



# REQUEST FOR PROPOSALS: TECHNOLOGICAL PROTECTION MEASURES

## Introduction

The [Knowledge Rights 21 Programme \(KR21\)](#) is focused on bringing about changes in legislation and practice across Europe that will strengthen the right of all to knowledge. It is built on a conviction that knowledge is essential for education, innovation and cultural participation, and that everyone should have the possibility - in particular through libraries and archives, and digitally - to access and use it.

KR21 is looking for a contractor who can undertake a work package focused on building the evidence around the use and impact of technological protection measures ('TPMs') on the use of copyrighted works for research and education.

## Description of the assignment

Deliver an initial report (around 60% of the work), based on desk research and evidence from the ground, exploring:

- a brief overview of the types of TPMs used, their scope and evolution, including a brief typology of measures (both those protecting works themselves, and the software necessary to access them) (5%) with regard to digital materials offered by libraries as below
- a deeper look at the effects of TPMs on access to and use of online or offline digital content available in public and academic libraries for reading, research and education, as well as software tools used for research. Digital library 'materials' include eBooks, e-journals, film, videos, games, sound recordings, databases, streaming services and the worldwide web. This is likely to involve engagement with practitioners, potentially on a confidential basis, with particular focus on European countries (30%)
- Discussion of the degree to which TPMs impede the enjoyment of exceptions and limitations to copyright and related rights, also database rights, under law in the jurisdictions concerned, as well as with the availability of archiving software used for research purposes, in European countries (15%)
- Analysis of the degree of protection offered to TPMs in law, the efficacy of any mitigating measures provided in law to legally circumvent or remove TPMs and whether these theoretically and in practice adequately address the risk or actuality of conflict between TPMs and exceptions and limitations, both in European nations and comparator jurisdictions that have valuable lessons to offer such as Switzerland and Japan. This should be based both on desk research, and evidence from the ground (10%).

Subsequently, deliver a second report (around 40% of the work) setting out:

- the measures in place in order to circumvent or remove technological protection measures which prevent the enjoyment of exceptions and limitations in a good range of European countries (from different geographies). This may also draw on practical experimentation, with efforts made to request that TPMs be removed or tools provided for circumvention in order to test the effectiveness of measures in place.

Collectively, these pieces should provide both legal arguments and practical evidence which can support advocacy for more meaningful treatment of TPMs in law. It should take place with an eye to debates around TPMs in other jurisdictions, as well as research in this space, for example as concerns the right to repair or any adverse impacts of TPMs on other legitimate, desirable activities.

In the context of the wider Programme, this Work Package contributes to the outcome, over three years, of promoting new provisions on technological protection measures in European countries, and providing further examples of the potential to apply such provisions more broadly

We would welcome bids that can provide the first report by July-August 2023 and interim findings on the second report by September-October 2023 with the final second report by the end of November 2023.

Bids are invited up to €70 000 (inclusive of VAT where appropriate), with value for money considered as part of the review process.

Stichting IFLA Foundation expects your written offer by 12 March at the latest by 23:59pm CET (Amsterdam Time). Please send your offer to: [info@knowledgerights21.org](mailto:info@knowledgerights21.org).

## Requirements

You are required to provide the following information. As a guide, your response does not need to be more than three pages long. You may wish to use the template in the annex to respond.

- How the bidder is particularly well suited to deliver the work package, including evidence of this
- A plan for how the bidder will deliver on the goals and results of the work package • Project Management Team Structure (including broad breakdown between people hours, management time, other costs, such as travel, purchasing, event attendance, marketing)
- An assessment of risks, and how these will be managed
- A working knowledge of data protection law to ensure that personal data gathered in the running of the course can be reused by the project and its membership organisations.

## Communication

For questions and explanation please contact Athanasia Kanellopoulou on the following e-mail address: [info@knowledgegerights21.org](mailto:info@knowledgegerights21.org). **Please address your offer to this contact person.**

## Applicable conditions

The agreement will be concluded with Stichting IFLA Foundation.

General conditions of sale, sector conditions or other conditions of the Tenderer are expressly excluded and do not apply to this Engagement.

Any remarks about the conditions that apply to this Engagement must be made known with your offer.

## Other conditions attached to this request for quotation

You cannot derive any rights to reimbursement of quotation costs or to obtaining the order from this request for quotation.

Stichting IFLA Foundation may (temporarily) suspend and/or revoke this request for quotation. In such a situation, you are not entitled to reimbursement of the costs incurred for this request for quotation.

By submitting a request for quotation, you declare that you meet all the requirements set out in this request for quotation and that you agree to the terms and conditions set.

## Evaluation of the offer

The bids will be reviewed by the Programme's Committees. In the context of this review, questions may be asked, and recommendations made for changes in order to accept a bid.

Candidates will be selected on the basis of the quality of their bid (including value for money), their ability to deliver, as set out in their bid

Activity	Date:
Publishing the Request for Proposal	7 <sup>th</sup> February
Deadline for asking questions	7 <sup>th</sup> March
Deadline for submission Proposals	12 <sup>th</sup> March
Internal review (including potential further questions)	27 <sup>th</sup> March
Communication of the decision	29 <sup>th</sup> March
Commencement date of agreement	30 <sup>th</sup> March

Stichting IFLA Foundation reserves the right to change the intended time schedule. In the event that Stichting IFLA Foundation proceeds to change the intended schedule, this will be communicated to all parties concerned. Tenderers cannot derive any rights from this intended schedule. The dates mentioned in this (or the amended) time schedule for the submission of questions and the submission of Tenders are regarded as deadlines.

We wish you every success in drawing up your offer.

## ANNEX 1: Optional Template for Responses

Name and Legal Status of Bidder
Address and Contact Details
Statement of Suitability of Bidder to Undertake this Work Package
Proposed Plans for Delivering on the Goals and Results of the Work Package
Project Management Team Structure (including broad breakdown between people hours, management time, other costs, such as travel, purchasing, event attendance, marketing)
Assessment of Risks, and How These will be Managed

## ANNEX 2: Overview of the Programme

Libraries have a unique role to play in any copyright discussion. As knowledge institutions bridging the worlds of heritage, education, research and culture, they depend on copyright exceptions to carry out missions to enable and stimulate the generation of and access to knowledge to society.

They have the unique selling point of being regarded as reasonable interlocutors, as well as networks that take them into every city, town and village.

This project aims to mobilise this potential, engaging with others working for copyright reform and access to knowledge, in order to build momentum towards copyright reform into the long term.

Through this, it aims to drive change in a range of areas where progress is both possible and necessary in the short term, in particular in the light of the COVID-19 pandemic. These areas are all well-suited to collaboration with other sectors, have the potential to bring benefits to a wide range of libraries and their users, set important precedents and allow for sustained engagement and outcomes:

- Facilitating access to e-books for users of public and academic libraries;
- Protecting users' rights from contract override and technological protection measures; • Socialising open norms in Europe;
- Advocating for legislated secondary publishing rights; • Accelerating the uptake of rights retention.

By focusing on Europe, we not only tap into pre-existing networks of libraries, but also draw on the potential to run a coordinated, cross-border campaign, to create precedents that will be influential globally, and to shape the position of the EU at discussions at WIPO.

The project will allow work to happen that would not be possible otherwise, notably around the training and mobilisation of the library field, the formation of solid and sustainable networks of advocates (bringing together libraries with students, researchers, copyright experts and other access to knowledge advocates) at the national level, the creation of research that fills key gaps in understanding and can act as a basis for advocacy, and engagement with policy-makers and stakeholders at all levels.

In doing so, the project aims to provide both an evidence base, and concrete examples of changes in legislation and practice that can serve as a model and advocacy tool for libraries and other access to knowledge advocates elsewhere, in Europe and beyond. It is designed, similarly, to leave a legacy of a stronger library networks both as independent voices and as partners for wider efforts to promote positive legislative change.