

Tender Package — Request for Proposal (RFP)



1. Invitation to Tender

Tender Name: Master service agreement for providing security guard services at Mercy Corps International Staff resident in Rwanda	Tender No: MC CSC 2022-87
Location: GOMA : N°021, AV. Bounganelier1, Q. les Volcans, Goma, Dem. Rep. of Congo	Correspondence Language(s): English or French
Brief Summary / Description of Project: <p>Mercy Corps is an international non-governmental humanitarian and development organization, operational in the Democratic Republic of Congo (DRC) since August 2007 with a staff of approximately 400. The Mercy Corps country office is located in Goma with sub-offices in Bunia and Mambasa (ITURI Province), Beni (North Kivu) and Bukavu, Kavumu and Katana (South Kivu).</p> <p>Mercy Corps' activities in DRC focus on the provision of water, sanitation, and hygiene (WASH) services in IDP camps and host communities, as well as large-scale WASH infrastructure and service delivery development in urban centers. Mercy Corps also implements food security, good governance support, and economic recovery programs with a growing trend toward transition and development programs.</p> <p>Mercy Corps RDC intends to establish a Master Service Agreement with potential a security firm that can demonstrate experience in the field (proof of service), has a good professional reputation (testimonials), and has sufficient resources (material, human, and technical) to provide security services for Mercy Corps International staff residents in Rwanda.</p> <p>Specifically, this request for Proposal aims to sign a Master Service agreement with security service providers who meet all operational requirements, are willing and able to work with Mercy Corps according to the specified contract terms, and are committed to providing good security services at Mercy Corps International Staff resident in Rwanda.</p>	

Tender Package Available from: 24 May 2022	Tender Package Pickup Location: 1. Mercy Corps Goma Office : 21 Avenue Bounganelier1, Q. Les Volcans, Goma, Nord-Kivu, République Démocratique du Congo 2. Internet : www.kivu10.org , www.bizcongo.cd
Deadline for Offer Submission: 06 June 2022, before 11.59 pm Goma Time	Submit Offers to: 1. Mercy Corps Goma Office : 21 Avenue Bounganelier1, Q. Les Volcans, Goma, Nord-Kivu, République Démocratique du Congo 2. Email to : tenders@mercycorps.org

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

Questions and Answers (Q&A)	
If any, Submit Questions in writing to: drctendersubmissions@mercycorps.org	
Last Day for Questions: 31 may 2022, before 05.00 pm	Questions will be answered by: 02 june 2022, before 05.00 pm
Questions will be answered through: drctendersubmissions@mercycorps.org	

Documentation Checklist		
These documents are contained within this tender package:	✓	Invitation to Tender
	✓	General Conditions for Tender
	✓	Criteria and Submittals
	✓	Price Offer Sheet
	✓	Supplier Information Form
	✓	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:

<http://mercycorps.org/integrityhotline>

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 [365 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

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. Offerors who do not submit these documents may be **disqualified** from any further technical or financial evaluation.

Mercy Corps DRC approved international minimum standards applicable

Eligibility criteria must be met, and the corresponding supporting documents listed below in the "Procurement Submissions" section **must be** submitted with the bids. Bidders who fail to submit these documents **may be disqualified** from further technical or financial evaluation.

- **Valid Registration Certificate / Certificate of incorporation / Legal Business Registration**
- **Valid Tax Registration Certificate or any documentation indicating the company is meeting the TAX obligation (This varies from country to country)**
- **Latest tax clearance - valid for the 3 last months (latest proof of tax payment – May vary from countries)**
- **Valid of Proof of Company License for appropriate services (Security Company license issued by Rwanda Government)**

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 suppliers, the lack of these items has the potential to severely and negatively impact the technical evaluation of an offer.

Documents supporting the Eligibility Criteria:

- **Valid Business registration certificate (e.g. to whom it may concern certificate or equivalent).**

- A copy of valid tax registration certificate
- A copy of the latest tax clearance.
- A copy of Security Company valid license
- Submission of filled, signed, and stamped Attachment 1 – Supplier Information Form

Documents to conduct the Technical Evaluation and additional Due Diligence:

- Company Profile, 2 page max [Required]
- Minimum two references from previous or current customers (including telephone and emails) [Required]
- Mapping of the sites covered (intervention area)
- List of owned equipment and tools provided to each guard
- List of owned equipment, vehicles and any other mean used for security interventions and monitoring
- Number of guards contracted by the company that available for deployment
- Copy or proof of health & life insurance for guards
- Price offer (per guard/per month) including benefits, such as health & life insurance

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.

3.4 Currency

Offers should be submitted in: USD
Payments will be made in: USD

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.

The selection process will be conducted as follows:

1. Submission of applications in **HARD** or **ELECTRONIC** format
2. Opening of submissions in committee
3. Analysis of the proposals to certify the eligibility of each proposal
4. Technical analysis based on weighted technical criteria
5. Financial evaluation of the proposals having passed the previous evaluations
6. Applicant offices visits followed by price negotiations
7. Selection of proposals based on the evaluations made
8. Interviews with pre-selected candidate(s)/Provider(s) if necessary
9. Reference checks
10. Proposal of the service contract to the highest scoring company in the process

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
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 (%)
	(A)
Years of experience as a security company in Rwanda	20%
Coverage of the intervention area: provide mapping of the sites covered.	20%
Adequate equipment for guards	10%
Adequate equipment for security interventions	20%
Number of guards available for deployment	5%
Matching of price to demand and Mercy Corps Budget	5%
Health insurance coverage for guardians	20%
TOTAL POSSIBLE SCORE:	100%

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). 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
- Interviews if necessary

- Site visits, if necessary

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 detailed specification of the offered goods, services and/or works (Proposal)
 - Warranty (if necessary and appropriate)
 - Delivery time
 - Price validity date (for this purpose and as stated on the advertisement, quote given shall remain unchanged for 180 working days)
- A Price Offer detailing the unit price only, using the **Price Offer Sheet** template provided in **section 7**
- 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

5.1 Background

Mercy Corps RDC intends to establish a Master Service Agreement with security service providers in Rwanda. Specifically, this request for Proposal aims to sign and Master Service agreement with security service providers who meet all operational requirements, are willing and able to work with Mercy Corps according to the specified contracts terms, are committed to providing good security services at Mercy Corps expatriate homes in Rwanda. The purpose of this RFP is to identify a security company that is capable of collaborating with MERCY CORPS in securing expatriate residents in RWANDA.

If awarded, program funding under this RFP will initially be for a maximum of 1 year, with options available based on availability of funds, contract completion, and acceptable performance.

Issuance of this call for proposals does not constitute an award or a commitment by Mercy Corps to make contractual awards, nor does it commit Mercy Corps to pay any costs incurred in the preparation and submission of an application.

5.2 Scope of Work (for Service)

- The contractor will provide Security services at the various residences of Mercy Corps expatriate employees residing in Rwanda (Kigali, Gisenyi and Cyangugu)
- The contractor will work closely with and under the supervision of the MERCY CORPS team in charge of the service.
- The provider is informed in real time of the security of MERCY CORPS in order to respect the service delivery in time and as per Mercy Corps request.
- The provider is bound to respect the delivery deadline as indicated in the implementation schedule
- The provider shall assure MERCY CORPS of confidentiality and security when providing the service.
- As soon as the provider is selected and contracted, all parties are required to strictly adhere to the terms of the contract.

5.3. Expected results are as follow:

Security services provided by the Contractor's security personnel at all the various residences of Mercy Corps expatriate employees residing in Rwanda.

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.

MASTER SERVICE AGREEMENT

Contract No. _____

THIS MASTER SERVICES AGREEMENT entered into as of _____ by and between MERCY CORPS, a State of Washington, U.S.A. nonprofit corporation having its principal office in Portland, Oregon, U.S.A. (“**Mercy Corps**”) and _____ (“**Contractor**”) is as follows:

1. Master Agreement; Specific Services. From time to time, Mercy Corps may request services from Contractor. For each occasion on which Contractor is willing to provide requested services, the parties will enter into a task order (“**Task Order**” or “**TO**”) which will describe the services to be performed and the period for performance and which will be substantially in the form attached hereto as Exhibit A. Contractor must notify Mercy Corps within the Task Order Offer Period time specified in Schedule I if it accepts a Task Order, rejects a Task Order or requires changes to a Task Order. Mercy Corps may reject any acceptance or request for changes that Mercy Corps receives after the Task Order Offer Period has expired.

2. Additional Terms and Defined Terms. Additional Terms are specified in Schedule I hereto (the “**Additional Terms**”). The terms in Schedule I are incorporated in this Agreement by this reference. The following additional defined terms are included in Schedule I: Task Order Offer Period, Authorized Representative, Key Personnel, Payment Terms, Services, TO and Scope of Work (SOW). “**Agreement**” means this Master Services Agreement and Schedule I, in each case as amended, modified or supplemented from time to time. Other terms may be defined throughout this Agreement as specified.

3. Delivery of Services.

- a. Contractor will perform the Services, and Mercy Corps will pay for the Services, in accordance with the terms and conditions set forth in this Agreement and each TO.
- b. Contractor will perform all Services through the services of Contractor’s employees. Contractor will not delegate or subcontract any Services to be provided to Mercy Corps without Mercy Corps’ prior written consent. Contractor agrees that including the specific individuals named (if any) as Key Personnel in the Additional Terms is a material part of the bargain. Contractor will not change the Key Personnel without prior notice and an amendment to the Additional Terms specifying the change. Mercy Corps may withhold its consent to substitute personnel using its sole discretion.

4. Compliance with TOs and Changes to TOs. Services will be provided strictly in accordance with each TO. No deviation, substitution or change is permitted without Mercy Corps’ prior written consent; provided that Mercy Corps may terminate, suspend, increase or decrease the scope of Contractor's performance under a TO by written notice to Contractor specifying the changes. Unless mutually agreed, a change to a TO by Mercy Corps does not apply to Services timely and fully delivered and performed before the date of the change. If any change causes an increase or decrease in the cost of, or the time required for, Contractor's performance, an equitable adjustment may be made in the TO or Payment Terms or both, if such adjustment is set forth in an amendment signed by Mercy Corps’ and Contractor’s Authorized Representative.

5. Non-Exclusivity. This Agreement is not intended to create an exclusive relationship between the parties. Unless the Additional Terms specify a minimum purchase of services, Mercy Corps is not obligated to issue any Task Order to Contractor. If the Additional Terms specify a minimum purchase of services, Mercy Corps shall be obligated only to issue a TO(s) for the minimum purchase amount.

6. Invoicing and Payment.

- a. Contractor will submit invoices to Mercy Corps in accordance with the invoicing schedule and invoicing delivery terms set forth in the Additional Terms. Each invoice will include (i) the Contract Number and TO number; (ii) Contractor's name and address; (iii) a description of the Services performed, (iv) the dates such Services were performed, (v), if applicable per the Additional Terms, an itemization of the specified increments of time worked, (vi), if applicable per the Additional Terms, properly reimbursable expenses (if any) incurred along with receipts for such expenses; and (vii) such other information as Mercy Corps may reasonably request. Invoices will only be deemed received on the date they are delivered to Mercy Corps' Authorized Representative pursuant to the Payment Terms. If Mercy Corps determines that Services that are the subject of an invoice have not been performed in accordance with the Additional Terms, Mercy Corps may dispute the invoice by sending Contractor notice of such dispute after Mercy Corps receipt of the invoice. Such notice shall clearly state the specific Services disputed, and Mercy Corps' reason for disputing the performance of the Services. If both parties accept the dispute of the invoice, they shall agree in writing as to the steps required of Contractor to ensure that the performance of the disputed Services is subsequently completed in accordance with the Additional Terms, and the time required of Contractor to complete the Services
- b. Except as otherwise provided in the Additional Terms, Mercy Corps will pay each invoice (or adjusted invoice if the subject of dispute) in accordance with the Payment Terms within 30 days after the later of (i) receipt of the invoice or (ii) resolution of the items set forth in the notice of disputed charges.
- c. Mercy Corps may off-set any amount it owes Contractor against any amount Contractor owes Mercy Corps.

7. Taxes, Duties and Expenses.

- a. Except as otherwise provided in the Additional Terms, Contractor is responsible for all expenses incurred by it in performing under this Agreement and all taxes, duties and other governmental charges with respect to the provision of Services. If the law requires Mercy Corps to withhold taxes from payments to Contractor, Mercy Corps may withhold those taxes and pay them to the appropriate taxing authority. Mercy Corps will deliver to Contractor an official receipt for such taxes. Mercy Corps will use reasonable efforts to minimize any taxes withheld to the extent allowed by law.
- b. In the event the Additional Terms do allow for reimbursement of Contractor expenses, such expenses must be listed as acceptable expenses in the Additional Terms or the Task Order and fully documented with receipts and any other documentation reasonably necessary for Mercy Corps to determine the costs were reasonable and properly incurred.

8. Representations, Warranties and Additional Covenants. Contractor represents and warrants to Mercy Corps and covenants with Mercy Corps as follows.

- a. Contractor has full rights and authority to enter into and perform its obligations under this Agreement. Contractor's performance will not violate any agreement or obligation between Contractor and any third party.
- b. Contractor has the requisite skills to perform the Services in accordance with this Agreement.
- c. Contractor possesses all governmental and other certifications and licenses necessary to perform the Services in accordance with this Agreement. Performance by Contractor of its obligations under this Agreement will not infringe on any patent, copyright, trademark, trade secret or other proprietary right of any third party.

- d. Contractor will comply with all applicable law, regulations and rules in the performance of its obligations under this Agreement.
- e. Contractor has not, and will not, engage in transactions with, or provide resources or support to, individuals and organizations associated with terrorism, including those individuals or entities that appear on the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Treasury (<http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>) or the United Nations Security designation list (http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml).
- f. Contractor will comply with and train its employees in all applicable laws against bribery, corruption, inaccurate books and records, inadequate internal controls and money-laundering, including the U.S. Foreign Corrupt Practices Act and the UK Bribery Act. Contractor has not and will not offer or give any employee, agent, or representative of Mercy Corps anything of value to secure any business from Mercy Corps or influence such person to alter the terms, conditions, or performance of any contract with or purchase order from Mercy Corps, including but not limited to this Agreement.
- g. Contractor, including its owners or employees, does not own, directly or indirectly, any other company that was competing for award of this Agreement or any TO. Contractor did not seek or obtain confidential information related to the award of this Agreement or any TO from any Mercy Corps employee, agent or representative. Contractor did not collude or conspire with any other individual or entity to limit competition for the award of this Agreement or any TO, to set prices being offered or in any other way to interfere with free and open competition.
- h. Contractor is not owned in whole or in part, directly or indirectly, by any immediate or extended family member of any Mercy Corps employee, agent or representative, or, if so owned, Contractor fully disclosed such relationship and any potential conflict of interest has been waived, in writing, by Mercy Corps.
- i. Contractor has not engaged in, and will not engage in, any of the following conduct: (A) trafficking in persons (as defined in the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime); (B) procuring a commercial sex act; or (C) using forced labor.
- j. Contractor is not the subject or any governmental or donor investigation and has not been debarred or suspended by any government, governmental agency or donor.

9. Independent Contractor. The parties intend to be independent contractors. Contractor will be solely responsible for and have control over the means, methods, techniques, personnel and procedures for performing the Services. Neither party will be deemed an agent or partner of the other party.

10. Work Product and Intellectual Property Rights.

- a. “Work Product” means any and all (1) intellectual property, intellectual property rights, materials, tangible personal property and other work product that Contractor creates (or has created), alone or jointly with one or more other persons, (a) that relates to any TO, (b) that results from or arises out of any services performed by Contractor for Mercy Corps, (c) for which Contractor used equipment, supplies, facilities or trade secret information of Mercy Corps in creating such work product, or (d) that is derived or otherwise created from any intellectual property, intellectual property rights, materials, tangible personal property, or other assets of Mercy Corps; and (2) materials that contain, embody, disclose, reflect, or refer to any of the foregoing.
- b. Mercy Corps will be the sole owner of all Work Product. To the extent allowed by applicable law, all Work Product that consists of subject matter of U.S. or any other country’s copyright laws will constitute “works made for hire” under applicable copyright laws. Contractor will not provide Work Product to any person

other than employees or agents of Mercy Corps. Contractor will hold all Work Product in trust for Mercy Corps. All Work Product will be deemed to be Confidential Information of Mercy Corps and subject to the provisions of Section 10.

- c. Contractor will promptly disclose in writing to Mercy Corps all Work Product that Contractor creates, alone or jointly with others, in the performance of its obligations under this Agreement.
- d. Contractor hereby irrevocably assigns and transfers to Mercy Corps (i) all rights, title and interest in all Work Product, (ii) all related rights and remedies, and (iii) all claims (for damages or otherwise) and causes of action with respect to any Work Product.
- e. Contractor hereby irrevocably waives and agrees never to assert any Moral Rights that may exist anywhere in the world in or with respect to any Work Product, including claims for damages and other remedies. “Moral Rights” means any and all right to claim authorship to or to object to any distortion, mutilation or other modification or other derogatory action in relation to a work, whether or not such action would be prejudicial to the author’s reputation, and any similar right, existing under common or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or generally referred to as a “*moral right*”.

11. Confidentiality. Contractor will maintain, and cause each of its employees and others it involves in performing its obligations under this Agreement to maintain, the confidentiality of: (i) any information Mercy Corps provides to Contractor that Mercy Corps identifies as confidential; (ii) the terms and conditions of this Agreement (including all Statements of Services); and (iii) nonpublic information regarding Mercy Corps’ policies and practices. Upon Mercy Corps’ request, Contractor will return to Mercy Corps all confidential information provided by Mercy Corps to Contractor.

12. Indemnification. Contractor will indemnify Mercy Corps and each of its officers, directors, employees, representatives and agents (each, an “Indemnitee”), and hold them harmless from, any and all losses, claims, damages, liabilities, any government or donor investigations, fines or penalties and related expenses (including incidental and consequential damages and reasonable attorneys’ fees, whether incurred at the investigative, trial or appellate level or otherwise) incurred by any Indemnitee or asserted against any Indemnitee by any third party or by Contractor arising out of, in connection with, or as a result of this Agreement, any failure by Contractor to fully perform its obligations under this Agreement or any breach by Contractor of any of its representations and warranties under this Agreement, provided that such indemnity will not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses resulted from the gross negligence or willful misconduct of such Indemnitee.

13. Termination and Remedies.

- a. Provided no TO is outstanding and remains to be performed by either party, this Agreement may be terminated by either party upon 30 days prior written notice to the other party.
- b. Any TO may be terminated under the following circumstances:
 - i. by both Parties on mutual written agreement of the Parties;
 - ii. by either Party for its convenience with written notice and after the Termination Notice Period specified in the Additional Terms has expired;
 - iii. by Mercy Corps immediately upon written notice in the event Mercy Corps’ donor(s) terminates or withdraws funding that Mercy Corps would use to pay Contractor under the Additional Terms;
 - iv. by either Party due to the non-terminating Party’s breach of this Agreement and failure to correct such breach within 15 days prior notice of such breach;
 - v. be either Party upon written notice if a force majeure event, including any not reasonably foreseeable war, insurrection, change in law or government action or inaction, strike, natural

- disaster or similar event, prevents the terminating Party from being able to fulfill its obligations under this Agreement; or
- vi. by Mercy Corps immediately upon written notice if Mercy Corps using its sole discretion determines that Contractor has or will breach any of its warranties, covenants or representations in this Agreement, in which case Mercy Corps may withhold any and all amounts owed to Contractor until such breach is remedied.

In the event of termination due to Contractor's breach or by Contractor for Contractor's convenience, Mercy Corps will not be obligated to pay Contractor for any partially completed work. In the event termination is due to Mercy Corps' breach, by Mercy Corps for Mercy Corps convenience, due to force majeure event, or due to loss of funding, Mercy Corps will be obligated to pay Contractor for its reasonable, pro-rated costs of work completed and expenses properly incurred prior to termination. However, Mercy Corps will not be responsible for any expenses incurred in anticipation of termination or suspension.

If Mercy Corps determines that Contractor has or will breach any of its warranties, covenants or representations in this Agreement, Mercy Corps may, in addition to any other remedies for such breach available at law or in equity, terminate this Agreement.

[ALTERNATIVE CLAUSE IF USING LIQUIDATED DAMAGES -DELETE OF NOT APPLICABLE]: [If Mercy Corps determines that Supplier has or will breach any of its warranties, covenants or representations in this Agreement, Mercy Corps may terminate this Agreement. Supplier's breach of its obligations under this Agreement will result in Mercy Corps incurring damages in an amount that will be difficult to establish and leave Mercy without an adequate remedy. Accordingly, the parties agree that the following liquidated damages are reasonable in light of the anticipated harm caused by any such breach: *[insert dollar amount or other formula for determining the amount of damages]*].

14. Dispute Resolution. Any unresolved dispute or claims will be settled by arbitration administered by the International Centre for Dispute Resolution in accordance with its International Arbitration Rules. The number of arbitrators will be one. The place of arbitration will be Portland, Oregon. The language of the arbitration will be English.

15. Access to Books and Records. Mercy Corps, its donors (including, if applicable, USAID, and the Comptroller General of the United States) and any of their respective representatives will have access to any books, documents, papers and records of Contractor that are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts and transcriptions for a period of seven years following the completion of the final TO issued by Mercy Corps under this MSA.

16. Additional Donor Terms and Conditions. The Donor Terms (if any) are incorporated in this Agreement by reference and are fully binding on Contractor and Mercy Corps. In the event of a conflict between the Donor Terms and any other provision of this Agreement (including any Additional Terms of TO) or any other document between Contractor and Mercy Corps, the Donor Terms will prevail.

17. Miscellaneous.

- a. This Agreement and the rights and obligations of the parties hereto will be governed by and construed in accordance with the laws of the State of Oregon (exclusive of the United Nations Convention on Contracts for the International Sale of Goods), without regard to the conflict of laws provisions thereof.
- b. No right or obligation under this Agreement (including the right to receive monies due) will be assigned without the prior written consent of Mercy Corps. Any assignment without such consent will be void. Mercy Corps may assign its rights under this Agreement.

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- c. All notices provided for herein will be in writing and will be delivered by hand or overnight courier service, email or fax in accordance with each party's contact information set forth on the Additional Terms. Notices will be deemed to have been given when received, provided that notices sent by email or fax will be deemed received when sent (except that, if not sent during normal business hours for the recipient, will be deemed received at the opening of business on the next business day for the recipient).
- d. Time is of the essence of each and every obligation of Contractor under this Agreement.
- e. If any provision of this Agreement is prohibited by or invalid under applicable law, such provision will be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or any remaining provisions of this Agreement.
- f. Except as otherwise provided above, this Agreement may be amended or modified only by a written document signed by both parties. This Agreement constitutes the entire contract between the parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof.
- g. No failure on the part of Mercy Corps to exercise, and no delay in exercising, any right, power, privilege or remedy under this Agreement will operate as a waiver thereof; nor will any single or partial exercise of any such right, power, privilege or remedy preclude any other or further exercise thereof or the exercise of any other right, power, privilege or remedy. The rights and remedies under this Agreement are cumulative and not exclusive of any rights, powers, privileges and remedies that may otherwise be available to Mercy Corps.
- h. The warranty, representations, dispute resolution, confidentiality and indemnification provisions of this Agreement will survive the termination, cancellation or expiration of this Agreement.
- i. In the event that there is a conflict in term between this Master Services Agreement and any TO, the terms in the Master Services Agreement shall prevail unless the changed terms in the TO specifically state the section of the Master Services Agreement or Additional Terms that the TO is changing, in which case the new terms in the TO shall prevail only as to that TO.

IN WITNESS WHEREOF, this Master Services Agreement has been duly executed as of the date first written above.

MERCY CORPS	_____
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

7. Attachments to the Tender Package

Attachment 1 -Supplier Information Form template

The information provided will be used to evaluate the Company before contracting with the Mercy Corps.

Please fill all fields.

Supplier Information

Company Name	
Any other names company is operating under (Acronyms, Abbreviations, Aliases)	
Previous names of the company	
Address	
Website	
Phone/Fax Numbers	Phone: _____ Fax: _____
Primary Contact	Name: Phone Number: Email Address:
# of Staff	
# of Locations	
Avg. Value of Stock on Hand (USD)	
Government - owned (yes/no)	
Name(s) of Board of Directors	
Name(s) of Company Owner(s)	
Parent companies, if any	

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Subsidiary or affiliate companies, if any	
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Financial Information

Bank Name and Address	
Name under which company is registered at bank	
Payment Terms	Payment By: <u>Check</u> Yes No <u>Wire Transfer</u> Yes No
Specify Standard Payment Terms (Net15, 30, etc.)	

Product/Service Information

List Range of Products/Services Offered	
Basis For Pricing (Catalog, List, etc.)	

References

Client Name:	<u>Contact Name, Phone, Email Address:</u>
Client Name:	<u>Contact Name, Phone, Email Address:</u>
Client Name:	<u>Contact Name, Phone, Email Address:</u>

Supplier Self-Certification of Eligibility

Company certifies that:

1. It, its affiliates and subsidiaries, owners, officers, directors and key employees (to the best of its knowledge) are not the subject of any government's sanctions, designations, donor rules or prohibitions, or laws prohibiting transactions with it/them. It is not the subject of any donor government investigation into its misconduct with any other recipient of that donors funding.
2. It, its affiliates and subsidiaries, owners, officers, directors and key employees have not and do not engage in any form of terrorism or attacks on civilians and do not provide any form of material support or financial resources for individuals or organizations that do engage in any form of terrorism or deliberate attacks on civilians.
3. It, its affiliates and subsidiaries, owners, officers, directors and key employees have not and do not engage in weapons or drugs manufacture, transport, sale or distribution.
4. It is not in default on any material credit agreement, bankrupt or being wound up, are having its affairs administered by the courts, have entered into arrangements with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations.
5. It is has not been determined to be in breach of a material contract by any legal body anytime within the past 2 years.
6. It pays taxes as and when due and is not currently the subject of any investigation or proceeding related to back-owed taxes.
7. It provides workers compensation insurance to its workers in accordance with the laws of the countries where it operates.
8. It pays social security obligations as required in the countries where it operates.
9. It, its owners, officers and directors have not been convicted of an offense concerning its professional conduct and has not engaged in grave professional misconduct.
10. It, its affiliates and subsidiaries, owners, officers, directors and key employees have not been the subject of criminal investigation or judgement for fraud, corruption, human trafficking, spying, weapons transport or smuggling, sexual exploitation or abuse, internal sexual misconduct, abuse or exploitation of children, involvement in a criminal organization or any other criminal activity.
11. It treats its employees with dignity and respect and maintains social operating standards, including: working conditions and social rights; avoidance of child labor, bondage, forced labor, human trafficking or exploitation; assurance of safe and reasonable working conditions; freedom of association; freedom from harassment (including sexual harassment), exploitation, abuse, bullying and discrimination; protection of basic social rights of its employees and Mercy Corps beneficiaries.
12. To the best of its knowledge, no Mercy Corps employee, officer, consultant or other party related to Mercy Corps has a financial interest in the Company's business activities, nor is any Mercy Corps employee related to any owner, officer, director or employee of the company, and, if so, it will ensure that the relationship is disclosed to Mercy Corps and will not be used for improper influence. Discovery of an undisclosed Conflict of Interest will result in immediate revocation of the Company's Authorized Supplier status and disqualification of Company from participation in future Mercy Corps procurement.
13. It understands that attempting to or agreeing to provide anything of value to any Mercy Corps employee, agent or representative for the purpose of encouraging that person to award Company a contract or take or not take any action related to any contract will result in immediate termination of any agreement. Company certifies that it does not engage in such conduct..
14. It understands that Mercy Corps seeks fair and open competition and the fairest price available and that any attempt by company to subvert fair and open competition, including working with other bidders to fix prices, working to exclude competition, seeking confidential information from Mercy Corps or other bidders, using multiple related or controlled companies to give the appearance of competition, or any similar activity, will result in termination of any agreement. Company certifies that it does not engage in such conduct.
15. It understands that Mercy Corps prohibits any of its partners or suppliers from bribing public officials and certifies that it does not do so.
16. It is not conducting business under other names or aliases that have not been declared to Mercy Corps.

If the Company cannot certify to any of the above it should explain why not. Mercy Corps may take the individual circumstances into account for some situations. However, any false certification could be grounds for immediate disqualification and termination of any future agreement.

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By signing the Supplier Information Form you certify that your Company is eligible to supply goods and services to major donor funded organizations and that all of the above statements are accurate and factual.

Company Name: _____

Name of Representative: _____

Title: _____

Signature: _____

Date: _____

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FOR MERCY CORPS USE ONLY

Following documents have been provided [Update according to sections 3.3 and 4 of the Tender Package]:

Documents	
Business registration certificate (e.g. to whom it may concern certificate or equivalent).	
Copy of valid tax registration certificate and	
Copy of the latest tax clearance.	
Submission of filled, signed, and stamped Attachment 1 – Supplier Information Form	
Company Profile, 2 page max [Required]	
References from previous or current customers (contracts, letters of recommendation including contact information, emails and telephone numbers) [Required]	
Mapping of the sites covered (intervention area)	
List of equipment and tools provided to each guard	
List of equipment, vehicles and any other mean used for security interventions and monitoring	
Number of guards available for deployment	
Copy or proof of health insurance for guards	
Price offer (per guard/per month)	

I _____ an employee of Mercy Corps having completed and reviewed this form confirm the accuracy of information provided:

Name _____

Title _____

Signature _____

Date* _____

*Supplier to be re-authorized one year from this date.

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Attachment 2 -Price Offer Sheet template

The prices mentioned in the list below must be in US Dollars, including VAT

DESCRIPTION – SERVICE SPECIFICATIONS	UNIT	Monthly Rate in USD of net Salary	Monthly Rate in USD of other costs / benefit to paid to guard including taxes, insurances, and any other costs	Monthly Total Cost in USD of Service for 1 security guard including other cost	Availability upon request (number of days)
Security Guard	Person per month				

Preferred payment terms :

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By signing the Price Offer Sheet you certify that your Company confirms the above prices, delivery and payment terms and all information provided in the tables above.

Company Name: _____

Name of Representative: _____

Title: _____

Signature: _____

Date: