



An Roinn Dlí agus Cirt
Department of Justice

Request for Tender for Research Services

*An international comparison of the prosecution of
crime – the role of police services*



Request for Tender for Research Services

Applications for tenders must be returned to research@justice.ie by **5pm Irish time on the 5th of April 2021.**

Section 1. Background information and invitation to tender

1.1 The Department of Justice

The Department of Justice (“the Department”) is a department of the Government of Ireland. The Department's mission is to work to make Ireland a safe, fair and inclusive place to live and work. It has a wide range of responsibilities including, state security, the protection of life and property, the prevention and detection of crime, providing services for the buying and selling of property, managing inward migration to the State, providing a Courts Service, updating our criminal and civil laws, developing the Insolvency Service and various other regulatory services.

1.2 Background to the Tender

The Commission on the Future of Policing in Ireland (“CoFPI”) published its report in September 2018 outlining a clear vision and roadmap for strengthening policing, security and community safety. The report includes the recommendation that all prosecution decisions should be taken away from the police and the practice of police prosecuting cases in court should cease.

The CoFPI Report advocated for prosecution decisions to be under the remit of an expanded state solicitor or national prosecution service, and for the practice of An Garda Síochána prosecuting cases to cease, considering that:

- Most comparable jurisdictions recognise that investigation and prosecution processes should be separate;
- Garda members in charge of prosecutions may not be trained to the level of the opposing defence lawyer; and,
- Involvement of Gardaí in prosecutions and the amount of time they spend in court/preparing for court is not an optimum use of police resources that should be deployed on core police duties.

The recommendation was accepted in principle by Government, subject to further evaluation on the implications, including resource implications, how best it might be achieved, and the timing of implementation. The High Level Review Group on the Role of An Garda Síochána in the Public Prosecution System (HLRG) was set up to conduct this evaluation and to recommend a preferred option for consideration by Government.

In order to achieve the HLRG’s objective, the HLRG will require a detailed examination of the prosecutorial system in relevant jurisdictions, particularly with a focus on how our current prosecutorial regime aligns with others, how it differs, and the options for reform in Ireland that might emerge.



1.3 Research aims

The HLRG requires that the research be conducted on relevant jurisdictions, meaning those with relatively proximate legal systems, democratic and human rights norms, and respect for victims' rights. Criteria that are suggested as indicative of proximity are: common law jurisdictions, and those who operate under the general jurisprudence of European victims' rights law and whose commitment to rule of law and victims' rights can be considered to be of a similarly high standard.

In some jurisdictions, changes to the process of prosecution similar to that envisaged by the CoFPI recommendations have taken place. It is hoped that by gaining an understanding of the impact of these changes, the HLRG can utilize lessons learned to inform the recommendations it makes.

Jurisdictions which should be examined are Northern Ireland, England and Wales, Scotland, Finland, Australia and New Zealand and potentially any other jurisdictions the tenderer considers relevant. Overall, there are several key research questions/aims. It should be noted that while the list of questions below is not an exhaustive list, these are the core questions to be answered. For each relevant jurisdiction examined:

1. How is provision made in law for law enforcement agencies' involvement (or not) in the following?
 - a) Taking the decision to prosecute
 - b) The prosecution of crime in terms of running trials/hearings?
2. How are the supports for victims and witnesses incorporated in the system? Having regard in particular to the role played by the following bodies:
 - a) Civil societies such as victim/witness support programmes
 - b) State operated services providing victim/witness support programmes
 - c) Policing agencies
 - d) Prosecution agencies
3. To what extent, and for what offences/categories of offences, does the criminal justice system provide for administrative sanctions to address conduct that would constitute a summary offence in Ireland?
4. If diversion schemes such as adult cautions and juvenile diversion are in place, what role do the police and the prosecution service have in the administration of such schemes?
5. What procedures are used to charge an accused?
 - a) Is there a similar system to the summons procedure in Ireland?
6. Who makes the initial decision to charge an accused with an offence?
 - a) Are there different processes depending on the seriousness of the charge?
 - b) How is this managed by the prosecutorial or police bodies?
7. What is the legal framework around the provision of bail/provisional release pending trial? (i.e. what is the basis for it and how is it undertaken?)
 - a) What role do the police and the prosecution have in it?
8. Is there evidence available which shows that the entity who makes the prosecution decision (the police or the prosecution), has an impact on:
 - a) The procedural rights of a suspect
 - b) Protected equality characteristics (for example, when broken down by age, gender, ethnicity, race, disability)
 - c) Human rights
9. Are there differences in place which relate to police involvement in prosecution decisions and prosecutions in court based on geographic regions? (For example, between metropolitan and rural districts, as is the case in Ireland where the Court Presenter System is in operation in the Dublin Metropolitan district but elsewhere case gardaí and state solicitors are used).
 - a) If there are differences based on geographic regions, are they provided for in law or as a matter of practice?
10. If the prosecutorial regime has been reformed, with changes made to the role of police prosecution:
 - a) How was this reform achieved? Both in legislative and administrative terms.
 - b) What changes were made which impacted on the role of policing?
 - c) Has the reform led to changes in other criminal justice organisations, for example the courts?



11. If the reformed system has been in place for some time:
 - a) What has been the impact, in terms of cost, resourcing, prosecutions, and both victims' and suspects' perception of the police, prosecution services and courts?
 - b) How has the supervision of files changed and has there been an impact on file quality?
 - c) How has that reform evolved since it was first introduced?
 - d) What are the principal lessons learned from the process?

1.4 Research outputs

The tenderer will be required to outline the approach that is proposed to be taken in undertaking this work.

Whilst the Department is not fixed on any research design or methodologies, the proposal should address the questions set out above. The response must clearly set out the proposed research design, the research techniques to be used, how they will be undertaken, how the information will be analysed and presented. The findings will be utilized by the HLRG to inform its deliberations, and the recommendations it will make to Government on how best to implement the CoFPI recommendation.

In terms of outputs, the tenderer will also be required to provide the following to the Department:

- a final report on the findings
- a presentation on the final report.

The tenderer will also be required to meet at least three times with the HLRG, to include:

- a meeting within one month of the tender award to discuss the proposed approach and clarify expectations and outputs
- an interim meeting after one month to discuss progress
- a final meeting at which the findings of the report are presented.

The tenderer should describe how they will adapt the research to take account of any COVID-19 restrictions that may be in place during the research.

1.5 Timeframe

The Department is eager that the tenderer will be ready to start as soon as possible and asks that tenderers specify how soon they would be in a position to commence the work. Duration of the tender will be no more than three months after the awarding of the tender, with the final report due at the end of the three months.

1.6 Budget

The budget for this research is a maximum of €25,000 (excluding VAT).



Section 2. Instructions to Tenderers

2.1 Format of tenders

Tenderers should complete and submit the application form. Tenders submitted in formats other than the application form will not be considered.

2.2 Compliant tenders

To better ensure compliance with the tendering process, tenderers should read this document in full including Section 5 'Terms and conditions'. If a tenderer fails to comply in any respect with the requirements of this paragraph, the Department reserves the right to reject the tender as non-compliant or, without prejudice to this right and subject to its obligations at law, to take any other action it considers appropriate including but not limited to:

- Seeking written clarification from the tenderer;
- Seeking further information from the tenderer; or
- Waiving a requirement, which in the Department's view, is non-material or procedural.

Tenderers are required:

1. To submit all documentation which this Request for Tender (RFT) requires to be submitted with their tender;
2. To conform to and comply with all instructions and requirements set out in this RFT;
3. To submit the statement required under Appendix 1;
4. Not to alter or edit this RFT in any way.

2.3 Submission of tenders and closing date for application

Completed application forms must be sent by email to research@justice.ie with subject line "An international comparison of the prosecution of crime – the role of police services".

Completed application forms must be received no later than **5pm Irish time on the 5th of April 2021** (the 'tender deadline'). Application forms received after the tender deadline will NOT be considered.

Section 3. Queries and clarifications

All queries related to any aspect of this RFT must be directed to research@justice.ie. The Department reserves the right to issue or seek written clarifications. The Department reserves the right at any time before the tender deadline to update, cancel or amend the information contained in this document and/or to extend the tender deadline. Participating tenderers will be informed of any such clarification, amendment or extension by email.



Section 4. Evaluation of tenders and award of contract

4.1 Criteria for award of contract

The contract will be awarded out of a total of 100 marks on the basis of the most economically advantageous tender as identified in accordance with the following criteria:

- Have a proven and demonstrated track record of undertaking similar research and comparative studies, have knowledge in criminology and/or criminal justice and worked collaboratively with other government Departments/agencies (35)
- Feasibility of the approach suggested (20)
- Ability to deliver key outputs on time (10)
- Cost – broken down to show description of costs, justification for proposed costs and best use of resources (35).

Award of the contract to the highest ranked tenderer (as determined by the above paragraph) will be conditional upon the tenderer submitting the following evidence in respect of the tenderer (including any subcontractor as applicable) to the extent not already provided, within seven days of request by the Department (i) a Declaration in the form attached at Appendix I and (ii) all or any of the supporting documents specified in the section on 'Format of tender'.

The Department does not bind itself to accept the lowest priced of any tender. This RFT does not constitute an offer or commitment to enter into a contract. No contractual rights in relation to the Department will exist unless and until a formal written contract has been executed by or on behalf of the Department.

The tenderer will be required, if necessary, to outline and agree the approach which it proposes to take to the research with the members of the Department's Research Advisory Group/Chief Information Office.

4.2 Payment conditions

- i. All prices quoted must be all-inclusive of all expenses anticipated inclusive of VAT. The VAT rate(s) where applicable should be indicated separately.
- ii. Tenderers must confirm that all prices quoted in the tender will remain valid for three months following the tender deadline.
- iii. Payment for the delivery and implementation work will be on foot of appropriate invoices. Invoicing arrangements will be agreed with the successful contractor, following the award of contract.
- iv. The provisions of the Prompt Payment of Accounts Act 1997, as amended or revised, and the European Communities (Late Payment in Commercial Transactions) Regulations, 2002 shall apply to all payments. Incorrect invoices will be returned for correction with consequential effects on the due date of payment.

4.3 Taxation requirements

It will be a condition of any contract pursuant to this RFT that the successful tenderer shall, for the term of such contract, comply with all applicable EU and domestic tax laws. Tenders are referred to www.revenue.ie for further information. Prior to the award of any contract arising out of this RFT, the successful tenderer shall be required to supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of their tax status by the Department. By supplying these numbers, the successful tenderer acknowledges and agrees that the Department has the permission of the successful tenderer to verify its tax cleared position online.

4.4 Subcontractors

Tenderers should note that where a tenderer is relying on the capacity of other persons or entities (for example subcontractors) for the purposes of fulfilling any of the award criteria set out below, it must ensure that each such person or entity, when requested by the Department, will submit proof, to the satisfaction of the Department, that it will place the necessary expertise at the disposal of the tenderer.



If a tenderer does not, upon request by the Department, provide evidence which is considered by the Department as sufficient to demonstrate the fulfilment by any subcontractor on whose capacity the tenderer relies of the award criteria (or any one of them) in accordance with this RFT, it shall be excluded from further participation in this tender process unless it replaces the subcontractor with one which meets all relevant requirements of this RFT. Any such replacement cannot affect the price submitted.

Section 5. Terms and conditions

5.1 Liability and warranty for tender information

While every effort has been made to provide comprehensive and accurate information in this request for tender, the Department does not accept any liability or provide any express or implied warranty in respect of any such information. Tenderers must form their own conclusions about the solution needed to meet the requirements set out in this RFT and may wish to consult their legal advisers as appropriate.

5.2 Data protection

With effect from 25 May 2018, a new Europe wide data protection regime has come into place under the General Data Protection Regulation (GDPR). The GDPR significantly increases the obligations and responsibilities for organisations and businesses on how they collect, use and protect personal data. All data will be processed in accordance with GDPR and relevant data protection law. Applicants are required to comply with the requirements of data protection legislation and the General Data Protection Regulation (GDPR).

5.3 Tendering costs

All costs and expenses incurred by tenderers relating to their participation in this RFT shall be borne by the tenderers exclusively.

5.4 Confidentiality

All documentation, data, statistics and information furnished by the Department to tenderers during the course of this RFT:

- i. are furnished for the sole purpose of replying to this RFT only;
- ii. may not be used, communicated, reproduced or published for any other purpose without the prior written permission of the Department;
- iii. shall be treated as confidential by the tenderer and by any third parties (including subcontractors) engaged or consulted by the tenderer; and
- iv. must be returned immediately to the Department upon cancellation or completion of this RFT if so requested by the Department.

5.5 Publicity

No publicity regarding this RFT or any contract pursuant to this RFT is permitted unless and until the Department has given its prior consent to the relevant communication.

5.6 Ownership

Ownership of any reports or material produced relating to any contract awarded as a result of this RFT rests with the Department.

5.7 Copyright and publication

Copyright of any reports or material produced shall rest with and be assigned to the Department. The Department shall have the right to publish, or not as the case may be, and to disseminate the report in both its original and in a modified form, without further reference to the tenderer. The tenderer will not be entitled to further payment if this occurs. The tenderer and the individual researchers will be entitled to be credited with the work that they have done on this project in any publication.



5.8 Registrable interest

Any registrable interest involving any tenderer or subcontractor and members the Department, members of the Government, members of the Oireachtas, or employees and officers of the Department and their relatives must be fully disclosed in the tender or, in the event of this information only coming to the notice of the tenderer or subcontractor after the submission of a tender, must be communicated to the Department immediately upon such information becoming known to the tenderer or subcontractor.

The terms 'registrable interest' and 'relative' shall be interpreted as per section 2 of the Ethics in Public Office Acts 1995 and 2001, copies of which are available at www.irishstatutebook.ie. The Department will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a tenderer from this RFT or terminating any contract entered into by a tenderer.

5.9 Anti-competitive conduct

Tenderers' attention is drawn to the Competition Act 2002 (as amended, the '2002 Act'). The 2002 Act makes it a criminal offence for tenderers to collude on prices or terms in a public procurement competition.

5.10 Freedom of information

Tenderers should be aware that, under the Freedom of Information Act 2014, information provided by them during this RFT may be liable to be disclosed.

Tenderers are asked to consider if any of the information supplied by them in their tender should not be disclosed because of its confidentiality or commercial sensitivity. If tenderers consider that certain information is not to be disclosed because of its confidentiality or commercial sensitivity, tenderers must, when providing such information, clearly identify the specific sections of their tender containing such information and specify the reasons for its confidentiality and commercial sensitivity.

5.11 Conflicts of interest

Any conflict of interest or potential conflict of interest on the part of a tenderer, subcontractor or individual employee or agent of a tenderer or subcontractor must be fully disclosed to the Department as soon as the conflict or potential conflict is or becomes apparent. In the event of any actual or potential conflict of interest, the Department may invite tenderers to propose means by which the conflict of interest might be removed. The Department will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a tenderer from this tender process or terminating any contract entered into by a tenderer.

5.12 Withdrawal from the RFT process

Tenderers are required to notify the Department immediately by email to research@justice.ie if they decide to withdraw from the RFT process.

5.13 Insurance

The successful tenderer shall be required to hold for the term of the contract the appropriate level of insurance cover in order to carry out work associated with this project.