

## TENDER FILE / TERMS OF REFERENCE (Competitive bidding procedure / Framework Contract)

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

### **Purchase of consultancy services in the field of AML/CFT supervision of financial institutions, in the framework of the project "Developing a risk-based methodology for an automatic anti-money laundering/countering terrorist financing risk categorisation for supervised entities in Portugal" [Contract N° TSI PT- RBA-2022]**

The Council of Europe is currently implementing and until 17/06/2023 a Project on *Developing a risk-based methodology for an automatic anti-money laundering/counter terrorist financing risk categorisation for supervised entities in Portugal*. In that context, it is looking for Provider(s) for the provision of intellectual services in the field of anti-money laundering / combating the financing of terrorism, with background in the specific area of financial institutions' supervision 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 Europe<sup>1</sup>, 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 consortia of legal and/or natural persons.

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 Portugal**. 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: Questions – TSI Portugal**

<b>Type of contract ▶</b>	Framework contract
<b>Duration ▶</b>	Until 30 June 2022 with a possibility of extension up to 17 June 2023.
<b>Deadline for submission of tenders/offers ▶</b>	<b>15 June 2022</b>
<b>Email for submission of tenders/offers ▶</b>	<b>contact.econcrime@coe.int</b>
<b>Email for questions ▶</b>	<b>contact.econcrime@coe.int</b>
<b>Expected starting date of execution ▶</b>	18 June 2022

<sup>1</sup> 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 "Developing a risk-based methodology for an automatic anti-money laundering/counter terrorist financing risk categorisation for supervised entities in Portugal" is part of the 2021 Council of Europe / European Union joint Technical Support Instrument (TSI) Programme that provides tailor-made technical expertise to EU Member States to design and implement reforms. The aim of the project is to support Portugal in their efforts to strengthen institutional and administrative capacity, including at regional and local levels, to facilitate socially inclusive, green and digital transitions, to effectively address the challenges identified in the country-specific recommendations and to implement Union law. More specifically, the project will assist the Bank of Portugal (BdP) with strengthening its risk-based supervision (RBS) and its consequent supervisory approach to the supervised sector.

The Council of Europe is looking for a maximum 4 (four) Providers (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular and practical expertise in the area of risk-based AML/CFT supervision of financial institutions.

This Contract is currently estimated to cover project activities to be implemented until 17 June 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 consultancy services amount to 70,000 Euros and the total amount of the object of present tender **shall not exceed 55,000 Euros VAT 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.

### Scope of the Framework Contract

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

- 1) Draft analytical reports in the area of AML/CFT risk-based supervision of financial institutions, such as: data mapping and data availability, sectoral risk assessments, needs and gap analysis, institutional reviews, effectiveness reviews, inclusive of desk work and participation in online and on-site assessment visits, where required;
- 2) Develop supervisory tools for financial AML/CFT supervisory authorities;
- 3) Prepare training materials for representatives of AML/CFT financial supervisory authorities;
- 4) Conduct training activities and workshops for representatives of AML/CFT financial supervisory authorities;
- 5) Participate and contribute to related events of the project (conferences, workshops, seminars, roundtable discussions, high level meetings, on-site assessments 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 same or related field of expertise object of the present Framework Contract.

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.

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 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.

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.

#### **Providers subject to VAT**

The Provider, **if subject to VAT**, shall also send, together with each signed Form, a quote<sup>2</sup> (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)<sup>3</sup>

<sup>2</sup> It must strictly respect the fees indicated in the Act of Engagement. In case of non-compliance with these fees, the Council of Europe reserves the right to terminate the Contract with the Provider, in all or in part.

<sup>3</sup> 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;

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 legal persons:

- University graduation in law, economics or finance, or in a related field of the persons allocated to the execution of the contract or a qualification equivalent to a master's degree in the related field. Exceptionally, the degree or qualification requirement may be waived if the candidate has equivalent professional experience of five years.
- 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 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.
- Fluency in English of the persons allocated to the execution of the contract.

##### For natural persons:

- An university graduation in law, economics or finance, or in a related field or a qualification equivalent to a master's degree in the related field. Exceptionally, the degree or qualification requirement may be waived if the candidate has equivalent professional experience of five years.
- At least seven years of professional experience at international level and/or national level in areas of work related to 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.
- Fluency English.

#### *Award criteria*

##### For legal persons:

- Quality of the offer (80%), including:
  - Length of relevant AML/CFT professional experience of the persons allocated to the execution of the contract;
  - 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;

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- 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).

- 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:
  - Length of relevant AML/CFT professional experience;
  - Demonstrated professional experience or technical expertise in risk-based AML/CFT supervision of financial institutions;
  - 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**<sup>4</sup> (See attached);
- A scanned copy of a valid photographic proof of identity (e.g. passport), for natural persons only (including from owners and executive officers of legal persons);
- CV of the tenderer;
- CVs of persons allocated to the execution of the contract (for legal persons only);
- A list of all owners and executive officers, 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; and
- 2 (two) recent references with full contact details.

**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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<sup>4</sup> 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.