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| --- | --- |
| **Type of contract:** | **Framework contract** (No lots) |
| **Type of tendering procedure:** | International public call for tenders. |

**ACT OF ENGAGEMENT**

**(FRAMEWORK CONTRACT)**

Call for tenders

For the provision of consultancy services on the inclusion of Roma at local and regional level in Romania (Facilitators)

2017/AO/05

|  |
| --- |
| **INSTRUCTIONS TO THE TENDERERS** |
| * Complete the table under Article 2.2
* Complete the table under Article 8.1 (by indicating name, place of signature and date)
* Complete the table of fees
* Print **two copies** of this document once completed and **sign them** (in the appropriate box under Article 8.1)
* Attach one set of **all the requested documents** (see Article 6)
* **Send these documents** **to the Tenders Board of the Council of Europe** (See modalities on the **final check-list** on the last page of the call for tenders)
* **Selected tenderers** will receive one copy of the Act of Engagement signed by the Council of Europe / **Rejected tenderers** will be informed in writing.
 |

**ARTICLE 1 – OBJECT OF THE FRAMEWORK CONTRACT**

This tendering procedure is an international public call for tenders.

It aims at concluding a framework contract for the provision of services of consultancy on the inclusion of Roma at local and regional level in Romania (Facilitators).

**ARTICLE 2 – IDENTIFICATION OF THE PARTIES**

**2.1 Details of the buying entity:**

**Council of Europe**

Directorate General of Democracy

Support Team of the Special Representative of the Secretary General of the Council of Europe for Roma Issues

**2.2 Details of the Provider:**

*(The Provider shall complete the following table)*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| CONTACT DETAILS | **Name and Address ►** | *Click here to enter the official name (and surname if the Provider is a natural person)**Click here to enter the full address* | **VAT number ►** | *Click here to enter VAT number (if any)* |
| **Country of registration ►** | *Click here to enter the country of registration (if applicable)* |
| **Registration number ►** | *Click here to enter the registration number (if applicable)* |
| **Email ►** | *Click here to enter the email address of the Provider* |
| **Phone number ►** | *Click here to enter phone number(s) of the Provider, with international dialling code* | **Fax number ►** | *Click here to enter fax number(s) of the Provider, with international dialling code* |
| BANK DETAILS | **Account holder ►** | *Click here to enter account holder* | **Full bank account number (RIB) ►** | *Click here to enter full bank account number (RIB)* |
| **IBAN Code ►** | *Click here to enter IBAN Code.* | **SWIFT Code ►** | *Click here to enter SWIFT Code* |
| **Bank name ►** | *Click here to enter the bank name* | **Bank address ►** | *Click here to enter the bank address* |

**ARTICLE 3 – DURATION OF THE FRAMEWORK CONTRACT**

The contract is concluded until 31 December 2017 and takes effect as from the date of its signature by both parties. In the event that the Project is prolonged by the donor, this contract may be renewed on a three-monthly basis, but cannot be prolonged beyond 30 June 2018.

**ARTICLE 4 – PERIOD OF VALIDITY OF THE TENDERS**

The Provider agrees with the period of validity of the tenders as specified in Article 3 of the Tender Rules (See **Part II** of the call for tender document).

**ARTICLE 5 – DECLARATIONS OF THE PROVIDER**

**5.1 Accuracy and reliability of information submitted**

The Provider agrees that the information provided in the tender may be audited by the Council of Europe or verified by any means.

The Provider undertakes to update Council of Europe with significant information changes within a reasonable time. Significant information changes include, but are not limited to change of legal status, ownership, name and address, loss of license of registration, filing bankruptcy, suspension or debarment by any national or local governmental agency or assimilated.

The Provider agrees that failure to provide accurate and reliable information required by this Act of Engagement may result to exclusion of the tender from the tendering procedure and/or terminating all contracts or agreements signed as a result of the tendering procedure.

**5.2 Exclusion criteria**

The Provider declares that:

* + It has not been sentenced by final judgment on one or more of the following charges: participation in a criminal organisation, corruption, fraud, money laundering;
	+ It is not 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 subject to a procedure of the same kind;
	+ It has not received a judgment with *res judicata* force, finding an offence that affects its professional integrity or serious professional misconduct;
	+ It does comply with its obligations as regards payment of social security contributions, taxes and dues, according to its applicable statutory provisions.

**ARTICLE 6 – DOCUMENTS TO BE SUBMITTED**

The Provider declares being informed that its tender will only be assessed if it contains the following documents:

* **Two** completed and signed copies of the Act of Engagement, including **a completed table of fees** (See below)**;**
* A motivation letter in English, demonstrating experience and expertise required;
* A detailed CV in English (EU format);
* Three relevant references, from current or previous employers or clients (name, surname, title, phone number or e-mail).

**ARTICLE 7 – LOTS**

N/A

**ARTICLE 8 – SIGNATURE OF THE PARTIES**

|  |  |
| --- | --- |
| **1. For the Provider** | **2. For the Council of Europe** |
| By signing the Act of Engagement, the Provider accepts without conditions all the terms of the Legal Terms and Conditions listed below, provisions of which are not negotiable. |  | On behalf of the Secretary General of the Council of Europe |
| **Name of the Provider ►** | *Click here to enter the name of the Provider* |  | **Name of the person entitled to sign on behalf of the Secretary General:** |  |
| **Name of the Signatory\* ►** | *Click here to enter the name of the signatory* |  |
| **Place of signature ►** | *Click here to enter the place of signature* |  | **Place of signature:** |  |
| **Date of Signature ►** | *Click here to enter the date* |  | **Date of Signature:** |  |
| **Signature ►** |  |  | **Signature:** |  |
|  |  | Ranking of the Provider | **\_\_\_\_ out of \_\_\_\_** |
|  |

 **TABLE OF FEES**

(Please indicate the proposed daily fee. **Incomplete tables will not be considered**)

|  |  |
| --- | --- |
| **DAILY FEE (in Euros without taxes) ▼**Indicate in this column your proposed daily fee, without exceeding the exclusion level indicated in the next column. | **EXCLUSION LEVEL ▼**Tenders proposing a fee above the exclusion level will be entirely and automatically excluded from the tender procedure. |
| *Click here to enter* *the proposed daily fee* | **100 Euros** |

Please note that the indicated daily fee is not intended to cover travel, subsistence or accommodation expenses incurred in the performance of this contract (see Terms of Reference, section IV).

**LEGAL CONDITIONS**

**Article 1 – General provisions**

1.1 The Provider undertakes, on the conditions and in the manner laid down by common agreement hereafter excluding any accessory verbal agreement, to perform the list of services reproduced in the Terms of reference (see above) related to the present contract and in the tender submitted by the Provider.

1.2 The present contract is composed, by order of precedence, of:

a) the Act of Engagement, in its entirety (cover page, Sections A and B and the present Legal Conditions);

b) the tender submitted by the Provider.

1.3 – Any general purchasing terms and conditions of the Provider shall never prevail over these legal conditions. Any provision proffered by the Provider in its documents (general conditions or correspondence) conflicting with the clauses of these legal conditions shall be deemed void, except for any clauses which may be more favourable to the Council.

* 1. For the purposes of this Contract:

a) “Contract” shall refer to the documents described in 1.2, above;

b) “Council” shall mean the Council of Europe;

c) “Deliverables” or “Services” shall mean the deliverables or services as described in the Terms of reference;

d) “Parties” shall mean the Council and the Provider;

e) “Provider” shall mean the legal or physical person selected by the Council for the provision of the Services.

**Article 2 – Duration**

The contract is concluded until complete execution of the obligations of the parties and takes effect as from the date of its signature by both parties. The services shall be executed in accordance with the timeframe indicated in the Terms of reference or, by default, in the tender submitted by the Provider.

**Article 3 – Obligations of the Provider**

**3.1 General obligations**

3.1.1 The Provider bears sole responsibility for all the decisions made and the human, technical, logistic and material resources used in the context of the Contract in order to supply the services, with due respect for the Council of Europe’s needs and constraints, as contractually defined.

3.1.2 The Provider shall supply to the Council of Europe all the warnings and recommendations necessary particularly in terms of quality of services, security and compliance with professional standards. The Provider undertakes in particular to inform the Council of Europe as soon as it becomes aware, during the execution of the Contract, of any difficulty that might affect the proper execution of the Contract.

**3.2 Intellectual services**

3.2.1 The provisions of Articles 3.2.2 to 3.2.8 shall apply to the provision of intellectual services only.

3.2.2 Unless agreed otherwise by the Parties, any written documents prepared by the Provider under the contract shall be written in English and produced on a word processing file.

3.2.3 Unless agreed otherwise by the Parties, all written documents of more than 1,500 words shall be preceded or accompanied by a text summarising the subject and main conclusions and shall not, unless specifically required, exceed 5,000 words.

3.2.4 The Provider guarantees that the deliverables conform to the highest academic standards.

3.2.5 The Provider cedes irrevocably and exclusively to the Council throughout the entire world and for the entire period of copyright protection, all rights on the deliverable(s) produced as a result of the execution of the present contract. Such rights shall include in particular the right to use, reproduce, represent, publish, adapt, translate and distribute – or to have used, reproduced, represented, published, adapted, translated and distributed - in any country, in any language, in any form and on any kind of support, including on a CD-ROM or the Internet, the said deliverables, or any part thereof.

3.2.6 The Council reserves the right to exercise the above-mentioned rights for any purpose falling within its activities.

3.2.7 The Provider guarantees that use by the Council of the deliverable(s) produced as a result of the execution of the present contract will not infringe the rights of third parties. However, should the Council incur liability as the result of any such infringement; the Provider will compensate it in full for any damage it may suffer in consequence.

3.2.8 Notwithstanding the provision in Article 3.2.5 above, the Council may, on prior application by the Provider, authorise the Provider to use the deliverable(s) referred to above. When giving the Provider such authority, the Council will inform the Provider of any conditions to which such use may be subject.

**3.3 Health and social insurance of the Provider or its employees**

The Provider shall undertake all necessary measures to arrange for health and social insurance during the entire period of the performance of work under the contract. The Provider acknowledges and accepts in this regard that the Council shall not assume any responsibility for any health and social risks concerning illness, maternity or accident which might occur during the performance of work under the contract.

**3.4 Fiscal obligations**

The Provider undertakes to observe all applicable rules and to comply with his/her/its fiscal obligations in:

a) submitting a request for payment, or an invoice, to the Council in conformity with the applicable legislation;

b) declaring all fees received from the Council for tax purposes as required in his/her/its country of fiscal residence.

* 1. **Loyalty and confidentiality**

3.5.1 In the performance of the present contract, the Provider will not seek or accept instructions from any government or any authority external to the Council. The Provider undertakes to comply with the Council’s directives for the completion of the work, to observe absolute discretion regarding all service matters and to refrain from any word or act that may be construed as committing the Council.

3.5.2. The Provider shall observe the utmost discretion in all matters concerning the contract, and particularly any service matters or data that have been or are to be recorded that come to the Provider’s attention in the performance of the contract. Unless obliged to do so under the terms of the contract, or expressly authorised to do so by the Secretary General of the Council, the Provider shall refrain at all times from communicating to any person, legal entity, government or authority external to the Council any information which has not been made public and which has come to the Provider’s notice as a result of dealings with the Council. Nor shall the Provider seek to gain private benefit from such information. Neither the expiry of the contract nor its termination by the Council shall lift these obligations.

**3.6 Disclosure of the terms of the contract**

3.6.1 The Provider is informed and gives an authorisation of disclosure of all relevant terms of the contract, including identity and price, for the purposes of internal and external audit and to the Committee of Ministers and to the Parliamentary Assembly of the Council with a view to these latter discharging their statutory functions, as well as for the purpose of meeting the publication and transparency requirements of the Council of Europe or its donors. The Provider authorises the publication, in any form and medium, including the websites of the Council of Europe or its donors, of the title of the contract/projects, the nature and purpose of the contract/projects, name and locality of the Provider and amount of the contract/project.

3.6.2 Whenever appropriate, specific confidentiality measures shall be taken by the Council to preserve the vital interests of the Provider.

**3.7 Use of the Council of Europe’s name**

The Provider shall not use the Council’s name, flag or logo without prior authorisation of the Council.

**3.8 Other obligations**

3.8.1 In the performance of the present contract, the Provider undertakes to comply with the applicable principles, rules and values of the Council.

3.8.2 The Staff Regulations and the rules concerning temporary staff members shall not apply to the Provider.

3.8.3 Nothing in this contract may be construed as conferring on the Provider the capacity of a Council of Europe staff member or employee.

**Article 4 – Fees, expenses and mode of payment**

**4.1 Ordering**

4.1.1 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. Where the Service Provider is subject to VAT, it shall send the signed Order Form together with a quote in line with the indications specified on each Order Form. Each quote must strictly respect the fees indicated in the Order Form. In case of non-compliance with the fees as indicated in the Order Form, the Council of Europe reserves the right to terminate the Contract with the Service Provider, in all or in part. Where the Service Provider is not subject to VAT, only the signed Order Form is required.

4.1.2 While respecting the established ranking as a result of the tendering procedure, the Council reserves the right to propose to the selected Providers which municipalities they will work with, at its absolute discretion, based on their place of residence or professional activity (in order to minimise the travel costs of the Projects), their experience with the community/municipality concerned and/or their adaptability to the context. Providers will be entitled to accept or refuse the municipalities proposed. The Council may decide to propose alternatives; however the Provider shall not have the automatic right to be proposed an alternative in lieu of any municipalities which they refuse. Orders will be addressed in priority to the Provider ranked highest on the tender list for the duration of the contract. Other Providers will be proposed the remaining municipalities, by order of ranking. The Council reserves the right to address orders to one of the following ranked Providers if a Provider refuses to work with one or several given municipality(ies), without prejudice to the criteria mentioned above. The Providers who are not initially allocated municipalities will be called on only if the contract with one of the higher ranked Providers is terminated or in in cases where the Service Provider is unable to take the Order or if no reply is given on his/her behalf within the requested deadline specified in Article 4.1.1 above. In the latter cases, the Council will continue to respect the established ranking by offering the municipality to the highest ranked tenderer with capacity to take this municipality, whilst reserving the right to propose the municipality to a lower-ranked Provider at its absolute discretion, based on the criteria mentioned above.

4.1.3 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 Service Provider, to the extent possible on the day of its signature.

4.1.4 If the Service Provider fails to provide the expected service level, as defined in the Technical Specifications or in the Order Form concerned, the Council reserves the right to deduct from the price to be paid an amount corresponding, on a *pro rata* basis, to the level of service that the Service Provider failed to provide, and/or to terminate the contract, in all or in part.

4.1.5 In return for the fulfilment by the Service Provider of its obligations under each Order, the Council undertakes to pay the Service Provider amounts in Euros (unless otherwise provided in the Tender file/Terms of reference), as indicated in the Provider’s tender and the relevant quote.

4.1.6 Amounts/Fees indicated in each Order are final and not subject to review.

**4.2 VAT**

4.2.1 Should the services be taxable in France, the amount invoiced shall be VAT inclusive.

4.2.2 Should the services be taxable in another EU country, and unless otherwise agreed between the Parties, the Council will provide the Service Provider with an exemption certificate prior to the signature of the contract. The exemption certificate sent by the Council of Europe should be retained by the Service Provider and presented to the relevant tax authorities to justify tax-free invoicing. In accordance with Article 2 b) of Council Directive 2001/115/EC, the following should be stated in the invoice: “Intra-Community service to an exempted organisation: Articles 143 and 151 of Council Directive 2006/112/EC” and should indicate the final total amount excluding VAT. In case the CoE will not be in a position to provide the said certificate, the Council will pay the invoice with VAT included.

4.2.3 Should the services be taxable in a non-EU country, the amount invoiced will not include VAT if the local (national) legislation allows for it, or if the Council of Europe enjoys tax exemption through other means in the country concerned. Otherwise, it shall include VAT.

4.2.4 For the provision of “online services”, should the Provider be established either in an EU country (other than France) or in a non-EU country, the invoiced amount shall include French VAT at the applicable rate. The invoice shall indicate the total amount without taxes, the rate and the amount of the VAT and the total amount ‘all tax included’. The invoice shall also stipulate the following statement: “*Intra-community service: French VAT collected by the Service Provider and paid to the Mini One-Stop shop in [Address/Country]*”.

**4.3 Invoicing and payment**

4.3.1 For each Order completed, and upon acceptance of the deliverable(s) by the Council, the Service Provider shall submit an invoice or a request for payment in triplicate and in Euros (unless otherwise agreed) in conformity with the applicable legislation.

4.3.2 Before accepting the deliverable(s), the Council reserves the right to ask the Provider to submit any other document or information that may serve the purpose of establishing that the Contract has been duly executed.

4.3.3 In the case of event organisation, the Provider shall in any case submit any document that proves that the event took place, including but not limited to an attendance sheet broken down into half days specifying the location, date(s) and time(s) of the event(s) or activity(ies), to be individually signed by each participant and the Provider.

4.3.4 The payment for the services to be paid by the Council shall be made within 60 calendar days of submission of the invoice described in Article 4.3.1, subject to the submission of the deliverable(s) described in the Terms of reference and its/their acceptance by the Council.

**Article 5 - Breach of contract**

5.1 In the event that the Provider does not satisfy the conditions laid down in this contract or those resulting from any modifications duly accepted in writing by both parties, in accordance with the provisions of Article 6 below, or the services provided as referred to under Article 1.1 do not reach a satisfactory level, the Council shall consider there to have been a breach of contract and may consequently refuse to pay to the Provider the amounts referred to in Article 4.1 above.

5.2 In the cases described in paragraph 5.1 above, the Council reserves further, at any moment and further to prior notification to the Provider, the right to terminate the contract. In case of termination, the Council shall pay only the amount corresponding to the services actually and satisfactorily provided at the time of termination of the contract and shall request reimbursement of the sums already paid for services not provided.

5.3 The outstanding sums shall be paid to the Council’s bank account within 60 calendar days from the notification in writing by the Council to the Provider regarding the outstanding sums to be paid.

**Article 6 - Modifications**

6.1 The provisions of this contract cannot be modified without the written agreement of both parties.

6.2 Any modification shall not affect elements of the contract which may distort the initial conditions of the tendering procedure or give rise to unequal treatment between the tenderers.

6.3 This contract may not be transferred, in full or in part, for money or free of charge, without the Council’s prior authorisation in writing.

6.4 The Provider may not subcontract all or part of the services without the written authorisation of the Council.

**Article 7 - Case of force majeure**

7.1 In the event of force majeure, the parties shall be released from the application of this contract without any financial compensation. Force majeure is defined as including the following: major weather problems, earthquake, strikes affecting air travel, attacks, a state of war, health risks or events that would require the Council or the Provider to cancel the contract.

7.2 In the event of such circumstances each party shall be required to notify the other party accordingly in writing, within a period of 7 calendar days.

**Article 8 - Communication between the parties**

8.1The Contact point within the Council of Europe is indicated on the cover page of the Act of Engagement (See page 1 above).

8.2 The Provider can be reached through the means indicated in the Act of Engagement (see page 1 above).

8.3 Any communication is deemed to have been made when it is received by the receiving party, unless the Contract refers to the date when the communication was sent.

8.4 Electronic communication is deemed to have been received by the receiving party on the day of successful dispatch of that communication, provided that it is sent to the addressees listed in paragraphs 1 and 2 above. Dispatch shall be deemed unsuccessful if the sending party receives a message of non-delivery. In this case, the sending party shall immediately send again such communication to any of the other addresses listed in paragraphs 1 and 2 above. In case of unsuccessful dispatch, the sending party shall not be held in breach of its obligation to send such communication within a specified deadline, provided the communication is dispatched by another means of communication without further delay.

8.5 Mail sent to the Council using the postal services is considered to have been received by the Council on the date on which it is registered by the department identified in paragraph 1 above.

8.6 Formal notifications made by registered mail with return receipt or equivalent, or by equivalent electronic means, shall be considered to have been received by the receiving party on the date of receipt indicated on the return receipt or equivalent.

**Article 9 –Acceptance**

The provision of deliverables referred to in this contract shall be the subject of a written acceptance procedure. If acceptance is refused, the Council shall inform the Provider accordingly, giving reasons, and may set new modalities for the provision of the deliverables. If acceptance is refused again, the Council may terminate the Contract in whole or in part without previous notice and without paying any financial compensation.

**Article 10 – Changes in the Provider’s situation or standing**

10.1 The Service Provider shall inform the Council without delay of any changes in their address or legal domicile or in the address or legal domicile of the person who may represent them.

10.2 The Service Provider shall inform also inform the Council without delay:

1. if they are involved in a merger, takeover or change of ownership or there is a change in their legal status;
2. where the Service Provider is a consortium or similar entity, if there is a change in membership or partnership.
3. if they are sentenced by final judgment on one or more of the following charges: participation in a criminal organisation, corruption, fraud, money laundering;
4. if they 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 is not subject to a procedure of the same kind;
5. if they have received a judgment with *res judicata force*, finding an offence that affects their professional integrity or serious professional misconduct;
6. If they do not comply with his obligations as regards payment of social security contributions, taxes and dues, according to the statutory provisions of their country of legal domicile;
7. If they are or are likely to be in a situation of conflict of interests.

**Article 11 - Disputes**

11.1 Any dispute regarding this Contract shall - failing a friendly settlement between the Parties - be submitted to arbitration.

11.2 The Arbitration Board shall be composed of two arbitrators each selected by one of the parties, and of a presiding arbitrator, appointed by the other two arbitrators; in the event of no presiding arbitrator being appointed under the above conditions within a period of six months, the President of the Tribunal de Grande Instance of Strasbourg shall make the appointment.

11.3 Alternatively, the parties may submit the dispute for decision to a single arbitrator selected by them by common agreement or, failing such agreement, by the President of the Tribunal de Grande Instance of Strasbourg.

11.4 The Board referred to in paragraph 2 of this Article or, where appropriate, the arbitrator referred to in paragraph 3 of this Article, shall determine the procedure to be followed.

11.5 If the parties do not agree upon the law applicable the Board or, where appropriate, the arbitrator shall decide ex aequo et bono having regard to the general principles of law and to commercial usage.

11.6 The arbitral decision shall be binding upon the parties and there shall be no appeal from it.

**Article 12 - Addresses and bank details of the parties**

The bank details of the Provider are indicated in the Act of Engagement. The bank details of the Council of Europe are the following:

Bank address: F-67075 Strasbourg Cedex, France

Bank name: Société Générale Strasbourg

Code IBAN: FR76 30003 02360 001500 1718672

SWIFT Code: SOGEFRPP