

TENDER FILE / TERMS OF REFERENCE

(Restricted consultation procedure / Framework Contract)

Purchase of national intellectual (consultancy) services – legal advice on administrative and territorial division in four regions of Ukraine

Contract N° 8549/2018/49

The Council of Europe is implementing a Programme “Decentralisation and local government reform in Ukraine”. In that context, it is looking for Provider(s) to provide legal advice on administrative and territorial division in four regions of Ukraine, (Donetsk, Kharkiv, Luhansk and Ternopil oblasts).

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 €5,000 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: Offer_Call on Legal Assistance 8549/2018/49**. 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 2 (two) 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: **Question_Call on Legal Assistance 8549/2018/49**.

Type of contract ►	Framework contract
Duration ►	Until 31 March 2019
Deadline for submission of tenders/offers ►	20 November 2018
Email for submission of tenders/offers ►	decentralisation.ua@coe.int
Email for questions ►	olga.shevchuk@coe.int
Expected starting date of execution ►	22 November 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 Programme “Decentralisation and local government reform in Ukraine” is implemented as a part of the Council of Europe Action Plan for Ukraine for 2018-2021. The overall objective of the Programme is to support decentralisation and the establishment of a sustainable local governance system in Ukraine. The Programme includes a wide range of activities devised into four interconnected components. Component 1 of the Programme – “Reform of legislation, preparation and implementation of reform strategies in the light of the Council of Europe policy and legal expertise” – foresees the provision of policy advice and legal assistance to the Ukrainian Government, in line with Council of Europe standards and taking into account good practice of Council of Europe’s member states.

The Council of Europe has the only international standards in the field of local government (European Charter of Local Self Government and its Protocol on the right to participate in the affairs of a local authority, Committee of Ministers recommendations). It has worked and identified good practice for over 50 years, and has experience with co-operation and support to decentralisation in almost all Central and European countries and has access to all the European governments (via its European Committee on Democracy and Governance), local authorities and associations (via the Congress of Local and Regional Authorities).

The Council of Europe is the only organisation which provides, upon request of the Ukrainian Government, official legal opinions on draft legislation relevant to decentralisation issues. It contributes to drafting new legislation by providing overviews of current European legal frameworks, examples of good practice and advice (other organisations and European countries are also often invited to participate in consultations and offer written input in this respect).

In this context, the Programme is looking for maximum 4 Providers (provided enough tenders meet the criteria indicated below), to support a pilot project on administrative and territorial division in four regions of Ukraine (Donetsk, Kharkiv, Luhansk and Ternopil oblasts), with a particular expertise on (i) local self-government and decentralisation reform, (ii) territorial and amalgamation reform, (iii) Council of Europe standards and recommendations in the field. The pilot project will be implemented in co-operation with the Ukrainian Association of Rayon and Oblast Councils and in coordination with the Ministry of Regional Development of Ukraine.

This Contract is currently estimated to cover about 36 activities, to be held by 31 March 2019. 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 length of the Programme and evolving needs of the Organisation.

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, the pre-selected Providers may be asked to:

- provide legal advice on administrative and territorial division with a specific focus on four regions of Ukraine – Donetsk, Kharkiv, Luhansk and Ternopil oblasts - (including cartographic and infographic modelling, taking into account types of social needs and administrative services provided to population);
- prepare analytical reports and recommendations;
- participate in events (meetings, workshops, high level meetings, round trip), prepare and make presentations;
- moderate discussions;
- coordinate activities of regional expert groups established under regional state administrations.

The above lists is not considered exhaustive. The Council reserves the right to request deliverables not explicitly mentioned in the above lists 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 of Europe office in Kyiv (project managers) 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 Ukrainian and/or English specified in concrete order of the Council (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 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 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

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;

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.

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.

- 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

- Master's Degree (or equivalent);
- Minimum five years of relevant experience in undertaking specific research, providing expert advice in the relevant field;
- Excellent Ukrainian language skills.

Award criteria

Quality of the offer (80%), including:

Thematic knowledge and related experience (40%), including:

- in the field of administrative and territorial division, territorial reform at local and sub-regional levels,
- public administration, local government and decentralisation reform,
- in the development and implementation of national, regional policy and reform papers,
- in providing legal and policy advice to national, regional and local authorities,
- excellent knowledge on the Council of Europe standards in the fields of local government and good governance at local level;

Level and relevance of the capacities of the tenderer (40%), including:

- research, analysis, writing and reporting;
- communication and team work, in an international environment.

- Financial offer (20%).

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 in English**, demonstrating clearly that the tenderer fulfills the eligibility criteria;
- **Motivation letter in Ukrainian**, demonstrating experience and expertise required;
- At least one sample of the previous work (relevant deliverables / links to publications etc.).

Act of Engagement, CV shall be submitted in English, failure to do so will result in the exclusion of the tender. Other supporting documents can be provided in English or Ukrainian.

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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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.