

## Request for Applications

RFA Release Date:	29 August 2023
Deadline for Questions:	5pm SAT 5 September 2023
Closing/Submission Deadline:	5pm SAT 12 September 2023
RFA Code:	013
Subject:	Legal expertise support to develop standardised SME Trade Finance Agreements (and supporting suite of documents excluding legal opinions)
Purpose of the RFA:	To establish the requirements for SME trade finance agreements for the Company, draft the standardised agreements, and then to facilitate roll-out of the final standardised suite of trade finance facility documents
Eligible Organizations:	Experienced Legal Firms with expertise in the Structured Trade and Commodity Finance space, as well as expertise in legal and regulatory compliance and risk management of trade finance security across multiple jurisdictions in Africa. Ideally, an organisation with a track record of working with the portfolio company and successfully supporting boutique Trade Finance lenders with drafting, negotiating and implementing industry association (BAFT & LMA) Trade Finance legal agreements

Dear Applicants,

TechnoServe invites you to participate in this competitive solicitation for proposals related to legal expertise support to develop standardised SME Trade Finance legal agreements and supporting suite of documents (excluding legal opinions) for a portfolio company based in Cape Town, South Africa and London, United Kingdom. The work will be conducted closely with the ZEBU Africa Food Security Fund (AFSF) Technical Assistance Facility (TAF) team based in Johannesburg, South Africa.

**Position Location:** Project will be completed in Cape Town, South Africa or London, United Kingdom

**Anticipated start date:** 26 September 2023

**Estimated Duration:** The timing of the project is September – November 2023

Please note that the issuance of this RFA does not constitute an award commitment on the part of TechnoServe, nor does it constitute a commitment to pay for costs incurred in the development of an application.

Questions regarding the RFA requirements must be submitted in writing to [wnyambayo@tns.org](mailto:wnyambayo@tns.org) by the deadline listed above. Include the RFA Code and Subject in the subject line for your questions.

### A. Background

TechnoServe is the implementing agency for the AFSF TAF. The AFSF is a second-generation fund managed by Zebu Investment Partners (ZIP) and targets high-growth Small, Medium Enterprises (SMEs) across the food value chain in Africa. Africa's food requirements are expected to double in the next 30 years with a food import bill estimated to reach USD 50 –70 billion per annum. Food value chains remain weak and under developed, while agriculture is the main form of economic activity for most people on the continent. Private investment in the agriculture sector is critical for Africa's food security and growth. The AFSF will target deal sizes of USD 2–8 million, with the goal of investing in a

minimum of 10-12 agribusiness SMEs over the next 8 years. This segment of SMEs often faces challenges related to business skills, weak accounting and management systems, poor visibility and/or limited bandwidth to take advantage of market opportunities. And yet, SMEs are able to pivot and scale quickly, when the right resources are provided.

TechnoServe works alongside ZIP to implement the AFSF TAF alongside the AFSF. This is a \$1.9m grant-based facility tasked with supporting the capacity building of AFSF portfolio companies and deepening the development impact of the AFSF investments. The facility is tasked with providing TA to AFSF portfolio companies that receive investment through the AFSF, promoting new opportunities for smallholder farmers, farmer business groups, rural communities and enhancing local economic development. This will be achieved by linking private equity investments to economic opportunities for smallholder farmers (including women and youth) and micro-enterprises; promoting uptake by AFSF investee companies of inclusive business models thereby increasing beneficiary incomes and thus enhancing economic access to food. Moreover, the TAF will support AFSF investee companies with their growth objectives by providing them with expertise and support that drive best practice and innovation.

The AFSF TAF is able to support projects in and around portfolio companies under the following components:

#### *Inclusive Business Technical Assistance*

Inclusive business TA supports investee companies to plan and pilot new business models that improve commercial and broader community (or development) impact often demonstrating the business case for smallholder sourcing and supporting SMEs to integrate more farmers into their supply chains and micro-retailers into their distribution chains.

#### *Core Business Support*

The Core Business TA is intended to enable AFSF portfolio companies to attract and take full advantage of capital investments from the AFSF, realising their potential as high-growth companies, creating jobs and contributing to the agricultural and economic development of Africa.

#### *Ecosystem Development Technical Assistance*

Ecosystem Development projects will seek to strengthen market systems around AFSF portfolio companies and will be measured by quantitative indicators such as finance mobilised as well as qualitative indicators for market development such as policy change, industry influence and stakeholder learning. This component will serve as an important knowledge sharing conduit emphasizing key thematic and common areas/issues identified through the scoping, design and execution of TA.

## **B. Business Context and Programme Description**

The portfolio company is a non-bank financial institution established in 2016 to support trade and economic growth in Africa through trade finance with companies registered in United Kingdom, South Africa & Mauritius. It provides trade finance to unbanked SMEs, i.e. companies without physical brick-and-mortar collateral to be able to qualify for large institutional bank trade finance, at a competitive rate, providing end to end transaction support to these SMEs, thus helping them to grow their credit profiles over an average of three years; which positions them to become bankable by the large institutional bank trade financiers. It has completed over 185 transactions, with the majority of its underlying transactions being in soft commodities that include cashew, sesame, soya bean and cocoa, etc. across its core products: Finance for Pre & Post Shipment, Import, Stock, Storage, Receivables & Discounting. During the past 12-24 months the Company has facilitated trade for export predominantly from West African countries and is exploring a range of strategies to build and continue to strengthen its Southern Africa, and East African book.

When dealing with SMEs across the continent and offering trade finance facilities, one of the issues that Company has been facing is the overall cost that its potential borrowers have to bear (in addition to its interest cost and fees), that has become a “deal breaker” specifically due to the cost of legal fees predominately incurred when facility documents need to be drafted from scratch for every transaction.

As is typical in the lending business, the Company appoints a lawyer to draft a Facility Agreement, Tripartite Agreements (Logistics, Freight Forwarder, Warehousing and CMA) and security documents (i.e. Pledges/Assignments), Personal Guarantees, Loan Subordination Agreements, and seeks Legal Opinions for the relevant jurisdictions for each transaction (i.e. the country in which the borrower and where the security of the transaction are located). The Company will approach the market for quotes from around three (3) firms each time and will typically go for the most economical, best value for money and track record, then request the borrower to pay these legal document costs in advance. The average cost for these documents can sit at around \$40-70k and for SMEs this is too high a cost to bear so much that the Company has struggled to close a significant number of transactions. The company is currently forecasting an increase in transactions per annum and expects this legal cost on SMEs to continue to impact execution of future transactions.

There is an opportunity to standardise and streamline its SME trade finance agreement and supporting suite of documents (excluding legal opinions) to reduce the SMEs' transaction costs by more than 70% which would assist the Company to drive top-line growth from the increase in available facilities and potential loan book. The AFSF TAF sees an opportunity to provide technical assistance support through external legal expertise with experience in trade finance and contract law, to develop a standardised suite of facility documents that can be used as a template for future transactions with minimal customisation for various jurisdictions.

## **I. Duties and Responsibilities**

### **1. Establish requirements for SME trade finance agreements for the Company**

- a. Conduct initial consultations with the Company's management to understand the nature of their business, the commodities they trade in, and their requirements for trade finance agreements.
- b. Complete a thorough analysis of existing SME trade finance agreements that are currently being used across different jurisdictions and commodities in Africa; and review the terms and conditions of these agreements, identify common clauses, and analyse the legal and regulatory framework governing trade finance in each jurisdiction all of which subject to England & Wales Law.

### **2. Draft the standardised Agreement, and share for review and approval**

- a. Based on the analysis and research conducted, draft standardised SME trade finance facility documents (in line with BAFT, LMA and any other required industry associations) that include all the necessary clauses and provisions required for a typical trade finance transaction. The standardised agreement and supporting suite of documents will be designed to be flexible and easily customisable to suit the specific needs of each client or transaction
- b. Provide 2-3 draft examples for potential transactions in different jurisdictions and commodities to demonstrate ease of customisation and time saved - this will include adding or removing clauses as necessary, modifying the payment terms, and adjusting the security requirements to ensure that the trade finance agreements comply with all relevant legal and regulatory requirements in the jurisdiction where the example transaction will occur.
- c. Facilitate the review of the standardised SME trade finance agreement with management and obtain inputs and approval before finalising the document.

### **3. Facilitate testing of final standardised agreement**

- a. Test the agreement (and supporting documents) on at least 2 live transactions and make any necessary adjustments

- b. **Provide advisory support to the Company** to continuously improve the suite of standardised SME trade finance facility documents based on feedback from clients, changes in regulatory requirements, and best practices in the industry on an ad hoc basis on the first five (or as required) transactions.
  - c. Submit final standardised suite of facility documents.
4. **Monitoring and reporting:**
- a. Provide monthly reports to the Steering Committee to track the milestones and success of the project
  - b. Submit all documentation and or reports required in Sections 1-3.

All the above activities form the major and critical parts of the scope. Candidate selection and performance will be judged on capability to implement and successful achievement of these.

## II. Deliverables

Activity	Deliverable	Anticipated due date
Establish requirements for trade finance agreements for the Company (see Duties and Responsibilities, Section 1 (a) & (b))	Document detailing the assessment of current market standards and associations and plan to develop a suite of standardised facility documentation	13 October 2023
Draft the standardised Agreements, and share for review and approval (see Duties and Responsibilities, Section 2 (a) & (b))	Approved final draft standardised Agreements and document detailing common clauses across multiple jurisdictions	30 November 2023
Facilitate testing of final standardised agreement (see Duties and Responsibilities, Section 3 (a)-(c))	Document detailing adjustments made to the standardised agreement to make it more fit for purpose based on the assessments of the 2 transactions  <i>Plus</i>  Final standardized agreements	28 February 2024
Monitoring and reporting (see Duties and Responsibilities, Section 4 (a) & (b))	Submission and approval of monthly project progress reports to Steering Committee/Management and final reports for each milestone detailed above	From 18 September 2023 – 28 February 2024

### III. Expected Impact:

**Business impact:** The commercial impact can be estimated to be a >10% increase in revenue.

**Developmental Impact:** The underdeveloped nature of the SME Trade Finance ecosystem in Africa could benefit from learning from an innovation such as this in future (the long-term) after it has been thoroughly tested by the Company, to increase the conversion of trade finance transactions and drive SME growth and deepen developmental impact.

### IV. Skills Required

- Experienced Legal Firms with expertise in the Structured Trade and Commodity Finance space, as well as expertise in legal and regulatory compliance and risk management of trade finance security across multiple jurisdictions in Africa. Ideally, an organisation with a track record of working with the portfolio company and successfully supporting boutique Trade Finance lenders with drafting, negotiating and implementing industry association (BAFT & LMA) Trade Finance legal agreements
- Track record of successfully supporting boutique Trade Finance companies with drafting and implementing robust Trade Finance legal agreements, specifically for those focused on SMEs within developing economies in Africa; and providing ad hoc support/advice on related legal matters.
- At least 15+ years of relevant experience required and partner/senior partner oversight and involvement
- Advanced degree in Law, with a focus on international trade, trade finance, financial, or contract law, or other relevant field preferred.
- Experience working with private boutique Trade Finance firms required.
- Prior similar consulting experience will be reviewed favourably.
- Strong stakeholder engagement and communication skills required.
- Demonstrated leadership skills, teamwork and relationship building.
- Proven expert research and analytical skills.
- Excellent written and verbal communication and interpersonal skills.
- Strong computer skills, including MS Word, PowerPoint, and Excel.
- Ability to work independently, flexibly, and responsively.
- Ability to adapt to changing working conditions.
- Ability to prioritise and meet deadlines.

## C. The Application and Subaward Process

### Application Submission

The subaward application process under this RFA will consist of two (2) phases of competition where full applications shall be submitted by interested parties to TechnoServe for evaluation. Applications should address:

- How the organization intends to carry out the project – proposed approach, actions/activities and timelines, and project/stakeholder management plan
- Milestones and results to be achieved over the life of the project
- Past performance and institutional capacity
- Team structure; roles and responsibilities of each team member

- Budget details
- Exit strategy

**Step 1:**

Applications will be developed and submitted by the Applicant to TechnoServe utilizing the templates provided (or other referenced material as stated in the RFA) in accordance with all guidelines by the stated submission deadline. Late submissions will not be accepted.

The main body of the technical proposal should be no longer than 5 pages.

**Step 2:**

Applications will be vetted by TechnoServe staff to ensure each application meets the requirements set forth in this RFA. Any applications failing to meet minimum requirements will be disqualified from competition. The minimum requirements include the eligibility criteria, use of application templates provided, submission by the deadline, etc.

**Step 3:**

Applications received within the application deadline that meet the minimum requirements set forth in the RFA will be evaluated by a Selection Committee using the following criteria:

<b>Selection Criteria</b>	<b>Scoring</b>
1. Relevance of the proposed approach in response to the RFA; Feasibility of planned activities and anticipated results	<b>30</b>
2. Illustrated capacity of the applicant to implement the project and past experience with similar projects	<b>30</b>
3. Qualifications of key personnel	<b>25</b>
4. Budget reasonableness and cost effectiveness	<b>15</b>
<b>Maximum Score</b>	<b>100</b>

**Step 4:**

The Selection Committee will recommend those applications with the highest scores for award. As applicable, the Selection Committee may request applicants to provide additional information and edit their applications. In such cases, the Selection Committee will also establish a deadline for submission of revised applications.

**Step 5:**

Successful applicants will be notified by TechnoServe and will begin to work with TechnoServe staff to revise their applications to be incorporated into a full subaward. This step will include a pre-award risk assessment.

**Step 6:**

Following the successful conclusion of the application process and acquisition of any required donor approvals, TechnoServe will issue the successful applicant(s) with a subaward with details on the scale, scope, cost, and terms and conditions. Whenever possible, TechnoServe will meet with new subrecipients to provide an orientation outlining the main requirements for performance and reporting.

**Step 7:**

Throughout the duration of the subaward, TechnoServe will monitor the subrecipient’s performance and compliance with all subaward terms and conditions.

**D: Program Budget Submission and Costing guidelines**

Individual subawards will vary depending on availability of funding, nature and scope of program activities, the period of implementation, and justification of costs proposed. Although consideration will be given to all applications received by the deadline. Subawards will be issued on a competitive basis and only to a selected number of applicants.

While reviewing application budgets and budget narratives, the Selection Committee will ensure that:

1. The budget application reflects all the resources necessary for program implementation (Direct and Indirect Costs, as applicable).
2. The budget narrative provides details on all types of costs planned, cost per unit and cost justification. The budget narrative should be prepared using the provided Budget Notes template (attached).
3. All costs budgeted are eligible. Budgeted costs categories may include but are not limited to:
  - a. **Personnel:** Salaries and benefits for full and part-time staff involved in the project. Staff can be paid only for activities performed within the framework of the proposed project. All personnel expenses must be justified with information on the role of the proposed staff in project implementation.
  - b. **Consultants and Other Outside Services:** Fees for any external consultants or contracted firms required to support subaward activities.
  - c. **Travel:** Flights, per diem, and any other required travel costs for project personnel to conduct implementation activities.
  - d. **Office Costs:** Any required cost for the subrecipient's local office to support project implementation.
  - e. **Other Direct Costs:** Any other direct costs of the project, such as costs for conducting trainings, developing publications, etc.
  - f. **Indirect Costs:** If applicable, organizational overhead costs.

**Pre-Agreement Costs** - TechnoServe will not reimburse costs incurred prior to the effective date of the subaward. In special cases where pre-agreement costs are necessary to comply with the proposed delivery schedule, TechnoServe may discuss and negotiate with the applicant the approval of certain pre-agreement costs. Such costs are only allowable with the prior written approval of TechnoServe.

#### **E. Submission Guidelines**

Applicants must submit their applications, budgetary information as well as any other information responding to the terms, conditions, specifications and requirements of this RFA to:

**TechnoServe**

To: Wadzanai Nyambayo, Senior Programme Manager

Email Address: [wnyambayo@tns.org](mailto:wnyambayo@tns.org)

**Applications must be received by the submission deadline specified on the first page of this RFA. Late submissions will not be accepted.**

#### **Attachments to this RFA:**

Attachment A: Budget Template