

## TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

### Purchase of national consultancy services in the framework of the Action "Towards an equal, inclusive and tolerant Bosnia and Herzegovina" **Contract N° HFIII-BH-5039/2023-1**



The Council of Europe is currently implementing the joint Council of Europe / European Union Horizontal Facility Action "*Towards an equal, inclusive, and tolerant Bosnia and Herzegovina*". In that context, it is looking for Provider(s) for the provision of national *consultancy services* 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, a legal person or consortium of natural and/or legal person.

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 - National Consultancy services.** 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 - Tender - National Consultancy services**

|   |  |
|---|--|
| Type of contract ►                          | Framework contract   |
| Duration ►                                  | Until 31 December 2026, renewable until 31 December 2027                 |
| Deadline for submission of tenders/offers ► | <b>26 March 2023</b>   |
| Email for submission of tenders/offers ►    | <a href="mailto:BH5039-BiH_tender@coe.int">BH5039-BiH_tender@coe.int</a> |
| Email for questions ►                       | <a href="mailto:BH5039-BIH_tender@coe.int">BH5039-BIH_tender@coe.int</a> |
| Expected starting date of execution ►       | 3 April 2023   |

<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

*"Towards an equal, inclusive and tolerant Bosnia and Herzegovina" is an Action implemented in Bosnia and Herzegovina within the framework of the third phase of the European Union / Council of Europe Joint Programme Horizontal Facility for the Western Balkans and Turkey (HF III).*

The Action aims at supporting Bosnia and Herzegovina to implement recommendations by the European Commission against Racism and Intolerance, as well as other applicable standards such as the CM recommendation on SOGI grounds and the upcoming CM recommendation on hate speech. The action aim is to continue revising/developing legal framework in line with European standards as well as to continue enhancing the implementation of the current relevant laws, through capacity building for relevant institutions in order to implement the respective action plans/strategies/other government's guidelines and supporting them to better tailor their interventions to counter discrimination, hate speech and to promote tolerance and inclusion. In addition, the action will aim to support the fight against hate speech, improve the protection and inclusion of vulnerable groups and promote rights of the LGBTI persons.

The Action is implemented throughout the period of 48 months (1 January 2023 – 31 December 2026) by the Anti-Discrimination department of the Council of Europe and the project team based in the Council of Europe office in Sarajevo. The main partners of the project are the Ministry for Human Rights and Refugees in Bosnia and Herzegovina and the Agency for Gender Equality of BiH (MHRR) and other relevant stakeholders.

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 anti-discrimination, based on European standards, in the following areas:

- **LGBTI:** Preventing and combating discrimination on the grounds of sexual orientation and/or gender identity through empowering duty bearers, strengthening legal/policy framework and implementing action plans/strategies;
- **No Hate Speech:** Combating hate speech through implementing strategies and government guidelines, strengthening policy framework, the empowerment of relevant bodies/institutions and by raising awareness among the general public about its negative effects;
- **Vulnerable groups:** Strengthening the capacity of stakeholders and general public to promote diversity and inclusion.

This Contract is currently estimated to cover up to 30 activities, to be held by *December 2026*. 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 850.000,00 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 present tendering procedure aims to select Provider(s) to support the implementation of the project and is divided into the following lots:

| Lots                                   | Maximum number of Providers to be selected |
|--|--|
| Lot 1: LEGISLATIVE AND POLICY          | 10   |
| Lot 2: CAPACITY BUILDING               | 15   |
| Lot 3: RAISING AWARENESS/COMMUNICATION | 5  |

Lot 1 concerns national consultancy services to be provided with regards to supporting the authorities to enhance the compatibility of the legislation/policy relating to vulnerable groups, LGBTI issues and combating hate speech in line with European standards and CoE monitoring bodies' recommendations.

Lot 2 concerns national consultancy services to be provided with regards to the enchaining the implementation of the relevant action plans/laws/guidelines through an assessment of the capacity of the authorities/relevant stakeholders to develop and implement the respective policies. Strengthening the capacity of authorities and other relevant groups in order to tailor their interventions to address discrimination relating to vulnerable groups, LGBTI issues and combating hate speech.

Lot 3 concerns national consultancy services to be provided with regards to raise awareness related to vulnerable groups, LGBTI issues and combating hate speech, as well as identifying, supporting and promoting good practices at local level in combating discrimination.

All Lots have gender mainstreaming approach in all stages of implementation.

The Council will select the abovementioned number of Provider(s) per lot, provided enough tenders meet the criteria indicated below. Tenderers are invited to indicate which lot(s) they are tendering for (see Section A of the Act of Engagement).

### **Scope of the Framework Contract**

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

#### **Under Lot 1:**

- Conduct analysis of legal acts/policies;
- Review of policy documents, legalisations, strategies;
- Provide national and local expertise and coordination to the working groups and international experts in reviewing of existing laws and policies;
- Participate, involve and/or facilitate events (workshops, working groups, conferences, high level meetings);
- Help the international experts in their work;
- Contribute to Steering committee meetings;
- Apply gender mainstreaming approach/analysis.

#### **Under Lot 2:**

- Provide technical trainings/workshops/round tables for different groups such as: police, education professionals, judges and prosecutors, health workers, school staff and children, football teams and associations, religious associations, etc, on topics related to anti-discrimination, LGBTI, combating hate speech and inclusion of vulnerable groups, prejudices and stereotypes, legal and strategic framework, work of duty bearers and other groups, negative consequences of hate speech, countering hate-speech etc;
- Develop guidelines, training curricula, training modules/methodologies, training materials and support the production/produce different specialised materials based on the participants needs analysis;
- Participate in and, where applicable, facilitate conferences, seminars, workshops, roundtables, training of trainers and work with different target groups;
- Develop materials/resources/online tools that will enhance the capacity of different target groups to remove prejudices and discriminatory approaches towards vulnerable groups and condemn hate speech;
- Provide national and local expertise and coordination to working groups and support international experts;
- Conduct baseline research, evaluation, analysis, produce impact assessments, project and activity-based evaluation, project results, and other reports;
- Apply a gender mainstreaming approach/analysis.

#### **Under Lot 3:**

- Design/support/facilitate/moderate public events, public awareness/videos/articles in relation to anti-discrimination, hate speech, inclusion and promotion of tolerance, protection and promotion of the rights of LGBTI persons and other vulnerable groups and other related topics;
- Develop informative and promotional materials and other texts/publications;
- Provide needs assessment, design and conduct surveys;

- Provide services related to communication, visibility and raise awareness (i.e. creation and implementation of creative concepts for events; PR activities such as preparing/distributing press release, keep contact with local media/TV programs; arranging interviews and participation of COE/EU and other testimonials involved in the campaigns in TV/ other media activities);
- Provide photography services during the events;
- Apply a gender mainstreaming approach/analysis.

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.

If contracted by the Council of Europe, the deliverables shall be provided personally by the persons identified in the offer of the Provider whose CVs have been presented to the Council of Europe (See section E. below), in accordance with the terms as provided in the present Tender File and Act of Engagement

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 for the relevant lot 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>

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 an entity created to circumvent tax, social or other legal obligations (empty shell company), have ever created or are in the process of creation of such an entity;
- have been involved in mismanagement of the Council of Europe funds or public funds;
- are or appear to be in a situation of conflict of interest;
- are retired Council of Europe staff members or are staff members having benefitted from an early departure scheme;
- have not fulfilled, in the previous three years, their contractual obligations in the performance of a contract concluded with the Council of Europe leading to a total or partial refusal of payment and/or termination of the contract by the Council of Europe;
- 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 law, political science, social science, criminalistics, pedagogy, psychology, public relations, journalism, or any related field **or** proven working experience – of at least 2 years - in these areas;

<sup>2</sup> It must strictly respect the fees indicated in the Financial Offer attached to the original Provider's tender as recorded by the Council of Europe. In case of non-compliance with the fees as indicated in the original Provider's tender, 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 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 and sixth 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).

- At least 5 years of professional experience in areas related to human rights/anti-discrimination, and in specific of LGBTI rights and/or vulnerable groups and/or hate speech;
- Knowledge of BiH political structure, legislative framework and implementation in the field of human rights/anti-discrimination, and in specific LGBTI rights and/or vulnerable groups and/or hate speech;
- Written and oral English equivalent to at least B2 level under CEFR<sup>4</sup> framework.

*When a legal person or consortium of natural and/or legal person apply, the listed requirements should be met in respect of each person assigned to the contract.*

#### *Award criteria*

- Quality of the offer (80%), including:
  - Relevance of the experience and expertise of the tenderer in the areas under the Lots for which the candidate is applying;
  - Understanding of the national and local policies, laws and recommendations;
  - Knowledge of Council of Europe standards and other relevant international standards in the field of human rights/anti-discrimination and in specific of LGBTI rights and/or vulnerable groups and/or hate speech.
- Financial offer (20%).

The Council reserves the right to hold interviews with 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>5</sup> (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria (when a legal person or consortium of natural and/or legal person – a CV should be provided for each person assigned to the contract);
- A list of all owners and executive officers, for legal persons only;
- For legal persons, registration documents or other official documents that provide information about the ownership and control of the Tenderer;
- Sample of relevant work (article, report, research analysis, training material);
- Motivation letter highlighting relevant skills and experiences;
- Contact details of three referees/recent employers.

At the time a specific assignment is ordered from a tenderer (natural person) belonging to the category of local<sup>6</sup> civil servant or other public administration staff under the third phase of the Horizontal Facility, the respective tenderer will be required to submit a written confirmation by his/her employer that secondary activities are allowed by national/local legislation and that the employer authorises the tenderer to carry out the object of this tender procedure as a secondary activity. In the absence of such a confirmation, the Council of Europe reserves the right to withdraw the order. Alternatively, at the time a specific assignment is ordered from a tenderer (legal person) assigning the production of the expected deliverables to an individual belonging to the category of local civil servant or other public administration staff under the third phase of the Horizontal Facility, the respective tenderer will be required to verify and provide the Council of Europe with the necessary supporting documents confirming that this individual submitted a written confirmation by his/her employer that secondary activities are allowed by national/local legislation and that the employer authorises the individual to carry out the object of this tender procedure as a secondary activity. In the absence of such a confirmation, the Council of Europe reserves the right to withdraw the order.

<sup>4</sup> Common European Framework of Reference for Languages.

<sup>5</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.

<sup>6</sup> For the purpose of this document, the term « local » designates consultants from one of the Horizontal Facility Beneficiaries region and Türkiye.

**All documents shall be submitted in English 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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