

# Tender Package — Request for Proposal (RFP)



## 1. Invitation to Tender

<b>Tender Name: Procurement of consultancy services to support in the Development of Terms, Conditions, and Legal Web-Based terms for Sprout</b>	<b>Tender No: MC-AG/NBO/067/SA/2023</b>
Location: Nairobi, Kenya	Correspondence Language(s): English
Brief Summary Description of Project: Mercy Corps AgriFin Program is seeking a firm for the provision of consultancy services on the Development of Terms, and Conditions and Legal Web-Based terms for sprout.	

<b>Tender Package Available from:</b> <b>29<sup>th</sup> March 2023</b>	<b>Tender Package Pickup Location: Download from our website.</b> <b><a href="http://www.mercycorpsafa.org">www.mercycorpsafa.org</a> or Interested bidders can submit a request for the tender documents to this email address</b> <b><a href="mailto:agrifinprocurement@mercy Corps.org">agrifinprocurement@mercy Corps.org</a></b>
<b>Deadline for Offer Submission:</b> <b>10<sup>th</sup> April 2023; 05.00 P.M</b>	<b>Submit Offers via Email to: <a href="mailto:tendersmca@mercy Corps.org">tendersmca@mercy Corps.org</a> quoting the tender Reference Number and Name in the subject line.</b>

*Mercy Corps reserves the right to accept or reject any late offers*

<b>Questions and Answers (Q&amp;A)</b>	
If any, Submit Questions in writing to: <a href="mailto:agrifinprocurement@mercy Corps.org">agrifinprocurement@mercy Corps.org</a>	
Last Day for Questions: <b>4<sup>th</sup> April 2023</b>	Questions will be answered by: <b>5<sup>th</sup> April 2023</b>
Questions will be answered through: <a href="http://www.mercycorpsafa.org">www.mercycorpsafa.org</a> or <a href="mailto:agrifinprocurement@mercy Corps.org">agrifinprocurement@mercy Corps.org</a>	

<b>Documentation Checklist</b>	
These documents are contained within this tender package:	<ul style="list-style-type: none"><li>✓ Invitation to Tender</li><li>✓ General Conditions for Tender</li><li>✓ Criteria and Submittals</li><li>✓ Price Offer Sheet</li><li>✓ Supplier Information Form</li></ul>

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|---|--|
| ✓ | Scope of Work/Technical Specifications/BoQ |
| ✓ | Sample Contract                            |

## 2. General Conditions for Tender

Mercy Corps invites proposals for the goods, services and/or works described and summarized in these documents, and in accordance with procedures, conditions and contract terms presented herein. Mercy Corps reserves the right to vary the quantity of work/materials specified in the Tender Package without any changes in unit price or other terms and conditions and to accept or reject any, all, or part of submitted offers.

### 2.1 Mercy Corps' Anti-Bribery and Anti-Corruption Statement

Mercy Corps strictly prohibits:

- Any form of bribe or kickback in relation to its activities  
This prohibition includes any *request* from any Mercy Corps employee, consultant or agent for anything of value from any company or individual in exchange for the employee, consultant or agents taking or not taking any action related to the award of a contract or the contract once awarded. It also applies to any *offer* from any company or individual to provide anything of value to any Mercy Corps employee, consultant or agent in exchange for that person taking or not taking any action related to the award of the contract or the contract.
- Conflicts of interests in the awarding or management of contracts  
If a company is owned by, whether directly or indirectly, in whole or in part, any Mercy Corps employee or any person who is related to a Mercy Corps employee, the company must ensure that it and the employee disclose the relationship as part of or prior to submitting the offer.
- The sharing or obtaining of confidential information  
Mercy Corps prohibits its employees from sharing, and any offerors from obtaining, confidential information related to this solicitation, including information regarding Mercy Corps' price estimates, competing offerors or competing offers, etc. Any information provided to one offeror must be provided to all other offerors.
- Collusion between/among offerors  
Mercy Corps requires fair and open competition for this solicitation. No two (or more) companies submitting proposals can be owned or controlled by the same individual(s). Companies submitting offers cannot share prices or other offer information or take any other action intended to pre-determine which company will win the solicitation and what price will be paid.

Violations of these prohibitions, along with all evidence of such violations, should be reported to:

[integrityhotline@mercy Corps.org](mailto:integrityhotline@mercy Corps.org)

Mercy Corps will investigate allegations fully and will take appropriate action. Any company, or individual that participates in any of the above prohibited conduct, will have its actions reported to the appropriate authorities, will be investigated fully, will have its offer rejected and/or contract terminated, and will not be eligible for future contracts with Mercy Corps. Employees participating in such conduct will have his/her employment terminated.

Violations will also be reported to Mercy Corps' donors, who may also choose to investigate and debar or suspend companies and their owners from receiving any contract that is funded in part by the donor, whether the contract is with Mercy Corps or any other entity.

### 2.2 Tender Basis:

- All offers shall be made in accordance with these instructions, and all documents requested should be furnished, including any required (but not limited to) supplier-specific information, technical specifications, drawings, bill of quantities, and/or delivery schedule. If any requested document is not furnished, a reason should be given for its omission in an exception sheet.
- No respondent should add, omit or change any item, term or condition herein.
- If suppliers have any additional requests and conditions, these shall be stipulated in an exception sheet.
- Each offeror may make one response only.
- Each offer shall be valid for the period of 180 days from its date of submission.
- All offers should indicate whether they include taxes, compulsory payments, levies and/or duties, including VAT, if applicable.
- Suppliers should ensure that financial offers are devoid of calculation errors. If errors are identified during the evaluation process, the unit price will prevail. If there is ambiguity on the unit price, the Selection Committee may decide to disqualify the offer.
- Any requests for clarifications regarding the project that are not addressed in written documents must be presented to Mercy Corps in writing. The answer to any question raised in writing by any offeror will be issued to that offeror. In some cases Mercy Corps may choose to issue clarifications to all offerors. It is a condition of this tender that no clarification shall be deemed to supersede, contradict, add to or detract from the conditions hereof, unless made in writing as an Addendum to Tender and signed by Mercy Corps or its designated representative.
- This Tender does not obligate Mercy Corps to execute a contract nor does it commit Mercy Corps to pay any costs incurred in the preparation and submission of proposals. Furthermore, Mercy Corps reserves the right to reject any and all proposals, if such action is considered to be in the best interest of Mercy Corps.

## 2.3 Supplier Eligibility

Suppliers may not apply, and will be rejected as ineligible, if they:

- Are not registered companies
- Are bankrupt or in the process of going bankrupt
- Have been convicted of illegal/corrupt activities, and/or unprofessional conduct
- Have been guilty of grave professional misconduct
- Have not fulfilled obligations related to payment of social security and taxes
- Are guilty of serious misinterpretation in supplying information
- Are in violation of the policies outlined in Mercy Corps Anti Bribery or Anti-Corruption Statement
- Supplier (or supplier's principals) are on any list of sanctioned parties issued by; or are presently excluded or disqualified from participation in this transaction by: the United States Government or United Nations by the United States Government, the United Kingdom, the European Union, the United Nations, other national governments, or public international organizations.

Additional eligibility criteria, if applicable, are stated in section 3.2 of this tender package.

## 2.4 Response Documents

# Tender Package — Request for Proposal (RFP)



Offerors can either utilize the response documents contained in this tender package to submit their offer or they can submit an offer in their own format as long as it contains all the required documents and information specified by this tender.

## **2.5 Acceptance of Successful Response**

Documentation submitted by offerors will be verified by Mercy Corps. The winning offeror will be required to sign a contract for the stated, agreed upon amount.

## **2.6 Certification Regarding Terrorism**

It is Mercy Corps' policy to comply with humanitarian principles and the laws and regulations of the United States, the European Union, the United Nations, the United Kingdom, host nations, and other applicable donors concerning transactions with or support to individuals or entities that have engaged in fraud, waste, abuse, human trafficking, corruption, or terrorist activity. These laws and regulations prohibit Mercy Corps from transacting with or providing support to any individuals or entities that are the subject of government sanctions, donor rules, or laws prohibiting transactions or support to such parties.

## 3. Criteria & Submittals

### 3.1 Contract Terms

Mercy Corps intends to issue a **Fixed Price** contract to one or several company(ies) or organization(s). The successful offeror(s) shall be required to adhere to the statement of work and terms and conditions of the resulting contract. The anticipated contract is incorporated in Section 6 herein. By submitting an offer, offerors certify that they understand and agree to all of the terms and clauses contained in Section 6.

### 3.2 Specific Eligibility Criteria

Eligibility criteria must be met and the corresponding supporting documents listed below under “Tender Submittals” **must** be submitted with offers. Offeror who do not submit these documents may be **disqualified** from any further technical or financial evaluation.

Eligibility Criteria:

- The firm must be an eligible business under the applicable laws and regulations of the country(s) of operation.
- The firm must be in good standing with the taxation or legal authorities of the country(s) of operation.
- The firm must have a satisfactory record of performance and business ethics based on information available to Mercy Corps.

### 3.3 Tender Submittals

Documents and required information listed in tender submittals are necessary in order to support the eligibility criteria and to conduct technical evaluations of received offers (and due diligence). While absence of these documents and/or information does not denote mandatory disqualification of Individuals, the lack of these items has the potential to severely and negatively impact the technical evaluation of an offer.

#### Documents supporting the Eligibility Criteria:

- Business Registration Documents; certificate of registration/incorporation; relevant industry specific certifications or licenses; local business permits.
- Tax registration and Compliance documents

#### Documents to conduct the Technical Evaluation and additional Due Diligence:

- Company Profile, 2-page max
- References from previous work projects (including contact information)
- Detailed Product Specifications
- Evidence of similar services offered (including contact information, contract value, and geographic locations)
- Financial offer
- Technical proposal
- CV of technical staff including their role, qualification and experience

## Price Offer :

The Price offer is used to determine which offer represents the best value and serves as a basis of negotiation before award of a contract. As a Fixed-Price contract, the price of the contract to be awarded will be an all-inclusive fixed price basis, either in the form of a total fixed price or a per-unit/deliverable fixed price. No profit, fees, taxes, or additional costs can be added after contract signing. Offerors must show unit prices, quantities, and total price, as displayed in the Offer Sheet in Section 4. All items must be clearly labeled and included in the total offered price.

Offerors must include VAT and customs duties if applicable in their offer.

## 3.4 Currency

Offers should be submitted in: KES

Payments will be made in: KES

## 3.5 Tender Evaluation (Trade-Off Selection Method)

Based on the above submittals, a Mercy Corps Tender Committee will conduct a tender evaluation process. Mercy Corps reserves the right to accept or reject any or all proposals, and to accept the offer(s) deemed to be in the best interest of Mercy Corps. MC will not be responsible for or pay for any expenses or losses which may be incurred by any Offeror in the preparation of their tender.

Evaluations will be conducted as described in the following subsections:

### 3.5.1 Scoring Evaluation

#### *Trade-Off Method*

Mercy Corps Tender Committee will conduct a technical evaluation which will grade technical criteria on a weighted basis (each criteria is given a percentage, all together equaling 100%). Offeror's proposals should consist of all required technical submittals so a Mercy Corps committee can thoroughly evaluate the technical criteria listed herein and assign points based on the strength of a technical submission.

Award criteria shall be based on the proposal's overall **"value for money"** (quality, cost, delivery time, etc.) while taking into consideration donor and internal requirements and regulations. Each individual criteria has been assigned a weighting prior to the release of this tender based on its importance to Mercy Corps in this process.

Offeror(s) with the best score will be accepted as the winning offeror(s), assuming the price is deemed fair and reasonable and subject to the additional due diligence in [section 3.5.2](#).

When performing the Scoring Evaluation, the Mercy Corps tender committee will assign points for each criteria based on the following scale:

Point	Rationale
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0	Not acceptable; has not met any part of the specified criteria
1-4	Has met only some minimum requirements and may not be acceptable
5	Acceptable
6-9	Acceptable; has met all requirements and exceeds some
10	Acceptable; has exceeded all requirements

Evaluation Criteria	Weight (%)	Possible Points (1 to 10)	Weighted Score
	(A)	(B)	(A*B)
Demonstrate extensive and relevant legal experience, including advising digital platforms on the issues of appropriate terms and conditions, privacy, policies, online contracts, and other typical issues arising in online operations.	30%	10	
A minimum of Bachelor of Law (LLB), A postgraduate Diploma in Law from Kenya School of Law and be an advocate of the High court of Kenya.	5%	10	
Possess necessary registrations, licenses, examinations, and membership. This includes membership in good standing of the Law Society of Kenya with a current practicing license(s).	25%	10	
Immaculate reputation among peers and clients for high-quality legal advice and ethical operations.	20%	10	
The pricing is well documented, with the preferred payment schedule and is within the budget.	5%	10	
The proposal addresses all items requested by us whether verbally, electronically or in the TOR	10%	10	
The proposed fee is reasonable based on the experience, unique value and knowledge the firm/individual brings to the engagement.	5%	10	
<b>TOTAL POSSIBLE SCORE:</b>	<b>100%</b>		

### 3.5.2 Additional Due Diligence

Upon completion of both the technical and financial evaluations Mercy Corps may choose to engage in additional due diligence processes with a particular supplier or supplier(s) or Individuals as applicable. The purpose of these processes

is to ensure that Mercy Corps engages with reputable, ethical, responsible Suppliers with solid financials and the ability to fulfill the contract. Additional due diligence may take the form of the following processes (though it is not limited to):

- Reference Checks
- Supplier's facility visits
- Analysis of audited financial statements
- Determination of relations and affiliations between offerors
- Other appropriate documented method giving Mercy Corps increased confidence in the supplier's ability to perform

## 4. Offer Form

**Offerors must submit their own independent offer including at least (but not limited to):**

- All documents requested in the “Eligibility Criteria” section of this Tender Package
- All documents requested in the “Tender Submittals” section of this Tender Package
- All information listed in the “Documents Comprising the Proposal” section below

**All offers must be duly signed (including position and full name of the signer) and stamped, with the date of completion.**

### *Documents Comprising the Proposal*

The following information must be included in the offer of any potential offeror:

- Cover Letter** explaining interest to be a contracted vendor or supplier, and the details of the Proposal. The content of the cover letter shall include the following information:
  - A Price Offer detailing the unit price only, using the **Price Offer Sheet** template provided in section 7 or your own price sheet
  - Completed and signed Mercy Corps **Supplier Information Form** (template provided in section 7)
  - Other important documents offeror feels need to be attached to support their proposal

The original proposal shall be signed by the offeror or a person or persons duly authorized to bind the offeror to the contract. Financial offer pages of the proposal shall be initialed by the person or persons signing the proposal and stamped with the company seal.

Any interlineations, erasures, or overwriting shall be valid only if they are initialed by the person or persons signing the proposal.

## 5. Scope of Work/Technical Specifications

### Mercy Corps Background

Nearly one and a half billion poor people live on less than US\$1.25 a day. One billion of them live in rural areas where agriculture is their main source of livelihood. An estimated 70 million Smallholder Farmers (SHF) live in Sub-Saharan Africa, over half of whom are women. Smallholders, who typically farm two hectares or less, provide over 80% of the food consumed in a large part of the developing world, contributing significantly to poverty reduction and food security. However, the ever-increasing fragmentation of landholdings, especially in infrastructure, coupled with reduced investment support, growing competition for land and water, rising input prices and climate change threaten this contribution, leaving many smallholders increasingly vulnerable.

Given increasing world populations and demand for food, SHFs occupy an important segment of the global agricultural value chain. Multinational buyers will increasingly rely on smallholders to secure their supply of commodities and to help satisfy consumer sustainability preferences. At an estimated \$450 billion, the global demand for smallholder agricultural finance is large—and largely unmet. Credit provided by informal and formal financial institutions, as well as value chain actors, currently only meets an estimated USD 50 billion of the more than USD 200 billion need for smallholder finance in the regions of sub-Saharan Africa, Latin America, and South and Southeast Asia. Impact-driven smallholder agricultural lenders, such as Root Capital in Kenya and elsewhere, currently satisfy less than two percent of the demand. The volume and value of savings, lending, and payment transaction SHFs in most African countries is not specifically measured.

Mobile phones are a powerful tool to access the electronic national retail payments system and enable vast numbers of clients to use a range of financial and informational services at a lower cost. In agriculture, progressively more services are being delivered via mobile phone. Applications now deliver direct specific, timely information on agricultural production methods to farmers through their mobile phones. Moving beyond in-person communication, there are internet- and SMS-based services that allow farmers to access inputs; access price information on different crops and provides a platform for smallholders to collectively sell crops and buy inputs, thereby lowering costs and accessing new markets.

Empirical evidence shows that digital innovation can revolutionize the way smallholder farmers feed the world, that's why, based on years of learning and iterating, we built the AgriFin model to facilitate that process.

Launched in 2012, AgriFin's primary target group is un-banked smallholder farmers living on less than USD 2 per day. Mobilizing a vast network of partners, AgriFin ensures that the needs of farmers inform the design of partner products and services. Our shared global context is challenging – climate variability and population growth present unprecedented challenges. Yet, our experience tells us that farmers are determined to beat the odds.

With access to the right tools, smallholder farmers can build the resilience they need against climate and emergency shocks, and continue to feed their communities. We know that government and private sector partners are best suited to deliver those tools, and that technology is a critical accelerator. Our aim is to connect smallholder farmers to products and services that increase their productivity and income by 50%, with a 40% target population of Women and Youth.

### Scope of Work

Sprout ([sproutopencontent.com](http://sproutopencontent.com)) is a Business-to-Business open content agriculture platform that offers the ability for content creation organizations (CCOs) and content services organizations (CSO) to offer digitally ready, farmer-friendly content and services to Farmer Facing Organizations (FFOs) to offer to their smallholder farmers.

The Sprout organization and its technical platform plays the role of convener, transformation of content (not always but often), simplifying access and lowering the cost of access to the content and services in a variety of ways. Sprout is a project of Mercy Corp Agrifin Program and is primarily funded by GIZ at this time.

# Tender Package — Request for Proposal (RFP)



It is Sprout's goal to make the terms as easy and simple as possible. The output should be a CLICK to ACCEPT terms, requiring NO other agreements for use unless there is a fee associated with the service (near future). Even in this case, the agreement should allow click to accept for pricing of certain goods and services similar to how Google, MSFT Github and others operate.

The consultant shall:

- Review Sprout current and near term operational plans to develop an understanding of its user base, legal standing and services it offers.
- Review and update accordingly the existing terms and conditions and make recommendations for evolution of those to ensure Sprout, as a project of Mercy Corps Agrifin Program, Mercy Corps Agrifin Program and its user base are well-informed and protected. this includes but is not limited to:
  - Privacy [Terms](#)
  - Terms of [Use](#)
  - Acceptable [Use Policies](#)

## Deliverables

Deliverable #	Deliverable Description	Deliverable Estimated Completion Date
1	A report detailing an overview of issues and risks and general recommendations on next steps for Sprout; based on the consultant's review of the Sprout Product/Service Road map and Current operations as well as Mercy Corps Legal status	5/15/2023
2	Submission of Draft updated/new terms and conditions for website/operations.	6/15/2023
3	Submission of final version of updated/new terms and conditions for website/operations.	7/15/2023

## 6. Sample Contract

This is the anticipated contract. However, if required, additional terms and conditions may be added by Mercy Corps in the final contract.

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Service Contract  
Template 23.docx

## 7. Attachments to the Tender Package



Supplier Information  
Form.docx



Worksheet in  
RFP-Sprout -28.xlsx