



Open Call for Consultancy Services

Reference Number: 034-018

Terms of Reference:	Expert on Liability of Legal Entities
Contracting Authority:	Regional Cooperation Council Secretariat
Starting Date:	1 August 2018
Reporting to:	RCC Secretariat / Expert on Governance for Growth
Duration:	1 August 2018 – 30 December 2018 (25 working days)
Application Deadline:	9 July 2018
Eligible:	Individual consultant
Reference Number:	034-018

I. Background

Purpose

The purpose of the assignment is to support the implementation of the South East Europe 2020 Strategy (hereinafter SEE2020) in the area of Anti-corruption and Justice through building capacities of the judiciary to deal with corruption cases when a legal entity is involved.

The main objective of the assignment is to develop a training module and deliver it to prosecutors and judges in the region.

Background information

The South East Europe 2020 Strategy (2020 Strategy) was endorsed by the economies of Western Balkans to reflect the determination to embrace the bold policy approaches required to attain the level of growth necessary to improve the prosperity of the region and facilitate eventual

integration with the European Union. At the same time, lack of good governance and prevalent corruption affect the effective economic integration. These are elements that hamper efficient deployment of limited public resource to strategic priorities that are to boost growth and equity. Joint efforts to strengthen governance and rule of law can play a critical role in facilitating private investment and development of regional markets. Therefore, the SEE 2020 Strategy encompasses anti-corruption measures and judiciary cooperation as cross-cutting issues.

Furthermore, the RCC established the SEE Judicial Training Institutions (JTI) Network for facilitating regional activities in the field of judicial training, disseminating information of regional relevance and supporting the organisation of regional seminars and other types of training events for judges and prosecutors. The aim of the regional cooperation among JTIs is to contribute to the enhancement of the independence and accountability of judiciary with the planning and coordination of projects in the field of training.

At the Rule of Law Forum held in March 2018 in Skopje, representatives of judicial training institutions acknowledged the existing limited capacities in regard of liability of legal entities for corruption offences, and welcomed the RCC's initiative to develop a training module on the matter and deliver it to the requesting parties.

II. Description of Responsibilities

Objectives and scope of the assignment

The purpose of the assignment is to assist the RCC Secretariat in strengthening capacities of the judiciary to prosecute and adjudicate corruption related offences involving corporate liability. The expert will develop a training manual and deliver trainings based on it to prosecutors and judges from higher courts and prosecutorial units from the region. The activity will be carried out with relevant judicial training institutions, through their Network maintained by the RCC. The module shall include practical exercises and simulated investigations.

The expert will also have the task of exploring existing challenges that the judiciaries in Western Balkans are facing in making legal entities liable for corruption offences. He/she will be responsible for finalisation of the final report on the matter. To complete these objectives, the following tasks will be assigned.

Tasks

- Develop a training module (in a manual) for prosecutors and judges from Western Balkans to strengthen their capacities on liability of legal entities for corruption offences, taking into account existing curricula used by the JTIs in the region;
- Deliver two-day trainings based on the developed module to three requesting judicial training institutions from Western Balkans;
- Prepare a final report, based on the trainings' outputs, with recommendations for the next steps.

The envisioned level of effort is set at a maximum of 25 days of expert's input with 3 trips within the region.

The Expert will report to the Expert on Governance for Growth at the Regional Cooperation Council.

Deliverables

- Training manual on liability of legal entities for corruption offences;
- Two-day trainings delivered to three judicial training institutions (for prosecutor and judges from higher courts and prosecutorial units) from the region;
- 1 final report compiling trainings' outputs and recommendations for the next steps.

Timeframe

The total duration of the engagement will be 5 months, starting on 1st August 2018 and finishing by 31st December 2018.

DELIVERABLE	DEADLINE
<ul style="list-style-type: none">• Training manual on liability of legal entities for corruption offences in Western Balkans	31 September 2018
<ul style="list-style-type: none">• 3 trainings delivered to prosecutors and judges	30 November 2018
<ul style="list-style-type: none">• Final Report with recommendations	31 December 2018

III COMPETENCIES

RCC is looking for an Expert with strong background in criminal justice, with experience in law enforcement and strong understanding of corruption offences peculiarities. The Expert needs to demonstrate knowledge on criminal liability of legal persons, as well as understanding of Western Balkans challenges in criminal justice.

Qualifications

Education:	<ul style="list-style-type: none">▪ Advanced degree in law, preferably criminal law
Experience:	<p>Qualifications required</p> <ul style="list-style-type: none">▪ Minimum of 7 years of relevant experience;▪ Experience in law enforcement, preferably as prosecutor or judge;▪ Proven experience of anti-corruption work;▪ Experience in tasks involving corporate liability;▪ Demonstrable drafting skills for theoretical publications and practical tools/guides;▪ Demonstrable skills in delivering practical trainings;▪ Working experience in similar projects in Western Balkans is considered an asset.
Language requirements:	<ul style="list-style-type: none">▪ Fluency in English, as the official language of the RCC.
Other:	<ul style="list-style-type: none">▪ Advanced computer literacy, familiarity with MS Office applications.

Core competencies

- Demonstrates professional competence to meet responsibilities and post requirements, being conscientious and efficient in meeting commitments, observing deadlines and achieving results;

- Results-orientation: Plans and produces quality results to meet established goals, generates innovative and practical solutions to challenging situations;
- Communication: Excellent communication skills, including the ability to deliver practical trainings and persuasive style tailored to match specific audiences;
- Client orientation: Ability to establish and maintain productive partnerships with regional and national partners and stakeholders and pro-activeness in identifying the needs of beneficiaries and partners, as well as matching them to appropriate solutions.

Core values

- Demonstrates integrity and fairness by modelling RCC values and ethical standards;
- Displays cultural, gender, religion, race, nationality and age sensitivity and adaptability.

IV QUALITY CONTROL

The expert should ensure an internal quality control during the implementing and reporting phase of the assignment. The quality control should ensure that the deliverables comply with the above requirements and meet adequate quality standards before they are delivered. The quality control should ensure that the training module, as well as the way of delivering the training, aims at improving practical skills of practitioners to prosecute and adjudicate legal entities for corruption offences.

The views expressed in the training manual and in the final report will be those of the author and will not necessarily reflect those of the Regional Cooperation Council. Therefore, a standard disclaimer reflecting this will be included in the report. In this regard, the expert may or may not accept comments and/or proposals for changes received, with the exception of the compliance with the RCC rules and practices on naming. However, when comments/proposals for changes are not agreed by the expert, he/she should clearly explain the reasons for his/her final decision in a comments table.

Quality control by the Regional Cooperation Council

The expert outputs shall undergo external review. The draft training manual and draft final report shall be reviewed by the Regional Cooperation Council. The approved final report will be subject to a quality assessment by SEE 2020 Strategy Coordination Unit of the Regional Cooperation

Council, upon whose endorsement the report would be distributed and made public. Therefore, the final report should be of a publishable quality.

V APPLICATION RULES

Qualified candidates are invited to send an application via e-mail to ProcurementforRCC@rcc.int no later than **9 July 2018, by 17.00** Central European Time.

The consultancy will be awarded to the highest qualified applicant based on the skills, expertise, and the quality of the concept note and the cost-effectiveness of the financial offer.

Only shortlisted candidates will be contacted.

The application needs to contain the following:

- Letter of interest for the assignment;
- CV(s) including information on relevant knowledge and experience, as well as a list of publications if applicable;
- Reference list including contact details (e-mail addresses) of referees;
- An outline programme for the training module of a maximum 3 pages, with a possible structure of the training manual, indicating sources of information to be used and training delivering technics;
- Application Submission Form, Annex 1;
- Financial offer, Annex II

When preparing the financial offer, the applicant should take into account the following:

- The proposed budget should include daily fee rate for consulting services; the fee rates should be broadly consistent with the EU framework rates for these types of professional services.

- Travel costs will be treated separately, paid or reimbursed by the RCC Secretariat based on actual costs.

VI EVALUATION AND SELECTION

The application is evaluated on the basis of the profile and competencies of the candidate and the responsiveness to the Terms of Reference (ToR).

1. Profile and Competencies
2. An outline programme for the training module
3. Financial evaluation based on Annex II

The best value for money is established by weighing technical quality against price on a 80/20 basis.

Technical Evaluation

EVALUATION GRID	Maximum score
Education	30
Experience (Qualifications and Skills Required)	30
An Outline Programme	30
Language Skills	10
TOTAL SCORE	100

In addition to the results of the application, a competency-based interview will be held with the selected candidate.

Financial Evaluation

Financial Proposal/ cheapest price has maximum score	100
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Annex I

APPLICATION SUBMISSION FORM

Open Call for Consultancy Services:

Reference Number: 034/018

Title: Expert on Public Participation

One signed scanned copy of this Application Submission Form must be supplied.

1 SUBMITTED by:

Name(s) and address(es) of Individual Consultant submitting this Application	
Full Name of Individual Consultant/ Contractor	

2 CONTRACT INFORMATION

Name and Surname	
Address	
Telephone	
Fax	
e-mail	

3 STATEMENT

[Name of the Individual Consultant] _____ hereby declares that we have examined and accepted without reserve or restriction the entire contents of the Open Call for Experts, Grounds for Exclusions and Conflict of Interest as such:

Grounds for exclusion

Candidates or bidders will be excluded from participation in a procurement procedure if it is known that:

- (a) They are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) They have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata;
- (c) They have been guilty of grave professional misconduct proven by any means which the Contracting Officer can justify;
- (d) They have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Contracting Officer or those of the country where the contract is to be performed;
- (e) They have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity.

Contracts may not be awarded to candidates or bidders who, during the procurement procedure, are:

- (a) Subject to a conflict of interest;
- (b) Guilty of misrepresentation in supplying the information required by the Contracting Officer as a condition of participation in the contract procedure or fail to supply this information.

Conflict of Interest

- a) The Contractor shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of the contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests which could arise during performance of the contract must be notified in writing to the Contracting Authority without delay.
- b) The Contracting Authority reserves the right to verify that such measures are adequate and may require additional measures to be taken if necessary. The Consultant shall ensure that its staff, including its management, is not placed in a situation which could give rise to conflict of interests. The Consultant shall replace, immediately and without compensation from the Contracting Authority, any member of its staff exposed to such a situation.

- c) The Contractor shall refrain from any contact which would compromise its independence or that of its personnel. If the Contractor fails to maintain such independence, the Contracting Authority may, without prejudice to compensation for any damage which it may have suffered on this account, terminate the contract forthwith.
- d) The Contractor shall, after the conclusion or termination of the contract, limit its role in connection with the project to the provision of the services. Except with the written permission of the Contracting Authority, the Contractor and any other contractor or supplier with whom the Contractor is associated or affiliated shall be disqualified from the execution of works, supplies or other services for the project in any capacity, including tendering for any part of the project.
- e) Civil servants and other agents of the public administration of the RCC Participants, regardless of their administrative situation, shall not be recruited as experts in contracts financed by the RCC Secretariat.
- f) The Contractor and anyone working under its authority or control in the performance of the contract or on any other activity shall be excluded from access to RCC Secretariat financing available under the same project unless they can prove to the Contracting Authority that the involvement in previous stages of the project does not constitute unfair competition.

We offer to provide the services requested in the Terms of Reference on the basis of supplied documentation subject to this Open Call for Consultancy Services, which comprise our technical offer, and our financial offer.

This Open Call for Consultancy Services is subject to acceptance within the validity period stipulated in the Terms of Reference.

Name	
Signature	
Date	

ANNEX II: BUDGET BREAKDOWN

REF: 034-018

No Cost categories	Daily fee rate	Total Cost
2 TOTAL COSTS		

Proposed daily fee rate for consulting services should be broadly consistent with the EU framework rates for these types of professional services.