**TENDER FILE / TERMS OF REFERENCE**

**(Competitive bidding procedure / One-off contract)**

**Purchase of legal consultancy services for delivering a report and analysis on the most frequent questions and answers on implementation of the Laws relevant for the Local Self-Government System in Serbia.**

**4708/2022/90**

The Council of Europe is currently implementing a joint EU/CoE programme “Human Resources Management in local self-government” - phase 2 (2018 -2022), which is based on the achievements and challenges of the Programme “Human Resources Management in local self-government” phase 1 (2016-2017) implemented by the Council of Europe in cooperation with the programme partners Ministry of Public Administration and Local Self-government and Standing Conference of Towns and Municipalities. The programme “Human Resources Management in local self-government” - phase 2 (the Programme) is also built on the implementation of the Strategy of Public Administration Reform in the Republic of Serbia Action Plan and in accordance with the European Charter of Local Self-Government’s principles, which provides a solid basis for setting-up strong and stable local authorities in the country. The Programme addresses the most relevant issues of human resources management (HRM) and human resource development (HRD) at local self-government level in the Republic of Serbia, which are prescribed in the Law on employees in autonomous provinces and local self- government units, the Law on salaries in autonomous provinces and local self-government units and the Law on National Academy for Public Administration.

The Program is financed by the European Union (EU) and the Council of Europe (CoE) and is implemented by the Council of Europe in cooperation with the project partners: Ministry of Public Administration and Local Self-Government and Standing Conference of Towns and Municipalities, who are implementing activities in line with their scope of work. The program started on 19 December 2018 and it will be completed on 18 December 2022.

Programme provided legal expertise to the Local Self-Governments in providing all relevant answers to the questions posted by LSGs regarding the implementation of the Law on Employees in Autonomous Provinces and Local Self-Government Units and other Laws relevant for the Local Self-Government System. Furthermore, the answer on each question is communicated with the Ministry of Public Administration and Local Self-Government and aligned with their opinion. All questions and answers were posted on the Standing Conference of Towns and Municipalities website.

In that context, the Programme is looking for a Provider for the provision of delivering Report on the most frequent questions and challenges raised by LSGs and all available legal opinions provided by the Ministry of Public Administration and Local Self Government and the Standing Conference of Towns and Municipalities relevant for the implementation of the Law on Employees in Autonomous Provinces and Local Self-Government Units and other relevant Law for the Local Self-Government System. (See Section A of the Act of Engagement).

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 **one-off 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: Report and Analysis on Questions and Answers.** 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 five (5) 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 - Report and Analysis on Questions and Answers**

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| --- | --- |
| **Type of contract ►** | One-off contract  |
| **Duration ►** | Until complete execution of the obligations of the parties (See Article 2 of the Legal conditions as reproduced in the Act of Engagement) |
| **Deadline for submission of tenders/offers ►** | 28 July 2022 |
| **Email for submission of tenders/offers ►** | Lsg.serbia@coe.int |
| **Email for questions ►** | Lsg.serbia@coe.int |
| **Expected starting date of execution ►** | 10 August 2022 |

1. EXPECTED DELIVERABLES

The expected deliverables are described in **Section A of the Act of Engagement** (See attached).

1. FEES

All tenderers are invited to fill in the **table of fees** as reproduced in **Section A of the Act of Engagement**.

Tenderers **subject to VAT** shall also send **a quote (Pro Forma invoice)** on their letterhead 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.

1. ASSESSMENT

*Exclusion criteria and absence of conflict of interests*

(by signing the Act of Engagement,**[[2]](#footnote-2)** you declare on your honour not being in any of the below situations)

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)).
* are public administration servants employed at central, regional or local level

*Eligibility criteria*

* University degree in law or equivalently 10 years of professional experience in conducting legal analysis and drafting report on Local Self-Government System
* Experience in analysing legal documents, laws and other relevant acts and drafting analytical reports
* Knowledge of the national legislation, public administration system, local self-governance system in the Republic of Serbia
* Fluent in Serbian and English Language

*Award criteria*

* Quality of the offer (90%), including:
* Minimum 5 years of proven working experience in analysing legal acts relevant for Local Self-Government and providing the opinion for their improvement
* Minimum 3 years in drafting reports relevant for the status of implementation of legal acts
* Proven working experience in collecting, systematising, and organising relevant data necessary for conducting analysis and defining justifiable results
* Previous work on EU funded project related to Local-Self Government System will be considered as an advantage
* Financial offer (10%).

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

Multiple tendering is not authorised.

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

Tenderers are invited to submit:

* **A completed and signed copy of the Act of Engagement[[3]](#footnote-3) (See attached)**
* For tenderers subject to VAT only: **a quote, describing their financial offer**, in line with the requirements of section C of the Tender File (see above);
* A list of all owners and executive officers, for legal persons only;
* **CV clearly indicating fulfilment of eligibility criteria**
* **Motivation letter clearly indicating fulfilment of award criteria**

**All documents shall be submitted in English or Serbian, 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. 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-2)
3. 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-3)