

# TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

## Purchase of *National Consultancy Services*

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

The Council of Europe is currently implementing and until 23/05/2022 a Project on Strengthening the human rights protection of migrants and victims of human trafficking in Turkey. The action is implemented under the joint European Union (EU) and the Council of Europe (CoE) programme "Horizontal Facility for the Western Balkans and Turkey II (2019-2022)". In that context, it is looking for Provider(s) for the provision of national consultancy services 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 self-employed sole trader, or a duly registered limited or unlimited liability company with a single employee/director.  
The tenderer must be a legal person except consortia.

Tenders shall be submitted **by email only** (with attachments) **to the email address indicated in the table below, with the following reference in subject: "HF-30: Migration-National Consultancy Services"**. 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: "Question: HF-30 Migration-National Consultancy Services"**

Type of contract ▶	Framework contract
Duration ▶	Until 23 May 2022
Deadline for submission of tenders/offers ▶	<b>16 August 2020</b>
Email for submission of tenders/offers ▶	<a href="mailto:ankara.office@coe.int">ankara.office@coe.int</a>
Email for questions ▶	<a href="mailto:ankara.office@coe.int">ankara.office@coe.int</a>
Expected starting date of execution ▶	17 August 2020

<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 Council of Europe is currently implementing a Project on "Strengthening the human rights protection of asylum seekers, migrants and victims of human trafficking in Turkey" (the Project) which aims at enhancing the protection of human rights in the context of migration and strengthening the application of European standards in this field. The Project is implemented in the framework of the co-operation initiative of the Council of Europe and the European Union under *Horizontal Facility for the Western Balkans and Turkey Programme (Horizontal Facility II)* 2019-2022.

The Project is divided in two components: the **first component** focuses on the prevention of trafficking in human beings and is based on the first evaluation report on Turkey by the Group of Experts on Action against Trafficking in Human Beings (GRETA) in July 2019; the **second component** focuses on migration management and human rights and is built on the relevant case-law of the European Court of Human Rights (ECtHR) as well as the recommendations of the Special Representative of the Secretary General on Migration and Refugees (SRSG) following his fact-finding mission to Turkey in 2016 and the findings of other Council of Europe bodies.

In this framework under the **second component** of the project, the Council of Europe is looking for a maximum of ten (10) 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 alternatives to immigration detention, special needs of vulnerable refugees and migrants, smuggling of migrants and HELP tutoring.

This Contract is currently estimated to cover up to 50 activities, to be held by 23/05/2022. 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 2.500.000 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: Alternatives to immigration detention	10
Lot 2: Special needs of vulnerable migrants	10
Lot 3: Reception conditions for migrants	10
Lot 4: Smuggling of migrants	10
Lot 5: Proofreading, adaptation, moderation and evaluation of HELP Courses	10

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

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

Under Lot 1; Selected provider will be, inter alia, asked to;

- Proofread materials translated into Turkish,
- Participate in and moderate meetings and roundtables and make presentations,
- Create and modify training curricula, modules and materials,
- Conduct trainings on alternatives to detention,
- Provide other intellectual services for activities related to alternatives to detention.

Under Lot 2; Selected provider will be, inter alia, asked to;

- Develop and revise capacity-building materials,
- Help organizing and attending workshops, roundtables and seminars,
- Prepare training curricula, modules, materials and conduct trainings,
- Provide evaluation support
- Provide other intellectual services for activities related to special needs of vulnerable refugees and migrants.

Under Lot 3; Selected provider will be, inter alia, asked to;

- Draft capacity-building materials,
- Prepare and conduct trainings on reception conditions,
- Provide other intellectual services for activities related to reception conditions for migrants.

Under Lot 4; Selected provider will be, inter alia, asked to;

- Develop and revise materials on countering smuggling of migrants,
- Attend national and international workshops,
- Conduct relevant studies,
- Provide other intellectual services for activities related to smuggling of migrants.

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.

2. Throughout the duration of the Framework Contract, pre-selected Providers may also be asked to provide the deliverables listed in the Act of Engagement (See Section A – Terms of reference). This list is considered exhaustive. Such as;

Under Lot 5; Selected provider will be, inter alia, asked to;

- **Proofread** the translation of a model HELP course into Turkish to make sure that the quality of the translation is in line with the national legal standards
- Supplement a model HELP course on to the specific needs of Turkish legal professionals and to the national legal order. (**Adaptation**) This is done in line with the HELP Training Methodology by:
  - uploading examples of national legislation, domestic case-law and any other materials relevant to the topic of the model course, on the relevant course page provided by the HELP Secretariat;
  - drafting assignments and practical exercises;
  - collecting and uploading other existing training materials which are relevant to participants.
- Participate in the kick-off meeting for the **launch** of a HELP course and deliver a presentation on its implementation. Participate as a trainer in face-to-face training sessions (applicable if the course is intended to be blended).
- **Moderate** a course in the HELP e-learning platform by:
  - enrolling participants in the course;
  - providing participants in the course with all relevant news and information via the platform;
  - making modules available according to the course's schedule;
  - posting topics, questions and messages on the forum specifically dedicated to the participants in the course in order to stimulate and revive the discussion and network among them (at least one new discussion per module should be posted);

- ensuring that the questions addressed through the forum are answered in a timely manner;
- keeping track of the most frequently asked questions.
- **Evaluate** the overall implementation of a course in order to identify the extent to which the learning objectives have been met and seek to ideas or suggestions for future training. This is done in line with the HELP Training Methodology by:
  - distributing the HELP Evaluation Questionnaire among participants in the course (when the last module is published);
  - evaluating participants' questionnaires, attitude, level of participation and assumed knowledge;
  - providing the list of participants who successfully participated in the course in order to issue HELP certificates;
  - submitting to the HELP Secretariat the report for the course implementation, in line with their instructions and on a template provided by them.

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:

- 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<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>

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;
- 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 or are likely to be in a situation of conflict of interests;
- 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 Lots 1, 2, 3 and 4:

- University degree in law,
- At least 4(four) years of professional experience,
- Experience as a staff or consultant in projects,
- Excellent oral and written knowledge of Turkish language (preferably mother tongue level),
- Excellent oral and written knowledge of English language (at least B1 or B2 level CEFR).

###### For Lot 5:

- University degree in law,
- Holding a valid CoE **HELP tutor certificate**

<sup>2</sup> 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.

<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 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).

- Excellent oral and written knowledge of Turkish language (preferably mother tongue level);
- Excellent oral and written knowledge of English language (at least B1 or B2 level CEFR).

#### *Award criteria*

- Quality of the offer (80%), including:
  - Number of years of related professional experience in given field for each lot, (%25)
  - Experience in working for/with international organizations or in EU funded projects, (%25)
  - Further studies (LLM, PhD, etc.) on relevant subject, (%15)
  - Proposed methods of undertaking the work, (%15)
- Financial offer (20%).

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

#### 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, 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;
- A Motivation letter describing how the tenderer meets the eligibility criteria above and highlighting experience in specific lots and areas covered by this call and proposing methods of undertaking the work (2 pages maximum);
- A sample of an English text recently drafted by the tenderer, preferably in a form of references/links to publications, analyses, reports, assessments, studies, etc. relevant to the experience the tenderer claims (in English)

At the time a specific assignment is ordered from a tenderer belonging to the category of civil servant or other public administration staff under the second phase of the Horizontal Facility, the respective tenderer will be required to submit a written confirmation by their employer that secondary activities of civil servants are allowed by national/local legislation and that the employer authorises the tenderer to carry out the object of this tender procedure as a secondary activity. In the absence of such a confirmation, the Council of Europe reserves the right to withdraw the order.

**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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<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.