

# TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

## Purchase of consultancy services in relation to the "Promotion of diversity and equality in Montenegro" Contract N° BH-4673



The Council of Europe is currently implementing - and until 23 May 2022 will implement - the joint Council of Europe / European Union Horizontal Facility Action on "Promotion of diversity and equality in Montenegro". In that context, it is looking for Provider(s) for the provision of 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 a natural person, a self-employed sole trader, or a duly registered limited or unlimited liability company with a single employee/director.

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 - Promotion of diversity and equality in Montenegro.** 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 7(seven) 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 the subject: Q&A - Promotion of diversity and equality in Montenegro.**

<b>Type of contract</b> ▶	Framework contract
<b>Duration</b> ▶	Until 23 May 2022
<b>Deadline for submission of tenders/offers</b> ▶	<b>07 May 2020</b>
<b>Email for submission of tenders/offers</b> ▶	<b>tenders.antidiscrimination@coe.int</b>
<b>Email for questions</b> ▶	<b>tenders.antidiscrimination@coe.int</b>
<b>Expected starting date of execution</b> ▶	20 May 2020

<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

“Promotion of diversity and equality in Montenegro” is an Action implemented in Montenegro within the framework of the second phase of the European Union / Council of Europe Joint Programme Horizontal Facility for the Western Balkans and Turkey (HF II).

The Horizontal Facility supports justice reform, the fight against corruption and combating discrimination and protecting the rights of vulnerable groups, and covers Albania, Bosnia and Herzegovina, Montenegro, Republic of North Macedonia, Serbia as well as Kosovo<sup>2</sup>. Through the Horizontal Facility, the European Union and the Council of Europe will assist beneficiaries in South-East Europe to comply with Council of Europe standards and to align with the European Union acquis in the framework of the enlargement process.

The aim of the Action is to contribute to improving the functioning of anti-discrimination mechanisms and their accessibility by vulnerable groups, in line with European standards and best practices. In specific, it will work on combating discrimination, including discrimination on grounds of sexual orientation and/or gender identity, hate speech and protection of LGBTI rights. This will be achieved by instruments such as legislative and policy reviews, capacity building and campaigning implemented at various levels, including the local. The Action is based on the CoE findings and recommendations of the European Commission against Racism and Intolerance (ECRI).

The Action is implemented throughout the period of 36 months (24 May 2019 – 23 May 2022) by the Anti-Discrimination department of the Council of Europe. The main partners of the project are the Ministry of Human and Minority rights, The Ombudsman of Montenegro and other relevant stakeholders.

The Council of Europe is looking for a maximum of 18 providers (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project. Providers should have experience on anti-discrimination, based on European standards, in the following areas:

- **Anti-Discrimination:** Strengthening the capacity of stakeholders to address promotion and protection of anti-discrimination policies and mechanisms.
- **LGBTI:** Preventing and combating discrimination on the grounds of sexual orientation and/or gender identity through empowering duty bearers and introduction of an appropriate legal/policy framework;
- **No Hate Speech:** Combating hate speech through improving the policy framework, the empowerment of relevant bodies/institutions and by raising awareness among the general public about its negative effects.

This Contract is currently estimated to cover up to 30 activities, to be held by 23 May 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 250,000 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 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	6
Lot 2: CAPACITY BUILDING	6
Lot 3: RAISING AWARENESS	6

<sup>2</sup> This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

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

Lot 2 concerns consultancy services to be provided with regards to the enchaining the implementation of the relevant laws/policies 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 stakeholders in order to tailor their interventions to address discrimination, LGBTI issues and combating hate speech.

Lot 3 concerns consultancy services to be provided with regards to raise awareness of the dangers posed by hate speech, as well as identifying good practices at local level in combating discrimination (related to strengthening anti-discrimination mechanisms, LGBTI issues and combating hate speech) and promote them through specific activities.

All off these 3 Lots will 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). Tenderers may tender for one, two or all lot(s).

### 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 the process of upgrading of the existing laws and policies;
- Participate, involve and/or facilitate events (workshops, working groups, conferences, high level meetings);
- Help the international expert in his/her work;
- Contribute to the Steering committee meetings;
- Apply gender mainstreaming approach/analysis.

#### Under Lot 2:

- Provide technical trainings/workshops/round tables for different professional groups on topics related to **anti-discrimination** (legal/institutional framework, implementing ECRI's recommendations), **LGBTI** (topics such as prejudices and stereotypes, legal and strategic framework, work of duty bearers such as: police, education professionals, judges and prosecutors, health workers, etc.) and **no hate speech** (legal/institutional framework, negative consequences, countering hate-speech etc.);
- Development of guidelines, training curricula, training modules, 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/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 public awareness raising campaigns/videos/articles in relation to anti-discrimination, hate speech, inclusion and promotion of tolerance, protection and promotion of the rights of LGBTI persons and national minorities and other related topics;
- Develop informative and promotional materials and other texts/publications;

- Prove needs assessment, design and conduct surveys;
- 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>3</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>4</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;
- 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*

##### General for all Lots:

- University degree in law, political science, social science, criminalistics, pedagogy, psychology, public relations, journalism, or any related field **or** equivalent working experience;
- 5 years of professional experience in areas related to human rights/anti-discrimination, and in specific of LGBTI rights and/or hate speech;
- At least 3 years of proven professional experience relevant for the duties described under the Lots for which the candidate is applying;
- Very good knowledge of Montenegro political structure, legislative framework and implementation in the field of human rights/anti-discrimination, and in specific LGBTI rights and/or national minorities and/or hate speech;
- Excellent communication and interpersonal skills;
- Excellent drafting skills;
- Excellent written and oral English;
- ICT skills: sound computer skills of standard tools in office applications.

<sup>3</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>4</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.

*Award criteria*

- Quality of the offer (90%), including:
  - Relevance of the experience and expertise of the tenderer in the areas covered by this call;
  - Very good 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 national minorities and/or hate speech;
  - Demonstrated ability to works in multi-cultural environments, and demonstrated analytical, research and reporting skills,
  - 
  - Capacity to meet the required deadlines.
- 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>5</sup> (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
- A scanned copy of a valid photographic proof of identity (e.g. passport), for natural persons only (including from owners and executive officers of legal persons);
- A list of all owners and executive officers, for legal persons only;
- For legal persons, registration documents or other official documents proving 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.

**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.**

\* \* \*

---

<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.