**TENDER FILE / TERMS OF REFERENCE**

**(Restricted consultation procedure / Framework Contract)**

**Purchase of Consultancy services on the accountability of the judicial system in Montenegro**

The Council of Europe is currently implementing until 31 October 2018 (with possible extension until 30 April 2019) a Project on the Accountability of the Judicial System in Montenegro. In that context, it is looking for Provider(s) for Consultancy Services to be requested by the Council on an as needed basis.

1. TENDER RULES

This tender procedure is a restricted consultation procedure. **In accordance with Rule 1333 of the Secretary General of the Council of Europe on the procurement procedures of the Council of Europe[[1]](#footnote-2), the Organisation shall invite to tender at least three potential providers for any purchase between €2,000 (or €5,000 for intellectual services) and €55,000 tax exclusive.**

This specific tender procedure aims at concluding a **framework contract** for the provision of deliverables described in the Act of Engagement (See attached). A tender is considered valid as from the closing date for submission until the end of the project implementation period: 30 October 2018 renewable by notification until 30 April 2019. The selection of tenderers will be made in the light of the criteria indicated below. All tenderers will be informed in writing of the outcome of the procedure.

The tenderer must be either a natural person, or a duly registered company under sole proprietorship of a natural person, or equivalent, provided that the signatory of the Act of Engagement is individually liable for all obligations undertaken by the entity, and is the owner of the moral rights in any creations of the entity. If contracted by the Council of Europe, the signatory of the Act of Engagement shall provide the deliverables personally, in accordance with the terms as provided in the current Tender File, Act of Engagement and future Order Forms (see Section D below on ordering procedure).

Tenders shall be submitted **by email only** (with attachments) **to the email address indicated in the table below, with the following reference in subject: Consultancy services on the Accountability of Judicial System in Montenegro.** Tenders addressed to another email address **will be rejected.**

The general information and contact details for this procedure are indicated on this page. You are invited to use the CoE Contact details indicated below for any question you may have. **All questions shall be submitted at least 5 (five) working days before the deadline for submission of the tenders and shall be exclusively addressed to the email address indicated below with the following reference in subject: Q&A consultancy services in Montenegro.**

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| --- | --- |
| **Type of contract ►** | Framework contract  |
| **Duration ►** | Until 30 October 2018 (renewable by notification until 30 April 2019) |
| **Deadline for submission of tenders/offers ►** | **15 April 2018** |
| **Email for submission of tenders/offers ►** | dg1.judsys.mtnegro@coe.int |
| **Email for questions ►** | dg1.judsys.mtnegro@coe.int |
| **Expected starting date of execution ►** | 01 May 2018 |

1. EXPECTED DELIVERABLES

**Background of the Project**

The Council of Europe currently implements the Action on “Accountability of the Judicial System” financed under the European Union/Council of Europe Horizontal Facility for the Western Balkans and Turkey (Horizontal Facility) “

Beneficiaries of the Action are the Judicial Council, the Prosecutorial Council, the Supreme Court of Montenegro, the Supreme State Prosecutor`s Office, the Centre for Training in Judiciary and State Prosecution and the Ministry of Justice of Montenegro.

The objective of the Action is to enhance the capacity of the Judicial and Prosecutorial Councils, the Centre for Training in Judiciary and State Prosecution and the accountability of whole judicial system of Montenegro. This objective will be pursued through supporting the implementation of primary and secondary legislation regulating the area of judicial accountability, capacity building of the judicial and prosecutorial self-governing bodies and of the training institution

The Action will be completed on 31 October 2018 (with possible extension until 30 April 2019) and the overall budget is 750,000 Euros.

The Council of Europe is looking for a maximum of 20 providers (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with international experience in the rule of law expertise and specifically in the following fields:

* Recruitment, assessment and promotion of judges and prosecutors;
* Ethics, integrity and disciplinary rules and procedures for judges and prosecutors;
* Institutional and professional capacity of the Judicial and Prosecutorial Councils: organisation, human resources and financial management, ICT management, strategic planning and coordination, PR and external relations;
* Training for judges and prosecutors: strategic planning for judicial training institutions, initial and in-service programme design and evaluation, training of trainers and mentors;
* Other field of experience related to rule of law and accountability of the judicial system.

This Contract is currently estimated to cover up to 30 activities to be held by 30 October 2018 (with possible extension until 30 April 2019). This estimate is for information only and shall not constitute any sort of contractual commitment on the part of the Council of Europe. The Contract may potentially represent a higher or lower number of activities, depending on the evolving needs of the Organisation.

For information purposes only, the total budget of the project amounts to 750,000 Euros and the total amount of the object of present tender **shall not exceed 55,000 Euros tax exclusive** for the whole duration of the Framework Contract. This information does not constitute any sort of contractual commitment or obligation on the part of the Council of Europe.

**Scope of the Framework Contract**

Throughout the duration of the Framework Contract, pre-selected Providers may be asked to:

**1. Research, analysis, legal review which involves:**

- Analysis of specific laws and practices of implementation of existing mechanisms, rules and procedures, including the ones for dealing with recruitment, assessment and promotion of judges and prosecutors, implementation of code of ethics and disciplinary procedures, as well as drafting recommendations;

- Review of policy documents (e.g. national action plans and strategies in the area of judiciary);

- Analysis of the functioning of judicial institutions and reccomendations for improvement, development of starategies and action plans.

**2. Institutional capacity building, especially the following:**

- Delivering training sessions and workshops, including training and education materials for judges, prosecutors, members of the Judicial and the Prosecutorial councils on recruitment, assessment and promotion of judges and prosecutors;

-Best practices with regard to structure, functioning and powers of judicial and prosecutorial management bodies;

- Moderating or participating as speakers in conferences, roundtables and public debates with judges, prosecutors, members of their independent bodies and other judicial stakeholders on European standards of judicial accountability and best practices with regard to recruitment, evaluation and promotion of judges and prosecutors; judicial and prosecutorial ethical and disciplinary liability; strategic and human resource management in judiciary etc;

- Delivering training sessions and workshops for members of the ethical and disciplinary committees of the Judicial and Prosecutorial Councils on issues related to the implementation of ethical and disciplinary rules and procedures;

- Delivering training session for members and staff of the secretariats of the Judicial and Prosecutorial Councilson development of managerial capacities of judicial and prosecutorial management bodies; financial and human resource management; ICT management system and information secutiry standards for judicial institutions; best practices with regard to relation between judiciary and media etc;

- Supporting the Judicial Council in implementing measures and strategic goals from the PR and information sharing Strategy 2018-2020;

- Providing expertise in the process of strategic planning and development of the Strategy and Action Plan for the Judicial Training Center;

- Delivering training sessions and workshops for members of the governing structures, staff, trainers and mentors of the Judicial Training Center on topics related to training program design, methods of evaluation of trainings and trainers, methods and techniques of mentoring the candiates for judges and prosecutors etc;

- Supporting the Judicial Training Centre in the elaboration of its communication policy and developing a road map to increase the visibility and the transparency of the Centre.

Tenderers are invited to tender even if they cannot provide all types of deliverables, but are specialised in only one or several of those types of deliverables. Tenderers are requested to describe their specific expertise in their motivation letters (see below section F).

The above list is not considered exhaustive. The Council reserves the right to request deliverables not explicitly mentioned in the above list of expected services, but related to the field of expertise object of the present Framework Contract.]

In terms of **quality requirements**, the pre-selected Service Providers must ensure*, inter alia*, that:

* The services are provided to the highest professional/academic standard;
* Any specific instructions given by the Council – whenever this is the case – are followed.

In addition to the orders requested on an as needed basis, the Provider shall keep regular communication with the Council to ensure continuing exchange of information relevant to the project implementation. This involves, among others, to inform the Council as soon as it becomes aware, during the execution of the Contract, of any initiatives and/or adopted laws and regulations, policies, strategies or action plans or any other development related to the object of the Contract (see more on general obligations of the Provider in Article 3.1.2 of the Legal Conditions in the Act of Engagement).

Unless otherwise agreed with the Council, written documents produced by the Provider shall be in English (see more on requirements for written documents in Articles 3.2.2 and 3.2.3 of the Legal Conditions in the Act of Engagement).

1. FEES

Tenderers are invited to indicate their fees, by completing and sending the table of fees, as attached in Section A to the Act of Engagement. These fees are final and not subject to review. Tenders proposing fees above the exclusion level indicated in the Table of fees will be **entirely and automatically** excluded from the tender procedure.]

The Council will indicate on each Order Form (see Section D below) the global fee corresponding to each deliverable, calculated on the basis of the unit fees, as agreed by this Contract.]

1. HOW WILL THIS FRAMEWORK CONTRACT WORK? (Ordering PROCEDURE)

Once this consultation and the subsequent selection are completed, you will be informed accordingly. Deliverables will then be delivered on the basis of Order Forms submitted by the Council to the selected Provider (s), by post or electronically, on **an as needed basis** (there is therefore no obligation to order on the part of the Council).

**Pooling**

For each Order, the Council will choose from the pool of pre-selected tenderers the Provider who demonstrably offers best value for money for its requirement when assessed – for the Order concerned – against the criteria of:

* quality (including as appropriate: capability, expertise, past performance, availability of resources and proposed methods of undertaking the work);
* availability (including, without limitation, capacity to meet required deadlines and, where relevant, geographical location); and
* price.

Each time an Order Form is sent, the selected Provider undertakes to take all the necessary measures to send it **signed** to the Council within 4 (four) working days after its reception. If a Provider is unable to take an Order or if no reply is given on his behalf within that deadline, the Council may call on another Provider using the same criteria, and so on until a suitable Provider is contracted.]

**Providers subject to VAT**

The Provider, **if subject to VAT**, shall also send, together with each signed Form, a quote[[2]](#footnote-3) (Pro Forma invoice) in line with the indications specified on each Order Form, and including:

- the Service Provider’s name and address;

- its VAT number;

- the full list of services;

- the fee per type of deliverables (in the currency indicated on the Act of Engagement, tax exclusive);

- the total amount per type of deliverables (in the currency indicated on the Act of Engagement, tax exclusive);

- the total amount (in the currency indicated on the Act of Engagement), tax exclusive, the applicable VAT rate, the amount of VAT and the amount VAT inclusive .

**Signature of orders**

An Order Form is considered to be legally binding when the Order, signed by the Provider, is approved by the Council, by displaying a Council’s Purchase Order number on the Order, as well as by signing and stamping the Order concerned. Copy of each approved Order Form shall be sent to the Provider, to the extent possible on the day of its signature.

1. ASSESSMENT

*Exclusion criteria and absence of conflict of interests*

(by signing the Act of Engagement, you declare on your honour not being in any of the below situations)**[[3]](#footnote-4)**

Tenderers shall be excluded from participating in the tender procedure if they:

* have been sentenced by final judgment on one or more of the following charges: participation in a criminal organisation, corruption, fraud, money laundering;
* are in a situation of bankruptcy, liquidation, termination of activity, insolvency or arrangement with creditors or any like situation arising from a procedure of the same kind, or are subject to a procedure of the same kind;
* have received a judgment with res judicata force, finding an offence that affects their professional integrity or serious professional misconduct;
* do not comply with their obligations as regards payment of social security contributions, taxes and dues, according to the statutory provisions of their country of incorporation, establishment or residence;
* are or are likely to be in a situation of conflict of interests.

*Eligibility criteria*

* University degree in law, political sciences, social sciences, international relations or related fields;
* At least 5 years of professional experience in areas related to the rule of law and the judiciary, of which at least 2years acquired in an international context;
* Excellent knowledge of English language (at least level C1 of the CEFR );
* Financial offer not exceeding the limit set out in the Act of Engagement.

Only bids submitted in English shall be deemed eligible.

*Award criteria*

* Quality of the offer (90%), including:
* Relevance of the experience of the tenderer in the areas covered by this call, including previous assignments with international organisations (30%);
* Experience of international standards in the field of rule of law (30%);
* Knowledge of the national and regional context in the field of the judiciary or/and knowledge of contexts that are relevant to the areas covered by this call (30%).
* Financial offer (10%).

[For Consultancy ONLY: The Council reserves the right to hold interviews with eligible tenderers.]

Multiple tendering is not authorised.

1. DOCUMENTS TO BE PROVIDED
* A completed and signed copy of the **Act of Engagement[[4]](#footnote-5)** (See attached);
* A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria, including relevance of the experience of the tenderer and the level of oral and written English language;
* Contact details of 3 (three) references;
* Sample of an English text (article, legal opinion, report etc.) recently drafted by the tenderer;
* Motivation letter describing how the tenderer meets the requirements of the expected services (see Section B above) including indication of:

Specific areas of expertise: 1) Recruitment, evaluation and promotion within the judiciary and prosecutorial services (Council of Europe standards); 2) Ethics, integrity and disciplinary rules and procedures for judges and prosecutors; 3) strategic management in judiciary 4) financial and human resource management for judicial institutions; 5) ICT management for judicial institutions; 5) Media relations and communication for judicial institutions; 6) Strategic management and planning for judicial training institutions 7) Curricula design and evaluation of trainings for judges and prosecutors; 8) Other field of experience related to rule of law, and accountability of the judicial systems (please, specify);

Specific experience (see Section B above) with regard to: 1) draft analysis (e.g. analyses of specific laws/legislative reviews; reviews of policy documents; research), 2) institutional capacity building and/or 3) and training course development as well as development of guidelines, standard operative procedures, upgrading existing ones, producing support and training materials based on the participants needs analysis.

Tenderers may supplement motivation letters with documents proofing their knowledge, such as programmes of events and description of projects they participated in, titles and references of research they undertook and summaries of reports they wrote.

Registration documents, for sole proprietorships only.

**All documents shall be submitted in English, failure to do so will result in the exclusion of the tender.**

**If any of the documents listed above are missing, the tender will not be considered.**

**The Council reserves the right to reject a tender if the scanned documents are of such a quality that the documents cannot be read once printed.**

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1. The activities of the Council of Europe are governed by its [Statute](https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680306052) and its internal Regulations. Procurement is governed by the Financial Regulations of the Organisation and by [Rule 1333 of 29 June 2011 on the procurement procedures of the Council of Europe](https://wcd.coe.int/ViewDoc.jsp?p=&id=1807541&direct=true). [↑](#footnote-ref-2)
2. It must strictly respect the fees indicated in the Act of Engagement. In case of non-compliance with these fees, the Council of Europe reserves the right to terminate the Contract with the Provider, in all or in part. [↑](#footnote-ref-3)
3. The Council of Europe reserves the right to ask tenderers, at a later stage, to supply an extract from the record of convictions or failing that an equivalent document issued by the competent judicial or administrative authority of the country of incorporation, indicating that the first three above listed exclusion criteria are met, and a certificate issued by the competent authority of the country of incorporation indicating that the fourth criterion is met. [↑](#footnote-ref-4)
4. The Act of Engagement must be completed, signed and scanned in its entirety (i.e. including all the pages). The scanned Act of Engagement may be sent page by page (attached to a single email) or as a compiled document, although a compiled document would be preferred. For all scanned documents, .pdf files are preferred. [↑](#footnote-ref-5)