

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

### Purchase of national consultancy services in the field of media pluralism and audiovisual regulation in the Republic of Moldova

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

#### **Contract N° BH8709/2021/19**

The Council of Europe is currently implementing until December 2021 the Project "Promoting European standards in the audio-visual regulation in the Republic of Moldova", in the framework of the Council of Europe Action Plan for the Republic of Moldova. The project aims to assess the needs of the country to strengthen media and broadcasting sector through the implementation of European standards.

In that context, the Project is looking for Provider(s) for the provision of national consultancy services in drafting and implementation of the regulatory framework related to media pluralism, freedom of expression, audio-visual services, ethical journalism, and the enhancement of the work of the National Public Broadcaster, 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 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: BH8709 – application national consultancy services in the field of media pluralism.** 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 – application national consultancy services in the field of media pluralism.**

Type of contract ►	Framework contract
Duration ►	Until 31 December 2021
Deadline for submission of tenders/offers ►	<b>16 June 2021</b>
Email for submission of tenders/offers ►	<b>ana.chiriac@coe.int</b>
Email for questions ►	ana.chiriac@coe.int
Expected starting date of execution ►	05 July 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

On the 1st of March 2020, the Council of Europe started the implementation of project "Promoting European standards in the audio-visual regulation in the Republic of Moldova" to run until December 2021. The project addresses the needs of the country to strengthen the media and broadcasting sector through implementation of European standards in drafting and implementation of the regulatory framework related to media pluralism and in enhancing the professionalism of public service broadcasters based on activities that are structured around two components:

- I. The improvement and proper implementation of the regulatory framework related to media pluralism, by providing support:
  - In drafting, assessing and reviewing existing legal framework relevant to freedom of expression and media pluralism, in close consultation with international consultants;
  - To the broadcasting regulatory authority to increase its capacity to work in an independent and transparent manner;
  - To the Audiovisual Council to facilitate the proper implementation of Audiovisual Media Services Code, efficient media monitoring during the election campaign, prevent excessive concentration of media ownership, etc.
  
- II. Enhancing professionalism of national public service broadcaster, by providing support to Teleradio-Moldova company aiming at:
  - The improvement and diversification of editorial policies, in particular production of documentary films and political/electoral programmes in line with international best practices;
  - Initiation and support to the newsroom convergence process (producing and delivering news content across traditional radio, television and new online platforms);
  - Enhancing the capacity of the Company's Ombudsperson;
  - The digitization of the company's platforms and enhancing the communication capacities of the company and staff.

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 Moldovan context in which the activities are implemented ("national consultants") to carry out its work.

Duration of the Project: March 2020 – December 2021

The Council of Europe is looking for 7 (seven) Provider(s) per lot (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on the project background and Project lots.

This Contract is currently estimated to cover up to 20 activities, to be held by December 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 470 000 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.

## Lots

The tender is divided into the following three Lots.

The present tendering procedure aims to select Provider(s) to support the implementation of the project by following lots:

Lots	Maximum number of Providers to be selected
<p><b>Lot I: "Legal approximation of media regulatory framework"</b></p> <p><b>Topics within this Lot</b> will include but are not limited to:</p> <ol style="list-style-type: none"> <li>1. EU Audiovisual Media Services Directive and the Council of Europe standards in the area of national audiovisual regulation;</li> <li>2. Audiovisual media services legislation in line with the Council of Europe standards and its implementation;</li> <li>3. Regulatory framework related to transparency of media ownership and media pluralism in line with European standards;</li> <li>4. European best practices for non-linear audio-visual services;</li> <li>5. European best practices in information security and protection of national audio-visual sphere;</li> <li>6. Effective models of media co-regulation in the Council of Europe member states;</li> <li>7. European best practices in the field of alignment of Access to Information and Data protection.</li> </ol>	7
<p><b>Lot II "Enhancing independence and capacity of Public Service Broadcasting and its digital transition"</b></p> <p><b>Topics within this Lot</b> will include but are not limited to:</p> <ol style="list-style-type: none"> <li>1. Standards and models of newsroom convergence process in public service broadcasting (strategies, action plans, business plans, etc.);</li> <li>2. International best practices in planning and production of documentary films about human rights and social issues;</li> <li>3. Standards and best practices of elections' coverage by public service broadcasters in Europe;</li> <li>4. European models and best practices in designing editorial policies and standards in public service broadcasting;</li> <li>5. European standards and practices in designing and developing external and internal communication of public service broadcasters;</li> <li>6. European models in organisation of activities of the service of the Ombudsman within the public service broadcasters;</li> <li>7. Practices and trends in digitization, marketing strategies and promotion of public service broadcasts content.</li> </ol>	7
<p><b>Lot III "Raising awareness on media pluralism, ethical journalism, coverage of elections and information disorder"</b></p> <p><b>Topics within this Lot</b> will include but are not limited to:</p> <ol style="list-style-type: none"> <li>1. Practices and legal framework of media coverage of elections in the Council of Europe member states;</li> <li>2. Council of Europe standards and recommendations on media coverage of elections;</li> <li>3. Ethical and journalistic standards and legal aspects of journalists' work during the elections;</li> <li>4. Media monitoring of electoral and political pluralism, inflammatory speech, xenophobia and racism, hate speech and defamation;</li> <li>5. European self-regulatory practices for media in the context of elections;</li> <li>6. Physical and digital safety of journalists;</li> </ol>	7

<ul style="list-style-type: none"> <li>7. Regulation of political advertising during elections in the member states of the Council of Europe;</li> <li>8. Information disorder and new challenges (fake news, etc.) in the media etc.;</li> <li>9. Gender equality in mass-media, tackling hate speech in the audiovisual environment.</li> </ul>	
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The list of expected deliverables within above Lots I-III will include (but not be limited to) the following:

**Lot I: "Legal approximation of media regulatory framework":**

1. Providing (in writing or in the form of oral presentations for trainings and seminars) expert opinions with recommendations and legal assessments of acts, policy documents, draft documents and bills already in force such as but not limited to: Advertising Law, amendments to Law on Access to Information, Law on Freedom of Expression, Law on Personal Data Protection, Law on Access to Information, Fiscal Code etc;
2. Development of gap analysis reports, revision of by-laws, drafting legal opinions with recommendations concerning the proper implementation of the Audiovisual Media Service Code in line with the European standards, in particular but not limited to political pluralism, inflammatory speech, xenophobia and racism, hate speech and defamation etc;
3. Providing guidance and expert support in updating the existing software and hardware in order to guarantee an effective monitoring system within the Audiovisual Council;
4. Expert assistance in putting into practice the regulatory framework related to the Audiovisual Media Services by organising trainings related to coverage of election campaigns etc., and software on media monitoring etc.

**Lot II "Enhancing independence and capacity of Public Service Broadcasting and its digital transition"**

1. Contributing to the establishment of contemporary, convergent and semantic newsroom framework for Public Broadcaster to support the production of news in an integrated, interactive and cybernetic manner; through:
  - a) Business Plan of the Newsroom convergence;
  - b) Assistance with staff training in the transition process to a convergent newsroom.
2. Expert assistance in supporting the establishment of children's radio station within the National Public Broadcaster, by content and concept elaboration for the application, as well as supporting in the promotion of the radio as a national brand etc.
3. Expert assistance in strengthening the Ombudsperson capacity within the National Public Broadcaster through developing methodology for audiovisual content monitoring, as well as providing the European best practices models on efficient functioning of Ombudsperson service;
4. Supporting film-makers through the delivery of up to 5 seminars on human rights and social issues documentaries and their coaching on producing up to 8 short documentaries based on European practices;
5. Assist the National Public Broadcaster with its communication and marketing strategies, assistance with its transition to the digital.

**Lot III "Raising awareness on media pluralism, ethical journalism, coverage of elections and information disorder"**

1. Providing expert support and guidance to the audiovisual regulatory bodies, in particular the Audiovisual Council, National Public Service Broadcasting and Ombudsperson of Public Service Broadcasting, journalists, as well as other institutional actors such as representatives of the Standing Parliamentary Committees in the field of human rights and media, including media professionals on European standards and legal practices, by conducting up to fifteen awareness raising and outreach activities directed to the staff and management of the mentioned entities such as workshops trainings/seminars, round-tables, meeting participations with national stakeholders including through facilitating discussions, mentoring and delivering presentations/training materials with relevant case-studies based on the ECHR judgements, in terms of:

- a) media pluralism and freedom of expression and access to information;
- b) media coverage and elections;
- c) journalistic ethics, transparency and media financing and independence;
- d) independent editorial policy, advertising, in line with the European legal practices;
- e) production and moderating of political/electoral TV and radio programmes in line with international best practices;
- f) application into practice the provisions of the Audiovisual Media Service Code;
- g) professional ethics and pluralism of opinions, presentation of live TV programmes for journalists etc.;
- h) promotion of gender equality in the media field;
- i) European practices and trends in tackling and combating information disorder.

Provider(s) selected for the provision of expertise in all fields (Lots) should include *gender mainstreaming* in their work in line with the Council of Europe standards and policies.

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

### Scope of the Framework Contract

Throughout the duration of the Framework Contract, being instructed, supervised and coordinated by the designated staff members from the Council of Europe Office to the Republic of Moldova 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, audio-visual services in the Council of Europe member states, etc.

Throughout the duration of the Framework Contract, pre-selected Providers may be asked to provide the deliverables listed in the Act of Engagement (See Section A – Terms of reference).

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.

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).

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

## K. 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), 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.

## L. 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>

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.

<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.

<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.

### *Eligibility criteria*

- A university degree in law/political sciences/social sciences/international relations/public administration/ journalism/marketing or related fields;
- At least 5 years of professional experience in the areas mentioned as topics of Lots I-III (consulting, legal assessment and review, audiovisual production or similar with proven experience in awareness and outreach campaigns; development and promotion of audiovisual services, capacity-building, academic/legal research, analytical work, expert assessments, working as trainers, contribution to the events as speakers etc.).
- At least 5 (three) proven years of experience working with media, journalists, public service broadcaster, and regulatory bodies;
- Fluent/proficient in English (at least level B2 of the Common European Framework of Reference for Languages).

### *Award criteria for Lots I - III*

Quality of the offer (70%), including:

- 50%: relevance of the experience and level of expertise of the tenderer in the areas covered by specific Lot;
- 10%: previous assignments with international organizations;
- 10%: previous experience with Eastern Partnership countries/Moldovan context.
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- Financial offer (30%).

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

Multiple tendering is not authorised.

### M. NEGOTIATIONS

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

### N. 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;
- For legal persons, detailed CVs of the delegated persons to apply, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria.
- Up to three samples of articles/study/research, legal opinion, report, short essay, analysis, communications and marketing strategy, event/workshop presentations, documentaries, or other relevant material, including at least one published online, with an active link, produced in the last 5 years shall be submitted in Romanian or English by the tenderer covering challenges with regards to the specific and/or preferred fields of expertise: **Lot I: "Legal approximation of media regulatory framework"; LOT II "Enhancing independence and capacity of Public Service Broadcasting and its digital transition", Lot III "Raising awareness on media pluralism, ethical journalism, coverage of elections and information disorder."**
- Registration documents, for legal persons only;

**All documents shall be submitted in English (with the exception of legal registration documents and/or samples of work), 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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<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.