

## TENDER FILE / TERMS OF REFERENCE (Competitive bidding procedure / Framework Contract)

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

### Purchase of consultancy services on relations between the judiciary and the mainstream, online and social media within a project to strengthen independence and accountability of the judiciary in Serbia.

The Council of Europe is currently implementing and until 23/05/2022 will implement a Project on strengthening independence and accountability of the judiciary in Serbia. In that context, it is looking for Providers for the provision of consultancy services on relations between the judiciary and the mainstream, online and social media to be requested by the Council on an as needed basis.

#### A. 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<sup>1</sup>, 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 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 – relations between the judiciary and the mainstream, online and social media.** 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: Question: Consultancy – relations between the judiciary and the mainstream, online and social media.**

Type of contract ▶	Framework contract
Duration ▶	Until 23 May 2022
Deadline for submission of tenders/offers ▶	<b>18 November 2020</b>
Email for submission of tenders/offers ▶	DGI.HF.SLGIT.belgrade@coe.int
Email for questions ▶	DGI.HF.SLGIT.belgrade@coe.int
Expected starting date of execution ▶	18 November 2020

<sup>1</sup> The activities of the Council of Europe are governed by its [Statute](#) 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](#).

## B. EXPECTED DELIVERABLES

### Background of the Project

As a part of the European Union and Council of Europe programmatic framework Horizontal Facility for the Western Balkans and Turkey II, the Council of Europe is currently implementing the project *Strengthening Independence and Accountability of the Judiciary in Serbia*.

The project focuses on building capacities of judges, prosecutors, judicial and prosecutorial assistants to detect and counter risks of undue influence. It also contributes to reinforcing internal mechanisms, rules and procedures within the High Judicial Council (HJC) and the State Prosecutorial Council (SPC) to ensure guarantees of judicial and prosecutorial independence. The project is also aiming to address shortcomings in the Serbian judiciary in the sphere of competencies, ethics and discipline by improving the relevant legislature, supporting the HJC and the SPC ethics committees, and by designing measures to introduce a system of confidential counselling within both the judiciary and the prosecution service. The project aims as well at establishing a fair and merit-based system of performance evaluation and career advancement of judicial professionals. Finally, the Action intends to enhance cooperation and information flow between the executive and the judiciary.

Beneficiaries of the project are Serbian national authorities – the Ministry of Justice, the High Judicial Council, the State Prosecutorial Council, and the Judicial Academy; activities implemented in cooperation with the beneficiaries will contribute to strengthening independence and accountability of the judiciary and of the prosecutorial service. The implementation period of the project will terminate on 23 May 2022.

In this framework, the Council of Europe is looking for a maximum of 5 (five) Providers (provided enough tenders meet the criteria indicated below) with a particular expertise on relations between the judiciary and the mainstream, online and social media.

This Contract is currently estimated to cover up 10 activities to be held by 23 May 2022. 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:

- Design and prepare programmes (curriculum and methodology) and materials for training sessions on digital media sphere and dealing with the mainstream, online and social media in new technological environment for spokespersons of courts and prosecution offices;
- Deliver training to spokespersons of courts and prosecution offices, to be organised in Serbia (locations outside of Belgrade) in groups of 15 participants;
- Report on the delivered training workshop with recommendations for further steps;
- Undertake research tasks in the field of relations between the judiciary and the media;
- Moderating or participating as keynote or contributing speakers in conferences, seminars, roundtable discussions and public debates with judges, prosecutors, members of their independent bodies, parliamentarians and other stakeholders.

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 completing the assigned tasks, the selected Providers will take into consideration the Council of Europe and other relevant international standards.

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 or in Serbian (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).]

### C. 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.

### D. HOW WILL THIS FRAMEWORK CONTRACT WORK? (ORDERING PROCEDURE)

Once the selection procedure is completed, tenderers 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 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<sup>2</sup> (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**

<sup>2</sup> 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.

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.

## E. 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)<sup>3</sup>

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;
- 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*

- A minimum of 7 years practical experience in the field of the media, mainstream and online.
- Formal training in social sciences equivalent to a university degree.
- Experience working with governmental institutions and/or international and/or non-governmental organizations carrying out capacity-building activities, preferably for the judiciary.
- Fluency in oral and written English and Serbian.

### *Award criteria*

1. Financial offer (10%);
2. Relevance of the experience of the tenderer in the areas covered by this call, including expertise in mainstream, online and social media (40%);
3. Relevance of the experience of the tenderer in providing capacity-building services, capacity-building of the judiciary will be considered an asset (30%);
4. Knowledge of the national (Serbian) context (20%).

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

Multiple tendering is not authorised.

## F. NEGOTIATIONS

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

## G. DOCUMENTS TO BE PROVIDED

1. A completed and signed copy of the **Act of Engagement**<sup>4</sup> (See attached);

<sup>3</sup> 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 from owners and executive officers of legal persons), a scanned copy of a valid photographic proof of identity (e.g. passport).

<sup>4</sup> 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.

2. A detailed CV (maximum 5 pages) demonstrating clearly that the tenderer fulfils the eligibility criteria;
3. Motivation letter (maximum 1 page) describing the tenderer's specific contribution to the present consultancy and the relevance of the tenderer's experience for the tasks envisaged in this call;
4. A list of all owners and executive officers, for legal persons 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 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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