

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

### Purchase of consultancy services on the protection of the best interests of the child in care proceedings [Contract N° CJ/ENF-SE/Tender(2020)1]



The Council of Europe's Committee of Experts on the rights and best interests of the child in parental separation and in care proceedings ([CJ/ENF-ISE](#)) is tasked, in the biennium 2020-2021, with developing guidelines or other policy instruments or practical tools for member states and other stakeholders on **protecting the best interests of the child in domestic law proceedings by public authorities to limit parental responsibilities or place a child in care**, in line with international and European standards and good practices. This committee operates under the supervision of two steering committees, namely the Steering Committee for the Rights of the Child ([CDENF](#)) and the European Committee on Legal Cooperation ([CDCJ](#)). In that context, it is looking for a Provider for the provision of consultancy services in this area to research, coordinate and develop a product, with the input of the experts of the CJ/ENF-ISE and of the secretariat.

#### 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 €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, 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: "Call for tenders - application submission - Rights and best interests of the child in domestic law proceedings by public authorities to limit parental responsibilities or place a child in care"**. 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 Council of Europe 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: "Call for tenders - application submission – Protection of the rights and best interests of the child in domestic law proceedings by public authorities to limit parental responsibilities or place a child in care"**.

Type of contract ▶	Framework contract
Duration ▶	Until 31 December 2021
Deadline for submission of tenders/offers ▶	<b>25 September 2020</b>
Email for submission of tenders/offers ▶	<a href="mailto:ENF-ISE@coe.int">ENF-ISE@coe.int</a>
Email for questions ▶	<a href="mailto:ENF-ISE@coe.int">ENF-ISE@coe.int</a>

<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 starting date of execution</b>	<b>12 October 2020</b>
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## **B. EXPECTED DELIVERABLES**

### Background of the Project

The project aims to :

- (i) Undertake a review of law, policy and practice on how to protect the best interests of the child in domestic law proceedings by public authorities to limit parental responsibilities or place a child in care, while taking into account international and European standards in this area, including the case-law of the European Court of Human Rights, relevant conventions of the Council of Europe and the United Nations Convention on the Rights of the Child.
- (ii) Prepare, as appropriate, on the basis of the above-mentioned reviews, guidelines or other policy instruments or practical tools to give guidance to member States and other stakeholders on the protection of the best interests of the child and his/her rights in domestic law proceedings by public authorities to limit parental responsibilities or place a child in care.

### Scope of the Framework Contract

The Council of Europe is looking for a maximum of 1 (one) Service Provider in order to support the implementation of the project with a particular expertise on the protection of the best interests of the child in domestic law proceedings by public authorities to limit parental responsibilities or place a child in care.

This Contract is currently estimated to cover the preparation of a feasibility study (development and review(s), if applicable); the development and review(s) of preliminary guidelines or other policy instruments or practical tools; participation in meetings of the CJ / ENF-ISE (up to 5 meetings). This work shall be carried out **before 31 December 2021** with the possibility of extension, if necessary, by notification from the Council until **31 December 2022 at the latest**. 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.

The total amount of the object of present tender **shall not exceed 10,000 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.

Throughout the duration of the Framework Contract, pre-selected Providers may be asked to provide the deliverables listed in the Act of Engagement (See Section A – Terms of reference).

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 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).]

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.

### 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, 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).

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 3 (three) 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.

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.

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.

<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.

<sup>3</sup> 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.

Eligibility criteria

- Holds a master's degree or higher in law, political science, social science, public administration or a related discipline;
- Strong knowledge of legal procedures relating to the child as well as international and European standards concerning the rights of the child, in particular the case law of the European Court of Human Rights, the relevant Council of Europe conventions and the United Nations Convention on the Rights of the child;
- Practical experience of at least 5 years in the field (researchers, academics or practitioners);
- Excellent knowledge of French or English and excellent writing skills in one of these languages (level C.2 of the CEFR).

Award criteria

- **Criterion 1: Quality of the offer (40%), including:**
  - Research, analysis and writing skills;
  - Methods proposed for the conduct of the feasibility study (questionnaire, research).
- **Criterion 2: Tenderer's experience (40%), including:**
  - Relevance of the tenderer's experience in the fields covered by this call;
  - Consultancy or other relevant professional experience in international projects (development of standards / practical tools) and / or in co-operation projects related to justice.
- **Financial offer (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**

- A completed and signed copy of the **Act of Engagement**<sup>4</sup> (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
- Registration documents, for legal persons only;
- List of owners and senior managers, for legal persons only;
- A cover letter, not exceeding two pages, describing:
  - how the tenderer meets the requirements of the expected services (see section B above);
  - providing details on foreseen methodology for carrying out research on the law, policy and practices of member states;
  - providing insight on the type of the product which the tenderer foresees and highlighting their competency for developing it.
- Extract (not exceeding 3 pages) of article, legal opinion, report or any other professional writing recently written in French or English by the tenderer and providing proof of his or her experience and knowledge of the issues processed as part of this call;
- For tenderers subject to VAT only, an estimate describing their financial offer.

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

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<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.

**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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