

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Purchase of capacity building activities on fighting discrimination and legislation and policy review of criminal, civil and administrative legislation

The Council of Europe is currently implementing the cooperation project "Fight against discrimination, hate crimes and hate speech in Georgia". The project aims to contribute to ensuring that the legal framework is in place and institutions and key stakeholders implement policies tackling discrimination, racism, and hate speech in Georgia, and increase public awareness and appreciation for the laws' contribution towards democracy, human rights, peace and prosperity in Georgian society. In that context, it is looking for Provider(s) for the provision of capacity building activities on fighting discrimination and legislation and policy review of criminal, civil and administrative legislation in the light of antidiscrimination standards 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 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, 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: Consultancy_Capacity_Building_Legislation_Review**. 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_Consultancy_Capacity_Building_Legislation_Review**

Based on needs, this Contract might be used also by other Units or Divisions within the Anti-discrimination Department.

Type of contract ►	Framework contract
Duration ►	Until 31 December 2021
Deadline for submission of tenders/offers ►	07 August 2019
Email for submission of tenders/offers ►	tenders.antidiscrimination@coe.int
Email for questions ►	Nino.kheladze@coe.int
Expected starting date of execution ►	16 September 2019

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 1395 of 20 June 2019 on the procurement procedures of the Council of Europe](#).

B. EXPECTED DELIVERABLES

Background of the Project

The Council of Europe is implementing the cooperation project "Fight against discrimination, hate crimes and hate speech in Georgia" which aims to provide expertise, build competences, advocate and raise awareness among policy makers, legal and law enforcement agencies and civil society organisations to enable them to:

- fully align national legislation and bylaws on anti-discrimination, hate crimes and hate speech and monitoring mechanism (in particular ECtHR, ECRI and FCNM) in accordance with European standards;
- ensure its effective implementation;
- increase public appreciation for the laws' contribution towards democracy, human rights, peace and prosperity in Georgian society.

In order to reach this goal, the project will provide:

- training of professionals and exchange of practices on anti-discrimination, hate speech and hate crime policies and relevant CoE standards;
- expertise in legislative review of the criminal, civil and administrative legislative framework regarding anti-discrimination, hate crime and hate speech in line with the recommendations of the European Commission against Racism and Intolerance and other Council of Europe standards;

The Council of Europe is looking for a maximum of 13 provider(s) (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on national and international standards on fighting discrimination on various grounds, ECRI standards, ECtHR case law and practical aspects of investigation and prosecution and antidiscrimination standards.

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 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: Capacity building activities for various target groups including youth, lawyers, prosecutors, police, journalists on national and international standards on fighting discrimination on various grounds, ECRI standards, ECtHR case law and practical aspects of investigation and prosecution (national consultant)	8
Lot 2: Legislation and policy review of criminal, civil and administrative legislation in the light of antidiscrimination standards (national consultant)	5

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 trainings for various target groups
- Develop training materials not limited to curricula, agenda, pre and post tests, case studies and presentations
- Participate as a speaker in workshops, roundtables, information sessions and working group meetings

- In all assignments, post activity reports as a rule the consultant(s) shall elaborate on gender dimension and possible impact of proposed action on gender equality.

Under Lot 2:

- Conduct analysis of legal acts, by-laws, (draft) Code of Ethics, decisions of Constitutional Court and Common Courts
- Conduct comparative analysis of similar legislation in other countries
- Provide legal expertise on specific issues and propose changes
- Provide written recommendations
- Participate in consultation meetings with national authorities
- Make presentations during working group meetings, workshops, roundtables or conference
- In all assignments, post activity reports as a rule the consultant(s) shall elaborate on gender dimension and possible impact of proposed changes on gender equality.

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 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;
- 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

Lot 1

- Master's Degree in Law, Social Science or other relevant field
- Excellent knowledge of the Georgian legal context, Georgian legislation and court practice on antidiscrimination as well as relevant international standards in the field of equality in particular those set by the Council of Europe;
- At least 5 years of professional experience in the thematic area of the project and conducting activities indicated in the call

² 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.

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.

- Excellent knowledge of the procedural and/or practical aspects of identification of facts of discrimination as well as relevant international standards in the field of equality
- A financial offer not exceeding the exclusion level set out in the Act of Engagement

Lot 2

- Master's Degree in Law or Human Rights
- Excellent knowledge of local context in the field of human rights as well as antidiscrimination and hate speech standards
- At least 5 years of professional experience in human rights and antidiscrimination related issues
- Excellent analytical and drafting skills
- Excellent knowledge of the ECHR system and its machinery, case law of ECtHR
- A financial offer not exceeding the exclusion level set out in the Act of Engagement

Award criteria

Lot 1

- Quality of the offer (80 %), including:
 - Relevant experience in the area of the topics of fight against discrimination, hate crimes and hate speech, including previous similar assignments with international organisations
 - Thematic expertise with focus on procedural aspects
 - Research, analytical, training and writing skills
 - Previous cooperation experience with Council of Europe
 - Knowledge of Georgian context
- Financial offer (20 %).

Lot 2

- Quality of the offer (80 %), including:
 - Relevant experience in the area of the topics of fight against discrimination, hate crimes and hate speech, including previous similar assignments with international organisations
 - Research, analytical and writing skills
 - Previous cooperation experience with Council of Europe
 - Knowledge of Georgian context
- Financial offer (20 %).

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**⁴ (See attached);
- A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
- Motivation letter demonstrating the necessary and relevant experience and education of the applicant
- 2 piece of work that demonstrate relevant experience

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.

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.

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.

* * *