

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



**Purchase of national consultancy services to be provided within monitoring visits to psychiatric and social care institutions to support National Preventive Mechanism implementation in the framework of the Joint European Union and the Council of Europe Project "European Union and the Council of Europe working together to strengthen the Ombudsperson's capacity to protect human rights".**

**Tender/ Contract N° FC 4757-2021-22**

The Council of Europe the Joint EU/Council of Europe Project "European Union and Council of Europe working together to strengthen Ombudsperson's capacity to protect human rights". The Project's general aim is to strengthen the Ombudsperson's institutional capacity in the areas of personal data protection and prevention of human rights violations in places of deprivation of liberty via efficient realisation of the National Preventive Mechanism (NPM). In that context, with regard to the improvement of NPM functioning in Ukraine, it is looking for a maximum number of **3** Provider(s) for the provision of national consultancy services within monitoring visits to psychiatric and social care institutions to support the National Preventive Mechanism implementation to be requested by the Council on an as needed basis.

### 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, a legal person except consortia.

Tenders shall be submitted **by email only** (with attachments) **to the email address indicated in the table below, with the following reference in subject: Tender FC/4757/2021/22.** 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 1 (one) 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: Tender FC/4757/2021/22 Question.**

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| Type of contract ►                          | Framework contract   |
| Duration ►                                  | Until 31 December 2021   |
| Deadline for submission of tenders/offers ► | 08 April 2021  |
| Email for submission of tenders/offers ►    | <a href="mailto:DGI-HRImplementation@coe.int">DGI-HRImplementation@coe.int</a> |
| Email for questions ►                       | <a href="mailto:DGI-HRImplementation@coe.int">DGI-HRImplementation@coe.int</a> |
| Expected starting date of execution ►       | 09 April 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](#).

## A. EXPECTED DELIVERABLES

### Background of the Project

The Council of Europe is currently implementing the Joint EU/Council of Europe Project "European Union and Council of Europe working together to strengthen Ombudsperson's capacity to protect human rights". The Project's general aim is to strengthen the Ombudsperson's institutional capacity in the areas of personal data protection and prevention of human rights violations in places of deprivation of liberty via efficient realisation of the National Preventive Mechanism (NPM).

The Project aims at achieving the following outcomes:

- the legal framework of the Ombudsperson's Office work is aligned with the relevant international and European standards including gender equality perspective;
- amended data protection legislation is properly implemented and applied that eventually creates a high, uniform level of data protection across Ukraine;
- Ombudsperson's Office staff increase their proficiency and effectiveness in realisation of the NPM mechanism and data protection advocacy that lead to improvement of the human rights situation in the country.

The Council of Europe is looking for a maximum of 3 Provider(s) (provided enough tenders meet the criteria indicated below) in order to support the implementation of the Project with a particular expertise in prevention of ill-treatment in places of deprivation of liberty, in particular in psychiatric and social care institutions to integrate the best European standards and practices of human rights protection in the work of the mentioned institutions

This Contract is currently estimated to cover up 20 activities, to be held by the end of November 2021. 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 EUR 988 500.00 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:

- Participate in NPM monitoring visits to social care and psychiatric institutions or other places in different regions in Ukraine;
- Prepare to the monitoring visits based on the specifics of the psychiatric institutions or other social care institutions to be subject of the NPM monitoring
- Under the results of the monitoring visits to prepare analytical report on the systemic shortcomings and recommendations on their elimination that will become a part of the further NPM report on the monitoring visits;
- Take an active part in the seminar/discussion with the leading staff of the monitored institutions summarising the results of the problems found and measures to be further implemented.

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).]

## B. 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 C below) the global fee corresponding to each deliverable, calculated on the basis of the unit fees, as agreed by this Contract.

## C. 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.

## D. ASSESSMENT

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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.

### *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>

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, terrorist financing, terrorist offences or offences linked to terrorist activities, child labour or trafficking in human beings;
- 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;
- are or if their owner(s) or executive officer(s), in the case of legal persons, are included in the lists of persons or entities subject to restrictive measures applied by the European Union (available at [www.sanctionsmap.eu](http://www.sanctionsmap.eu)).

### *Eligibility criteria*

- University degree in medicine / medical science /psychiatry/ social sciences or related fields.
- At least 5 years of professional experience in the areas of medicine, psychiatric work, social care work (practical work in the institutions, consulting, academic research, analytical work, expert assessments, working as trainers, contribution to the events as speakers, etc.);
- For legal persons and private entrepreneurs, being authorized to carry out the respective economic activities.

### *Award criteria*

- Quality of the offer (80%) including:  
relevance of the experience and level of expertise of the tenderer, knowledge of regional and national context in the areas of psychiatric and social care work, implementation of NPM mechanism, previous participation in monitoring visits would be considered as an asset, good analytical and writing skills for producing final recommendations and/or reports; previous assignments with international organisations would be regarded as an asset.
- Financial offer (20%).

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

Multiple tendering is not authorised.

## **E. NEGOTIATIONS**

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

## **F. DOCUMENTS TO BE PROVIDED**

- A completed and signed copy of the **Act of Engagement**<sup>4</sup> (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 all owners and executive officers, for legal persons only;

<sup>3</sup> The Council of Europe reserves the right to ask tenderers, at a later stage, to supply the following supporting documents:

- 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;
- A certificate issued by the competent authority of the country of incorporation indicating that the fourth criterion is met;
- For legal persons, an extract from the companies register or other official document proving ownership and control of the Tenderer;
- For natural persons (including owners and executive officers of legal persons), a scanned copy of a valid photographic proof of identity (e.g. passport).

<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.

- Registration documents for legal persons and private entrepreneurs (including those that prove the ability to carry out the respective types of economic activities);
- **A list of drafted expert opinions, analytical documents, recommendations, reports, scientific articles, training curriculum and materials** and other relevant documents in the field **with active links** to them to the extent possible on the topics (but not less than 2).

**Act of Engagement, CV, list of owners 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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