

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Purchase of capacity building activities on legislation and policy review of criminal, civil and administrative legislation in the light of antidiscrimination standards, review of internal equality policies in the private companies and evaluation and monitoring consultancy

Contract N° 8824/15042022

The Council of Europe is currently implementing the Project "Promoting the Effective Protection of Equality and Non-Discrimination in Georgia", which aims at strengthening the promotion and protection of the rights of vulnerable groups and minorities in Georgia against discrimination, hate speech and hate crime. In that context, it is looking for Provider(s) for the provision of legislation and policy review of criminal, civil and administrative legislation in the light of antidiscrimination standards, review of internal equality policies in the private companies, evaluation and monitoring consultancy 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 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 – Legislation.** 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 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 - Legislation**

Type of contract ▶	Framework contract
Duration ▶	Until 31 December 2022
Deadline for submission of tenders/offers ▶	26 May 2022
Email for submission of tenders/offers ▶	antidiscrimination.georgia@coe.int
Email for questions ▶	antidiscrimination.georgia@coe.int
Expected starting date of execution ▶	30 May 2022

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 currently implementing the Project "Promoting the Effective Protection of Equality and Non-Discrimination in Georgia", which aims at strengthening the promotion and protection of the rights of vulnerable groups and minorities in Georgia against discrimination, hate speech and hate crime. The project will work with National Human Rights Institution (PDO) and other key stakeholders (businesses, ethnic, religious and other minority communities and School Resources Officers) to ensure their engagement in promoting equality and countering hate speech, and law enforcement service to ensure effective investigation and prosecution of discrimination and hate crimes.

The project will increase the capacity of members of vulnerable and minority groups including national, ethnic and religious minorities, LGBTQI+ persons to make full use of their rights and participate in the Georgian society. In order to reach this goal, the project will provide:

- support in setting up a mechanism for hate crime data analysis;
- 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;
- Awareness-raising activities about human rights and anti-discrimination policy and their importance for securing democracy, peace and prosperity in the Georgian society.

The Council of Europe is looking for a maximum of 25 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, internal equality policies in the private companies, monitoring and evaluation consultancy.

The Contract may potentially represent a higher or lower number of activities, depending on the 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.

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: Legislation and policy review of criminal, civil and administrative legislation in the light of antidiscrimination standards (national consultant)	10
Lot 2: Review/elaboration of internal equality policies for the private companies (international consultant)	10
Lot 3: Monitoring and evaluation consultancy (national consultant)	5

The Council will select the abovementioned number of Provider(s) per lot, provided enough tenderers 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 analysis of legal acts, by-laws, (draft) codes of ethics, decisions of Constitutional Court and Common Courts, national and institutional policies
- Conduct comparative analysis of similar legislation and policies 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, including the post activity reports, as a rule the consultant(s) shall elaborate on gender dimension and possible impact of proposed changes on gender equality
- Provision of other deliverables as related to the above and as requested by the Council of Europe.

Under Lot 2:

- Conduct analysis of the internal policies of private companies
- Conduct comparative analysis of similar policies in other companies (preferably best practice companies outside Georgia)
- Provide written recommendations/drafts of internal policies
- Participate in consultation meetings with private companies and PDO
- Make presentations during working group meetings, workshops, roundtables or conference
- In all assignments, including the post activity reports, as a rule the consultant(s) shall elaborate on gender dimension and possible impact of proposed changes on gender equality
- Provision of other deliverables as related to the above and as requested by the Council of Europe.

Under Lot 3:

- Support the elaboration of institutional and thematic strategies and action plans for PDO and other partner organisations
- Contribute to the development of information and guiding materials, including handbooks, guidelines, and manuals on collecting and analysing data and monitoring internal policies for private companies and other partner organizations
- Provide on-the-job coaching in monitoring and reporting, collecting, processing, and analysing data, especially on hate motivated crimes, if needed
- Train the trainers for enhanced monitoring and reporting, collection, processing, and analysis of data.
- In all assignments, including the post activity reports, as a rule the consultant(s) shall elaborate on gender dimension and possible impact of proposed changes on gender equality
- Provision of other deliverables as related to the above and as requested by the Council of Europe.

Other deliverables related to the topics above and as requested by the Council of Europe. 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 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:

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 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

Lot 1

- 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 (five) 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
- Excellent command of English and Georgian in speaking and writing.

Lot 2

- Master's Degree in Law, Social Science or other relevant field
- At least 5 (five) years of professional experience in elaborating and/or providing revision of the equality and non-discrimination policies of private companies
- At least 3 (three) years of professional experience in working on equality policies of private companies
- Excellent command of English in speaking and writing.

Lot 3

- Master's degree in statistics, social policy, sociology, business management, economics or other relevant field
- A minimum of 5 (five) years of experience in the of elaboration of strategies and action plans;
- Experience in quantitative and qualitative data collection and analysis related to human rights and/or equality in different sectors would be a strong asset
- Demonstrated experience in delivering capacity development activities on data collection, analysis, visualisation would be a strong asset
- Experience with capacity development for public authorities would be a strong asset
- Excellent knowledge of the legal, policy and institutional framework and context in Georgia, including international standards on policy elaboration
- Excellent command of English and Georgian in speaking and writing.

Award criteria

Lot 1

- Quality of the offer (80 %), including:
 - Strong background in the area of the topics of fight against discrimination, hate crimes and hate speech; knowledge of relevant European and Council of Europe Standards, especially the standards of the European Commission against Racism and Intolerance (ECRI), FCNM and ECtHR (30 %)
 - Relevance of the experience of the tenderer in the areas covered by this call, including previous similar assignments with international organisations and/or Council of Europe; experience in human rights and antidiscrimination related issues (40%)

- Excellent knowledge of English and Georgian languages (10%)
- Financial offer (20 %)

Lot 2

- Quality of the offer (80 %), including:
 - Strong background in reviewing and/or elaborating of equality policies; knowledge of the issues of equality and non-discrimination of minorities (30%)
 - Relevance of the experience of the tenderer in the areas covered by this call, including previous similar assignments with international organisations and/or Council of Europe; experience in working/cooperating with private companies on equality policies (40%)
 - Excellent knowledge of English and Georgian languages (10%)
- Financial offer (20 %)

Lot 3

- Quality of the offer (80 %), including:
 - Strong background in monitoring, evaluation, management, economics; knowledge of human rights and/or equality issues and legal, policy and institutional framework of Georgia; knowledge of quantitative and qualitative data collection and analysis as an added value (30%)
 - Relevance of the experience of the tenderer in the areas covered by this call, including previous similar assignments with international organisations and/or Council of Europe; experience in elaborating of strategies and action plans and building the capacities for various sectors (40%)
 - Excellent knowledge of English and Georgian languages (10%)
- 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;
- Two 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.

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.