

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

### Purchase of local consultancy services in the framework of the implementation of the European Social Charter in Ukraine

**Contract N°8814/01-2022**



The Council of Europe is currently implementing a Continued Support to Promoting Social Human Rights in Ukraine Project (until 31 December 2022). In that context, it is looking for Provider(s) for the provision of local consultancy services on the implementation of the European Social Charter in Ukraine under the present Framework Contract 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 €5,000 and €55,000 for intellectual services 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 consortia of legal and/or natural persons.

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 - 8814/01-2022.** 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 - 8814/01-2022.**

Type of contract ►	Framework contract
Duration ►	Until 31 December 2022
Deadline for submission of tenders/offers ►	<b>21 February 2022</b>
Email for submission of tenders/offers ►	<a href="mailto:Siuzanna.MNA TSA KA NIA N@coe.int">Siuzanna.MNA TSA KA NIA N@coe.int</a>
Email for questions ►	<a href="mailto:Siuzanna.MNATSAKANIAN@coe.int">Siuzanna.MNATSAKANIAN@coe.int</a>
Expected starting date of execution ►	10 March 2022

<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

The Project "Continued support to promoting social human rights in Ukraine" is a one-year project, implemented by the Council of Europe under the Council of Europe-Ukraine Action Plan 2018-2022. The main objective of the project is to contribute to the further enhancement of the social human rights line with European standards contributing to the sustainable democracy in Ukraine.

The Council of Europe is looking for a maximum of *fifteen* Providers (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on the European Social Charter, case law of the European Committee of Social Rights, social rights policies and practices in Ukraine, reporting and collective complaints procedures before the European Committee of Social Rights and other related fields of expertise.

This Contract is currently estimated to cover up to *fifteen activities*, to be held by *31 December 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 115,000 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.

### Scope of the Framework Contract

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

- draft analytical reports/expert analysis (assessments, gap analysis, etc.);
- provide legal expertise of the (draft) laws;
- participate at the events (workshops, conferences, high level meetings);
- prepare guidelines, manuals, training materials, etc.;
- conduct trainings/workshops;
- provide expert support/guidance to the working groups meetings, activities of the Project's beneficiary institutions, etc.

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 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 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.

Only those Providers whose score, following the assessment of the Award Criteria (see Section E below), is equivalent to or higher than 4.0 (out of 5.0) will be selected.

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:

<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 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.

- 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.

#### *Eligibility criteria*

- A university degree in law, social sciences, international relations, political sciences, human rights or related fields;
- At least 3 years of professional experience in areas related to the fields of expertise as described under the scope of the contract above (acquaintance with the international context is an advantage);
- Excellent knowledge of the Ukrainian language (mother tongue level) and good knowledge of the English language (at least level B2 of the Common European Framework of Reference for Languages).

#### *Award criteria*

- Quality of the offer (90%), including:
  - Thematic expertise in the relevant area, knowledge of the European Social Charter, European standards and recommendations of the Council of Europe, European Committee of Social Rights and European Court of Human Rights case law in the areas covered by this call (50%);
  - Relevance of the experience of the tenderer in the areas covered by this call, including previous similar assignments with Council of Europe or other international organisations, knowledge of the national and regional context in the field of the social rights and policies relevant to the areas covered by this call (40%);
- 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 (ONLY IN WORD OR PDF FORMATS)

- 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;
- Registration documents, for legal persons only;
- A cover letter (up to 1 page) describing the expertise in one/several/all areas of expertise covered by the call (implementation of the European Social Charter, case law of the European

<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.

Committee of Social Rights, social rights policies and practices in Ukraine, reporting and collective complaints procedures before the European Committee of Social Rights and other related spheres);

- At least 2 (two) samples of work/deliverables reference/links to publications, legal assessments/analyses, reports, studies, etc. relevant to the experience the tenderer claims in the areas covered by this call;
- Contact details of 3 (three) relevant referees, from among previous employers or clients (name, surname, organisation, phone number or e-mail).

**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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