

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

### Purchase of national consultancy services on various aspects of protection of national minorities, including Roma, and minority languages in Ukraine *Contract N° FC/8750/2021/01/1*



The Council of Europe is currently implementing and until 31 December 2022 a Project "Strengthening the protection of national minorities, including Roma, and minority languages in Ukraine" – Phase II. In that context, it is looking for Provider(s) for the provision of national consultancy services on various aspects of protection of national minorities, including Roma, and minority languages in Ukraine 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 Europe<sup>1</sup>, 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: National consultancy services FC/8750/2021/01/1**. 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\_National consultancy services FC/8750/2021/01/1**

Type of contract ►	Framework contract
Duration ►	Until 31 December 2022
Deadline for submission of tenders/offers ►	<b>01 March 2021</b>
Email for submission of tenders/offers ►	<b>zemfira.kondur@coe.int; maria.dudnyk@coe.int</b>
Email for questions ►	zemfira.kondur@coe.int; maria.dudnyk@coe.int
Expected starting date of execution ►	08 March 2021

<sup>1</sup> 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 1395 of 20 June 2019 on the procurement procedures of the Council of Europe](#).

## B. EXPECTED DELIVERABLES

### Background of the Project

In 2017-2018 a pilot Council of Europe project "Protecting national minorities, including Roma, and minority languages in Ukraine" was focused at strengthening the protection of national minorities and minority languages in Ukraine, including contributing to tackling the stateless status and lack of identity documents of Roma and increasing the capacity of Roma health mediators by promoting the institutionalisation of mediation. The pilot combined international and local experts to ensure a balance of international practice and local best practices – both the dynamics of relations between national minorities and authorities, and a focus on current relevant policy priorities and challenges in terms of national minorities' issues.

Ukraine is party to the Framework Convention for the Protection of National Minorities (FCNM) since 1998 and the European Charter for Regional or Minority Languages (ECRLM) since 2006. The work related to enhancing the protection of Roma supported the implementation of the objectives of the Council of Europe Thematic Action Plan on the Inclusion of Roma and Travellers (2016-2019) adopted by the Committee of Ministers in March 2016.

In the course of 2018-2020, Council of Europe provided expert support to the ongoing legislative processes (through the opinions of the Venice Commission and CoE experts on the education reforms but also assisting in drafting the new Law on National Minorities and the new Roma Strategy), provided expertise to the ongoing education reforms, strengthened capacities of public authorities dealing with the protection of national minorities, piloted new initiatives to enhance the participation of national minorities in the decision making processes, enhanced access to ID documents for Roma.

The current Phase II of the Project aims at strengthening the overall legislative and institutional framework for the protection of national minorities, including Roma, and minority languages, while strengthening the capacities and possibilities for effective participation in the decision-making processes by the national minorities' members and civil society.

The Phase II of this Action will base on the achievements and lessons learned from the Phase I and focus on the following expected results:

1. **Support the implementation of the previous and upcoming ECRML and FCNM monitoring reports' recommendations** by assisting in building a holistic and well-functioning state system for mainstreaming all issues related to national minorities and minority languages – at the central, regional and local levels. This expected result will include:
2. **Support dialogue and enhanced participation of national minorities in the decision-making at the local level**, following the latest administrative reforms. Support will be provided to both local administrations as well as the national minorities and Roma communities, enabling both sides to build trust and engage with each other and co-operate for concrete positive changes at local level. At the same time, the intervention will reinforce the skills of civil society organizations to proactively advocate for changes in the field of minorities protection and anti-discrimination, and those of the administration to identify solutions in this regard. This will entail:
3. **Continue monitoring the implementation of the adopted roadmap** for facilitated access to ID documents and provide additional support in the roll out of the roadmap, if needed.
4. **Develop a strategy for teaching in Romani language** and related materials, facilitate the process of codification of Romani language in Ukraine and provide methodological assistance to the Working Group under the Academy of Sciences. CoE will also help in securing the long-term political commitment needed for this process.
5. **Enhance the capacities of the Ukrainian prosecutor's office, police** and other law enforcement agencies to address and combat cases of discrimination.

The project is jointly implemented by the No Hate Speech and Cooperation Unit under the Anti-Discrimination Department and the Roma and Travellers Team, both under the Directorate of Democratic Governance and Anti-Discrimination, in DG II Democracy.

The Council of Europe is looking for a maximum of **30 Provider(s)** (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on various aspects of protection of national minorities, including Roma, and minority languages in Ukraine.

This Contract is currently estimated to cover up to 40 activities, to be held by 31 December 2022. 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 500,000 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:

- Draft analytical and evaluation expert reports and assessments, collect data and provide recommendations on the protection of national minorities, including Roma, and minority languages, in line with the Council of Europe and European standards.
- Contribute to different events related to national minorities protection: round tables, working groups, trainings, seminars, workshops, consultations, advocacy meetings, conferences, high level meetings/conferences.
- Prepare interactive and detailed training/seminar curricula, modules and training/seminar materials in relation to the protection of national minorities, including Roma, and minority languages.
- Conduct trainings for the representatives of media, national minorities, law enforcement and national, regional and local authorities in Ukraine in relation to the protection of national minorities, including Roma, and minority languages, solely or in cooperation with other national or international experts.
- Prepare awareness raising materials in relation to the protection of national minorities, including Roma, and minority languages.

The consultant can be asked to participate in regular on-line or in-person meetings/conferences/webinars (via Bluejeans or Zoom video conferencing platforms) and undertake missions within Ukraine to provide the expected deliverables.

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;
- The services provided reflect Council of Europe standards for the human rights, democracy and rule of law.

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 or Ukrainian (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); 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 quote<sup>2</sup> (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)<sup>3</sup>

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<sup>2</sup> 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.

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, political sciences, social sciences, national minorities issues, including Roma; international relations, public or business administration or related fields;
- At least 5 years of professional experience in areas related to the fields of expertise as described under the scope of the contract above;
- Excellent knowledge of Ukrainian (at least level C2 of the Common European Framework of Reference for Languages/mother tongue).

#### *Award criteria*

- Quality of the offer (90%), including:
  - Thematic expertise in the relevant area, primarily the in-depth knowledge of the Ukrainian legislation and implementation practices as well as the knowledge of the international standards and recommendations of the Council of Europe in the areas covered by this call (35%).
  - Relevance of the experience and competences of the tenderer in the areas covered by this call, including previous similar assignments at the local level and/or with international organisations (35%).
  - Working knowledge of English (English would be an advantage in order to be able to cooperate with international experts at least level B2 of the Common European Framework of Reference for Languages (20%).
- Financial offer (10%).

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

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**<sup>4</sup> (See attached);
- A detailed CV in English, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
- Motivation letter, demonstrating experience and expertise required (in English);
- At least two examples in Ukrainian of the previous work/deliverables reference/links to publications, materials, legal assessments/analyses, reports, studies, training materials,

<sup>3</sup> 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.

<sup>4</sup> 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.

presentations etc. relevant to the experience of the tenderer. Optionally, one of the examples can be provided in English;

- Registration documents, for legal persons only (in Ukrainian).

**All documents shall be submitted in English or Ukrainian (*for more details see point G*), 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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