**TENDER FILE / TERMS OF REFERENCE**

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

**Purchase of Consultancy Services on Pre-Trial Detention and Procedural safeguards in criminal matters**

**Contract N°:**

The Council of Europe is currently implementing a Project until 14 March 2023 *(with a possibility of up-to one year extension)* on ***Strengthening the Criminal Justice System and the Capacity of Justice Professionals on prevention of the European Convention on Human Rights Violations in Turkey***. In that context, it is looking for Provider(s) for the provision of consultancy services on Pre-trial Detention and Procedural Safeguards in criminal matters (*pre-trial detention and fairness of proceedings, adducing and admissibility of evidence in pre-trial phase and also trial phase, cross-examination)* area 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 €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 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: CAS-2-ProceduralSafeguards.** 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 - CAS-2-ProceduralSafeguards**

|  |  |
| --- | --- |
| **Type of contract ►** | Framework contract |
| **Duration ►** | Until 14 March 2023 |
| **Deadline for submission of tenders/offers ►** | **4 September 2022** |
| **Email for submission of tenders/offers ►** | **ankara.office@coe.int** |
| **Email for questions ►** | ankara.office@coe.int |
| **Expected starting date of execution ►** | 09 September 2022 |

1. **EXPECTED DELIVERABLES**

**Background of the Project**

The Council of Europe is currently implementing a Project on “Strengthening the Criminal Justice System and the Capacity of Justice Professionals on prevention of the European Convention on Human Rights Violations in Turkey”. Project’s main objective is to contribute to strengthening and making the Turkish judiciary more efficient, effective, and visible by ensuring its compliance with the international and European standards in the field of criminal justice. It focuses on the improvement of criminal justice system in Türkiye in applying European Convention on Human Rights (ECHR) and it aims at enhancing the capacity of criminal justice institutions and legal professionals in applying ECHR provisions and European Court of Human Rights (ECtHR) case law and strengthening their co-operation and awareness in the field of human rights law.

The following topics are subjected of focus in the project:

* Pre-trial detention
* Fairness of proceedings
* Cybercrime and
* Financing of terrorism

The Council of Europe is looking for a maximum of 15 Provider(s) for each Lot, (provided enough tenders meet the criteria indicated below) to support the implementation of the project with a particular expertise on training methodology and observing trainings to legal professionals to apply European human rights in the field of procedural safeguards and participating as a speaker, facilitator or moderator online or face to face at the meetings and workshops and to write an activity report afterwards, and preparation of awareness tools on procedural safeguards.

This Contract is currently estimated to cover up to [40] activities on procedural safeguards, to be held by March 2023. 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 5,000,000.00 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: Capacity Building | 15 |
| Lot 2: Awareness raising | 15 |

Lot 1 concerns consultancy on enhancing the knowledge and skills of the Turkish legal professionals to apply European human rights in the field of procedural safeguards.

Lot 2 concerns consultancy on improving co-operation and awareness among relevant national institutions and enabling access to all citizens to criminal justice in terms of right to liberty and fairness of proceedings.

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**

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

**Under LOT 1 – Capacity Building**: Observation of the trainings provided by trainers to judges and prosecutors. This involves:

- Participating in in-service trainings on Right to Liberty and Security and Reasoning of Criminal Judgments as an observer and preparing a training evaluation report after the training;

**Under LOT 2 –Awareness Raising**: improving co-operation and awareness among relevant national institutions and enabling access to all citizens to criminal justice in terms of procedural safeguards. This involves:

* Preparing agendas, delivering speeches and making presentations at events (i.e. coordination meetings, conferences, webinars, roundtable meetings, international workshops) in the field of pre-trial detention and procedural safeguards to be held under the project;
* Participating in various events in the field of pre-trial detention and procedural safeguards as a speaker, facilitator, moderator or rapporteur.
* Preparing activity reports including the discussions and issued raised and covered in the respective event
* Preparation of content of the awareness tools on pre-trial detantion and procedural safeguards, including but not limited to brochures, information material, posters, etc

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. 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.

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***

*General conditions:*

* A university degree (Master or equivalent level) in law, human rights, political science and other related field;
* Good knowledge in human rights and particularly of criminal justice
* Good knowledge of English in writing and speaking

*Lots-based conditions:*

***Lot-1 Capacity Building***

* Proven experience in conducting trainings, giving lectures and/or developing and implementing training programmes, modules and materials
* Good understanding of adult training methodology

***Lot-2 Awareness Raising***

* Proven experience in delivery of speeches in events (i.e coordination meetings, conferences, seminars, webinars, etc.).
* Preparation of content of the awareness tools on cybercrime related offences and standards and measures on prevention and combatting cybercrime, including but not limited to brochures, information material, posters, etc.

***Award criteria***

***Lot-1 Capacity Building***

* Quality of the offer (90%), including:
  + Expertise in the field of human rights especially about procedural safeguards (40%)
  + Recent experience in providing consultancy services for national and international institutions on financing of terrorism, preferably in international co-operation programmes implemented by Council of Europe, EU funded projects or another intra-governmental organization (%20)
  + Experience in delivery and/or observation of trainings / lectures (%20)
  + Excellent writing and speaking skills in Turkish (mother tongue level), and preferably good knowledge of English (10%).
* Financial offer (10%).

***Lot-2 Awareness Raising***

* Quality of the offer (90%), including:
  + Expertise in the field of human rights especially about procedural safeguards (40%)
  + Recent experience in providing consultancy services for national and international institutions on financing of terrorism, preferably in international co-operation programmes implemented by Council of Europe, EU funded projects or another intra-governmental organization (%20)
  + Expertise in conceptualisation, presentation, moderation and facilitation of various events (meetings, round tables, conferences) (10%)
  + Experience related to preparation of awareness tools on procedural safeguards and/or standards and measures on procedural safeguards (%10)
  + Excellent writing and speaking skills in Turkish (mother tongue level), and preferably good knowledge of English (10%)
* 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 motivation letter indicating reasons for applying and possible added value of tenderer for the related lots (in English)
* List of delivered and/or observed trainings in the field of procedural safeguards and/or human rights *(For LOT 1);*
* An electronic or hardcopy of sample document (agenda, report, brochure, speech, article etc.) in Turkish or in English recently authored by the tenderer on procedural safeguards *(For LOT 2)*;
* A list of all owners and executive officers, for legal persons only;

**All documents shall be submitted in English, except the sample document stated in the Section G, which can be submitted in Turkish, 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)