

TENDER FILE / TERMS OF REFERENCE

(Restricted consultation procedure / Framework Contract)

Purchase of national consultants services

Contract N° 8572/2018/02FC



The Council of Europe is currently implementing the Project “Strengthening freedom of media, access to information and reinforcing public broadcasting system in Ukraine” (hereinafter – “the Project”) till 30 June 2019 in the framework of the Council of Europe Action Plan for Ukraine 2018-2021. The Project aims to enhance the role of media, its freedom and safety, and the public broadcaster as an instrument for consensus building in the Ukrainian society, particularly during the election period. In that context, it is looking for Provider(s) for the provision of national expert services to be requested by the Council on an as needed basis.

A. TENDER RULES

This tender procedure is a restricted consultation procedure. **In accordance with Rule 1333 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 private entrepreneur in accordance with the Ukrainian legislation. 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 national consultants 8572/2018/02FC.** 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 national consultants 8572/2018/02FC.**

Type of contract ►	Framework contract
Duration ►	Until 30 June 2019
Deadline for submission of tenders/offers ►	12 August 2018
Email for submission of tenders/offers ►	Orysy.fedorchuk@coe.int
Email for questions ►	Orysy.fedorchuk@coe.int
Expected starting date of execution ►	03 September 2018

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 1333 of 29 June 2011 on the procurement procedures of the Council of Europe](#).

B. EXPECTED DELIVERABLES

Background of the Project

The Council of Europe Project is currently implementing the Project “Strengthening freedom of media, access to information and reinforcing public broadcasting system in Ukraine” till 30 June 2019 in the framework of the Council of Europe Action Plan for Ukraine 2018-2021. The Project aims to enhance the role of media, its freedom and safety, and the public broadcaster as an instrument for consensus building in the Ukrainian society, particularly during the election period.

In the course of its implementation, the Project draws upon an extensive network of consultants with knowledge of international and European standards and different European systems (“international consultants”) and consultants with local expertise/knowledge of the Ukrainian context in which the activities are implemented (“national consultants”) to carry out its work.

This call is aimed at selecting “national consultants”.

Scope of the Framework Contract

The tender is divided into the following five Lots. Tenderers may submit a tender offer for one, several or all Lots subject to the fulfilment of the criteria listed in the Tender Rules below. The Council of Europe is looking for: up to 20 Provider(s) per Lot 1; up to 15 Provider(s) per Lot 2; up to 10 Provider(s) per Lot 3; up to 15 Provider(s) per Lot 4; up to 10 Provider(s) per Lot 5 (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise in the fields of expertise listed below.

Lot 1 - Public Broadcasting.

Topics within this Lot 1 will include but are not limited to:

- legislation of Ukraine and Council of Europe standards on Public Broadcasting;
- models of financing of public broadcasters in Ukraine and abroad; public financial management of the companies financed from state budget;
- standards and practices of elections coverage of public broadcasters;
- content for minorities, children and on gender issues on public broadcasters;
- measuring and applying data on ratings in programming of public broadcasters;
- standards and formats for public broadcasting to cover the activities of public authorities;
- editorial standards etc.

Lot 2 – Media and Elections, Political Advertising.

Topics within this Lot 2 will include but are not limited to:

- national practices and legal framework of media coverage of elections;
- Council of Europe standards and recommendations on media coverage of elections;
- ethical and journalistic standards and legal aspects of journalists’ work during the elections;
- self-regulatory practices for media in the context of elections;
- physical and digital safety of journalists during the elections period;
- regulation of political advertising during elections;
- information disorder and new challenges (fake news etc.) in media in context of elections, etc.;

Lot 3 – Access to public information.

Topics within this Lot 3 will include but are not limited to:

- Council of Europe standards and Ukrainian legislation and practices in sphere of access to public information;
- the Council of Europe Convention on Access to Official Documents (Tromso Convention);
- establishment and operation of Information Commissioners/Commissions (authority, legislation, etc).

Lot 4 – Safety of journalists and fight against impunity.

Topics within this Lot 4 will include but are not limited to:

- national legislation on safety of journalists,
- Council of Europe standards and the ECHR case-law on freedom of expression;
- investigations of crimes against media actors in Ukraine – approaches, methodology of law enforcement bodies;

- judicial proceedings regarding the cases concerning safety of journalists;
- physical and digital safety of journalists etc.

Lot 5 - Media standards and regulation of the media sphere.

Topics within this Lot 5 will include but are not limited to:

- Council of Europe standards in the sphere of information security;
- Council of Europe standards and practices on gender and media issues,
- transparency of financing of media ownership,
- European standards on regulators in the sphere of media etc.

The list of expected deliverables within above Lots 1-5 will include (but will not be limited to) the following:

- Assessment of legal acts and policy documents (draft documents and documents already 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.
- Participation and contribution to the working group meetings, workshops, consultation meetings with national stakeholders, including through moderating/facilitating discussions and delivering presentations;
- Participation and contribution to the conferences, round-tables, seminars, trainings and other events, including through moderating/facilitating discussions/mentoring/training, and delivering presentations, elaborating events concepts and agendas;
- Developing methodologies, strategies and conducting needs assessment on specific institutional aspects related to the topic of the lot;
- Contributing to the development of information and guiding materials, learning courses;
- Other deliverables related to the topic above and as requested by the Council of Europe.

The consultants can be asked to undertake missions to provide the expected deliverables within Lots 1-5. Costs of any authorised missions will be reimbursed by the Council of Europe.

For information purposes only, the total budget of the Project amounts to 550 000 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.

Throughout the duration of the Framework Contract, being instructed, supervised and coordinated by the designated staff members from the Council of Europe Office in Ukraine and from the Council of Europe Headquarters, the pre-selected Providers may be asked to provide through the Project the advice and expertise pertaining to the various aspects of the media sphere, public broadcasting, access to information in Ukraine.

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 **Ukrainian** and/or 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 this consultation and the subsequent selection are 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); 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 1 (one) working day after its receipt. 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:

- made a financial offer exceeding the exclusion level set out in the Act of Engagement.
- 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

- University degree in law / political sciences / social sciences / international relations / public administration / journalism or related fields;
- At least 4 years of professional experience in the areas mentioned as topics of Lots 1-5 (consulting, academic research, analytical work, expert assessments, working as trainers, contribution to the events as speakers, etc).
- For private entrepreneurs, being authorised to carry out the respective economic activities.

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.

Award criteria

- Quality of the offer (70%), that means relevance of the experience of the tenderer in the areas covered by specific Lots, including previous assignments with international organisations that would be regarded as an asset;
- Financial offer (30%).

Multiple tendering is not authorised.

F. DOCUMENTS TO BE PROVIDED

- A completed and signed copy of the **Act of Engagement**⁴ (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria (e.g. education and professional experience).
- A list of drafted expert opinions, legislation assessments, reports and other relevant materials with active links to them to the extent possible (but not less than 1) on the topics covered by the Lots 1-5 above produced in the last 5 years .
- Registration documents for private entrepreneurs (including those that prove the ability to carry out the respective types of economic activities)

Act of Engagement and CV should be submitted in English, other documents can be submitted in 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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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.