



Terms of Reference

Request for Proposals for the Recruitment of a Consulting Firm to Develop a Regulatory Framework for Establishing & Operating Data Centers and Providing Hosting & Cloud Computing Services in Two (2) Smart Africa Member States. **Extended**

Client Address	Smart Africa Secretariat 10 th Floor, Career Centre Building KG 541 ST, Kigali, Rwanda, PO Box: 4913 Tel: +250784013646 +250 788-300-581 Email: tenderenquiries@smartafrica.org www.smartafrica.org
RFP#:	074/SA/RFP/08/2022- Extended
Release date:	10 th August, 2022
Closing date:	25th September 2022; 5pm (Local time, Kigali)
Contact	For any questions or enquiries, please write to: tenderenquiries@smartafrica.org For Proposal Submissions: procurement@smartafrica.org

1. INTRODUCTION AND GENERAL BACKGROUND:

1.1 About Smart Africa Alliance:

The **Smart Africa Alliance** is a bold and innovative commitment from African Heads of State and Government to accelerate sustainable socio-economic development on the African continent with the vision to transform Africa into a Single Digital Market by 2030. Its 5 point manifesto seeks; to put ICT at the centre of national socio-economic development agenda, to improve access to ICT especially Broadband, to improve accountability, efficiency and openness through ICT, to put the Private Sector First and to leverage ICT to promote sustainable development.

As of June 2022, The Smart Africa Alliance membership included 32 Member States, International partner organizations including the Africa Union Commission (AUC) and International Telecommunications Union (ITU) **among others**, as well as International Private Sector Members. The Smart Africa Secretariat (SAS) is based in Kigali, Rwanda¹.

1.2 Project Background:

Data Centre and Cloud Computing infrastructure is vital to addressing the challenges associated with the digital infrastructure gaps within the broadband and internet ecosystem in Africa. As part of its project governance framework, the Smart Africa Secretariat launched the Data Centre and Cloud for Africa Project to address the challenges associated to the Data Centre and Cloud market in Smart Africa Member States.

Regulatory guidelines and standards are key to a successful Data Center and Cloud market in Africa. However, many African countries are yet to develop the required regulatory guidelines and standards to ensure that their respective regulatory bodies can effectively regulate and promote the growth of the Data Centre and Cloud Market. Most importantly, having a harmonized regulatory framework for the Data Center and Cloud ecosystem in Africa will enhance trade and investment in Africa, hence accelerate Africa opportunity within the global data economy. For a start, Smart Africa and its stakeholders are taking the required steps to support two (2) of its Member States to develop a regulatory framework for establishing & operating data centers and providing hosting & cloud computing services in their respective countries.

2. OBJECTIVES AND SCOPE FOR THE CONSULTANCY:

2.1 The Strategic Objectives of the Consultancy:

The strategic objectives of the consultancy are as follows:

- a. To develop a regulatory framework for establishing & operating data centers and providing hosting & cloud computing services in two (2) Smart Africa Member States.
- b. To establish and promote a baseline for the two (2) Smart Africa Member States to enact the required laws or enhance the legal regime for the full implementation of the regulatory framework for establishing & operating data centers and providing hosting & cloud computing services.

2.2 The Scope of the Consultancy:

The scope of the consultancy shall cover the underlisted:

- a. **Data Center Service Provider and Operations:**
 - i. Scope of the regulatory framework for the establishment and operations of a Data center services.

¹ <https://smartafrica.org>

- ii. Registration, licensing and/or authorization for the establishment and operations of a Data center services.
- iii. Data Center design process, space planning as well as the selection and evaluation of a site for the establishment and operations of a Data center services.
- iv. Guidelines for architectural design, structural design, mechanical design, and cooling system design for the establishment and operations of a Data center services.
- v. Guidelines for fire protection, cabling system and cabling pathways for the establishment and operations of a Data center services.
- vi. Quality control standards, quality assurance standards, high availability, key performance indicators and global ISO standards or any other global standards for the establishment and operations of a Data center services.
- vii. Environmental control standards, social standards, security systems as well as management and operations systems for the establishment and operations of a Data center services.
- viii. Rewards and penalties for the adoption or otherwise of the developed regulatory standards or legal regime.
- ix. Regulatory Authority power, general provisions, transition measures and related documents.
- x. Any other item that will enhance the regulatory framework.

b. Cloud Service Provider and Operations:

- i. Scope of the regulatory framework to provide cloud computing services.
- ii. Registration and licensing to provide cloud computing services.
- iii. Guidelines for subscriber data, data classification, data classification responsible and content transfer for the provision of cloud computing services.
- iv. Data embassy concepts and management, Data protection, data governance, cybersecurity, and intellectual property right for the provision of cloud computing services.
- v. Subscriber protection, service contracts, and mandatory minimum contract terms for the provision of cloud computing services.
- vi. Quality control Standards, quality assurance standards, content filtering, high availability, key performance indicators and global ISO standards or any other standards for the provision of cloud computing services.
- vii. Environmental control standards, social standards, security systems, management, and operations systems for the provision of cloud computing services.
- viii. Rewards and penalties for the adoption or otherwise of the developed regulatory standards or legal regime for cloud computing services.
- ix. Regulatory Authority power, general provisions, transition measures and related documents for the provision of cloud computing services.
- x. Any other item that will enhance the regulatory framework for the provision of cloud computing services.

2.3 The Main Outcomes and Deliverables for the Consultancy:

The main outcomes and deliverables for the Consultancy are as follows:

- a) **An approved Inception Report** that will guide the Consulting firm and Stakeholders and indicate expectations on the Consultancy services. The inception report shall be both in English and French.
- b) **A final and approved Detailed Regulatory Framework for the respective two (2) Smart Africa Member States** for establishing & Operating Data Centers and Providing Hosting & Cloud Computing Services.

3. METHODOLOGY AND APPROACH:

The mission shall be carried out according to this term of reference and according to a contractual framework to be defined between the Smart Africa Secretariat and the consulting Firm.

The Smart Africa Secretariat will assist the Consulting Firm, as far as possible, in seeking contacts and possible authorizations related to the scope defined in this document. Nonetheless, the Consulting Firm is expected to submit a proposal which includes but not limited a detailed project plan and inception report.

The mission shall be carried out by the Consulting firm with National stakeholders onsite engagement workshops, support from the national Project Working Group which shall be composed of senior government officials and lawyers in charge of the development of data centers of each selected Smart Africa member states and also representatives of private sector members as well as national and global organizations within the data center and cloud ecosystem.

The consultant's methodological approach must include the following principles and any other principle where appropriate:

- a) Integrate existing international guidelines and recommendations.
- b) Meet with key contacts in government and other institutions, with Smart Africa Alliance members and the Project Working Group.
- c) Organize and participate in consultation and feedback workshops during the consultancy service.
- d) Write an interim report for each planned framework and provide a presentation of interim reports at workshops in both French and English languages.
- e) Collect comments on each draft report or framework and make consequential revisions in the final versions both in English and French.

4. DURATION OF THE ASSIGNMENT:

The selected consulting firm must carry out the project within **four (4)** months from the date of signing the contract for the two (2) Smart Africa Member States. The indicative timetable is as follows:

Timeline	Deliverables
T0	Start of the project and adoption of a schedule for the execution of the mission with the dates of the deliverables.
T0 + 8 Weeks	Engage Smart Africa Secretariat, the two Smart Africa Member States, the project working group members and other selected stakeholders to discuss the roadmap for the consultancy services. Carry out the framework development with of all relevant areas. Conduct onsite national stakeholders' engagement workshops with stakeholders within the data center and cloud regulatory ecosystem. Consult public and private actors from the Smart Africa Alliance and the project working Group through online workshops and face-to-face where appropriate .
T0 + 10 Weeks	Organization of additional workshops to present initial outcomes or findings to receive stakeholders' feedback.

Timeline	Deliverables
T0 + 12 Weeks	Organize one (1) validation workshop in the roadmap development for each of the two Smart Africa Member State.
T0 + 16 Weeks	Finalization of documents incorporating the remarks of the validation workshop. Submission of final copies of the Regulatory Framework to Smart Africa Secretariat and each of the respective two Smart Africa Member States.

5. PROFILE OF THE FIRM:

Applicants must be a consulting firm fully registered with a formal intention to conclude an agreement on its own or having concluded a joint venture agreement. In the event of a joint venture bidding, all the member parties are jointly and severally liable for the contractual clauses. Applicants may where necessary, collaborate with other consulting firms to bid for the assignment.

Applicants must provide any document that the Smart Africa Secretariat may reasonably request, establishing to the satisfaction of Smart Africa being the Contracting Authority that they continue to be eligible to compete.

The Firm must provide evidence of at least four (4) similar assignments in the telecommunications sector (Data Centre & Cloud Services). It shall clearly and precisely indicate the composition of the mission team only proven by duly signed and stamped recommendation letters.

The consulting firm(s) must meet the qualification requirements of at least 10 years of professional experience in one or all the following sectors: telecommunications sector regulation in planning, management, operation of Data Centers & Cloud Services. Experience in Africa or other developing countries will be an added advantage:

The key human resources for this project will be:

a) Lead Consultant, Legal and Regulatory Expert:

- i. The Lead Consultant should be holding a first degree or master's degree in law specialising in regulatory, commercial law or company law or relevant area from a recognized University and have a proven, extensive experience of at least 10 years on telecommunication/ICT regulation related issue, with a particular emphasis on Data Centre and Cloud services.
- ii. Years of experience to be proved by academic certificates and signed detailed curriculum Vitae.
- iii. Must have proven skills and experience in data center and cloud service hosting related negotiations and regulations.
- iv. He/she should have experience in similar regulatory telecommunication projects.
- v. He/she should have a demonstrable track record in project management and in coordinating large diverse teams/stakeholders, in complex working environment.
- vi. He/She should have high level understanding of regulatory, policy issues and development issues pertaining to Data Centre, Cloud and Network Infrastructure in Africa.

- vii. Proven experience in preparing Multinational Development Banks (MDBs) works Programmes and an extensive experience with MDBs financial and contracting guidelines and procedures.
- viii. Excellent command of English and report writing skills are required. Working Knowledge of French is required.
- ix. Any other relevant qualification and experience will be an added advantage.

b) Data Centre and Cloud Computing Expert:

- i. The Expert should have a university degree in Engineering or Computer Science or relevant area.
- ii. Must have proven experience in Data center and cloud services deployment and operations.
- iii. Years of experience to be proved by academic certificates and signed detailed curriculum Vitae.
- iv. The Expert must have at least 10 years of progressive working experience in the Data Centre and Cloud in general. Working experience in Africa will be an added advantage.
- v. Strong Experience in carrying out feasibility studies and in the formulation of Data Centre, Cloud, networking and infrastructure strategies.
- vi. The expert should have an excellent command of English with good report writing skills. Knowledge of French will be an added advantage.

c) Project Management Support Officer:

- i. He/She should be holding a degree in ICT field from a recognized University and have a proven experience of at least 5 years of providing project management support on telecommunication/ICT projects.
- ii. Years of experience to be proved by academic certificates and signed detailed curriculum Vitae.
- iii. Must have proven skills and experience in project management tools and be able to provide project management support to the project.
- iv. Excellent command of English and report writing skills are required. Working Knowledge of French is required.
- v. Any other relevant qualification and experience will be an added advantage.

6. EVALUATION OF PROPOSALS:

The following model will be used to evaluate all respondents and proposals submitted.

6.1 Technical Criteria:

Item	Point Range
Approach, Methodology and Work Plan to be used by the Firm	
<ul style="list-style-type: none"> • Proposal Approach, Methodology and Work Plan: <ul style="list-style-type: none"> i. Relevance of the suggested approach and methodology: 20 ii. Feasibility and Comprehensiveness of project work plan: 20 	/40
Experience, Qualifications and Competence of the Firm	
<ul style="list-style-type: none"> • Number of years of Experience of the firm in similar projects: <ul style="list-style-type: none"> i. 10 years and above: 10 ii. Between 5 and 10 years: 5 iii. Below 5 years. 0 	/10
Teams Experience, Qualifications and Competence:	

<ul style="list-style-type: none"> • Lead Consultant, Legal & Regulatory Expert (Head of Mission): <ul style="list-style-type: none"> i. 10 years and above: 15 ii. Between 5 and 10 years: 10 iii. Less than 5 years: 0 	/15
<ul style="list-style-type: none"> • Data Centre and Cloud Computing Expert: <ul style="list-style-type: none"> i. 10 years and above: 10 ii. Between 5 and 10 years: 5 iii. Less than 5 years: 0 	/10
<ul style="list-style-type: none"> • Project Management Support Officer: <ul style="list-style-type: none"> i. 10 years and above: 5 ii. Between 5 and 10 years: 3 iii. Less than 5 years: 0 	/5
Firms References or Recommendations:	
<ul style="list-style-type: none"> • 4 similar assignments with the requested proof and details, signed and stamped with logo of the entity recommending in the letterhead: <ul style="list-style-type: none"> i. 4 similar assignments: 20 ii. 3 similar assignments: 15 iii. 2 similar assignments: 10 iv. 1 similar assignment: 5 v. Less than 1 similar assignment: 0 	/20

The financial proposal of only those firms will be opened which secure a minimum score of 70/100 in the technical evaluation.

St= Score for the Technical Evaluation

6.2 Financial criteria:

Once the technical criteria have been evaluated, the costs of all bids will be listed from low to high. Computing the cost criteria score will be accomplished by use of the following formula:

$$\frac{\text{Lowest Cost of All Proposals}}{\text{Cost of Bid for Respective Firm}} \times 100 = \text{Financial Score} = Sf$$

The Applicant getting maximum marks on 80-20 weightage (80% for technical and 20% for financial) will be selected as Consultants for the Client. The weights given to the Technical (T) and Financial Proposals (F) are: T = 0.80 and F = 0.20

The Final Score (S) is calculated as follows: $S = St * T + Sf * F$

7. INFORMATION AND SUBMISSION REQUIREMENTS:

7.1 Submission Requirements:

A specific outline must be followed to facilitate the Smart Africa Secretariat's review and evaluation of the responses received.

A response to this RFP must include the following sections in the order listed:

- a. A cover letter confirming the firm's interest to provide the services required.

- b. Mandatory documents (*Company registration certificates, Social Security Contributions certificate and tax clearance*) or any appropriate documentation to demonstrate that the firm is registered legal entity. Other relevant documentation should be included if there may be any joint venture bidding or collaboration between or among applicants to bid for this assignment. *Failure to submit them will lead to automatic disqualifications.*
- c. A technical proposal containing the following content:
 - Executive summary
 - Business experience/Profiles
 - Approach and Methodology
 - Work Plan / Schedule
 - Mission team experience/profiles
 - Updated Curriculum Vitae for the team and academic certificates requested
 - Recommendation letters signed and stamped
- d. **Financial Proposal containing the following tables.**
 - Summarized Total Cost VAT Inclusive (Value of tax indicated on final cost)
 - Breakdown of a remuneration package.
 - Breakdown of reimbursable expenses.
 - Miscellaneous Expenses if any

Notes:

1. *Indicate your preferred payment terms under financial proposal*
2. *A withholding tax of 15% will be deducted from payments for Firms not VAT-registered with Rwanda Tax Administration (RRA) and 18% VAT will be applicable for registered firms in Rwanda.*
3. *All Financial Proposals/ offers should be password protected and Smart Africa will request for it for bidders who have been qualified in the technical evaluation*
4. *All Financial Offers should be quoted and submitted in USD Currency.*

4.1 Submission Process and Deadline

Soft copies of both Technical and financial proposals must be sent to: procurement@smartafrica.org showing each the nature of the offer concerned (technical or financial offer), not later than **25th September 2022** at, 5:00 PM local time (Kigali), addressed to Procurement Office of Smart Africa Secretariat, with subject marked **074/SA/RFP/08/2022: “Recruitment of a Consulting Firm To Develop A Regulatory Framework For Establishing & Operating Data Centers And Providing Hosting & Cloud Computing Services In Two (2) Smart Africa Member States”**

5. RIGHTS RESERVED

- a) This RFP does not obligate the Smart Africa Secretariat (SAS) to complete the RFP process. SAS reserves the right to amend any segment of the RFP prior to the announcement of a selected firm.
- b) SAS also reserves the right to remove one or more of the services from consideration for this contract should the evaluation show that it is in SAS’s best interest to do so.
- c) SAS also may, at its discretion, issue a separate contract for any service or groups of services included in this RFP. SAS may negotiate a compensation package and additional provisions to the contract awarded under this RFP.
- d) The Smart Africa reserves the right to debrief the applicants after the completion of the process due to expected high volume of applications and avoiding the compromise of the process.

Late proposals will be rejected.

6. VALIDITY

Proposals and quotes must remain valid for 180 days after the date of closing noted above. After, the closing date and time, all proposals received by the Smart Africa Secretariat become its property.

7. ENQUIRIES

Any inquiries will only be received at least 5 working days before the bid submission deadline. Prospective respondents who may have questions regarding this RFP may submit their inquiries to tenderenquiries@smartafrica.org.

8. ANTI-CORRUPTION

Smart Africa is committed to preventing and not tolerating any act of corruption and other malpractices and expects that all bidders will adhere to the same ethical principles.