

Warsaw, 20 January 2020

REQUEST FOR PROPOSAL NO. 3/2020/NORW

The Polish Confederation Lewiatan announces a call for submission of tenders for the provision of the service consisting in:

Preparing a content-related expert opinion entitled: **Legalization of residence and employing employees from non-EU states in Czech Republic**

The service is provided under the project: Improved social dialogue in Poland: a model for initiating social dialogue by employer organization, as part of Norway Grants – Decent Work; Project Contact No. 2019/101979.

1. Contract awarding procedure

The procedure is conducted in the form of a request for proposal, in accordance with the competition principle laid down in the Guidelines on awarding public contracts as part of the EEA Financial Mechanism 2014-2021 and the Norwegian Financial Mechanism 2014-2021.

The contract which is the subject of this procedure is co-financed by the project: Improved social dialogue in Poland: a model for initiating social dialogue by employer organization within Norway Grants – Decent Work; Project Contact No. 2019/101979.

Subject matter of the contract according to CPV classification:

92312210-6 – Services provided by authors

2. Subject of the contract

The subject of the contract is the service consisting in preparing a content-related expert opinion entitled: Legalization of residence and employing employees from non-EU states in Czech Republic.

3. Date and place of the performance of the Service

- Time limit for the contract: 3 months from signing the agreement for the execution of the contract.

4. Scope of services provided by the Contractor

- The expert opinion should describe the legal status in Czech Republic in the area of legalization of residence as well as legalization of employing non-EU employees.
- It is necessary to indicate all legal acts regulating the granting or refusal of the right of residence and work for a foreigner from outside the EU. The description must include information on existing forms of legalization with respect to:
 - residence
 - work

with particular attention paid to the criteria, conditions, administrative procedures for granting the right of residence/work that a foreigner or an employer must meet.

- Differences in the existing procedures should be demonstrated, in terms of countries of origin, foreigners' qualifications, the length of the period covered by the permit or costs. The expert opinion should indicate which authority is conducting the proceedings, who is (or may be) a

party to the proceedings, and within which time limits the cases should be examined. If, within the scope of the expert opinion, certain authorisations have been transferred to a regional level, then the description should include two regions selected by the author (and agreed with the Contracting Authority)

- Additionally, it is necessary to:
 - describe the role of social partners in formal social dialogue (employers' organisations, trade unions, ngo's,) in creating or applying regulations,
 - indicate in which case the family of a non-EU employee has the possibility to reside in Czech Republic (take up work).
- In the expert opinion it is necessary to indicate all the costs that are associated with obtaining the possibility of legal residence and/or work in Czech Republic (both on the side of the foreigner and the employer).
- If in the years 2018-2020 significant changes in the law on legalization of residence and work pertaining to foreigners were introduced, the expert opinion must contain a description of such changes (indication of the name of the amended legal act and direction of changes). It is also desirable to describe the impact of legal changes on the current situation.
- In addition, the expert opinion must provide statistics on the average annual number of applications submitted (for the years 2018-2020), the number of successful applications and the average length of the procedure.
- The expert opinion must be drawn up in English or in Polish.
- The expert opinion must contain summaries in English (approx. 3,200 characters).
- The expected volume of the expert opinion is 30-50 standard pages.

5. Requirements for the Contractor

The Contractor must have relevant knowledge, qualifications and experience in the field covered by the expert opinion:

- a university degree in law, economics or related disciplines,
- knowledge on the regulations governing the granting of the right of residence and work for foreigners from third countries in Czech Republic confirmed by:
 - the presentation of at least 5 scientific papers, publications, expert opinions on the labour market competitiveness or institutions of labour market and social security system in Czech Republic (especially legalization of residence and work of foreigners from third countries)
 - or**
 - working in a law firm, university or think-tank which research focus includes legal and economic institutions of Czech Republic, as well as demonstrating at least 4 expert opinions on the labour market in Czech Republic with the emphasis on the legalization of residence and work of foreigners from outside the EU in Czech Republic
 - or**
 - a minimum of 3 years' of work or internship in a Czech institution dealing with the labour market and social security system, with the emphasis on the legalization of work and residence of foreigners from third countries, in a position where the duties performed have been directly related to the tasks of the procedures in question;
- fluency in Czech (full professional proficiency/native)

6. Settlements with the Contractor

- 1) The Contracting Authority requires the Contractor to include in its tender all costs related to the performance of the Service.
- 2) The Contractor is responsible for organizing and securing individual elements of the subject of the contract, free of charge, so that no double payment obligations arise on this account.
- 3) The Contracting Authority makes a reservation that it will not reimburse the costs described above resulting from the Contractor's failure to exercise due diligence in the performance of the agreement.

7. Conditions for the participation in the procedure

The following Contractors may apply for the award of the contract:

- 1) Contractors meeting the condition of impartiality: The Contractor, as well as the persons appointed by the Contractor to perform the contract, may not be personally or financially related to the Contracting Authority. Financial or personal relations are understood as mutual relations between the Contracting Authority or persons authorized to incur liabilities on behalf of the Contracting Authority, or persons performing, on behalf of the Contracting Authority, activities related to the preparation and carrying out of the Contractor selection procedure, and the Contractor, consisting in particular in:
 - a) being a member in a company, in the capacity of a partner in a Civil Code partnership or in a partnership,
 - b) holding at least 10% of the shares,
 - c) acting as a member of the supervisory or management body, commercial proxy, attorney,
 - d) being married, in a relationship of kinship or affinity in the direct line, second-degree kinship or affinity in the collateral line or in a relationship of adoption, custody or guardianship.
- 2) having relevant knowledge and experience as referred to in point 5, confirmed by:
a diploma, a language certificate, an accepted protocol of receipt of a demonstrated service or another document of a similar nature issued by the contracting authority for a given service, confirming the correct performance of the service, expertises, website link.

For each item the Tenderer is obliged to provide contact data to a person who can confirm the above-mentioned documents and supplement them, if needed.

- 3) have submitted a tender containing all the required elements described in point 8.

The evaluation of meeting the conditions for participation in the procedure will be made according to the formula "meets/does not meet" on the basis of documents attached to the tender. The contents of the attached documents should clearly indicate that the Tenderer meets the above conditions.

8. Method for the preparation of the tender

- 1) The Contracting Authority does not accept partial or alternative tenders.
- 2) The Tenderer will make a tender for all the components listed in the inquiry.
- 3) The Tenderer will determine the total gross price constituting the entire Service.
- 4) The total gross price must include all costs and fees that will arise in connection with the performance of the contract and the conditions and requirements of the Contracting Authority.

- 5) Determining the correct rate of Value Added Tax (VAT) is the responsibility of the Contractor.
- 6) The price referred to in point 3 should be given in EUR or in PLN. The price must be expressed in units of not less than cent or grosz (up to two decimal places), while observing the mathematical rule of rounding the numbers (to compare offers PLN will be converted to Euro using the monthly accounting exchange rate of the European commission in the month during which the offer was submitted: <https://ec.europa.eu/budget/graphs/infoeuro.html>)
- 7) The tender must contain the following elements:
 - a) Tender Form – Appendix 1,
 - b) Declaration of lack of relationship with the Contracting Authority – Appendix 2,
 - c) List of services Autor/ Tenderer qualifications and list of expertises -Appendix 3,
 - d) 3 expert opinions presented by the Contractor (from the last 5 years counted from the date of submission of the offer)
 - e) Resume
- 8) The Contracting Authority reserves the right to request the Contractor to complete the documents referred to in point 5.
- 9) The Contracting Authority reserves the right to undertake individual negotiations on the gross price if the price proposed by the Tenderer exceeds the amount that the Contracting Authority may allocate to pay for the contract.

9. Deadline for the submission of tenders

1 February 2021.

10. Method for the submission of tenders

The tender must be sent by email to the address: mpietrzak@konfederacjalewiatan.pl

The tenderer may amend or withdraw its tender before the time limit for the submission of tenders.

Contact person: Monika Fedorczyk: mfedorczyk@@konfederacjalewiatan.pl

11. Evaluation of tenders

Tenders will be evaluated according to the following criteria:

Name of the criterion	Weight (%)
Price	30%
Substantive assessment of 3 expert opinions presented by the Tenderer (from the last 5 years counted from the date of submission of the offer)	70%

The points for the "Price" criterion will be calculated as follows:

$$\frac{\text{Total gross price in the cheapest tender}}{\text{Total gross price in the examined tender}} \times 100 = \text{LPC}$$

LPC – number of points of the examined tender for the total gross price of the service.

The points for „**Substantive assessment of 3 expert opinions presented**” criterion will be calculated as follows

Substantive assessment of 3 expert opinions presented by the Tenderer (from the last 5 years counted from the date of submission of the offer)	Punctuation
Each expertise will be assessed in 3 areas:	
Adequacy of the expertise (compliance of the expertise with the subject area it concerns)	Min. 1 points Max.5 points
Completeness of the expertise (it contains all the elements related to the subject of the expertise)	Min. 1 points Max.5 points
Topicality of the expertise (is based on current legislation and bibliography)	Min. 1 points Max.5 points

Number of points for 1 expert opinion: number of points obtained for Adequacy + number of points obtained for Completeness + number of points obtained for Topicality

Maximum number of points for 1 expert opinion: 15 points

LPOM – total result obtained - number of points in the examined offer: Substantive assessment

LPOM = Assessment Expertise 1 (Number of points for 1 expert opinion: number of points obtained for Adequacy + number of points obtained for Completeness + number of points obtained for Topicality) + Assessment Expertise 2 (Number of points for 1 expert opinion: number of points obtained for Adequacy + number of points obtained for Completeness + number of points obtained for Topicality) + Assessment Expertise 3 (Number of points for 1 expert opinion: number of points obtained for Adequacy + number of points obtained for Completeness + number of points obtained for Topicality)

LPOM: Maximum number of points: 45 points.

The number of points obtained from the offer (LUP) consists of the sum of the weighted scores Price (LPC) and Experience (LPOM) calculated as follows:

Number of points obtained from the LUP offer = LPC (price) x 30% + LPOM (content-related assessment) x 70%

The offer with the highest total number of points (LUP), will be chosen.

12. Other information concerning the organization of the tender selection process

- 1) The Contracting Authority reserves the right to cancel the contract without cause.
- 2) Tenders submitted after the time limit indicated in point 9 will not be examined.
- 3) In order to ensure comparability of all tenders, the Contracting Authority reserves the right to:
 - a) contact all or selected Contractors in order to complete or clarify their tenders;
 - b) correct obvious typing errors;
 - c) reply only to the selected tenderer;

- d) withdraw from the performance of the Service without selecting any of the submitted tenders or withdraw without cause;
- e) negotiate terms of contract execution (after selecting the Contractor);
- 4) There is no appeal procedure with respect of the selected tender.
- 5) The Contracting Authority reserves the right to submit comments during the performance of the service, which the Contractor will be obliged to take into account.
- 6) The agreement will be drawn up by the Contracting Authority and signed by the Contractor no later than 5 days from its submission to the Contractor by the Contracting Authority.
- 7) This tender does not constitute an offer in accordance with Article 66 of the Civil Code, nor does it constitute a notice within the meaning of the Public Procurement Law, nor does it constitute an obligation of the Contracting Authority to accept any of the tenders. The Contracting Authority reserves the right to resign from the contract without selecting any of the tenders submitted.
- 8) The Contracting Authority makes a reservation that the total gross price constitutes public information within the meaning of the Act on Access to Public Information, and if it is reserved by the Contractor as a business secret, the Contractor's tender will be rejected.
- 9) The Contracting Authority reserves the right to pay only for the completed part of the contract. The contract will be accepted in stages on the basis of an acceptance protocol and after signing the protocol without reservations, the Contractor will be paid the remuneration.
- 10) The Contracting Authority provides for the possibility of awarding a supplementary contract to the selected Contractor, in the amount not exceeding 50% of the basic contract value, in the cases and on the conditions specified in the Guidelines, if such a need arises in the Project.

13. Determination of conditions for amendments to the agreement

The Contracting Authority provides for the possibility of amending the agreement in the following cases:

1. Changes in the time limit of the performance of the subject of the agreement in the event of:
 - a) the need to change the project schedule and financing caused by the obligation to properly execute the project,
 - b) extension/shortening of the project execution period,
 - c) occurrence of circumstances beyond the control of the Contracting Authority and the Contractor.
2. After any official amendments to the applicable tax law.
3. Changes resulting from amendments to the agreement between the Contracting Authority and Innovation Norway.
4. In circumstances, after the conclusion of the agreement, of the occurrence of force majeure, beyond the control of the parties, which the parties could not have foreseen before the conclusion of the agreement, as well as could not have prevented it even with due diligence.

The party affected by the occurrence of force majeure is obliged to notify the other party in writing within five business days, otherwise the force majeure clause may not be invoked.