

TENDER FILE / TERMS OF REFERENCE (Competitive bidding procedure / One-off contract)

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Purchase of consultancy services for supporting the authorities of the Republic of North Macedonia in developing solutions to address illicit enrichment within the framework of the Action against Economic Crime in the Republic of North Macedonia under the EU/CoE Horizontal Facility Programme for Western Balkans and Turkey – Phase II.

The Council of Europe (CoE) through the Economic Crime and Cooperation Division (ECCD), acting under a contract with the European Union under the Horizontal Facility in the Western Balkans and Turkey (HF Phase II), is currently implementing the "Action against Economic Crime in the Republic of North Macedonia" (AEC-MKD). The Action seeks to increase trust in the rule of law and democracy in North Macedonia by strengthening anti-corruption and anti-money laundering standards and countering terrorist financing regimes. One of its activities foresees providing support in developing legislative solutions to address illicit enrichment. In that context, the Action is looking for a Service Provider to support the authorities by providing recommendations and guidance, jointly with an international consultant, through the process. For more details, please see Section A of the enclosed Act of Engagement.

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 **one-off 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 present Tender File and Act of Engagement.

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 services: AEC-MKD- Developing legislative solutions to address Illicit Enrichment** . 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 on Consultancy services: AEC-MKD- Developing legislative solutions to address Illicit Enrichment.**

Type of contract ▶	One-off contract
Duration ▶	Until complete execution of the obligations of the parties (See Article 2 of the Legal conditions as reproduced in the Act of Engagement)
Deadline for submission of tenders/offers ▶	28 February 2021
Email for submission of tenders/offers ▶	Contact.Econcrime@coe.int
Email for questions ▶	Contact.Econcrime@coe.int
Expected starting date of execution ▶	08 March 2021

¹The 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

The European Union/Council of Europe Horizontal Facility for the Western Balkans and Turkey (also referred to as: Horizontal Facility Phase II or HF II) is a co-operation initiative of the European Union and Council of Europe for South East Europe. The first phase of the Horizontal Facility ran from May 2016 to May 2019, and was succeeded by Horizontal Facility Phase II, which will be implemented from May 2019 to May 2022. The second phase of the Horizontal Facility will continue to build on the Statement of Intent signed on 1 April 2014 by the Secretary General of the Council of Europe and the European Union Commissioner for Enlargement and European Neighbourhood Policy, in which both Organisations agreed to further strengthen their co-operation in key areas of joint interest.

The Horizontal Facility includes Albania, Bosnia and Herzegovina, Kosovo*, Montenegro, North Macedonia, Serbia and Turkey. Beneficiaries and counterparts include governmental bodies at all levels, notably specialised structures within the Ministries of Justice, Interior and Finance; anti-corruption bodies; Judicial and Prosecutorial Services, supervisory bodies; Financial Intelligence Units (FIUs), and representatives of civil society.

The Action against Economic Crime in the Republic of North Macedonia is a part of the Horizontal Facility for the Western Balkans and Turkey – Phase II, a cooperation framework between Council of Europe and European Union that builds on the two organisations policy priorities in the context of the Western Balkans and Turkey and on the CoE expertise in standard-setting, monitoring and cooperation methodologies.

The Action against Economic Crime in the Republic of North Macedonia (HFII - AEC-MKD) seeks to increase trust in the rule of law and democracy in North Macedonia by strengthening anti-corruption and anti-money laundering and countering terrorist financing regimes.

The above overall objective will be achieved through interventions aimed at:

1. Improving legal and operational framework on preventing and combating corruption;
2. Strengthening the Asset Recovery Framework
3. Enhancing the AML/CFT prevention mechanisms

The Activity under this Call for consultant aims to assist national authorities in determining the appropriate legislative solutions to address illicit enrichment and support the authorities through the process of drafting by providing recommendations and guides.

More information on the Action and HFII Programme can be found on <https://www.coe.int/en/web/corruption/projects/aec-northmacedonia-phase-2> and <https://www.coe.int/en/web/corruption/programmes/horizontal-facility-phase2>.

The expected deliverables are described in **Section A of the Act of Engagement** (See attached).

C. FEES

All tenderers are invited to fill in the **table of fees** as reproduced in **Section A of the Act of Engagement**.

Tenderers **subject to VAT** shall also send a **quote (Pro Forma invoice)** on their letterhead 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.

D. ASSESSMENT

Exclusion criteria and absence of conflict of interests

* This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

(by signing the Act of Engagement,² you declare on your honour not being in any of the below situations)

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

- A University degree in Law, Economics, or related field;
- At least 10 years' hands-on experience in the field of assets recovery;
- Excellent knowledge of international best practices;
- Very good writing and presentation skills;
- Proficiency in English (at least level C1 of the CEFR for English).

Award criteria

- Quality of the offer (80%), including:
 - Relevant experience of the tenderer in the field of corruption, asset recovery, illicit enrichment international standards and best practices (65%);
 - Quality of sample deliverables produced by the tender and relevant experience in delivering curricula for training for trainers (15%);
- Financial offer (20%).

Multiple tendering is not authorised.

E. NEGOTIATIONS

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

F. DOCUMENTS TO BE PROVIDED

Tenderers are invited to submit:

- **A completed and signed copy of the Act of Engagement³ (See attached)**
- For tenderers subject to VAT only: **a quote, describing their financial offer**, in line with the requirements of section C of the Tender File (see above);
- A list of all owners and executive officers, for legal persons only;
- **The latest CV;**
- **Portfolio of previous similar engagements**
- **At least one example of previous work on the same or similar topic.**

At the time a specific assignment is ordered from a tenderer (natural person) belonging to the category of civil servant or other public administration staff under the second phase of the Horizontal Facility, and following on the entry into force of Addendum 3 to the Horizontal Facility II contract with the European Union, the respective tenderer will be required to submit a written confirmation by his/her employer that secondary activities are allowed by national/local legislation and that the employer authorises the tenderer to carry out the object of this tender procedure as a secondary activity. In the absence of such a confirmation, the Council of Europe reserves the right to withdraw the order.

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 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).

³The 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.

Alternatively, at the time a specific assignment is ordered from a tenderer (legal person) assigning the production of the expected deliverables to an individual belonging to the category of civil servant or other public administration staff under the second phase of the Horizontal Facility, and following on the entry into force of Addendum 3 to the Horizontal Facility II contract with the European Union, the respective tenderer will be required to verify and provide the Council of Europe with the necessary supporting documents confirming that this individual submitted a written confirmation by his/her employer that secondary activities are allowed by national/local legislation and that the employer authorises the individual to carry out the object of this tender procedure as a secondary activity. In the absence of such a confirmation, the Council of Europe reserves the right to withdraw the order.

All documents shall be submitted in English or French, 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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