

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)



Purchase of intellectual services within the framework of the TSI project on "Effective and uniform implementation of the sanctions regime in EU member states" and related TSI projects. [Contract N° ECCD-TSI SAN-2023]

The Council of Europe is currently implementing a Project on "Effective and uniform implementation of the sanctions regime in EU member states". In that context, it is looking for Provider(s) for the provision of consultancy services in the field of Anti-Money Laundering / Countering the Financing of Terrorism (AML/CFT) supervision of financial institutions, with background in Virtual Assets Service Providers (VASPs) and application of sanctions, to be requested by the Council on an as needed basis.

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 **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: TSI Sanctions**. 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 Council of Europe 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: TSI Sanctions**

Type of contract ▶	Framework contract
Duration ▶	Until 31 May 2023
Deadline for submission of tenders/offers ▶	05 January 2023
Email for submission of tenders/offers ▶	contact.econcrime@coe.int
Email for questions ▶	contact.econcrime@coe.int
Expected starting date of execution ▶	16 January 2023

¹ The 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

Background of the Project

The Project aims to support the Czech Republic, Latvia, Malta and indirectly other EU Member States, on the implementation of European Union (EU) sanctions targeting sectoral cooperation and exchanges with the Russian Federation in the context of the adopted packages of restrictive measures. The project will contribute to supporting relevant authorities to effectively implement the sanctions regime. Technical assistance will focus on enhancing the capacities of the authorities to identify the persons and entities in effective control of companies and strengthening risk mitigation related to the evasion of sanctions through the use of virtual assets. To this end, specific activities will include the production of a comparative analysis of good practices on identification of company control, a comparative study of good freezing and seizing practices as well as the development of technical papers on licensing/registration and supervision of VASPs and Suspicious Transactions Reporting.

The Council of Europe is looking for a maximum of 6 (six) provider(s) (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on VASPs and the application of sanctions.

This Contract is currently estimated to cover project activities to be implemented until April 2023. This estimate is for information only and shall not constitute any sort of contractual commitment on the part of the Council of Europe.

For information purposes only, the total budget of the project amounts to 295,000 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: Prevention of abuse of VASPs for evasion of EU sanctions	3
Lot 2: Application of EU sanctions regime	3

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

- 1) Draft analytical reports in the area of prevention of abuse of VASPs for evasion of EU sanctions and effective application of EU sanctions regime;
- 2) Prepare needed training materials and/or conduct needed training activities and workshops for representatives of National Competent Authorities (NCAs) and other stakeholders on the effective implementation of EU international sanctions and prevention of abuse of VASPs for evasion of EU sanctions;
- 3) Participate and contribute to related events of the project (conferences, workshops, seminars, roundtable discussions, high level meetings, on-site assessments etc.).

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).

Only those Providers whose score, following the assessment of the Award Criteria (see Section E below), is equivalent to or higher than 3.00 (within a scoring system from 0 to 5) will be selected.

Scope of the Framework Contract

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

Under **Lot 1**:

- 1) Drafting analytical reports in the area of monitoring virtual assets' transactions through blockchain, as well as on licencing and supervision of VASPs with a view of EU international sanctions and other related fields per need, such as AML/CFT requirements.
- 2) Preparing training materials and/or conducting training activities and workshops for representatives of NCAs and other stakeholders per need, such as AML/CFT financial supervisory authorities and financial intelligence units (FIUs) on effective prevention of abuse of VASPs for evasion of EU sanctions.
- 3) Participating and contributing to related events of the project (conferences, workshops, seminars, roundtable discussions, high-level meetings, on-site assessments etc.).
- 4) Any needed deliverable within the same or related field of expertise object of the present Framework Contract.

Under **Lot 2**:

- 1) Drafting analytical reports in the area of freezing and seizing practices related to assets of companies controlled by designated persons or entities, identification of persons holding effective control of a company, evasion of EU sanctions and disinvestment.
- 2) Preparing training materials and/or conducting training activities and workshops for representatives of NCAs and other stakeholders per need, such as AML/CFT financial supervisory authorities and FIUs on the effective implementation of EU international sanctions.
- 3) Participating and contributing to related events of the project (conferences, workshops, seminars, roundtable discussions, high-level meetings, on-site assessments etc.).
- 4) Any needed deliverable within the same or related field of expertise object of the present Framework Contract.

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)

C. 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.

D. 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:

- a) quality (including as appropriate: capability, expertise, past performance, availability of resources and proposed methods of undertaking the work);
- b) availability (including, without limitation, capacity to meet required deadlines and, where relevant, geographical location); and
- c) 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 quote² (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.

E. 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

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;

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.

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).

- 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).

Eligibility criteria

For legal persons:

- a) University graduation in law, economics or finance, or in a related field of the persons allocated to the execution of the contract or an equivalent qualification in the related field. Exceptionally, the degree or qualification requirement may be waived if the candidate has equivalent professional experience of five years.
- b) At least seven years of relevant professional experience of the persons allocated to the execution of the contract at international and/or national levels in areas of work related to VASPs, anti-money laundering/countering financing of terrorism out of which two years of experience in the AML/CFT supervision of financial institutions or three years of experience in the AML/CFT conformity of financial sector.
- c) Fluency in English of the persons allocated to the execution of the contract.

For natural persons:

- a) An university graduation in law, economics or finance, or in a related field or an equivalent qualification in the related field. Exceptionally, the degree or qualification requirement may be waived if the candidate has equivalent professional experience of five years.
- b) At least seven years of professional experience at international level and/or national level in areas of work related to VASPs, anti-money laundering/countering financing of terrorism out of which two years in the AML/CFT supervision of financial institutions or three years of experience in the AML/CFT conformity of financial sector.
- c) Fluency in English.

Award criteria

For legal persons:

- Quality of the offer (80%), including:
 - i. Length of relevant AML/CFT professional experience of the persons allocated to the execution of the contract;
 - ii. Demonstrated professional experience or technical expertise of the persons allocated to the execution of the contract in risk-based AML/CFT supervision of financial institutions;
 - iii. Quality of sample of an English text recently drafted by the tenderer on the topic of AML/CFT, produced by the persons allocated to the execution of the contract.
- Financial offer (20%).

For natural persons:

- Quality of the offer (80%), including:
 - i. Length of relevant AML/CFT professional experience;
 - ii. Demonstrated professional experience or technical expertise in risk-based AML/CFT supervision of financial institutions;
 - iii. Quality of sample of an English text recently drafted by the tenderer on the topic of AML/CFT.
- Financial offer (20%).

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

Multiple tendering is not authorised.

F. NEGOTIATIONS

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

G. DOCUMENTS TO BE PROVIDED

- A completed and signed copy of the **Act of Engagement**⁴ (See attached);
- CV of the tenderer;
- CVs of persons allocated to the execution of the contract (for legal persons only);
- Motivation Letter explaining how the tenderer experience and knowledge will contribute to the implementation of the Project;
- At least one sample of an English text recently drafted by the tenderer; the **legal persons** shall submit one such sample for each person assigned to the execution of the contract;
- An indication of tenderer's availability for the performance of the tasks;
- 2 (two) recent references with full contact details.
- A list of all owners and executive officers, for legal persons only;

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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⁴ The Act of Engagement must be completed, signed and scanned in its entirety (i.e. including initials in 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.