

TENDER FILE / TERMS OF REFERENCE

(Competitive bidding procedure / Framework Contract)



Purchase of consultancy services in the field of algorithmic solutions and human rights (focus on privacy rights and personal data protection) - Georgia

(tender for consultants with international expertise)
Contract N° SMIP-GE.05.08.2021-1

The Council of Europe is currently implementing the cooperation project "Strengthening Freedom of Media, Internet Governance and Personal Data Protection in Georgia" SMIP-GE. The Project aims, among others, to strengthen personal data protection in Georgia through addressing following priorities:

1. Supporting inclusive and informed decision-making in the legislative processes in the field of personal data protection;
2. Assisting policy development and capacity building of key institution(s) in the field of personal data protection and use of algorithms.

In that context, it is looking for Provider(s) for the provision of consultancy services in the field of algorithmic solutions and human rights with the focus on privacy rights and personal data protection 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 – consultancy in the field of human rights and algorithmic solutions.** 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 in the field of human rights and algorithmic solutions**

Type of contract ▶	Framework contract
Duration ▶	Until 31 December 2021 (renewable tacitly)
Deadline for submission of tenders/offers ▶	13 September 2021 at midnight French time
Email for submission of tenders/offers ▶	mediaprojectgeorgia@coe.int
Email for questions ▶	mediaprojectgeorgia@coe.int
Expected starting date of execution ▶	20 September 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](#).

B. EXPECTED DELIVERABLES

Background of the Project

The Council of Europe is currently implementing the cooperation project "Strengthening Freedom of Media, Internet Governance and Personal Data Protection in Georgia" SMIP-GE. The Project aims, among others, to strengthen personal data protection in Georgia through addressing following priorities:

1. Supporting inclusive and informed decision-making in the legislative processes in the field of personal data protection;
2. Assisting policy development and capacity building of key institution(s) in the field of personal data protection and use of algorithms.

In that context, it is looking for Provider(s) for the provision of consultancy services in the field of algorithmic solutions and human rights with the focus on privacy rights and personal data protection to be requested by the Council on an as needed basis.

The Council of Europe is looking for **a maximum of 7 Provider(s)** (provided enough tenders meet the criteria indicated below) to support the implementation of the project.

This Contract is currently estimated to cover up to 10 activities, to be held by 31 January 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 481.000 EUR 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

The tender concerns the following topics, but is not limited to:

- **Council of Europe work and standards in the field of human rights and algorithmic solutions;**
- **Concept of algorithmic solutions and its impact on human rights protection - risks/challenges and benefits;**
- **Algorithmic solutions and personal data protection;**
- **Laws and policies in Europe (major tendencies) concerning use of algorithms and personal data protection, including, policies and guidelines of national data protection authorities pertaining to algorithmic solutions;**
- **Algorithmic solutions and GDPR;**
- **Algorithmic solutions and the modernised Convention for protection of individuals with regard to the processing of personal data (Convention 108+);**

Throughout the duration of the Framework Contract, pre-selected Providers, depending on their sphere of expertise, may be asked to provide the following deliverables:

- Assessment of legal acts and/or 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;
- Contributing to the development of information and guiding materials;
- 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 Georgia 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 field of algorithmic solutions and human rights, including, privacy rights.

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 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:

- i. 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;
- ii. 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;
- iii. have received a judgment with res judicata force, finding an offence that affects their professional integrity or serious professional misconduct;
- iv. 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;
- v. 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;
- vi. have been involved in mismanagement of the Council of Europe funds or public funds;
- vii. are or appear to be in a situation of conflict of interest.

Eligibility criteria

- i. A university degree in law / technologies/ political sciences / social sciences / international relations / public administration or related fields;
- ii. 2 years of professional experience in one or more topics listed under section B;
- iii. Fluent/proficient in English (at least level C1 of the Common European Framework of Reference for Languages);

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.

Award criteria

1. Quality of the offer (60%), that means
 - a. relevance of the experience and level of expertise of the tenderer in the areas listed under Section B, including level of international expertise;
 - b. Previous experience in the relevant types of activities and/or conducting work in international context/within international organisations.
 - c. level of capacity to provide deliverables as listed under Section B.
2. Financial offer (40%).

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

1. A completed and signed copy of the **Act of Engagement**⁴ (See attached);
2. A detailed CV, preferably in Europass Format, demonstrating clearly that the tenderer fulfils the eligibility criteria;
3. Registration documents, for legal persons only;
4. **A list of drafted documents**, such as expert opinions, legislation assessments, reports and other relevant materials **with active links to them, where available**, on the topics listed under section B above produced in the last 5 years.

Act of Engagement and the CV shall be submitted in English. All other documents may be submitted in English, French or Georgian languages. 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.