**TENDER FILE / TERMS OF REFERENCE**

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

**Purchase of national consultancy services in the area of mediation**

***Contract N° 2023/02***

The Council of Europe is currently implementing and until 28 February 2026 will implement a Project on “Fostering mediation in Azerbaijan” funded jointly by the European Union and the Council of Europe under their Partnership for Good Governance III (PGG III). In that context, it is looking for Providers for the provision of intellectual services in the area of mediation 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 €6,000 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 180 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 legal person or consortium of natural and/or legal person.

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 – National consultancy on mediation.** 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 – National consultancy on mediation**

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| --- | --- |
| **Type of contract ►** | Framework contract |
| **Duration ►** | Until 28 February 2026 |
| **Deadline for submission of tenders/offers ►** | **10 October 2023** 23h59 CET |
| **Email for submission of tenders/offers ►** | [tenderbaku@coe.int](mailto:tenderbaku@coe.int) |
| **Email for questions ►** | [tenderbaku@coe.int](mailto:tenderbaku@coe.int) |
| **Expected starting date of execution ►** | 01 November 2023 |

1. EXPECTED DELIVERABLES

**Background of the Project**

Launched on 01 March 2023, the Council of Europe and the European Union Joint Project “Fostering mediation in Azerbaijan” seeks to improve recourse to mediation in Azerbaijan, based on the Law on Mediation adopted in 2019, via increasing the availability and the quality of mediation services, further strengthening the capacities of mediators, in particular through training, and by raising awareness on mediation amongst justice sector professionals and citizens. The project will rely on the Council of Europe instruments and standards, the CEPEJ tools on mediation, and the related European good practices. The action will support the implementation of key judicial reforms included in the “State Program for the Development of Azerbaijani Justice for 2019-2023” and the Decree of the President of the Republic of Azerbaijan of 3 April 2019 on “Deepening of reforms in the judicial-legal system” concerning alternative dispute settlement.

The Council of Europe is looking for a maximum of 25 (twenty-five) Providers (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on mediation.

This Contract is currently estimated to cover up to 30 (thirty) activities, to be held by 28 February 2026. 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 880 000 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: Development of training modules and training materials on mediation; delivery of training activities as part of initial trainings and continuous professional development of mediators; delivery of trainings on mediation for judges, lawyers and other stakeholders. | 15 |
| Lot 2: Capacity building and expert support to the Mediation Council in the fields of its attributions (drawing up regulations and a Code of Ethics for mediators; advice on regulating and control over the mediation fees; data collection and assessment of the effectiveness, efficiency, and quality of mediation services). | 5 |
| Lot 3: Drawing up a Mediation Promotion Strategy; conceptualisation and development of promotion and awareness raising materials on mediation. | 5 |

Lot 1 concerns development of training modules and customized training materials on mediation based on local culture and experience to be used by the mediation training institutes and mediation trainers, as well as delivery of training activities as part of initial trainings and continuous professional development of mediators, delivery of trainings on mediation for judges, lawyers and other stakeholders.

Lot 2 concerns tailor-made capacity building to the Mediation Council and mediation organisations, drawing up regulations and a Code of Ethics for mediators, advice on regulating and control over the mediation fees, data collection and assessment of the effectiveness, efficiency, and quality of mediation services.

Lot 3 concerns development of a Mediation Promotion Strategy in Azerbaijan, preparation of promotion and awareness raising materials on mediation (short video and spots, leaflets, brochures, etc), implementation of promotional and awareness raising activities, media campaign.

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).

Throughout the duration of the Framework Contract, pre-selected Providers may be asked to:

Under Lot 1:

* Contribute to preparation of training modules and training materials and conduct in-person and online training activities;

Under Lot 2:

* Contribute to the capacity building of project beneficiaries by advising them on related topics, drawing up documents, conducting workshops, facilitating round tables and group discussions to share experiences, make presentations;

Under Lot 3:

* Participate in working group meetings, contribute to preparation of promotion and awareness raising plans and materials, as well as implementation of awareness raising activities.

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**, 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.

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 an entity created to circumvent tax, social or other legal obligations (empty shell company), have ever created or are in the process of creation of such an entity;
* have been involved in mismanagement of the Council of Europe funds or public funds;
* are or appear to be in a situation of conflict of interest;
* are retired Council of Europe staff members or are staff members having benefitted from an early departure scheme;
* 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*

* At least 1 (one) year of professional experience in the area of the project as defined in respective lots;
* Graduate university degree in law, human rights, public administration, political sciences, social sciences, psychology, statistics or a related field;
* Excellent oral and written Azerbaijani; knowledge of English would be an advantage.

*Award criteria*

* Quality of the offer (90%), including:
  + Relevant thematic knowledge and professional experience in the field of mediation demonstrating a capacity to contribute to the implementation of the CEPEJ cooperation project at the national level, particularly in the development and implementation of the mediation, capacity building, training and qualification, access to mediation, awareness raising of judicial actors and users;
  + Previous experience in the relevant type of activity and/or conducting work in international context/within international organisations.
* Financial offer (10%).

The Council reserves the right to hold interviews with 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, demonstrating clearly that the tenderer fulfils the eligibility criteria;
* 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.**

**\* \* \***

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 and sixth 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)