**TENDER FILE / TERMS OF REFERENCE**

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

**Purchase of national short term consultancy services**

The Council of Europe is currently implementing and will implement until 20/12/2022 the Joint Project on **Improving the Effectiveness of the Administrative Judiciary and Strengthening the Institutional Capacity of the Council of State in Turkey** (hereinafter – the Project). In that context, it is looking for Provider(s) for the provision of national short term consultancy service on reviewing case codes and development of a report that will eventually contribute unification of case codes in administrative judiciary for the Project 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: IMEAJ-CONSULTANCY TENDER.** 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 2(two) 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: “IMEAJ-CONSULTANCY TENDER”**

|  |  |
| --- | --- |
| **Type of contract ►** | Framework contract  |
| **Duration ►** | Until 20 December 2022 |
| **Deadline for submission of tenders/offers ►** | **24 February 2022** |
| **Email for submission of tenders/offers ►** | ankara.office@coe.int  |
| **Email for questions ►** | ankara.office@coe.int  |
| **Expected starting date of execution ►** | 07 March 2022 |

1. EXPECTED DELIVERABLES

**Background of the Project**

The Council of Europe is currently implementing the Joint Project on Improving the Effectiveness of the Administrative Judiciary and Strengthening the Institutional Capacity of the Council of State in Turkey (hereinafter – the Project). The Project is co-funded by the European Union, the Republic of Turkey and the Council of Europe and the overall objective of the Project is to foster public confidence in the administrative judiciary by further strengthening its independence, impartiality, and effectiveness, and by increasing public awareness of it. The Project started on 21 December 2018 and is expected to be completed by 20 December 2022.

To achieve such goal, the project will support further reforming of the administrative justice system including the institutional capacity of the Council of State. It will also aim at increasing the effectiveness and quality of administrative justice courts.

The Council of Europe is looking for maximum of the number of 4 Provider(s) (provided enough tenders meet the criteria indicated below) to support the implementation of the project under Activity A.4.6 the preparation of a special report resulting in actionable recommendations for improvement and unification of the case and decision codes of the CoS to ensure its integration into the existing case codes system and provide particular expertise on administrative law and tax law cases and case code system applied in the administrative judiciary that will eventually serve in the improvement of the analytical capacity of CoS and RACs, and data produced will be more consistent and integrated, with particular expertise on administrative law and tax law cases and case code system applied in the administrative judiciary that will eventually serve in the improvement of the analytical capacity of CoS and RACs. Consequently, data produced will be more consistent and integrated. As a result, work towards improved access to case law by judges and practitioners will be expedited and enhanced.

This Contract is currently estimated to cover up to 15 *number of activities*, to be held by 20/12/2022. 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 **3.335.000,00** 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: Review of the case codes (on administrative law) of the Council of State and Development of a Report and a proposal of an applicable case code system | 2 |
| Lot 2: Review of the case codes on (tax law) of the Council of State Development of a Report and a proposal of an applicable case code system | 2 |

Lot 1 concerns: For unification of the case codes of the Council of State (CoS ) in an integrated case code system, consultants specialised in **ADMINISTRATIVE** law and have experience in the field are expected to review the case codes, case categorisation for decision codes and identify issues and discrepancies in close collaboration with project stakeholders. Consultants are further required to conduct analysis, provide written recommendations, participate in consultation meetings, roundtables, workshops, site visits with the project stakeholders and/or make presentations during working group meetings and to review identified issues drafted by the working group, obtain information and share experience with first instance courts, regional administrative courts for integration of existing case code systems and standardization process for the CoS.

Based on the findings from the consultation meetings, roundtables, workshops, site visits conducted with the stakeholders Consultants specialised in **ADMINISTRATIVE** law and have experience in the field are expected to develop a special report focusing on two aspects; analysing the existing case codes and decision codes of the first and second instance courts those are submitted to the CoS and case codes and decision codes of the CoS.

Based on the findings and taking into account the first instance and regional administrative court systems proposing an applicable code system.

Lot 2 concerns: For unification of the case codes of the CoS in an integrated case code system, consultants specialised in **TAX** law and have experience in the field are expected to review the case codes, case categorisation for decision codes and identify issues and discrepancies in close collaboration with project stakeholders. Consultants are further required to conduct analysis, provide written recommendations, participate in consultation meetings, roundtables, workshops, site visits with the project stakeholders and/or make presentations during working group meetings and to review identified issues drafted by the working group, obtain information and share experience with first instance courts, regional administrative courts for integration of existing case code systems and standardization process for the CoS.

Based on the findings from the consultation meetings, roundtables, workshops, site visits conducted with the stakeholders Consultants specialised in **TAX** law and have experience in the field are expected to develop a special report focusing on two aspects; analysing the existing case codes and decision codes of the first and second instance courts those are submitted to the CoS and case codes and decision codes of the CoS.

Based on the findings and taking into account the first instance and regional administrative court systems proposing an applicable code system.

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:

- Review case codes, case categorisation for decision codes and identify issues and discrepancies

- Conducting analysis and providing legal expertise on case codes, case categorisation for decision codes

- Providing written recommendations

- Participate in consultation meetings, roundtables, workshops

- Participate in site visits and obtain information and share experience on site visits

- Providing consultation and/or presentations during working group meetings, workshops, roundtables

- Develop a special report on improvement and unification of the case and decision codes of the CoS, to ensure their integration into the existing case codes system of the first instance and appeal courts and make recommendations on improvement or raise issues for clarification as necessary taking into account the administrative law cases

- Taking into account the first instance and regional administrative court systems, propose an applicable code system related to the administrative law cases

Under Lot 2:

- Review case codes, case categorisation for decision codes and identify issues and discrepancies

- Conducting analysis and providing legal expertise on case codes, case categorisation for decision codes

- Providing written recommendations

- Participate in consultation meetings, roundtables, workshops

- Participate in site visits and obtain information and share experience on site visits

- Providing consultation and/or presentations during working group meetings, workshops, roundtables

- Develop a special report on improvement and unification of the case and decision codes of the CoS, to ensure their integration into the existing case codes system of the first instance and appeal courts and make recommendations on improvement or raise issues for clarification as necessary taking into account the tax law cases

- Taking into account the first instance and regional administrative court systems, propose an applicable code system related to the tax law cases

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 daily 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.

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 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:

* University degree in law or degree in other equivalent discipline; doing and/or done doctorate on Public Law, Administrative Law at Doctorate level
* Minimum **5 years** of demonstrated professional experience in the field of Administrative law and Public Administrative System/ Court system
* Demonstrated experience of participating in meetings, site visits and preparing reports
* Excellent oral and written English and/or French

For Lot 2:

* University degree in law or degree in other equivalent discipline; doing and/or done doctorate on Public Law, Tax Law at Doctorate level
* Minimum **5 years** of demonstrated professional experience in the field of Tax law and Public Administrative System/ Court system
* Demonstrated experience of participating in meetings, site visits and preparing reports
* Excellent oral and written English and/or French

*Award criteria*

* Quality of the offer (80%), including:

Professional experience of the tenderer in the areas covered by this call (60%); Experience of participating in meetings, preparing reports (20%);

* Financial offer (20%).

The Council reserves the right to hold interviews with eligible tenderers.

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;
* Reference/links to publications, analyses, on which the candidate worked, which are relevant to the experience the tenderer claims.
* 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.**

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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)