign Direct Investment, it is important to ensure that any investment made into South Africa does not result in excessive interest payments leaving the country.
- With effect for years of assessment beginning on or after 1 April 2012 Section 31 of the Income Tax Act was amended with the introduction of an arm's length test for financial assistance.

Background 3/3

- This means bringing into question both the price (interest rate) and the quantum of the loans. Any interest deducted from taxable income on the non-arm's length portion of the loan or that exceeds the arm's length price will therefore be disallowed as a deduction

- **Proposed**

- Tender for Financial Assistance Benchmarking Tool for Transfer Pricing for the contract will be for a period of three (3) years.

Business Requirements Specification 1/2

- A complete solution which can provide reliable comparable data;
- Software used locally and internationally by tax administrations, multilateral organizations such as the OECD and multinational companies;
- Produce benchmark studies that can be defended in court or during litigation and audits;
- Should enable benchmark studies to be conducted on affected transactions.
- A database that encompasses all industry types on a global basis;
- Public and private company data, which include updated financial information;
- Industry wide searches;
- Comprehensive corporate structures which will assist in determining independence of the companies;
- Comprehensive and reliable data for pricing intra group financial assistance, which should include credit ratings, financing terms, currencies, interest rates, collateral and repayment terms.

Business Requirements Specification 2/2

- The solution should be managed and handled by only one vendor, working from beginning to completion, without the direct involvement of any other third party.
- A single solution provider should provide the whole package.
- The solution should include quantum and pricing based information on financial assistance.
- Provide a summary of the information contained on the database specifically for South African companies or companies in emerging economies as well as information on the number of independent companies on the database, and broad geographic locations of said companies. (e.g. Middle East and Africa). This would provide clarity on whether the South African tested party could accurately be tested against independent companies in the same or similar geographic market.

Mandatory Evaluation

- 1) The Bidder must provide a Nationally Recognized Statistical Rating Organization (NRSRO) affiliation letter which states that the Bidder is affiliated with the nationally recognized statistical rating organization (NRSRO)
- 2) The Bidder must confirm (on the Mandatory Response Template) the financial assistance benchmark tool for transfer pricing would allow for a peer analysis of the rated South African company across industries as well as similarly credit rated companies.
- 3) The Bidder must confirm (on the Mandatory Response Template) it is able to perform a credit rating on a selected company (the Bidder must attach screenshot) and also to provide appropriate arm's length interest rates (the Bidder must attach screenshot).
- 4) The Bidder must confirm (on the Mandatory Response Template) that the database reflect full company names and financial information and that is also allow a taxpayer to be tested against independent companies in the sector and with the same or similar credit rating.

Technical Evaluation

- 1) Bidders to provide three (3) contactable references of companies where similar services were provided recently (within the last 5 years)
- 2) The database/system should be able to export the financial information (detailed and summary versions of selected final comparative data set) of selected companies into excel for further financial analysis and performing additional financial calculations.
- 3) Bidders to provide an Implementation plan indicating the time frames for training of SARS users and full access to financial assistance benchmark tool for transfer pricing
- 4) Bidders to describe the nature of support (e.g. telephonic, email etc.) and whether there is local support available.
- 5) Provide Breakdown/Summary of the information contained on the database specifically for South African companies or companies in emerging economies as well as information on the number of independent companies in the database, and broad geographic locations of said companies.(e.g. Middle East and Africa)

RFP Process

RFP model

- **Open tender**
- **The RFP has mandatory pre-qualification requirements**
 - Bidder must meet these before Bidder's Proposal will be considered for evaluation.

Bidder is strongly advised to make sure it complies fully before making the decision to submit a Proposal.

Bid preparation phase – Q&A

- Any questions / queries regarding the RFP process or content must be submitted in writing (email) to the email address below.
- All questions / queries must be submitted by Bidders no later than 21 September 2020.
- Any oral communication will be considered unofficial and non-binding to SARS.
- The queries must be :
 - from registered representatives
 - to tenderoffice@sars.gov.za Email format:

Subject : “RFP 08-2020 – Question”
Body : “Bidder: <Bidder name>”
: “Question : <Question text>”

Bid preparation phase – Q&A

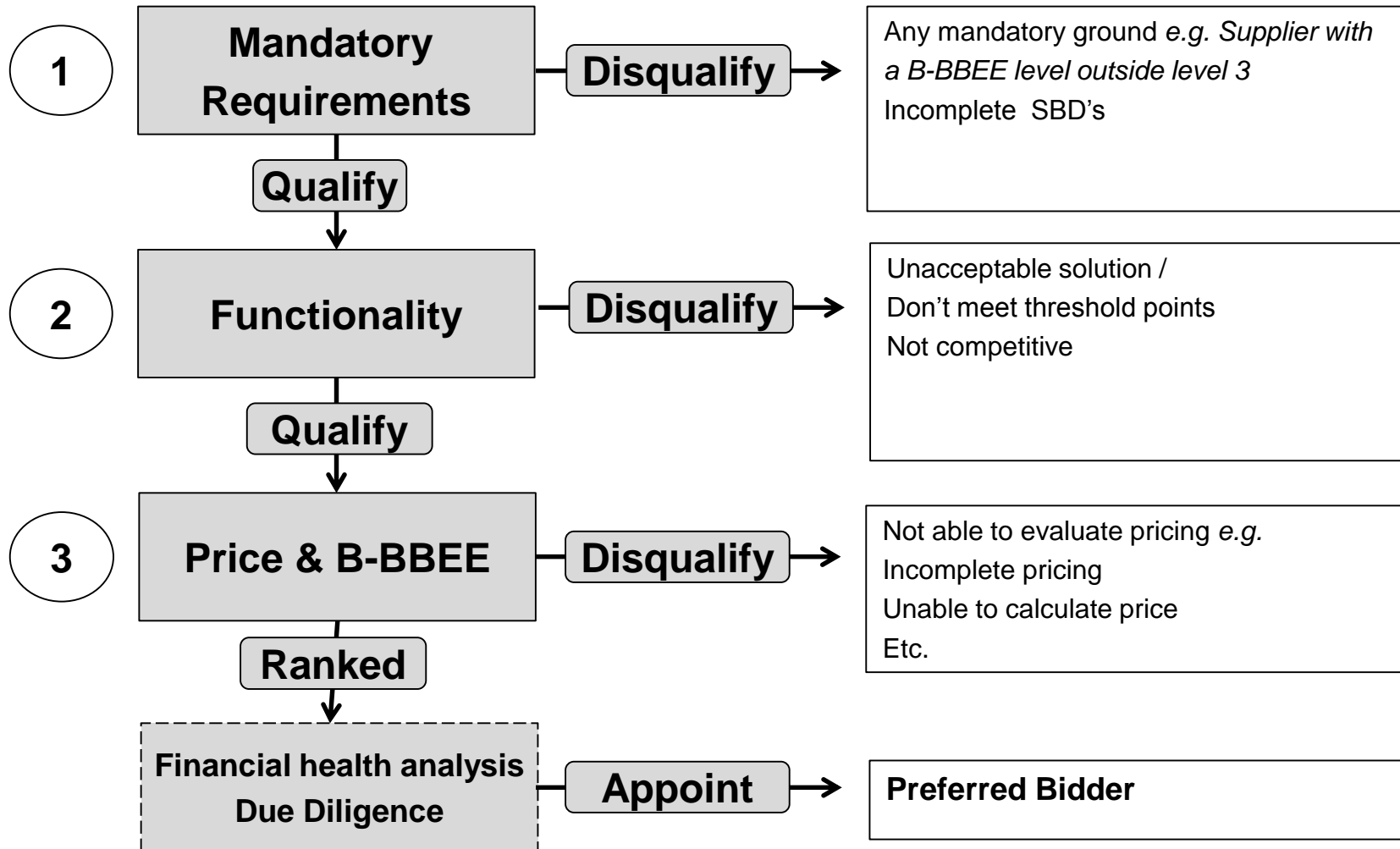
- **The answers will be published on the SARS website without the details of who posed the question**
- **SARS will endeavour:**
 - to provide a response to questions as soon as possible after receipt
 - to finalise all responses on or before **23 September 2020**

Bid preparation phase

- **SARS may:**
 - call one or more compulsory briefing sessions
 - issue communications
 - answering questions from Bidders
 - clarifying issues arising from questions
 - amending the RFP, including changing dates and times in the RFP process.

EVALUATIONS

Evaluation process



Gate 0- Prequalification

- **History**
 - No member of management / shareholding with history of collusive dealings or corruption.
- **3 year's audited financial statements**
- **All Standard Bid Documents completed and signed**
- **Signed Oaths of Secrecy**
 - By all members of the Bidder's bid team

Gate 0- Prequalification -Discretionary

- **SARS, at its sole discretion, may disqualify a Bidder from the evaluation process for:**
 - Shareholder, indirect shareholder (>15%), director or senior management not fully tax compliant
 - Incomplete tender documentation
 - Oath of Secrecy / 3 year financial statements / required format / number of copies / omitted or incomplete responses

Gate 0- Prequalification -Discretionary

- **SARS, at its sole discretion, may disqualify a Bidder from evaluation for:**
 - Non-adherence to RFP rules
 - Non-adherence to rules of engagement
 - Non-compliance to ethics

Gate 1 (Mandatory Requirements)

No:	Mandatory Requirements
1.	The Bidder must provide a Nationally Recognized Statistical Rating Organization (NRSRO) affiliation letter which states that the Bidder is affiliated with the nationally recognized statistical rating organization (NRSRO)
2.	The Bidder must confirm (on the Mandatory Response Template) that the financial assistance benchmark tool for transfer pricing would allow for a peer analysis of the rated South African company across industries as well as similarly credit rated companies.
3.	The Bidder must confirm (on the Mandatory Response Template) that it is able to perform a credit rating on a selected company (the Bidder must attach screenshot) and also to provide appropriate arm's length interest rates (the Bidder must attach screenshot).
4.	The Bidder must confirm (on the Mandatory Response Template) that the database reflects full company names and financial information and that it also allows a taxpayer to be tested against independent companies in the sector and with the same or similar credit rating.

Gate 2 (Technical Evaluation) : Functionality

Criteria	Weighting
Company Profile and Reference	3
Functionality	13
Implementation Plan / Project Plan	4
Support	5
Total	25

Gate 2 (Technical Evaluation) : Functionality

- **A Bidder's Proposal may be disqualified at any stage during the evaluation of functionality if:**
 - for whatever reason SARS is unable to evaluate the Bidder's proposal.
 - the solution proposed by the Bidder will not meet SARS's minimum requirements or will not achieve SARS's objectives.
- **A Bidder's Proposal may be selected to progress to the Stage 2 (Price and BEE) evaluation if:**
 - the Bidder has not been disqualified for any reason during the technical evaluation;
 - the Bidder's Proposal's aggregated weighted score for functionality equal or exceeds 18 points (72 percent).

Gate 3 (Price and B-BBEE Evaluation)

Criteria	Weighting (ex 100)
B-BBEE	20
Price	80

- 80/20 evaluation in terms of PPPFA¹ on contract value.
- B-BBEE evaluation performed on the basis of the submitted B-BBEE certificate.²
- Statutory formula² applied to the Bidder's submitted pricing.

¹ Preferential Procurement Policy Framework Act 5 of 2000

² National Treasury Regulations 2017 to the PPPFA

Selected topics
Pricing templates

National Treasury Preferential Procurement

Preference Point Systems

In the second stage of the evaluation, Tenders that have submitted all the required mandatory documents 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

- **The 80/20 preference point system is applicable to bids* with a Rand value equal**
- **to, or above R30 000 and up to a Rand value of R50 million (all applicable taxes included).**

Price Evaluation

- Only Bidders that have achieved the minimum technical threshold of 70 will be considered for price evaluation
- Evaluation criteria:

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

Pricing template completion

- Bidders should input their company name on the coversheet and it will be populated to the pricing template.
- Bidders are required to complete all cells highlighted in "Yellow" only.
- Bidders must ensure that their price is inclusive of VAT.
- The pricing is to remain firm for 180 days from the closing date of this tender; SARS reserves the right to negotiate with the recommended bidder prior to signing of the contract and on annual basis.
- Bidders must note that all pricing must be in "ZAR". It is the bidders responsibility to consider the USD/Rand exchange rate in completing the price template.
- Bidders **MUST NOT** change the Pricing Template. SARS may at its sole discretion disqualify your bid in the event that the pricing template has been changed.
- Implementation Costs are to be quoted for in line with the Implementation plan submitted by the Bidder.
- Furthermore, Bidders are to note that SARS anticipates standard Training to be provided as part of the overall services required at no additional cost. Bidders must note that SARS requires training to be offered under the normal maintenance and support services for the respective tools.
- Bidders must complete the Pricing Template, print the spreadsheet, initial each page, sign and submit in Hardcopy also submit in electronic (EXCEL) format.
- The quoted prices **MUST** be inclusive of all SARS' requirements as per the Business Requirements Specification. No additional costs will be considered post award.
- All cells must be populated and if no value is inserted it will be regarded as Zero.
- Bidders are to include all software and/or equipment costs that are associated with the acquisition of their proposed solution.
- Attention must be drawn to the fact that SARS will enter into a 3 (Three) year term with the successful bidder and will pay for the maintenance & Support renewal on an annual basis (i.e. SARS cannot pay for all 3 years upfront).
- Bidders are required to clearly indicate and provide basis of annual escalation.

Price Evaluation

- **Pricing**
 - Solution price will be calculated over a 3 year period

TENDER PRICING TEMPLATE	
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Tender Number	RFP 08/2020
Tender Name	THE PROCUREMENT, MAINTENANCE AND SUPPORT OF A FINANCIAL ANALYSIS: CREDIT RATING TOOL FOR A PERIOD OF THIRTY SIX (36) MONTHS
Bidder Name	

TABLE 1: IMPLEMENTATION/CUSTOMISATION

Description	Total Price (Incl VAT)
Implementation Cost	R 0.00

TABLE 2: ACQUISITION, MAINTENANCE & SUPPORT

Description	Year 1 (Incl VAT)	Year 2 (Incl VAT)	Year 3 (Incl VAT)	Total
Acquisition of Credit Rating Tool	R 0.00	N/A	N/A	R 0.00
Maintenance and Support	R 0.00	R 0.00	R 0.00	R 0.00

TABLE 3: PRICE ESCALATION

Description	Year 2 (Incl VAT)	Year 3 (Incl VAT)	Basis of Escalation
Annual percentage escalation			

TOTAL BID PRICE (Incl. VAT)	R 0.00
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B-BBEE

B-BBEE = 20 Points

B-BBEE points may be allocated to Bidders on submission of documentation or evidence as follows:

ADJUDICATION CRITERIA	POINTS
A duly completed Preference Point Claim Form: SBD 6.1 and a B-BBEE Certificate/Affidavit.	20

Bidders **MUST** complete and sign the SBD 6.1 form to claim the Bidder's B-BBEE preference points, failing which, the Bidder will be scored zero.

B-BBEE Certificate/Affidavit

The table below indicates the specific B-BBEE certification documents that must be submitted for this tender.

Classification	Turnover	Submission Requirement
Exempted Micro Enterprise (EME)	Below R10 million p.a	A sworn Affidavit or Certificate from CIPC
Qualifying Small Enterprise (QSE)	Between R10 million and R50 million p.a.	Certified copy of B-BBEE Rating Certificate from a SANAS Accredited rating agency. A sworn Affidavit – only 51% BO and above
Large Enterprise (LE)	Above R50 million p.a.	Certified copy of B-BBEE Rating Certificate from a SANAS Accredited rating agency.

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

Use and acceptance of Affidavits

Section 1.6 SBD 6.1 states.. The purchaser reserves the right to require of a bidder, either before a bid is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the purchaser.

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

B-BBEE Key Sections to complete in SBD

BID DECLARATION

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

6. B-BBEE STATUS LEVEL OF CONTRIBUTION CLAIMED IN TERMS OF PARAGRAPHS 1.4 AND 4.1

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

(Points claimed in respect of paragraph 7.1 must be in accordance with the table reflected in paragraph 4.1 and must be substantiated by relevant proof of B-BBEE status level of contributor.

7 SUB-CONTRACTING

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

(Tick applicable box)

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

(i) what percentage of the contract will be subcontracted?%

(ii) the name of the sub-contractor?

(iii) the B-BBEE status level of the sub-contractor?

(iv) whether the sub-contractor is an EME or QSE?

(Tick applicable box)

YES	<input type="checkbox"/>	NO	<input type="checkbox"/>
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Sub-contracting

Bidders who want to claim preference points will have to comply fully with regulations 11(8) and 11(9) of the Preferential Procurement Regulations, 2011 with regard to sub-contracting:

Regulation 11(8)

- **A person must not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for, unless the intended sub-contractor is an Exempted Micro Enterprise that has the capability and ability to execute the sub-contract.**

Regulation 11(9)

- **A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an Exempted Micro Enterprise that has the capability and ability to execute the sub-contract.**

Proof of Existence: Joint Ventures

- Bidders must submit concrete proof of the existence of joint ventures and/or sub-contracting arrangements. SARS will accept signed agreements as acceptable proof of the existence of a joint venture and/or sub-contracting arrangement.
- The joint venture and/or sub-contracting agreements must clearly set out the roles and responsibilities of the Lead Partner and the joint venture and/or sub-contracting party. The agreement must also clearly identify the Lead Partner, who shall be given the power of attorney to bind the other party/parties in respect of matters pertaining to the joint venture and/or sub-contracting arrangement.

Financial Analysis Requirements

Required Documents

- **Complete Sets of Audited/Reviewed Annual Financial Statements**
 - Signed Auditors / Accounting Officers Opinions
 - Statement Of Comprehensive Income (Income Statement)
 - Statement of Financial Position (Balance Sheet)
 - Statement of Cash Flows (Cash Flow Statement)
 - Accompanying Unabridged Notes for ALL of the above documents
- **Less than 3 Financial Periods**
 - Explanatory Letter
- **Joint Ventures**
 - Unincorporated JVs must submit separate F/S for each party to the JV
 - Signed JV legal agreement
- **Financial statements in Bidding Companies Name**
 - Subsidiary submitting holding company's F/S must also furnish a Performance Guarantee

Background

- **Public Finance Management Act (PFMA)**
 - Fair
 - Equitable
 - Transparent
 - Competitive
 - Cost-effective

Purpose

- **Financially Stable**
- **Financially Viable**
- **Identify Financial Risks**
- **Apply Appropriate Mitigating Strategies**

Agreement Requirements

Bidder's Proposal Format

Bidder's Proposal

- **Each Proposal section must be separately wrapped and must contain:**
 - One hardcopy
 - A4, ring binders
 - One electronic copy
 - CD or DVD
- **The hardcopy must be signed and must contain the original signatures.**

Bidder's Proposal contents

Common File A - Sections

Invitation to Bid (SBD1)

Declaration of Interest (SBD 4)

Declaration of Past SCM Practices (SBD 8)

Certificate of Independent Bid Determination (SBD 9)

Supplier Cost and Risk Assessment Questionnaire

Signed Oaths of Secrecy

Central Supplier Database (CSD)

A completed and signed mandatory template (as well as the References)

Annual Financial Statements

The sections are separated by file dividers labelled with the section names in the hardcopy version. On the CD/DVD the files must be placed in directories named after the sections.

Bidder's Proposal contents

Non-Pricing – Sections

Technical Responses as well as References

Agreement

Subcontractor CSD registration

Pricing - Section

Pricing template

Preference Points Claim Form (SBD 6.1)

Bidder's B-BBEE Certificate

Subcontractor B-BBEE Certificates

The sections are separated by file dividers labelled with the section names in the hardcopy version.

On the CD/DVD the files must be placed in directories named after the sections.

WRAP UP

- **Tender Closing date 02 October 2020 at 11:00**
- **Reminder to submit all follow-up questions electronically to SARS Procurement before close of business 21 September 2020 to tenderoffice@sars.gov.za**