**CALL FOR TENDERS**

for the provision of National Short-Term ConsultanCY services on “Promoting Alternative Dispute Resolution (ADR) in Turkey”

**2022/AO/17**

|  |  |
| --- | --- |
| **Object of the procurement procedure ►** | National Short-Term Consultancy Services on “Promoting Alternative Dispute Resolution (ADR) in Turkey” |
| **Project ►** | Promoting Alternative Dispute Resolution (ADR) in Turkey |
| **Organisation and buying entity ►** | Council of EuropeDepartment for the Implementation of Human Rights, Justice and Legal Co-operation Standards |
| **Type of contract ►** | **Framework Contract** |
| **Duration ►** | Until 15 December 2023 |
| **Expected starting date ►** | 18 May 2022 |
| **Tender Notice Issuance date ►** | 06 April 2022 |
| **Deadline for tendering ►** | 27 April 2022 |

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The TERMS OF REFERENCE describe what will be expected from the selected Providers.

* [**The TENDER RULES** 6](#_Toc445392376)

The TENDER RULES explain the procedure through which the tenders will be submitted by the tenderers and assessed by the Council of Europe.

* **The ACT OF ENGAGEMENT** **(See Document attached)** is the document formalising the consent of the Parties to be bound by the LEGAL CONDITIONS, which are the legal provisions which will be applicable between the Council of Europe and the selected Providers. It also contains the TABLE OF FEES, which indicates the applicable fees, throughout the duration of the contract.

**HOW DOES A FRAMEWORK CONTRACT WORK?**

**Stage 1:**

**Selection** of qualified Providers through a call for tenders and signature of a framework contract with all the pre-selected Providers.

**Stage 2:**

**Order(s)** are addressed, on an as needed basis, throughout the duration of the contract, to the designated Provider(s).

**Execution** as from the date of signature of each Order, unless the Order concerned provides otherwise.

**HOW TO SUBMIT A TENDER?**

**Step 1:** Read the **TENDER FILE**

**Step 2:** Complete the **ACT OF ENGAGEMENT** andcollect therequired **SUPPORTING DOCUMENTS**, as listed in section G of the terms of reference (below).

**Step 3:** Send your **TENDER**, in accordance with the Tender Rules

**PART I –TERMS OF REFERENCE**

**CALL FOR TENDERS**

**for the provision of National Short-Term Consultancy SERVICES on “Promoting Alternative Dispute Resolution (ADR) in Turkey”**

**2022/AO/17**

1. **Background**

The overall objective of the ADR Project is to improve the effectiveness of the justice system and access to justice in Turkey by providing a faster dispute resolution for the citizens, businesses, legal persons and other organisations and institutions at large.

The ADR Project has three specific objectives:

1. The scope and application of the conciliation is enhanced/increased and implemented effectively, ensuring that the rights of minors, victims and offenders are protected. Skills and professionalisms of the staff of the Directorate General for Criminal Affairs within the Ministry of Justice, as well as conciliators, legal professionals and conciliation prosecutors are strengthened.
2. The scope of mediation and arbitration is enlarged as well as the use and scope of mediation and arbitration are increased in civil law. The capacity and qualifications of the staff of the Directorate General for Legal Affairs within the Ministry of Justice as well as mediators, legal professionals and judiciary are enhanced to ensure consistent and efficient mediation and commercial dispute resolution.
3. The capacity of the Ministry of Justice and the staff of the relevant Departments is enhanced in strategic and policy development of ADR mechanisms, including the issues pertinent to the design, management and financing of its services.

The project has a duration of 36 months.

Target groups of the project are the staff of the Ministry of Justice, judges, prosecutors, court staff lawyers, conciliators, mediators, arbitrators, academics, public/court users, business community, with a total of approximately 2,000 individuals.

End beneficiary institutions of the project are the Directorate General for Criminal Affairs and Directorate General for Legal Affairs within the Ministry of Justice.

The Council of Europe is looking for a maximum of 65 Provider(s) (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on analysis and advice, capacity building and communication in the fields of conciliation, mediation, arbitration and other ADR mechanisms.

This Contract is currently estimated to cover up to 100 activities, to be held by 15 December 2023. 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 4,000,000 Euros and the total amount of the object of present tender should in principle not exceed 250,000 Euros 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.

1. **LOTS**

The ADR Project aims at improving the effectiveness of the justice system and access to justice in Turkey by providing a faster dispute resolution for the citizens, businesses, legal persons and other organisations and institutions at large.

The present tendering procedure aims to select Provider(s) to support the implementation of the project and is divided into the following lots:

|  |  |
| --- | --- |
| Lots | Maximum number of Providers to be selected |
| Lot 1: Conciliation in criminal matters | 25 |
| Lot 2: Mediation and arbitration | 25 |
| Lot 3: Strategic and policy development of ADR mechanisms | 15 |

Lot 1 concerns consultancy on the enhancement of conciliation in criminal matters and its effective implementation by ensuring the protection of the rights of minors, victims and offenders.

Lot 2 concerns consultancy on increasing the use and scope of mediation and arbitration in civil law.

Lot 3 concerns consultancy on strategic and policy development of alternative dispute resolution (ADR) mechanisms, including design, management and financing of its services.

The Council will select the abovementioned number of Provider(s) per lot, provided enough tenders meet the criteria indicated below. Tenderers are invited to indicate which lot(s) they are tendering for (see Section A of the Act of Engagement).

1. **SCOPE OF THE FRAMEWORK CONTRACT**

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

Under Lot 1: Conciliation in criminal matters

* Assess the needs of the current system of conciliation in criminal law in Turkey; provide comparative analysis of best practices in member States and existing international conciliation models;
* Conduct monitoring of the implementation of conciliation mechanism and practical application of existing regulations;
* Provide advice with regard to piloting new models of conciliation in selected courthouses, including by designing and developing new models of conciliation and support their implementation within the relevant national legislation;
* Conduct training needs assessment (TNA) of conciliators and staff of conciliation bureaux;
* Develop and update conciliation training programmes and materials (including videos) and prepare a refresher conciliation training programme and materials; conduct training of trainers (ToT);
* Deliver seminars for judges, prosecutors and other stakeholders on conciliation;
* Develop new or update existing manuals, guidebooks or handbooks on conciliation for judges, staff of conciliation bureaux, prosecutors and lawyers;
* Develop handbooks, general information leaflets and posters for conciliation users and general public.

Under Lot 2: Mediation and arbitration

* Conduct a gap analysis and review the national legislation related to mediation and European best practices and other international models;
* Conduct research on the feasibility on aspects of organisation of mediation;
* Conduct a needs analysis of the institutional capacity of mediation bureaux and the training needs assessment of their staff;
* Assess the mediation system under the Regional Courts of Appeal (RCAs);
* Evaluate the existing legal framework and practices in the field of family law and referral mediation as well as develop methodology for a case study on monitoring selected types of cases in line with European standards;
* Provide advice on defining a case management, monitoring and evaluation system of the mediation services; prepare a model pilot training programme and conduct training on the proposed case management, monitoring and evaluation system for the staff of private mediation centres;
* Provide advice for the development of a unified assessment and accreditation system for mediators;
* Conduct information seminars on mediation and arbitration for members of the judiciary and lawyers in pilot regions;
* Design and conduct basic, advanced and specialised training courses and ToTs on mediation, practical examination of mediators and their accreditation;
* Conduct awareness raising seminars on mediation and arbitration, roundtable discussions and information meetings with businesses and their representatives;
* Prepare practical handbooks, guidebooks, public information leaflets and posters on mediation and arbitration for relevant target groups and the general public.

Under Lot 3: Strategic and policy development of ADR mechanisms

* Participate, make presentations and provide expert input on key issues related to ADR and ADR policy development at international high-level conferences, dedicated fora and meetings;
* Provide advice on the development of an awareness raising strategy on the existing ADR mechanisms and its implementation.

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 unit fees, by completing the table of fees, as attached in Section A of 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 E below) the global fee corresponding to each deliverable, calculated on the basis of the daily 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 carried out on the basis of Order Forms submitted by the Council to the selected Service 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 of the relevant lot 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 2 (two) 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[[1]](#footnote-1) (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 Service 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* (by signing the Act of Engagement, you declare on your honour not being in any of the below situations) [[2]](#footnote-2)

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;
* are or if their owner(s) or executive officer(s), in the case of legal persons, are included in the lists of persons or entities subject to restrictive measures applied by the European Union (available at [www.sanctionsmap.eu](http://www.sanctionsmap.eu)).

*Eligibility criteria*

Tenderers shall demonstrate that they fulfil the following criteria (to be assessed on the basis of all supporting documents listed in Section G):

Common criteria for all lots:

* University degree in law, political sciences, social sciences, or related fields, or equivalent research experience;
* Minimum 2 years of recent work experience in providing consultancy services for national institutions on ADR, in particular, conciliation, mediation and/or arbitration;
* Fluency in Turkish and English with good verbal and written skills (at least level B2 of the CEFR for both languages).

Criteria for specific lots:

For Lot 1 (Conciliation in criminal matters):

* Minimum 5 years of work experience in the field of conciliation, dealing with at least one of the following issues:
	+ needs assessment, research, legislative review and comparative analysis;
	+ case monitoring, policy design and drafting of recommendations;
	+ development and implementation of training programmes;
	+ delivering seminars for judges and prosecutors;
	+ preparation of practical information tools for professionals and awareness raising materials for conciliation users.

For Lot 2 (Mediation and arbitration):

* Minimum 5 years of work experience in the field of mediation and/or arbitration, dealing with at least one of the following issues:
	+ needs assessment, research, legislative review and comparative analysis;
	+ evaluation of mediation services, case management and performance assessment;
	+ policy design and provision of practical recommendations;
	+ development and implementation of training programmes for mediation/arbitration professionals;
	+ delivering seminars for judges, lawyers and mediation/arbitration professionals;
	+ preparation of practical information tools for mediation/arbitration professionals and/or awareness raising materials for the users.

For Lot 3 (Strategic and policy development of ADR mechanisms):

* Minimum 3 years of work experience in the field of ADR mechanisms, dealing with at least one of the following issues:
	+ development of policies on the strategic planning and co-ordination of ADR mechanisms;
	+ design of awareness raising strategy and public information campaign.

*Award criteria*

* Criterion 1: Quality of the offer (90%), including:
	+ Relevance of the experience and expertise of the tenderer in the areas covered by this call (40%);
	+ Experience in providing consultancy services for national institutions on ADR, in international co-operation programmes implemented by the Council of Europe or another international organisation (30%);
	+ Excellent writing and speaking skills in Turkish and in English (20%).
* Criterion 2: Financial offer (10%).

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;[[3]](#footnote-3)
* A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils eligibility criteria, indicating CEFR level both in Turkish and English, and highlighting experience in the specific lots and areas covered by this call;
* A motivation letter up to 1 page, highlighting experience in the specific lots and areas covered by this call;
* Sample of a document in Turkish **or** English (e.g. needs assessment report, policy paper, training material, brochure, article and or speech) recently authored by the tenderer concerning one of the substantive focus areas of the project, namely conciliation, mediation, arbitration or other ADR mechanisms;
* Contact details of 3 (three) references;
* Registration documents, for legal persons only;
* A list of all owners and executive officers, for legal persons only.

**All documents shall be submitted in English (except the sample document, which can be submitted in Turkish), 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.**

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# PART II – TENDER RULES

**CALL FOR TENDERS**

**for the provision of National Short-Term Consultancy services on “Promoting Alternative Dispute Resolution (ADR) in Turkey”**

**2022/AO/17**

**ARTICLE 1 – IDENTIFICATION OF THE CONTRACTING AUTHORITY**

* 1. **Name and address**

**COUNCIL OF EUROPE**

Directorate General of Human Rights and Rule of Law (DG I)

* 1. **Background**

The activities of the Organisation are governed by its Statute. These activities concern the promotion of human rights, democracy and the rule of law. The Organisation has its seat in Strasbourg and has set up external offices in about 20 member and non-member states (in Ankara, Baku, Belgrade, Brussels, Bucharest, Chisinau, Erevan, Geneva, Kyiv, Lisbon, Moscow, Paris, Podgorica, Pristina, Rabat, Sarajevo, Skopje, Tbilisi, Tirana, Tunis, Warsaw, Venice and Vienna).

Council of Europe procurements are 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.

The Organisation enjoys privileges and immunities provided for in the General Agreement on Privileges and Immunities of the Council of Europe, and its Protocols, and the Special Agreement relating to the Seat of the Council of Europe.[[4]](#footnote-4)

Further details on the project are provided in the Terms of Reference.

**ARTICLE 2 – VALIDITY OF THE TENDERS**

Tenders are valid for 120 calendar days as from the closing date for their submission.

**ARTICLE 3 – DURATION OF THE CONTRACT**

The duration of the framework contract is set out in Article 2 of the Legal Conditions in the Act of Engagement.

**ARTICLE 4 – CHANGE, ALTERATION AND MODIFICATION OF THE TENDER FILE**

Any change in the format, or any alteration or modification of the original tender will cause the immediate rejection of the tender concerned.

**ARTICLE 5 – Content of the tender file**

The tender file is composed of:

* Technical specifications/Terms of reference;
* Tender rules;
* An Act of Engagement, including the Legal Conditions of the contract.

**ARTICLE 6 – LEGAL FORM OF TENDERERS**

The tenderer must be either a natural person, a legal person or consortia of legal and/or natural persons.

**ARTICLE 7 – SUPPLEMENTARY INFORMATION**

General information can be found on the website of the Council of Europe: <http://www.coe.int>

Other questions regarding this specific tendering procedure shall be sent at the latest by **one week before the deadline for submissions of tenders**, in English, and shall be exclusively sent to the following address: dg1.adr.tr@coe.int

This address is to be used for questions only; for modalities of tendering, please refer to the below Article.

**ARTICLE 8 – MODALITIES OF THE TENDERING**

Tenders must be sent to the Council of Europe **electronically.**

**Electronic copies** shall be sent only to cdm@coe.int with the subject line “2022AO17 – National consultancy services\_ADR”. Tenders submitted to another e-mail account will be excluded from the procedure;

**ARTICLE 9 – Deadline for submission of tenders**

The deadline for the submission of tenders is 27 April 2022.

**ARTICLE 10 – ASSESSMENT OF TENDERS**

Tenders shall be assessed in accordance with Rule 1395 of 20 June 2019 on the procurement procedures of the Council of Europe. Assessment shall be based upon the criteria as detailed in the Terms of Reference.

**ARTICLE 11 – NEGOTIATIONS**

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

\* \* \*

**FINAL CHECK LIST**

1. **BEFORE SENDING YOUR TENDER, CHECK THAT IT INCLUDES:**
* A completed and signed copy of the Act of Engagement;
* A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils eligibility criteria, indicating CEFR level both in Turkish and English, and highlighting experience in the specific lots and areas covered by this call;
* A motivation letter up to 1 page, highlighting experience in the specific lots and areas covered by this call;
* Sample of a document in Turkish or English (e.g. needs assessment report, policy paper, training material, brochure, article and or speech) recently authored by the tenderer concerning one of the substantive focus areas of the project, namely conciliation, mediation, arbitration or other ADR mechanisms;
* Contact details of 3 (three) references;
* Registration documents, for legal persons only;
* A list of all owners and executive officers, for legal persons only.
1. **HOW TO SEND TENDERS?**

Tenders must be sent to the Council of Europe **electronically.**

**Electronic copies** shall be sent only to cdm@coe.int with the subject line “2022AO17 – National consultancy services\_ADR”. Tenders submitted to another e-mail account will be excluded from the procedure.

The deadline for the submission of tenders is 27 April 2022.

1. It must strictly respect the fees indicated in Section A of the Act of Engagement as recorded by the Council of Europe. In case of non-compliance with the fees as indicated in the Act of Engagement, the Council of Europe reserves the right to terminate the Contract with the Service Provider, in all or in part. [↑](#footnote-ref-1)
2. 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 en equivalent document issued by the competent judicial or administrative authority of the country of incorporation, indicating that the first three and sixth requirements listed above under “exclusion criteria” are met;
	* A certificate issued by the competent authority of the country of incorporation indicating that the fourth requirement is met;
	* For legal persons, an extract from the companies register or other official document proving ownership and control of the Tenderer;
	* For natural persons (including owners and executive officers of legal persons), a scanned copy of a valid photographic proof of identity (e.g. passport). [↑](#footnote-ref-2)
3. 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-3)
4. Available on the website of the Council of Europe Treaty Office: [www.conventions.coe.int](http://www.conventions.coe.int) [↑](#footnote-ref-4)