

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)

Purchase of international consultant services

Contract N° 4756/2019/01FC



The Council of Europe is currently implementing the **Component 1 "EU and Council of Europe working together to support freedom of media in Ukraine"** (hereinafter – **the Project**) within the Joint Project of the European Union and the Council of Europe "European Union and Council of Europe working together to strengthening the protection of human rights in Ukraine".

The Project aims to enhance the role of media, its freedom and safety, and the public broadcaster as an instrument for consensus building in the Ukrainian society. The Project addresses six main priorities:

1. reinforcing the Public Broadcasting system in Ukraine;
2. strengthening local print press outlets which undergone de-statisation reform;
3. safety of journalists and countering impunity of crimes against freedom of expression, in particular creation of the rapid response mechanism to ensure safety of journalists;
4. adoption of audiovisual legislation and strengthening capacities of the National TV and Radio Broadcasting Council of Ukraine;
5. improving access to public information for media and society;
6. balanced and professional media coverage of elections, fighting propaganda and information disorder and providing information security of Ukraine in line with the European standards.

In that context, it is looking for Providers for the provision of international consultant services 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, or a duly registered company under sole proprietorship of a natural person, or equivalent, provided that the signatory of the Act of Engagement is individually liable for all obligations undertaken by the entity, and is the owner of the moral rights in any creations of the entity. If contracted by the Council of Europe, the signatory of the Act of Engagement shall provide the deliverables personally, in accordance with the terms as provided in the current Tender File, Act of Engagement and future Order Forms (see Section D below on ordering procedure).

Tenders shall be submitted **by email only** (with attachments) **to the email address indicated in the table below, with the following reference in subject: 4756/2019/01FC**. 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: 4756/2019/01FC_Questions**

Type of contract ►	Framework contract
Duration ►	Until 09 November 2021

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](#).

Deadline for submission of tenders/offers ▶	08 January 2020
Email for submission of tenders/offers ▶	DGI-UPSIS@coe.int
Email for questions ▶	DGI-UPSIS@coe.int
Expected starting date of execution ▶	08 February 2020

B. EXPECTED DELIVERABLES

Background of the Project

The Council of Europe is currently implementing till 09 July 2021 the Component 1 "EU and Council of Europe working together to support freedom of media in Ukraine" (hereinafter – the Project) within the Joint Project of the European Union and the Council of Europe "European Union and Council of Europe working together to strengthening the protection of human rights in Ukraine".

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The Council of Europe is looking for a maximum of 72 Providers within 1-6 Lots (provided enough tenders meet the criteria indicated below) in order to support the implementation of the project with a particular expertise on freedom of expression issues.

This Contract is currently estimated to cover up to 80 activities, to be held by 09 July 2021. 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 **1 172 300,00 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.

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: Public Service Broadcasting	15
Lot 2: Local Print Media	7
Lot 3: Safety of journalists and fight against impunity	10
Lot 4: EU Audiovisual Media Services Directive, regulation of the media sphere	15
Lot 5: Access to public information	10
Lot 6: Media and elections, countering disinformation	15

Lot 1 - Public Service Broadcasting concerns the following topics but is not limited to:

- Council of Europe and European standards on Public broadcasting, relevant legislation and practices of other Council of Europe member-states including operation of Public broadcasters (strategy development, corporate relations etc.);

- models of financing of Public broadcasters in Europe;
- standards and practices of elections coverage by Public broadcasters in Europe;
- content for minorities, children and on gender issues on European public service broadcasters;
- standards and formats on European Public broadcasters for covering the activities of public authorities;
- editorial standards on European public service broadcasters etc.

Lot 2 - Local Print Media concerns the following topics but is not limited to:

- practices and legal framework for successful operation of local print media in the Council of Europe member-states;
- models of effective management structures of local print media;
- innovative formats of covering current affairs and elections;
- journalistic standards and other issues for privatized and reformed local print media.

Lot 3 - Safety of journalists and fight against impunity concerns the following topics but is not limited to:

- Council of Europe standards and the European Court of Human Rights case-law on freedom of expression and safety of journalists;
- investigations of crimes against media actors in European jurisdictions – approaches, methodology of law enforcement bodies, measures to ensure safety of journalists in the European countries;
- best European practices of ensuring physical and digital safety of journalists;
- early warning and rapid response mechanisms for safety of journalists protection in the European countries.

Lot 4 - EU Audiovisual Media Services Directive, regulation of the media sphere concerns the following topics but is not limited to:

- EU AVMS Directive and the Council of Europe standards in the sphere of audiovisual regulation;
- European practices in audiovisual sphere;
- Council of Europe and European standards on regulators in the sphere of media;
- effective models of co-regulation in the Council of Europe member states;
- policies in media sphere on gender equality and prevention of sexism in media and advertising.

Lot 5 - Access to public information concerns the following topics but is not limited to:

- Council of Europe standards and practices of the European countries in the sphere of access to public information;
- the Council of Europe Convention on Access to Official Documents (Tromsø Convention);
- establishment and operation of Information Commissioners/Commissions (authority, legislation, etc.) in Europe and the world.

Lot 6 Media and elections, countering disinformation concerns the following topics but is not limited to:

- practices and legal framework of media coverage of elections in the Council of Europe member states;
- Council of Europe standards and recommendations on media coverage of elections;
- regulation of political advertising during elections in the member-states of the Council of Europe;
- Countering information disorder, disinformation and new challenges in media.

The Council will select the above mentioned 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 provide the following deliverables within Lots 1-6:

- Assessment of legal acts and policy documents (draft documents and documents already in force) and/or practice and provision of advice (in the form of an oral and/or written advice), preparation of legal opinions, comments, recommendations, reports, etc.
- Participation and contribution to the working group meetings, workshops, consultation meetings with national stakeholders, including through moderating/facilitating discussions and delivering presentations;
- Participation in and contribution to conferences, round-tables, seminars, trainings and other events, including through moderating/facilitating discussions/mentoring/training, and delivering presentations, elaborating events concepts and agendas;
- Developing methodologies, strategies and conducting needs assessment on specific institutional aspects related to the topic of the lot;
- Contributing to the development of information and guiding materials, learning courses;
- Other deliverables related to the topics above and as requested by the Council of Europe.

Being instructed, supervised and coordinated by the designated staff members from the Council of Europe Office in Ukraine and from the Council of Europe Headquarters, the pre-selected Providers may be asked to provide through the Project the advice and expertise pertaining to the various aspects of the media sphere, public broadcasting, access to information in the Council of Europe member-states.

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;

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 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;
- For legal persons, an extract from the companies register or other official document proving ownership and control of the Tenderer;
- For natural persons (including owners and executive officers of legal persons), a scanned copy of a valid photographic proof of identity (e.g. passport).

- 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;
- 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).

Eligibility criteria

- A university degree in law / political sciences / social sciences / international relations / public administration / journalism or related fields;
- At least 5 years of professional experience in the areas mentioned as topics of Lots 1-6 (practical experience in relevant media organisations, consulting, academic research, analytical work, expert assessments, working as trainers, contribution to the events as speakers etc.);
- Fluent/proficient in English (at least level C1 of the Common European Framework of Reference for Languages).

Award criteria

- Quality of the offer (80%), that means relevance of the experience and level of expertise of the tenderer in the areas covered by specific Lots, including previous assignments with international organisations and/or previous experience with Ukrainian context that would be regarded as an asset;
- Financial offer (20%).

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;
- A list of all owners and executive officers, for legal persons only;
- **A list of drafted expert opinions**, legislation assessments, reports and other relevant materials **with active links to them to the extent possible** (but not less than 1) on the topics covered by the Lots 1-6 above produced in the last 5 years.

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.