**TENDER FILE / TERMS OF REFERENCE**

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

**Needs Assessment and Guidelines Preparation**

***Contract N° 4799/2021/1***

The Council of Europe is currently implementing until 14 May 2023 a Project on “Promotion of the rule of law and fundamental rights through high-quality online trainings in the Croatian judiciary”. In that context, it is looking for Provider(s) for the provision of needs assessment services 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, 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 – 3016 Needs Assessment CJA.** 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 7 (SEVEN) 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 – 3016 Needs Assessment CJA**

|  |  |
| --- | --- |
| **Type of contract ►** | Framework contract |
| **Duration ►** | Until 20 October 2022 |
| **Deadline for submission of tenders/offers ►** | **26 November 2021** |
| **Email for submission of tenders/offers ►** | **dgi-coordination@coe.int** |
| **Email for questions ►** | **dgi-coordination@coe.int** |
| **Expected starting date of execution ►** | 01 December 2021 |

1. EXPECTED DELIVERABLES

**Background of the Project**

The Project aims to support the Judicial Academy in Croatia to improve the methodology, tools and expertise to design and deliver high-quality trainings, especially in the field of human rights and the rule of law, tailored to the needs of the Croatian judiciary. The expected long-term effect of this Project (impact) is strengthened capacities of judiciary in Croatia for more effective and competent judicial performances of Croatia. In addition, the Project is expected to produce additional effects in the short and/or medium term (outcome), which is the following: strengthened capacities of the Judicial Academy to design and implement online training and its general ability to meet the trainings needs through digital solutions.

The operational implementation period of the Project is 20 months. The operational implementation period is measured from 15 September 2021.

The Council of Europe is looking for a maximum of four Providers for each lot (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on holding needs assessments in the field of trainings for legal professionals.

This Contract is currently estimated to cover up to four activities, to be held by 25 November 2022. 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 555,555 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 Providers to support the implementation of the project and is divided into the following lots:

|  |  |
| --- | --- |
| Lots | Maximum number of Providers to be selected |
| **Lot 1**: Assessment of the training needs of the Croatian Judicial Academy, preparation and presentation of the respective report. | 4 |
| **Lot 2**: Assessment of existing digital tools and services of the Judicial Academy and recommendations for their further upgrade and improvement. | 4 |
| **Lot 3**: Guidelines to plan and implement the improvements of the Judicial Academy training methodology with more focus on e-learning | 4 |

**Lot 1** concerns holding of the training needs assessment which is planned to be performed in two stages: a) assessment of the judiciary’s training needs, collection and analysis of data according to the methodology defined and formulation of recommendations based on findings which will serve as a guide to future training actions; b) upon consideration of the comments received from the relevant stakeholders the assessment will be presented for its endorsement. On the basis of collected comments and feedbacks necessary amendments will be introduced and the report will be finalised.

**Lot 2** concerns holding of an assessment of existing digital tools and services of the Judicial Academy and preparation of a respective report including recommendations for further upgrade and improvement of the existing digital tools and services. The assessment will be undertaken according to the defined methodology (desk research, interviews with targeted group, analysis of data collected, evaluation of comparative experience in this area etc.). On the basis of the findings, recommendations will be provided on their further upgrade and improvement. In the course of their preparation, consultation and exchange with stakeholders shall be held. The Report shall be presented to the project partners for comments and feedback collection on the basis of which necessary amendments shall be introduced and the report shall be finalised.

**Lot 3** concerns preparation of the Guidelines which will serve as a reference source to further strengthen the Judicial Academy training methodology with an increased focus on e-learning.

The Guidelines will be based on deliverables under Lots 1 and 2 and shall cover amongst other, questions about the improvement of training methodologies, especially in the area of e-learning and possible assessment methods, and other related questions mentioned in the needs assessment reports (to be prepared under Lots 1 and 2), which could be further implemented (in part or fully) by the Judicial Academy. The Guidelines shall be built on the EU Member States’ good practices, collected under the relevant publications of the European Commission and of the European Judicial Training Network (EJTN) dealing with judicial training methodology, distance learning, evaluation of judicial training practices and providing advice for training providers. The Guidelines will also be aligned with the CoE principles, values and methodologies, including of its Human Rights Education for Legal Professionals (HELP). After the respective Guidelines are prepared, special events dedicated to their presentation, discussion and endorsement will be organised.

The Council will select the abovementioned number of Providers 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:

Develop / propose assessment methodology (and/or application/adaptation of CoE/HELP methodology, relying on ECHR case-law and Council of Europe monitoring)[[2]](#footnote-2)

Hold assessment (on the basis of developped / proposed methodology) and draft assessment report

Participate at events dedicated to the assessment

Hold other activities necessary for the performance of the task set under Lot 1.

Under Lot 2:

Develop / propose assessment methodology

Hold assessment (on the basis of developped / proposed methodology) and draft assessment report

Participate at events dedicated to the assessment

Hold other activities necessary for the performance of the task set under Lot 2.

Under Lot 3:

Draft Guidelines

Participate at events dedicated to the Guidelines discussions and presentation

Hold other activities necessary for the performance of the task set under Lot 3.

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[[3]](#footnote-3) (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)**[[4]](#footnote-4)**

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 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*

*For Lot 1:*

* Experience in trainings needs assessment (at least three assessments held)
* Experience with trainings institutions for legal professionals (with Judicial Academies/Schools is a plus) (at least three years)
* Knowledge of Council of Europe HELP Programme and its methodology[[5]](#footnote-5).

*For Lot 2:*

* Experience in assessments of existing digital tools and services in training institutions and preparation of recommendations for their further upgrade and improvement (at least three assessments held)

*For Lot 3:*

* Experience in preparation of Guidelines to plan and implement the improvements of training methodology, including with e-learning
* Knowledge of EU Member States’ good practices, collected under the relevant publications of the European Commission and of the European Judicial Training Network (EJTN) dealing with judicial training methodology, distance learning, evaluation of judicial training practices and providing advice for training providers
* Knowledge of CoE principles, values and methodologies, including of its HELP Programme.

*Award criteria*

* Quality of the offer (60%), including:
  + Required expertise and experience;
  + Proposed methods of undertaking the work;
  + Capacity to meet the required deadlines;
  + Capacity to adapt to the context.
* Financial offer (40%).

The Council reserves the right to hold interviews with eligible 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[[6]](#footnote-6)** (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;
* Document, describing related experience
* Document, describing proposed approach to the task.

**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.**

**\* \* \***

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. <https://rm.coe.int/help-guidebook-on-human-rights-taining-methodology-for-legal-professio/16807b8fe2>

   https://rm.coe.int/methodology-for-evaluation-of-hr-training-eng-/1680a2732f [↑](#footnote-ref-2)
3. 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-3)
4. 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-4)
5. <https://rm.coe.int/help-guidebook-on-human-rights-taining-methodology-for-legal-professio/16807b8fe2> [↑](#footnote-ref-5)
6. 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-6)