

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)



Purchase of consultancy services under the project Enhancing the accountability and the efficiency of the judicial system and the professionalism of lawyers in Georgia [Contract N° 2-30/01/2020-BH4722]

The Council of Europe is currently implementing and until 30/11/2021 will implement a Project on *Enhancing the accountability and the efficiency of the judicial system and the professionalism of lawyers in Georgia*. In that context, it is looking for Provider(s) for the provision of different consultancy services indicated in this tender file and respective Act of Engagement (See Section A of the Act of Engagement) 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 Europe¹, 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, a self-employed sole trader, or a duly registered limited or unlimited liability company with a single employee/director.

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 Judicial Reform**. 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: Questions Tender Judicial Reform**

Type of contract ▶	Framework contract
Duration ▶	Until 30 November 2021
Deadline for submission of tenders/offers ▶	20 February 2020
Email for submission of tenders/offers ▶	judiciaryreform.georgia@coe.int
Email for questions ▶	judiciaryreform.georgia@coe.int
Expected starting date of execution ▶	9 March 2020

¹ 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

The Council of Europe's Legal Cooperation Division of the Justice and Legal Cooperation Department, Directorate General of Human Rights and Rule of Law together with the Council of Europe Office in Georgia is currently implementing a Project on Enhancing the accountability and the efficiency of the judicial system and the professionalism of lawyers in Georgia aiming to strengthen the efficiency, effectiveness and transparency of the court system by supporting improved legislative safeguards, enhanced management practices and training capacities within the court system and at the Georgian Bar Association. In April 2014, the European Union and the Council of Europe agreed that targeted co-operation activities with Armenia, Azerbaijan, Georgia, Republic of Moldova, Ukraine and Belarus – the EU's Eastern Partnership countries – would be implemented under the Partnership for Good Governance programme. The phase I of the programme (PGGI) started in 2015 and was completed in 2018; the second phase of the programme (PGGII) was launched in 2019 and will run until 2021. This project falls under the PGG phase II.

The Council of Europe is looking for 8 (eight) Providers, 4 (four) per each Lot (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on the areas mentioned below.

This Contract is currently estimated to cover up to 30 activities. 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 1,220,000 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.

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: Independence of the judiciary	4
Lot 2: Accountability of the judiciary	4

Lot 1 concerns judicial appointments, evaluation and promotion. More specifically, following the recent legislative amendments, an internal mechanism will have to be put in place. This would allow the High Council of Justice (HCoJ) to reason its decisions with meaningful appeal mechanism. Currently, appointments are done through secret ballot, thus decisions of the HCoJ are not reasoned. Additionally, the process of interviewing candidates' feedback mechanism and merit-based reasoning will also be looked at. In terms of evaluation currently the judicial evaluation is conducted every six months by the Management Department of the HCoJ and judges are evaluated individually. The evaluation rule has 5 criteria and 80% of them are quantitative. The evaluation results are therefore not credible. Mixed method evaluation (qualitative + quantitative) needs to be implemented alongside with the merit-based promotion system. High School of Justice's initial training programme needs to be modified as well to effectively ensure judicial listeners' (Judicial candidates) readiness for lifetime appointment.

Lot 2 concerns accountability of the judicial system. According to Georgian legislation Independent Inspector is the only authorised body who is granted the authority to initiate disciplinary proceedings and conduct preliminary examination against a judge, independently from the HCoJ. This institution was created in 2017. The legal framework on the appointment, dismissal, transparency, decision-appeal and investigation-launching procedures and standard of proof of the Independent Inspector needs to be put in place. Additionally, capacity building in order for Independent Inspector to provide well-reasoned referrals needs to be looked at.

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

The assignment under different lots may include assessment visit(s) to Georgia, holding bilateral meetings, participate in working group meetings, review curricula, analyse information and data gathered during assessment visit(s), prepare assessment report(s) in specific directions, drafting analytical reports, conducting trainings/workshops, participating at the events (workshops, conferences, high level meetings) etc (more detailed description of possible assignments is given in the Act of Engagement, Section A).

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 for the lot concerned.

In terms of **quality requirements (for consultancy services)**, 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.

Whenever Council of Europe requires consultancy services and 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).

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).

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 quote² (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.

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)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;
- 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).

Eligibility criteria

- University degree in law, political sciences, social sciences, international relations, public administration, communication or related fields;
- At least 5 years of experience in the field of rule of law, human rights and/or justice, of which at least 3 years acquired in an international context;

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.

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).

- Excellent knowledge of the English language (at least level C1 of the Common European Framework of Reference for Languages);

Award criteria

- Quality of the offer (80%), including:
 - Relevance of the experience of the tenderer in the areas covered by the respective LOT, including previous assignments with international organisations (30%);
 - Knowledge of the standards and recommendations of the Council of Europe in the fields of the rule of law and justice (20%);
 - Knowledge of the national and regional context in the field of the judiciary or/and knowledge of contexts that are relevant to the areas covered by the respective LOT (30%).
- 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**⁴ (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
- A list of all owners and executive officers, for legal persons only;
- A sample of an article, legal opinion, report or another relevant text recently drafted, in English or Georgian, by the tenderer;
- Motivation letter describing how the tenderer meets the requirements of the expected services (see section B above as well as Section A of the Act of Engagement attached) including indication of:
 - Specific and/or preferred fields of expertise per respective lot
 - Specific experience in regard of respective lot.
- Tenderers may supplement motivation letters with documents proving their knowledge, such as programmes of events and descriptions of projects they participated in, titles and references of research they undertook and summaries of reports they produced.
- Registration documents, for duly registered companies 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.

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.