**TENDER FILE / TERMS OF REFERENCE**

**(Competitive bidding procedure / Framework Contract)**

**Purchase of** **consultancy services in the fields of AI in judicial systems and cyberjustice**

***Contract N°* (217/2022)**

The Council of Europe intends to set up an Artificial Intelligence Advisory Board (AIAB) to provide expert guidance and support on the use of cyberjustice tools and artificial intelligence applications in the justice sector and for the operationalisation of the principles of the European Ethical Charter on the use of artificial intelligence (AI) in judicial systems and their environment. In that context, it is looking for Provider(s) of consultancy services in the fields of artificial intelligence and information and communication technologies (ICT) that are used or planned to be used in judicial systems (as part of a dispute resolution process (cyberjustice) in a court or by justice professionals, etc., to be requested by the Council of Europe as needed.

1. TENDER RULES

This tender procedure is a competitive bidding procedure. **In accordance with Rule 1395 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 € 150,000 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 for 120 calendar days as from the closing date for submission. 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, a legal person or consortia of legal and/or natural persons.

Tenders shall be submitted **by email only** (with attachments) **to the email address indicated in the table below, with the following reference in subject: Tender - AIAB.** 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 TEN 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: Questions - AIAB**

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| **Type of contract ►** | Framework contract |
| **Duration ►** | Until 31 December 2022 |
| **Deadline for submission of tenders/offers ►** | **05 June 2022** |
| **Email for submission of tenders/offers ►** | **cepej@coe.int** |
| **Email for questions ►** | cepej@coe.int |
| **Expected starting date of execution ►** | 01 August 2022 |

1. EXPECTED DELIVERABLES

**Background of the Project**

The Council of Europe intends to set up a pool of experts that will provide expert guidance in the area of cyberjustice in general and on the use of artificial intelligence applications in the justice sector and for the operationalisation of the principles of the European Ethical Charter on the use of artificial intelligence (AI) in judicial systems and their environment in particular. This should entail the formation of an Artificial Intelligence Advisory Board (AIAB), according to the attached Terms of Reference.

The Council of Europe is looking for a maximum of 30 Providers (provided enough tenders meet the criteria indicated below).

Concerning the specific work of the AIAB, this Contract is currently estimated to cover up to 8 *activities*, to be held by the end of the two years mandate of the AIAB. 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 amount of the object of present tender **shall not exceed 150,000 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, the selected Providers may be asked to:

* propose a categorisation of tools and collecting information on AI and relevant cyberjustice applications implemented, as well as introducing and regularly updating this information in the Resource Centre on Cyberjustice and Artificial Intelligence;
* provide expert guidance and advice on all issues related to the use of AI in the justice system and cyberjustice particularly in relation to ethical perspectives and respect of fundamental rights;
* propose new CEPEJ strategies or conduct thematic studies and research concerning the use of AI in the justice system and cyberjustice, in particular the development of new CEPEJ tools or actions to ensure increased application of the CEPEJ AI Ethical Charter.

The above list is not considered exhaustive. The Council of Europe 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 standards;
* any specific instructions given by the Council of Europe – 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 the selection procedure is 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, terrorist financing, terrorist offences or offences linked to terrorist activities, child labour or trafficking in human beings;
* 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 an entity created to circumvent tax, social or other legal obligations (empty shell company), have ever created or are in the process of creation of such an entity;
* have been involved in mismanagement of the Council of Europe funds or public funds;
* are or appear to be in a situation of conflict of interest.

*Eligibility criteria*

* For natural persons and in case for legal persons and consortia for the assigned experts: studies in law or in political sciences, social sciences, or in mathematics, engineering, technical sciences (development of software etc.) or other related fields;
* strong professional experience in relation to justice or IT, a combination of both would be an asset;
* very good knowledge of English.

*Award criteria*

* Quality of the offer (80%), including:
  + expertise in justice and IT, ethics and/or fundamental rights, especially in the area of justice or IT applications;
  + capacity to adapt to the context (work of the CEPEJ in relation to cyberjustice and AI in judicial environment and latest developments in these matters).
* Financial offer (20%).

The Council reserves the right to hold interviews with eligible tenderers.

Multiple tendering is not authorised.

1. NEGOTIATIONS

The Council reserves the right to hold negotiations with the bidders in accordance with Article 20 of Rule 1395.

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; ( In case of legal persons and consortia the CVs of the assigned experts)
* A list of relevant publications and previously conducted assignments if not evident from the CV
* Registratio n documents, for legal persons only;
* Motivation letter (maximum two pages).

**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 Council of Europe reserves the right to reject the tender.**

**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.**

**\* \* \***

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 1395 of 20 June 2019 on the procurement procedures of the Council of Europe](https://search.coe.int/intranet/Pages/result_details.aspx?ObjectId=090000168094853e). [↑](#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 the following supporting documents:

   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 and sixth above listed exclusion criteria are met;

   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)