



TENDER FILE / TERMS OF REFERENCE (Competitive bidding procedure / Framework Contract)

Purchase of international consultancy services to support the reforming of the bar, legal representation and free legal aid in Ukraine

Contract N° 8563/2019/6

The Council of Europe assists Ukrainian authorities in the reforming of the judiciary in Ukraine and compliance of the legislation and practice with the standards of the Council of Europe. This assistance is provided through the Project "Support to the implementation of the judicial reform in Ukraine" (hereinafter – the Project). The Project started in June 2018 and will continue until November 2020. It will focus on solving problems connected with the issues of the judicial reform in Ukraine and the reforming of the bar and legal representation and free legal aid in Ukraine.

In that context, it is looking for a maximum of **10 (ten)** Providers for the provision of international consultancy services to be requested by the Council of Europe on an as needed basis, in compliance with the ordering procedure defined in the Framework Contract.

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) and €55,000 tax exclusive.**

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, or a duly registered company under sole proprietorship of a natural person, or equivalent, provided that the signatory of the Act of Engagement is individually liable for all obligations undertaken by the entity and is the owner of the moral rights in any creations of the entity. If contracted by the Council of Europe, the signatory of the Act of Engagement shall provide the deliverables personally, in accordance with the terms as provided in the current Tender File, Act of Engagement and future Order Forms (see Section D below on ordering procedure).

Tenders shall be submitted **by email only** (with attachments) **to the email address indicated in the table below, with the following reference in subject:** "*Call for international experts CoE 8563/2019/6*". 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:** "*Call for international experts CoE 8563/2019/6*".

| | |
|--|--|
| Type of contract ▶ | Framework contract |
| Duration ▶ | Until 30 November 2020 |
| Deadline for submission of tenders/offers ▶ | 31 August 2019 |
| Email for submission of tenders/offers ▶ | DGI.Justice.Reform.Unit1@coe.int |
| Email for questions ▶ | DGI.Justice.Reform.Unit1@coe.int |
| Expected starting date of execution ▶ | 16 September 2019 |

¹ The 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 1393 of 20 June 2019 on the procurement procedures of the Council of Europe](#).

B. EXPECTED DELIVERABLES

Background of the Project

The Justice and Legal Co-operation Department of the Council of Europe continues to provide support to the Ukrainian authorities in reforming the judiciary with the purpose of bringing the Ukrainian justice system in line with the standards and recommendations of the Council of Europe. This assistance is provided through the project "Support to the implementation of the judicial reform in Ukraine" (hereinafter – the Project). The Project started in June 2018 and will continue until November 2020. It will focus on solving the problems connected with the issues of the judicial reform in Ukraine, namely: development of the legislation on the judiciary and the bar; analysis of the legislation and practice of the legal representation and free legal aid in Ukraine.

The Council of Europe is looking for a maximum of **10 (ten)** Providers in order to support the implementation of the project with a particular expertise in the following field:

- **Reforming of the bar, legal representation and free legal aid in Ukraine.**

This Contract is currently estimated to cover up to **15 missions**, to be held by November 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.

For information purposes only, the total budget of the project amounts to **1 110 000 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.

Scope of the Framework Contract

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

- assessment of the national legislation and practices legal representation in Ukraine;
- analysis of the system of institutions and procedures concerning the issues of the bar, legal representation and free legal aid in Ukraine and their compliance with the CoE standards, including the ECtHR judgments;
- review of the national legislation on the bar, legal representation and free legal aid in Ukraine and a development of the recommendations on further implementation of the CoE standards in this regard;
- other deliverables, as requested by the Council of Europe.

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.

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.

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 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);
- 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 quote² (Pro Forma invoice) in line with the indications specified on each Order Form, and including:

- 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 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 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)³

Tenderers shall be excluded from participating in the tender procedure if they:

² It must strictly respect the fees indicated in the Act of Engagement. In case of non-compliance with these fees, the Council of Europe reserves the right to terminate the Contract with the Provider, in all or in part.

³ 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.

- 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, political sciences, social sciences, international relations, public administration or related fields;
- At least 7 years of professional experience in areas related to the rule of law and the judiciary, or the bar and the legal representation, of which at least 3 years acquired in an international context;
- Excellent knowledge of the English language (at least level C1 of the Common European Framework of Reference for Languages);
- A financial offer not exceeding the limit set out in the Act of Engagement.

Only bids submitted in English shall be deemed eligible.

Award criteria

- Quality of the offer (80%), including:
 - Relevance of the experience of the tenderer in the areas covered by this call, including previous assignments with international organisations (20%);
 - Knowledge of the standards and recommendations of the Council of Europe in the fields of the bar and practice of the legal representation and legal aid (30%);
 - Knowledge of the national and regional context in the field of the bar and legal representation, free legal aid or/and knowledge of contexts that are relevant to the areas covered by this call (30%).
- Financial offer (20%).

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**⁴ (See attached);
- A detailed CV, preferably in Euro pass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
- Registration documents, for legal persons only;
- A sample of an article, legal opinion, report or another relevant text recently drafted, in English, by the tenderer;
- Motivation letter describing how the tenderer meets the requirements of the expected services (see section B above) including indication of the specific and/or preferred fields of expertise.

⁴ 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.

All documents shall be submitted in English or French, 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.

* * *