

TENDER FILE / TERMS OF REFERENCE

(Restricted consultation procedure / Framework Contract)

Purchase of national consultant services

Contract N° 4485/2018/11FC

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

The Council of Europe is currently implementing the Project "Freedom of Media in Ukraine" in the framework of Council of Europe and European Union Partnership for Good Governance until 31 December 2018 which aims to improve freedom, independence, pluralism and diversity of media in Ukraine. In that context, it is looking for Provider(s) for the provision of national expert services to be requested by the Council on an as needed basis.

A. TENDER RULES

This tender procedure is a restricted consultation procedure. In accordance with Rule 1333 of the Secretary General of the Council of Europe on the procurement procedures of the Council of Europe¹, 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: call for national consultants 4485/2018/11FC**. 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: call for national consultants 4485/2018/11FC.**

Type of contract ►	Framework contract
Duration ►	Until 31 December 2018
Deadline for submission of tenders/offers ►	25 June 2018
Email for submission of tenders/offers ►	Orysya.fedorchuk@coe.int
Email for questions ►	Orysya.fedorchuk@coe.int
Expected starting date of execution ►	02 July 2018

¹ 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 1333 of 29 June 2011 on the procurement procedures of the Council of Europe](#).

B. EXPECTED DELIVERABLES

Background of the Project

The Council of Europe is currently implementing the Project "Freedom of Media in Ukraine" in the framework of Council of Europe and European Union Partnership for Good Governance until 31 December 2018 which aims to improve freedom, independence, pluralism and diversity of media in Ukraine. Specific objectives of the Project are to enhance the independence and effectiveness of the bodies responsible for broadcasting regulation through improvement of legal framework, its implementation and enabling the public-service broadcasting system to better fulfill its remit; to support completion of the communal printed media reform and development of community media.

In this context the Project is looking for Provider(s) (see below) for the provision of particular expertise in the field of Ukrainian media landscape and specifically the following groups of experts:

- **Lot 1 - National media experts on public broadcasting service.** The scope will include but is not limited to: expert reports, trainings, seminars (presentations) with recommendations on implementation of the Law of Ukraine on Public Broadcasting in line with the Council of Europe and European standards, on revision of the mentioned law and other relevant legislation and regulations. Support to the UA:PBC concepts' development and capacity building of the UA:PBC staff members, Management Board and Supervisory Board capacity building etc. Legal expertise of the mentioned legislative and regulatory acts.
- **Lot 2 - National media experts on audiovisual media services.** The scope will include but is not limited to: expert reports, trainings, seminars (presentations) on AVS in EU, Council of Europe standards on AVS; expertise of the Draft Law of Ukraine on Audiovisual Services etc.
- **Lot 3 - National media/legal experts on transparency of media financing.** The scope will include but is not limited to: expert reports, trainings, seminars (presentations) with recommendations on community media development in Ukraine, CoE standards and best European practices.
- **Lot 4 - National media experts on community media.** The scope will include but is not limited to: expert reports, trainings, seminars (presentations) with recommendations on community media development in Ukraine, CoE standards and best European practices.
- **Lot 5 - National media experts on gender in media.** The scope will include but is not limited to: expert reports, trainings, seminars (presentations) with recommendations of ensuring gender equality in media and combatting gender stereotypes and sexism in media and advertising in line with the Council of Europe and European standards.
- **Lot 6 - National media experts on destatization of media.** The scope will include but is not limited to: expert reports, trainings, seminars (presentations) with recommendations on reform of communal print media, TV and radio, developing of sustainable business models for reformed media outlets, enhancing their capacity etc. Legal expertise of the legislation on press and preparation of amendments, preparation of recommendations on the laws/draft laws on reform of communal and state print media, TV and radio etc.
- **Lot 7 - National experts on media standards.** The scope will include but is not limited to: expert reports, trainings, seminars (presentations) with recommendations on Council of Europe and European media standards, journalistic ethics, media independence, including independent editorial policy, etc.

The Council of Europe is looking for up to 55 Provider(s) (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular field of expertise in the fields listed above.

For information purposes only, the total budget of the project amounts to 211 713 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:

- Prepare and present of analytical reports;
- Prepare and deliver trainings, seminar and separate modules, presentations;
- Provide expert analysis of Ukrainian and international legislation, Council of Europe and European Union standards and its presentation;
- Develop and present concepts.

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).]

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 this consultation and the subsequent selection are 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 1 (one) working day 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 quote² (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)³

² 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 / international relations / public administration / journalism or related fields;
- At least 2 years experience in the field of consulting in the areas of law / political sciences / social sciences / international relations / public administration / journalism or related fields.

Award criteria

- Quality of the offer (60%), including:
 - Relevance of the experience of the tenderer in the areas covered by this call, including previous assignments with international organisations (30%);
 - Knowledge of the standards and recommendations of the Council of Europe in the field of media (30%);
- Financial offer (40%).

Multiple tendering is not authorised.

F. DOCUMENTS TO BE PROVIDED

- A completed and signed copy of the **Act of Engagement**⁴ (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria.
- A sample of an article, legal opinion, report, short essay or another relevant text recently drafted can be submitted in English or Ukrainian by the tenderer covering challenges with regards to the specific and/or preferred fields of expertise: Lot 1 - National media experts on public broadcasting service; Lot 2 - National media experts on audiovisual media services; Lot 3 - National media/legal experts on transparency of media financing; Lot 4 - National media experts on community media; Lot 5 - National media experts on gender in media; Lot 6 - National media experts on destatization of media; Lot 7 - National experts on media standards;
- Registration documents, for legal persons only.

All documents shall be submitted in English (a sample of an article, legal opinion, report, short essay or another relevant text recently drafted 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 tender will not be considered.

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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³ 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.

⁴ 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.