

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

Purchase of consultancy services to assist in the collection and processing of data on the functioning of the judicial system in Ukraine **Contract N°**



The Council of Europe is currently implementing in cooperation with the European Commission the "Support for a better evaluation of the result of the judicial reform efforts in the Eastern Partnership Project" ("Justice Dashboard EaP"/"Project"). The overall objective of the Project is to support the Eastern partnership countries, including Ukraine, in their efforts to achieve an effective, systematic and data-based monitoring and evaluation on the quality, efficiency, independence and accountability of their justice systems. For this purpose, annual collection and processing of data will be carried out on the functioning of the judicial system in Ukraine. Data collection and processing will be carried out according to the Council of Europe European Commission for the Efficiency of Justice (CEPEJ) methodology. The Project will also provide technical expertise and capacity building in the fields within the scope of the Project. In parallel to tailor-made capacity building activities aimed at strengthening the data collection and processing mechanisms within the beneficiaries, consultants will be selected and trained to the CEPEJ methodology and tools to bring a dedicated support to the project correspondents and the relevant entity in charge of data collection within each beneficiary country. In that context, the Council of Europe is looking for a Provider for the provision of assistance in the collection and processing of data on the functioning of the judicial system, as well as in the training delivery on data collection and analysis in Ukraine to be requested by the Council on an as needed basis, in compliance with the ordering procedure defined in the Framework Contract.

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 – EaP Dashboard – Ukraine.** 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 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 - EaP Dashboard – Ukraine.**

Type of contract ▶	Framework contract
Duration ▶	Until 14 January 2024
Deadline for submission of tenders/offers ▶	21 November 2021
Email for submission of tenders/offers ▶	Tamar.Katsitadze@coe.int
Email for questions ▶	Tamar.Katsitadze@coe.int
Expected starting date of execution ▶	6 December 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 overall objective of the EaP Dashboard Project is to support the Eastern partnership countries, including Ukraine, in their efforts to achieve an effective, systematic and data-based monitoring and evaluation on the quality, efficiency, independence and accountability of their justice systems. For this purpose, annual collection and processing of data will be carried out on the functioning of the judicial system in Ukraine. Data collection and processing will be carried out according to the Council of Europe European Commission for the Efficiency of Justice (CEPEJ) methodology. The Project will also provide technical expertise and capacity building in the fields within the scope of the Project.

The Council of Europe is looking for one Provider (provided enough tenders meet the criteria indicated below) in order to support the implementation of the Project with a particular expertise on efficiency of the judicial system, including prosecution; access to justice – legal aid, appointments, career management and professional development of judges and prosecutors; accountability and prevention of corruption in the judicial system, alternative dispute resolution in Ukraine.

This Contract is currently estimated to cover the EaP Dashboard evaluation cycles, to be held by 14 January 2024. 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 2 223 000 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:

- Draft analytical reports (assessments, gap analysis etc.);
- Participate at the events (workshops, conferences, high level meetings);
- Prepare training materials;
- Conduct training/workshops.

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. 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).

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.

² 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.

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, 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).

Eligibility criteria

- University degree in law, political science, public administration or a related field;
- At least five years of professional experience in areas of work related to the functioning of the justice system in Ukraine;
- Proficiency in written and spoken English and Ukrainian languages.

Award criteria

- Quality of the offer (80%), including:
 - Relevance of professional experience demonstrating capacity to contribute to CEPEJ cooperation projects and/or justice sector reform programmes at national level (20%);
 - Knowledge of the national context and developments in the functioning of the justice system in Ukraine (20%);
 - Legal analysis and drafting skills (20%);
 - Recent training delivery experience to justice sector professionals in Ukraine (20%).
- 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.

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;
- 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).

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 one-page motivation letter explaining how the tenderer's experience and knowledge will contribute to the implementation of the Project;
- A sample of a legal analysis, or research paper or case study or training materials produced recently by the tenderer in English in the fields covered by tender;
- 3 (three) referees' contact details.

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.