

**NON-GOVERNMENTAL ORGANIZATION «NATIONAL INTEREST  
ADVOCACY NETWORK «ANTS»**

**APPROVED BY  
Tender committee NGO «ANTS»**

**TENDER DOCUMENT**

for procurement procedure – an open tender for procurement expert services in  
relation:

«Analysis of the adaptation of Ukrainian legislation and public administration  
system in the field of culture to EU standards»  
(expert services)

**Kyiv – 2023**

1. Procurement customer	NON-GOVERNMENTAL ORGANIZATION «NATIONAL INTEREST ADVOCACY NETWORK «ANTS» within the framework of EU project «Restoring Ukraine Together: building inclusive platform for Ukraine’s revival» USREOU: 43262336 Address: 102 Velyka Vasylykivska St., Kyiv, 03150, PO Box. 122 Email address: tender@ants.org.ua
2. Contact person of the Customer responsible for procurement procedure	Seledets Olga,tender@ants.org.ua +380937948792
3. Subject of procurement	Analysis of the adaptation of Ukrainian legislation and public administrative system in the field of culture to the EU standards (expert services)
4. Term of providing the service	According to the schedule specified in the Terms of Reference
5. Information about possibility of appealing against decisions, actions or inaction of the Tender Committee	At any stage of the open bidding, but not later than within two business days from the date of publication of the announcement of the results of the open bidding, the bidders shall have the right to appeal to the Executive Director against decisions, actions or inaction of the Tender Committee in case of violation of their rights and interests. Within two working days from the date of receipt of the relevant appeal, the Executive Director shall inform the applicant of the results of the appeal consideration and the decision taken. The executive director NGO “ANTS” - Vasyl Sehin, all complaints shall be submitted in the e-form by sending an email to the Customer address specified in the part one of the Tender document. In the text of the letter, please indicate «Complaint to the executive director regarding the procurement _____ (name of the subject of procurement)».
6. Non-discrimination of participants	All interested persons who meet the requirements set forth by the Tender Committee in these documents may participate in the open bidding procedure.
7. Deadline for submission of bids by participants	Deadline for submission of bids from participants in open bidding for the expert services procurement cannot be less than 10 (ten) working days from the moment the tender was announced. In case of high social necessity, imposing a state of emergency, risk of significant change in the cost or availability of goods, works and services on the market, as well as in case of urgent need, the period for submission of applications from participants may be reduced by the decision of the Executive Director.
8. Stages of procurement of expert services	<ul style="list-style-type: none"> <li>▪ The first stage is the receipt of applications and distribution of points according to the qualification criteria. Participants of tender who didn’t get the minimum number of points according to the qualification criteria, as per clause 47.1 of the Procurement Regulations of the ANTS NGO, are not allowed to participate in the subsequent stages, are not included in the rating and cannot be candidates for concluding an agreement based on the results of open bidding for the purchase of expert services;</li> <li>▪ The second stage is the calculation of points according to the financial criterion of the applications of the participants who have passed the first stage and the formation of the overall rating,</li> </ul>

	<p>taking into account the qualification and financial criteria;</p> <ul style="list-style-type: none"> <li>▪ Participants who do not appear for the interview are deemed to have failed this stage and cannot be candidates for the contract based on the results of an open tender for the procurement of expert services;</li> <li>▪ The fourth stage is the conclusion of an agreement with the top-ranked bidder.</li> </ul>
9. Content and method of application submission	<p>Application is submitted in the electronic way by sending an email application to the Customer Address indicated in clause 1 of Tender Document, in the subject line of the email MUST be indicated "Application for procurement _____ (specify the name of the procurement item)".</p> <p>Participants provide:</p> <ul style="list-style-type: none"> <li>— <b>detailed CV of the potential consultant that includes information about previous experience in institutions or organisations of the EU Member States and/or EU governing bodies (if any), or information confirming the availability of knowledge and/or experience that demonstrates the ability to perform the services to be procured.</b></li> </ul> <p><b><u>CV has to include all the information that indicated in tender document as mandatory for distribution of points according to the qualification criteria Annex 1 to the Tender Documents).</u> In case the participant didn't indicate this information Tender committee consider that the Tenderer does not have such criteria and will evaluate them as "0" (zero) points (for example, the Tenderer did not provide information in the CV about the knowledge of any languages, and this qualification criterion is mandatory, in this case, the Tenderer will receive - 0 points);</b></p> <ul style="list-style-type: none"> <li>— <b>price (financial) offer;</b></li> <li>— <b>an identity document.</b></li> </ul> <p>2.All tender documents specified in these tender documents shall be submitted to the Employer's e-mail address specified in clause 1 of the Tender Documents in the form of scanned copies suitable for machine reading (files with the extension ".pdf."), the content and appearance of which shall correspond to the originals of the relevant documents, according to which such scanned copies are made.</p>
10. Validity of financial offer	The financial offer is considered to be valid within 40 days from the application deadline date
11. Requirement to participant of procurement procedure	<p>No tenderer shall be allowed to participate in the procurement:</p> <ul style="list-style-type: none"> <li>❖ Declared bankrupt in accordance with the procedure established by law and/or liquidation proceedings have been initiated against it;</li> <li>❖ Has been convicted of a criminal offence committed for mercenary motives (including bribery and money laundering), which has not been cancelled or expunged in accordance with the procedure established by law;</li> <li>❖ Has been brought to justice in accordance with the law for committing a corruption offence or an offence related to</li> </ul>

	<p>corruption;</p> <ul style="list-style-type: none"> <li>❖ Was the winner of the procurement procedure for works, goods and services conducted by ANTS, but failed to fulfil the terms of the procurement agreement;</li> <li>❖ Does not comply with the procurement principles of ANTS;</li> <li>❖ In the absence of mandatory documentation (licences, certificates, etc.) to fulfil the terms of the contract.</li> </ul> <p>Residents of the states in respect of which: the legislation of Ukraine establishes a ban (embargo) on trade; the legislation of Ukraine adopted pursuant to the UN Security Council resolution approved under Chapter VII of the UN Charter prohibits the import of goods and services, as well as payments to persons who are residents of such state. A person who plans to supply goods of Russian origin in accordance with the Resolution of the Cabinet of Ministers of Ukraine "On the application of the ban on the import of goods from the Russian Federation" dated 09.04.2022 No. 426 may not be a participant. A person planning to supply goods from the Republic of Belarus may not be a Tenderer. Residents of the Russian Federation and the Republic of Belarus may not participate in the procurement of goods, works and services. The offer of the Tenderer offering for supply goods from manufacturers that continue to operate in the Russian Federation at the time of submission of the offer will be considered last, regardless of the offer price, and may be rejected on this basis.</p>
12. Other requirements	<p>Each participant can submit only one application.</p> <p>The calculation of the financial offer shall not include any costs incurred by the participant in the course of the procurement procedure and conclusion of the procurement contract. These costs shall be paid by the participant at the expense of its profit. The costs incurred shall not be reimbursed (including in case of cancellation of the tender).</p> <p>The Bid will not be rejected if the Bidder makes formal (insignificant) errors related to the execution of the Bid and which do not affect the content of the Bid.</p>
13. Rejection of tender offers	<p>4.1. Customer rejects proposal with the arguments in case:</p> <ol style="list-style-type: none"> <li>1) a participant in the procurement procedure: <ul style="list-style-type: none"> <li>provided inaccurate information in the tender proposal that was crucial for the determination of the results of the open tender;</li> <li>Declared bankrupt in accordance with the procedure established by law and/or liquidation proceedings have been initiated against it;</li> <li>They were convicted of a criminal offence committed for mercenary motives (including bribery and money laundering), the conviction of which has not been cancelled or expunged in accordance with the procedure established by law;</li> <li>Has been brought to justice in accordance with the law for committing a corruption offence or an offence related to corruption;</li> <li>Was the winner of the procurement procedure for works, goods and services conducted by the ANTS NGO, but failed to fulfil the terms of the procurement agreement;</li> </ul> </li> </ol>

	<p>Does not comply with the procurement principles of ANTS; In the absence of mandatory documentation (licences, certificates, etc.) to fulfil the terms of the contract.</p> <p>A participant in the procurement of goods must be a resident of a state in respect of which: the legislation of Ukraine establishes a ban (embargo) on trade; the legislation of Ukraine adopted pursuant to a UN Security Council resolution approved under Chapter VII of the UN Charter prohibits the import of goods and services, as well as payments to persons who are residents of such a state. A person who plans to supply goods of Russian origin in accordance with the Resolution of the Cabinet of Ministers of Ukraine "On the application of the ban on the import of goods from the Russian Federation" dated 09.04.2022 No. 426 may not be a participant.</p> <p>A participant is a person planning to supply goods from the Republic of Belarus and/or the Russian Federation.</p> <p>A participant in the procurement procedure for goods, works and services is a resident of the Russian Federation and the Republic of Belarus.</p> <p>A bidder offers to supply goods from manufacturers that continue to operate in the Russian Federation at the time of submission of the bid (as decided by the tender committee).</p> <p>does not comply with the terms of the technical specification and other requirements of the tender documentation; is in a language(s) other than the language(s) provided for in the tender documents; is one whose license/certificate has expired; is the price of which exceeds the expected value of the procurement item determined by the customer;</p> <p>2) the winner of the procurement procedure: refused to sign the procurement contract in accordance with the requirements of the tender documentation or to conclude the procurement contract; provided inaccurate information that is crucial for determining the results of the procurement procedure.</p>
14.Cancellation of the tender by the Customer	<p>The Customer cancels the open bidding in case:</p> <ol style="list-style-type: none"> <li>1. no further need for procurement of goods, works or services;</li> <li>2. the inability to eliminate violations that have arisen due to the identified violations</li> <li>3. when procurement became impossible due to force majeure circumstances.</li> <li>4. by decision of the Executive Director of the Customer</li> </ol>

Appendices to the Tender Document, which are its integral parts:

- Annex 1 Qualification criteria
- Annex 2 Terms of reference

**QUALIFICATION CRITERIA**

- University degree in the field of international law, international relations, cultural policy:  
Bachelor's degree - 3 points;  
Master's degree or equivalent degree - 5 points;  
Relevant additional training - 2 points.  
(10 points maximum)

- Work experience in EU Member State institutions and organisations and/or EU governing bodies:  
0 years - 0 points  
1 year - 1 point  
2 years - 2 points  
3 years - 5 points  
4 years - 7 points  
5 - 6 years - 10 points;  
7 years and more - 12 points.  
(12 points maximum)

- Experience in conducting qualitative and quantitative research, collecting and analysing information and presenting the results of the analysis in approved documents, reports, publications in the field of cultural policy:  
0 examples - 0 points  
1 example - 1 point  
2 examples - 5 points  
3 - 4 examples of studies/reports/publications - 10 points;  
5 and more - 13 points.  
(13 points maximum)

- Special experience in the area of the project to which the consultant is involved is experience in conducting European integration reforms in the field of cultural policy:  
0 examples – 0 points  
1 example – 10 points;  
2 examples – 12 points;  
3 and more examples – 15 points.  
(15 points maximum)

- Language requirements:  
5 points for English language proficiency at B2 level;  
10 points for English language proficiency at C1/C2 level or a full-time bachelor's degree conducted in English;  
(10 points maximum)  
Proficiency in other languages is assessed additionally, 1 language - 5 points

The maximum number of points for the qualification criteria is 60 points.

The maximum number of points based on the results of the interview is 20 points.

The maximum number of points for the financial criteria is 20 points.

The maximum number of points for the financial criteria (20 points) receives an application with the lowest price offer. All other bids in the context of the financial criterion shall be evaluated according to the following formula:

20 points [maximum number of points for the financial criteria] x [lowest of all evaluated financial offers] / [evaluated financial offer].

*Example. Consultant 1 - 200 USD, Consultant 2 - 300 USD, Consultant 3 - 400 USD.*

*Consultant 1 = 20 points*

*Consultant 2 -  $20 \times 200 / 300 = 13$  points*

*Consultant 3 -  $20 \times 200 / 400 = 10$  points*

Only potential consultants who receive at least 70% of the maximum possible points for the qualification criteria (42 points) will be considered for further stages of the tender.

**TERMS OF REFERENCE**

**«Analysis of the adaptation of Ukrainian legislation and the state management system in the field of culture to EU standards»**

*(expert support of the Ministry of Culture and Information Policy of Ukraine)*

**General information**

The EU project «Restoring Ukraine Together: building inclusive platform for Ukraine's revival» (hereinafter - the EU Project) aims to build an effective, inclusive and constantly functioning expert platform in Ukraine to jointly develop, promote and implement proposals for the short- and long-term recovery of the country. The project involves systematic work with key stakeholders at the national, regional, and international levels. This project is funded by the European Union.

In order to fulfill Ukraine's obligations under the Association Agreement between the European Union and the European Atomic Energy Community and their member states, of the one part, and Ukraine, of the other part (hereinafter referred to as the Association Agreement) and to enhance the qualitative adaptation of Ukraine's cultural legislation, there is an urgent need to develop a Roadmap for Ukraine's European integration reforms in the field of culture.

**Necessity and purpose**

With the purpose to create the preconditions for preparing for Ukraine's membership in the EU, an analysis of the progress of the Association Agreement will allow to assess the state of reforms in the field of culture, identify gaps in Ukrainian integration, develop a roadmap for European integration reforms in the cultural sector based on the best European practices, and develop recommendations for synchronizing Ukraine's European integration aspirations with the EU program documents.

The task was required due to the need to prepare an analytical document on the adaptation of Ukrainian legislation and public administration in the field of culture to EU standards, which would include:

1. A description of Ukraine's European integration progress and identification of problematic sectors in the field of culture based on the analysis of the implementation of the Association Agreement in the field of culture, successful international and European practices and program documents in the field of cultural policy, the regulatory framework of Ukraine and the EU, etc.
2. A roadmap for European integration reforms in the field of culture, including separately for each problematic sector.
3. Recommendations for bringing Ukrainian legislation in line with EU rules and practices in problematic cultural sectors, in particular:
  - compliance with the EU rules and practices in the field of digitalization of culture and media, intellectual property rights (online piracy and optimization of services), movement of cultural property, free media, etc.;
  - synchronization with the EU's Cultural Work Plan for 2023-26;
  - integration into the Cohesion Fund and EU Structural Funds;
  - cooperation in the framework of the Open Method of Coordination, European Bauhaus initiative, Creative Europe and Capitals of Culture Programs, etc.



## Scope of work

Stages of the task execution:

1. Gathering the initial data necessary for the analysis (Reports of Ukraine and the European Commission on the implementation of the Association Agreement, interviews with representatives of the Ministry of Culture and Information Policy of Ukraine in the field of European integration, program documents and regulatory framework in the field of culture in Ukraine and the EU).
2. Preparation of an analytical document (20-30 pages), which will include a description of Ukraine's European integration progress and identification of problematic sectors in the field of culture, a general Roadmap for reforming state policy in the field of culture, recommendations for bringing Ukrainian legislation in line with EU rules and practices in problematic cultural sectors (separately for each sector).
3. Presentation of the analytical document during public events and roundtables organized by the EU Project for the task with interested representatives of stakeholders, local authorities, international cultural experts, the public, and organizations and, if necessary, revision based on the results of proposals and recommendations that arise during the discussion.
4. Involving international experts and opinion leaders in the field of culture, including representatives of the European Parliament, the European Commission, European cultural institutions, and organizations, to participate in public events, discussions, and roundtables organized by the EU Project to fulfill the task.

Schedule for the implementation of milestones:

The period of the task: 9 weeks.

<b>№</b>	<b>The name of the milestone</b>	<b>Completion period of milestone</b>
1.	Collecting the initial data necessary for analysis	2 weeks
2.	Preparation of an analytical document (20-30 pages), which will include a description of Ukraine's European integration progress and identification of problematic sectors in the field of culture, a general Roadmap for reforming state policy in the field of culture, recommendations for bringing Ukrainian legislation in line with EU rules and practices in problematic cultural sectors (separately for each sector).	4 weeks
3.	Presentation of the analytical document during public events, discussions, and roundtables organized by the EU Project for the task with interested representatives of stakeholders, local authorities, international cultural experts, the public and organizations and, if necessary, revision based on the results of proposals and recommendations that will arise during the discussion.	3 weeks
4.	Involvement of international experts and opinion leaders in the field of culture, including representatives of the European Parliament, the European Commission, and European cultural institutions and organizations, to participate in public events, discussions, and	During the term of the Agreement

	roundtables organized by the EU Project to fulfill the task.	
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The timeframe is time-bound and may be shortened or extended by the consultant in agreement with the EU Project team depending on the results of the work, including due to delays in the publication of data, proposals, and comments from interested institutions and organizations. In the event of such a case, the consultant shall notify the EU Project team at least 5 working days before the deadline.

#### **Requirements for the Consultant's qualifications and experience**

- higher education, academic degree and research publications in the field of cultural policy;
- work experience in institutions and organizations of EU member states and/or EU governing bodies;
- successful experience in implementing European integration reforms in the field of culture;
- analytical work in the field of European integration;
- preparation of analytical reporting documents;
- work with open data sources;
- experience in public and public discussions;
- English language skills at C1 or C2 level.

#### **Financial terms of the Consultant's work**

The Consultant shall perform work for the EU Project under the terms of the Service Agreement.