

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Purchase of local consultancy services under the Council of Europe Project "Promoting Social Human Rights as a Key Factor of Sustainable Democracy in Ukraine" Contract N° 8666/02-2019

The Council of Europe is currently implementing a Project on Promoting Social Human Rights as a Key Factor of Sustainable Democracy in Ukraine (until 31 July 2021). In that context, it is looking for Provider(s) for the provision of local consultancy services under the present Framework Contract to be requested by the Council on an as needed basis.

A. 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 Europe¹, the Organisation shall invite to tender at least three potential providers for any purchase between €2,000 (or €5,000 for intellectual services**

This specific tender procedure aims at concluding a **framework 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 self-employed sole trader, or a duly registered limited or unlimited liability company with a single employee/director.

Tenders shall be submitted **by email only** (with attachments) **to the email address indicated in the table below, with the following reference in subject: Local consultants call _ Social rights UA _ 8666/02-2019**. 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 5 (five) 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 _ Local consultants call _ Social rights UA _ 8666/02-2019**.

| | |
|---|--|
| Type of contract ▶ | Framework contract |
| Duration ▶ | Until 31 August 2020 |
| Deadline for submission of tenders/offers ▶ | 22 September 2019 |
| Email for submission of tenders/offers ▶ | Siuzanna.MNATSAKIAN@coe.int |
| Email for questions ▶ | Siuzanna.MNATSAKIAN@coe.int |
| Expected starting date of execution ▶ | 01 October 2019 |

¹The activities of the Council of Europe are governed by its [Statute](#) 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](#).

B. EXPECTED DELIVERABLES

Background of the Project

The Project "Promoting social human rights as a -key f a years project, implemented by the Council of Europe under the Council of Europe-Ukraine Action Plan 2018-2021. The Project should lead to the enhancement and respect of social human rights in line with the European standards, thus contributing to a stronger and more sustainable democracy in Ukraine. To achieve this, a combination of targeted activities is envisaged in two directions – changes in law and changes in practice.

Project's specific areas of intervention -à-vis Art.15 ESC) the rights of the elderly (vis-à-vis Art. 23 ESC) and the rights of children (vis-à-vis Art. 7 and 17 ESC).

The Council of Europe is looking for a maximum of 45 Providers (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on the European Social Charter and social and economic rights.

This Framework Contract is currently estimated to cover up to 50 activities, to be held by 31 August 2020. This estimate is for information only and shall not constitute any sort of contractual commitment on the part of the Council of Europe. The Contract may potentially represent a higher or lower number of activities, depending on the evolving needs of the Organisation.

This Framework Contract is to be concluded until 31 August 2020. The Framework Contract may be renewed annually. It shall not be renewable beyond the end date of the project: 31 July 2021.

For information purposes only, the total budget of the project amounts to 500 000.00 Euros and the total amount of the object of present tender **shall not exceed 55,000 Euros tax exclusive** for the whole duration of the Framework Contract. This information does not constitute any sort of contractual commitment or obligation on the part of the Council of Europe.

Lots

The present tendering procedure aims to select Provider(s) to support the implementation of the project activities and is divided into the following lots:

| Lots | Maximum number of Providers to be selected |
|---|--|
| Lot 1: Alignment of social rights policies and practices in Ukraine with the European standards in the field of social and economic rights, including in one or more of the following areas: rights of persons with disabilities vis-à-vis Art. 15 ECS; rights of elderly vis-à-vis Art 23 ESC; rights of children vis-à-vis Art.7&17 ECS. | 15 |
| Lot 2: Capacity enhancement of the Ukrainian national stakeholder to improve the reporting procedure on the implementation of the European Social Charter | 15 |
| Lot 3: Raising awareness on human social rights and the system of the European Social Charter among target groups and public in general in Ukraine | 15 |

Lot 1 concerns the European Social Charter (Revised), its implementation at the national level and acceptance of its provisions by Ukraine;

Lot 2 concerns strengthening the capacity of the Ministry in charge to improve reporting procedure on the implementation of the European Social Charter in Ukraine, as well as concerns alternative reporting;

Lot 3 concerns awareness-raising activities/campaigns, trainings on social human rights and the European Social Charter in Ukraine

The Council will select the abovementioned number of Provider(s) per lot, provided enough tenders meet the criteria indicated below. Tenderers are invited to indicate which lot(s) they are tendering for (see Section A of the Act of Engagement).

Scope of the Framework Contract

Throughout the duration of the Framework Contract, pre-selected Providers may be asked to provide the following deliverables:

Under Lot 1:

- Assessment of legal acts and policy documents (draft documents and documents in force) and/or practice and provision of advice (in the form of an oral and/or written advice), preparation of legal opinions, comments, recommendations, reports etc.;
- Development of methodology and conduct of needs assessment on specific aspects related to the theme of the lot;
- Development of methodology on collecting/processing (disaggregated) data on the impact of social policies (particularly considering the gender perspective)
- Research and comparing Ukrainian regulatory framework with the best European practices in the sphere concerned;
- Participation and contribution to the conferences, round-tables, seminars, trainings, working group meetings, workshops, consultation meetings and other relevant events with national stakeholders, including through moderating/facilitating discussions and delivering presentations;
- Development of institutional internal regulations, guidelines and information materials on specific aspects related to the theme of the lot;
- Provision of other deliverables as related to the above and as requested by the Council of Europe.

Under Lot 2:

- Assessment of legal acts and policy documents (draft documents and documents in force) and/or practice and provision of advice (in the form of an oral and/or written advice), preparation of legal opinions, comments, recommendations, reports etc.;
- Development of methodology on specific aspects related to the theme of the lot;
- Participation and contribution to the working group meetings, workshops, consultation meetings, conferences, round-tables, seminars, trainings and other relevant events with national stakeholders, including through moderating/facilitating discussions and delivering presentations;
- Development of institutional internal regulations, guidelines and information materials on specific aspects related to the theme of the lot;
- Provision of other deliverables as related to the above and as requested by the Council of Europe.

Under Lot 3:

- Assessment of legal acts and policy documents (draft documents and documents in force) and/or practice and provision of advice (in the form of an oral and/or written advice), preparation of legal opinions, comments, recommendations, reports etc.;
- Development of institutional internal regulations, guidelines and information materials on specific aspects related to the theme of the lot;
- Development of the methodology and conduct of training needs assessment to evaluate their impact/effectiveness and development of reports/recommendations thereof on specific aspects related to the theme of the lot;
- Development, adaptation of training courses (including on-line) and materials and provision of trainings, on specific aspects related to the theme of the lot;
- Provision of recommendations on draft curricula, training courses and materials on specific aspects related to the theme of the lot;
- Participation and contribution to the conferences, round-tables, seminars, trainings, working group meetings, workshops, consultation meetings and other relevant events with national stakeholders, including through moderating/facilitating discussions and delivering presentations;
- Provision of advice and delivery of trainings on adult learning methodology;
- Development of information campaigns, awareness raising materials on specific aspects related to the theme of the lot.

The above list is not considered exhaustive. The Council reserves the right to request deliverables not explicitly mentioned in the above list of expected services, but related to the field of expertise object of the present Framework Contract for the lot concerned.

The Providers can be asked to undertake missions to provide the expected deliverables. Travel and other expenses incurred by the Providers in this regard will be reimbursed by the Council in accordance with the applicable Rules² (see Article 4.4 of the Legal Conditions for further details).

In terms of **quality requirements**, the pre-selected Service Providers must ensure, *inter alia*, that:

- < The services are provided to the highest professional/academic standard;
- Any specific instructions given by the Council – whenever this is the case – are followed.

If contracted by the Council of Europe, the deliverables shall be provided personally by the persons identified in the offer of the Provider whose CVs have been presented to the Council of Europe (See section E. below), in accordance with the terms as provided in the present Tender File and Act of Engagement.

In addition to the orders requested on an as needed basis, the Provider shall keep regular communication with the Council to ensure continuing exchange of information relevant to the project implementation. This involves, among others, to inform the Council as soon as it becomes aware, during the execution of the Contract, of any initiatives and/or adopted laws and regulations, policies, strategies or action plans or any other development related to the object of the Contract (see more on general obligations of the Provider in Article 3.1.2 of the Legal Conditions in the Act of Engagement).

Unless otherwise agreed with the Council, written documents produced by the Provider shall be in English (see more on requirements for written documents in Articles 3.2.2 and 3.2.3 of the Legal Conditions in the Act of Engagement).]

C. FEES

Tenderers are invited to indicate their fees, by completing and sending the table of fees, as attached in Section A to the Act of Engagement. These fees are final and not subject to review. Tenders proposing fees above the exclusion level indicated in the Table of fees will be **entirely and automatically** excluded from the tender procedure.

The Council will indicate on each Order Form (see Section D below) the global fee corresponding to each deliverable, calculated on the basis of the unit fees, as agreed by this Contract.

D. HOW WILL THIS FRAMEWORK CONTRACT WORK? (ORDERING PROCEDURE)

Once the selection procedure is completed, you will be informed accordingly. Deliverables will then be delivered on the basis of Order Forms submitted by the Council to the selected Provider(s), by post or electronically, on **an as needed basis** (there is therefore no obligation to order on the part of the Council).

Pooling

For each Order, the Council will choose from the pool of pre -selected tenderers for the relevant lot the Provider who demonstrably offers best value for money for its requirement when assessed – for the Order concerned – against the criteria of:

- quality (including as appropriate: capability, expertise, past performance, availability of resources and proposed methods of undertaking the work);
- availability (including, without limitation, capacity to meet required deadlines and, where relevant, geographical location); and
- price.

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. If a Provider is unable to take an Order or if no reply is given on his behalf within that deadline, the Council may call on another Provider using the same criteria, and so on until a suitable Provider is contracted.

Providers subject to VAT

The Provider, **if subject to VAT**, shall also send, together with each signed Form, a quote³ (Pro Forma invoice) in line with the indications specified on each Order Form, and including:

² See the Revised Rules concerning the reimbursement of travel and subsistence expenses to government experts and other persons travelling at the charge of Council of Europe budgets: [_____ ! " # \\$! %](#)

- 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.

Signature of orders

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 stamping the Order concerned. Copy of each approved Order Form shall be sent to the Provider, to the extent possible on the day of its signature.

E. ASSESSMENT

Exclusion criteria and absence of conflict of interests

(by signing the Act of Engagement, you declare on your honour not being in any of the below situations)⁴

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;
- 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 or are likely to be in a situation of conflict of interests.

Eligibility criteria

A university degree in law, social sciences, international relations, political sciences, human rights or related fields;

At least 3 years of professional experience in areas related to the fields of expertise as described under the scope of the contract above (acquaintance with the international context is an advantage);

Excellent knowledge of the Ukrainian language (mother tongue level) and good knowledge of the English language (at least level B2 of the Common European Framework of Reference for Languages).

Award criteria

Quality of the offer (90%), including:

- Thematic expertise in the relevant area, knowledge of the European Social Charter, European standards and recommendations of the Council of Europe, European Committee of Social Rights and European Court of Human Rights case law in the areas covered by this call (40%);
- Relevance of the experience of the tenderer in the areas covered by this call, including previous similar assignments with international organisations (40%);
- Knowledge of the national and regional context in the field of the social rights and policies relevant to the areas covered by this call (10%).

Financial offer (10%).

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

³ It must strictly respect the fees indicated in the Contract with the Provider, in all circumstances. Offerors must comply with the fees as indicated in the Contract with the Provider, in all circumstances.

⁴ The Council of Europe reserves the right to ask tenderers, at a later stage, to supply 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 above listed exclusion criteria are met, and a certificate issued by the competent authority of the country of incorporation indicating that the fourth criterion is met.

Multiple tendering is not authorised.

F. NEGOTIATIONS

The Council reserves the right to hold negotiations with the bidders in accordance with Article 20 of Rule 1395.

G. DOCUMENTS TO BE PROVIDED

A completed and signed copy of the **Act of Engagement**⁵ (See attached);

A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfills the eligibility criteria;

Registration documents, for legal persons only;

Motivation letter (up to 1 page);

At least 2 (two) samples of work/deliverables reference/links to publications, legal assessments/analyses, reports, studies, etc. relevant to the experience the tenderer claims in the areas covered by this call;

Contact details of 3 (three) relevant referees, from among previous employers or clients (name, surname, phone number or e-mail).

All documents shall be submitted in English and/or Ukrainian, 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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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.