**TENDER FILE / TERMS OF REFERENCE**

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

**National Short-Term** **Consultant Positions on “Promoting Alternative Dispute Resolution (ADR) in Turkey”**

**Contract N°**

The Council of Europe is currently implementing the Project on “Promoting Alternative Dispute Resolution (ADR) in Turkey” [hereinafter “ADR Project”]. In that context, it is looking for Provider(s) for the provision of local short-term consultancy services to be requested by the Council on an as needed basis.

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-1), 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 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, or a legal person except consortia.

Tenders shall be submitted **by email only** (with attachments) **to the email address indicated in the table below, with the following reference in subject: ADR Project.** 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 by 13:00 (GMT+2 -Ankara-time zone) on 19 April 2021 and shall be exclusively addressed to the email address indicated below with the following reference in subject: Questions-Tender-ADR Project.**

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| --- | --- |
| **Type of contract ►** | Framework contract  |
| **Duration ►** | Until 15 December 2023 |
| **Deadline for submission of tenders/offers ►** | **23 April 2021** |
| **Email for submission of tenders/offers ►** | **ankara.office@coe.int** |
| **Email for questions ►** | ankara.office@coe.int |
| **Expected starting date of execution ►** | 24 May 2021 |

1. EXPECTED DELIVERABLES

**Background of the Project**

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 will last 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 120 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 the 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.

**Lots**

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).

**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 gaps 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 handbook, 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 per lots is not considered exhaustive. The Council reserves the right to request deliverables not explicitly mentioned in the above lists of expected services, but related to the field of expertise object of the present Framework Contract for the lot concerned.

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.

If contracted by the Council of Europe, the deliverables shall be provided personally by the persons identified in the offer of the Provider whose CVs have been presented to the Council of Europe (See section E. below), in accordance with the terms as provided in the present Tender File and Act of Engagement.

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 for 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[[2]](#footnote-2) (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-3)**

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 or are likely to be in a situation of conflict of interests;
* 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*

Common criteria for all lots:

* Master’s level university degree in law, political sciences, social sciences, or related fields, or equivalent research experience;
* In-depth knowledge of national context in relation to the regulation and functioning of ADR mechanisms, in particular, conciliation, mediation and/or arbitration;
* Minimum 2 years of recent work experience in providing consultancy services for national institutions on ADR;
* Excellent writing and speaking skills in Turkish and preferably good knowledge of English.

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*

* 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, preferably in international co-operation programmes implemented by the Council of Europe or another international organisation (30%);
	+ Excellent writing and speaking skills in Turkish (mother tongue level), and preferably good knowledge of English (20%).
* Financial offer (10%).

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-4)** (See attached);
* A detailed CV, preferably in Europass Format, 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;
* A scanned copy of a valid photographic proof of identity (e.g. passport), for natural persons only (including from owners and executive officers of legal persons);
* 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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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-1)
2. It must strictly respect the fees indicated in the Financial Offer attached to the original Provider’s tender as recorded by the Council of Europe. In case of non-compliance with the fees as indicated in the original Provider’s tender, the Council of Europe reserves the right to terminate the Contract with the Provider, in all or in part. [↑](#footnote-ref-2)
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 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;

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-3)
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-4)