



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

### Purchase of local consultancy services on Ukrainian electoral / referendum legislation and practice *Contract N°8803/2022/3*

Within the framework of the Action Plan for Ukraine 2018 – 2022, the Council of Europe is currently implementing a project on "Supporting the transparency, inclusiveness and integrity of electoral practice in Ukraine" (hereinafter – 'the Project'). The Project is implemented in three phases: Phase I – from 1 April 2018 till 31 March 2020; Phase II – from 1 April 2020 till 31 December 2021, Phase III -- from 1 January 2022 till 31 December 2023. In that context, it is looking for Provider(s) for the provision of consultancy services on Ukrainian electoral/referendum legislation and practice for the Project Phase III implementation 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 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\_ELECT\_CONSULTANTS**. 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\_TENDER\_ELECT\_CONSULTANTS**.

<b>Type of contract ▶</b>	Framework contract
<b>Duration ▶</b>	Until 31 December 2023
<b>Deadline for submission of tenders/offers ▶</b>	<b>28 February 2022</b>
<b>Email for submission of tenders/offers ▶</b>	<b>REPU@coe.int</b>
<b>Email for questions ▶</b>	REPU@coe.int
<b>Expected starting date of execution ▶</b>	01 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 1393 of 20 June 2019 on the procurement procedures of the Council of Europe](#).

## B. EXPECTED DELIVERABLES

### Background of the Project

Within the framework of the Council of Europe Action Plan for Ukraine 2018 - 2022, the Council of Europe is implementing the 3-phased project "Supporting the transparency, inclusiveness and integrity of electoral practice in Ukraine".

The main objective of the Project's Phase III (from 1 January 2022 to 31 December 2023) is to increase public trust towards elections and elected representatives due to more participatory and inclusive political and electoral processes. Project activities during its Phase III are aimed at:

- increasing the capacity of election/referendum commissioners to organise elections/referenda in line with international and European standards and good practices, and recommendations of international election observation missions;
- enhancing the engagement of civil society organisations and young leaders, particularly from underrepresented groups, in political and electoral processes, including via professional monitoring, observation, capacity building and follow-up activities;
- increasing women political participation and representation as a result of enabling legal and safe political environment and gender sensitive media coverage of elections.

The Council of Europe is looking for a maximum of *twenty* Provider(s) (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on Ukrainian electoral legislation and practice, as well as national/local referendum issues.

This Contract is currently estimated to cover up to *forty activities*, to be held by 31 December 2023. 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 600,000 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 provide expert advice and support to the Project team on issues related to Ukrainian electoral legislation and practice, as well as national/local referendum issues, which may include but not be limited to:

- providing legal and policy advice;
- assessing and commenting on legal and policy documents, preparing overviews in line with the Council of Europe's standards and identified good practices;
- preparing analytical reports and recommendations;
- developing policy documents and other publications;
- developing training courses and materials;
- conducting trainings / workshops / seminars;
- developing strategies and methodologies, as well as providing follow-up for their implementation;
- conducting needs assessment and preparing summary reports on specific issues;
- legal proofreading and editing researches and Project related documents;
- developing content for infographics and other Project's public awareness raising materials;
- participating in events organized with the support of the Project (meetings, round tables, workshops, seminars, working groups, trainings, conferences, high level meetings, study visits, regional events, online events), preparing and making presentations;
- moderating / facilitating discussions.

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.

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 the required deadlines); 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>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

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<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.

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:

- 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;
- 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*

- Master's Degree (or equivalent) in law, international law, international relations, public administration, public policy, political science or other related field;
- Minimum five years of relevant experience related to functioning and/or development of the Ukrainian electoral system, legislation and practice.

##### *Award criteria*

- Quality of the offer (80%), including knowledge and professional experience in:
  - (a) development of analytical reports / researches / articles in the field of Ukrainian and / or international electoral legislation and practice and/or national/local referendum issues;
  - (b) development and implementation of national policy and reform documents/papers;
  - (c) providing legal and policy advice to national, regional and local authorities;
  - (d) development of training materials and conduct of trainings / workshops or alike activities in the field of Ukrainian electoral legislation and practice, and/or national/local referendum issues;
  - (e) knowledge of international electoral/referendum standards;
  - (f) previous working or cooperation experience with international organisations would be an asset;
  - (j) knowledge of English (intermediate/advanced level) would be an asset.
- Financial offer (20%).

The Council reserves the right to hold interviews with eligible tenderers.

Multiple tendering is not authorised.

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<sup>3</sup> 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.

## 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** (See attached);
- For legal persons and private entrepreneurs: Registration documents (scanned copy of originals in Ukrainian and/or English, proving the tenderer's ability to carry out the respective types of economic activities);
- For legal persons: A detailed professional portfolio in English, demonstrating clearly that the tenderer (proposed staff) fulfils the eligibility criteria;
- For natural persons, including private entrepreneurs: A detailed CV in English, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
- A list of previous expert work of the tenderer (e.g. expert opinions, articles, legislation assessments, reports, researches and/or other alike materials) with active links to them to the extent possible (but not less than 2 links to the publications in Ukrainian) on the topics covered by this tender.

**All documents shall be submitted in English, except registration documents to be submitted in Ukrainian and samples of previous work to be submitted as specified above, 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.**