

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

### Purchase of consultancy services for analysis and advice on the functioning of a Financial Intelligence Unit and interagency cooperation



[Contract N° TSI SK-FIU-2022]

The Economic Crime and Cooperation Division of the Council of Europe (ECCD) is looking for Providers/Consultants with knowledge and experience for the provision of services related to the functioning and operability of a Financial Intelligence Unit as well as interagency cooperation and coordination for the prevention and fight against money laundering and terrorist financing with a focus on EU relevant acquis, to take part in the Technical Assistance Instrument (TSI) project "Enhancing the effectiveness of the Anti-money Laundering Regime in Slovakia".

The services will be requested 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: FC - Consultancy services for the purpose of analysis and advice on the functioning of an FIU and interagency cooperation.** 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: FC - Consultancy services for the purpose of analysis and advice on the functioning of an FIU and interagency cooperation.**

Type of contract ▶	Framework contract
Duration ▶	Until 31 December 2023
Deadline for submission of tenders/offers ▶	<b>28 January 2022</b>
Email for submission of tenders/offers ▶	<b>contact.econcrime@coe.int</b>
Email for questions ▶	<b>contact.econcrime@coe.int</b>
Expected starting date of execution ▶	04 February 2022

#### B. EXPECTED DELIVERABLES

<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](#).

## Background of the Project

This project "Enhancing the effectiveness of the AML Regime of Slovakia" addresses shortcomings that were identified in the Fifth Round Mutual Evaluation Report by MONEYVAL (September 2020) on Slovakia's anti-money laundering/ combating the financing of terrorism (AML/CFT) framework. If all the elements of the report were to be implemented, this would mean a big step forward in enhancing the AML/CFT framework in Slovakia, not only in view of the Financial Action Task Force (FATF) recommendations, but also when it comes to properly implementing the EU Anti-Money-Laundering Directive (EU) 2015/849 – with subsequent amendments. The project aims, among other things, at improving in line with EU standards, the financial intelligence processing of the Financial Intelligence Unit (FIU), and interagency cooperation focused on strategic development in the AML/CFT area, improving availability and use of data, improving risk-based supervision, and improving cooperation and exchange of information for enforcement purposes.

Through ensuring a comprehensive understanding of national and sectoral risks and advising on improving enforcement of the AML/CFT measures, the Project will contribute to enhancing the effectiveness of the AML/CFT framework.

Therefore, providers will be expected to analyse and advise on the role and the functioning of Financial Intelligence Unit, interagency cooperation and effectiveness of the other relevant stakeholders in the AML/CFT area and have substantial knowledge on AML/CFT systems from an EU angle:

- Reviewing the legal framework and related bylaws relevant to the functioning of the FIU and other competent entities;
- Assessing the operational effectiveness of competent authorities and providing recommendations for improvement;
- Promoting better public-private cooperation for AML/CFT purposes;
- Advising on enhancement of interagency cooperation.

For this purpose the ECCD is looking for a maximum of 5 (five) Providers who meet the below criteria with a particular expertise and knowledge on the functioning of a Financial Intelligence Unit and interagency cooperation for AML/CFT purposes.

This Contract is currently estimated to cover activities in 1 jurisdiction to be held by the end of 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 for consultancy services amount to 106 500 EUR 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.

## Scope of the Framework Contract

Throughout the duration of the Framework Contract, pre-selected Providers may be asked to provide the deliverables listed in the Act of Engagement as below (See Section A – Terms of reference):

- Analyse and assess the role and the functioning of the FIU or other competent authorities, inclusive of deskwork and meetings with the relevant stakeholders.
- Draft assessment reports, policy, legislative and operational analysis outlining findings and recommendations with regard to the functioning of the AML/CFT system at the strategic and operational level, including interagency cooperation and cooperation with the respective financial and non-financial entities.
- Participate in meetings, workshops, and trainings aimed at enhancing the capabilities of competent authorities.
- Provide input for the development of the effectiveness of the Financial Intelligence Units core functions and analyse the implementation of EU AML/CFT measures and standards.

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 which is the 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 maintain 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 information is brought to the knowledge of the Provider 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 Consultant/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 Consultant/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 Consultant/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 Consultant/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<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;

<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.

- 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>

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*

- University degree in law, economics or related field of all persons assigned to the execution of the contract;
- At least five years of professional experience in a financial intelligence unit and/or supervisory body and/or other AML/CFT competent authority or at least 5 years of AML/CFT compliance experience in a financial or non-financial institution for all persons assigned to the execution of the contract;
- Excellent written and spoken English.

#### *Award criteria*

- Quality of the offer (70%), including:
  - demonstrated professional experience in financial intelligence, or AML/CFT supervision
- Financial offer (30%).

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

Multiple tendering is not authorised.

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<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;
- 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).

## 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 detailed CV of all persons assigned to the execution of the contract, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
- 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);
- A list of all owners and executive officers, for legal persons only;
- Motivation letter in English or French, demonstrating the tenderer's understanding of the Council of Europe needs as well as its compliance with the eligibility and award criteria listed above.

**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 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.