

Request for Proposal (RfP)

Legal and financial European organisation structure advisory

16th October 2023, Paris

Deadline for offer submission extended to 26th October 2023 (End of Business Day - CEST)

1. Context

About EIT Manufacturing

EIT Manufacturing is supported by the European Institute of Innovation and Technology (EIT), a body of the European Union. It is one of nine Knowledge and innovation communities (KICs) within EIT. EIT Manufacturing's main goal is to bring European stakeholders focused on manufacturing together in innovation ecosystems that add unique value to European products, processes and services and inspire the creation of globally competitive and sustainable manufacturing. EIT Manufacturing brings together more than 170 amongst core and associate universities, research institutes, business and partners.

EIT Manufacturing has signed a Partnership Agreement and a Grant Agreement¹ with EIT and receives funding from EIT on the basis of these agreements under the Horizon Europe² and the EIT Regulation³. EIT Manufacturing is also an association under the French law 1901 created in 2019. Headquartered in Paris area, it has six Co-Location Centres (CLC) across Europe, responsible for the delivery in the different geographies. EIT Manufacturing's Co-Location Centres (CLCs) are strategically situated to link regions with high levels of manufacturing activity and advanced technology:

- 1) *CLC North Gothenburg:*
Legal entity: EIT Manufacturing North AB
Address: Forskningsgången 6, 417 56 Göteborg, Sweden.
Contact: info_north@eitmanufacturing.eu
- 2) *CLC Central Darmstadt:*
Legal entity: EIT Manufacturing Central GmbH
Address: Hilpertstrasse 31, 64295 Darmstadt, Germany.
Contact: central@eitmanufacturing.eu

¹ On the basis of the HEU Model Grant Agreement: https://ec.europa.eu/info/funding-tenders/opportunities/docs/2021-2027/common/agr-contr/general-mga_horizon- Euratom_en.pdf

² <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32021R0695&qid=1696502753369>

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32021R0819>

- 3) *CLC West San Sebastian:*
Legal entity: EIT Manufacturing West S.L.
Address: Palacio Miramar. Paseo Miraconcha 48, 20007 Donostia-San Sebastián, Spain.
Contact: clcwest@eitmanufacturing.eu
- 4) *CLC East Vienna:*
Legal entity: EIT Manufacturing East GmbH
Address : Technologie Zentrum Seestadt Christine-Touaillon-Straße 11/29, A-1220 Wien, Austria.
Contact: east@eitmanufacturing.eu
- 5) *CLC South Milan:*
Legal entity: EIT Manufacturing South S.R.L.
Address: Via G. Durando 38, 20158 Milano, Italy.
Contact: clcsouth@eitmanufacturing.eu
- 6) *CLC Southeast Athens:*
Legal entity: EIT Manufacturing Southeast Single Member P.C.
Address: Athens Towers. Leoforos Mesogeion 2-4. 115 27 Athens, Greece.
Contact: southeast@eitmanufacturing.eu

About EIT Manufacturing SASU

EIT Manufacturing also has a commercial arm created in 2021, Manufacturing SASU, also located in Paris. It leads the development and deployment of the commercialization strategy and develops the offer portfolio in accordance with the strategy of the Pillars, the Co-Location Centres and the expectations and requirements of the European Manufacturing Community.

EIT Manufacturing is going through a strategy redesign in order to also provide commercial services and access to finance (public and private) together with its existing non-profit/funded activities. Thus, EIT Manufacturing is seeking legal and financial/tax consulting services to provide recommendations on best financial and legal structure moving forward.

For the purposes of this RfP, EIT Manufacturing group comprises EIT Manufacturing Association, the Manufacturing SASU and the 6 (six) CLCs.

2. Description

EIT Manufacturing is seeking for a renowned Consultancy Firm providing Services in the areas of law, finance and tax in order to:

- a) Conduct a comprehensive mapping of all tax, legal and financial risks and pain points associated with EIT Manufacturing's group activities and structure which encompasses:
 - (i) EIT Manufacturing ASBL as a nonprofit association and a KIC of EIT,
 - (ii) Manufacturing SASU as a service/commercial branch, and,
 - (iii) Its 6 (six) Co-Location Centers (CLCs) of EIT Manufacturing ASBL and their activities.

- b) Provide a detailed report outlining the identified tax, financial and legal risks and pain points for all the above-mentioned activities and entities.
- c) Propose effective mitigation measures including financial or legal changes to tackle such risks and pain points and recommendations on the best organizational structure from the legal, tax and financial point of view to support our growing commercial services and activities.
- d) Propose a methodology and implementation plan for point c above.

Complementary information on the Services by the Potential Supplier:

Considering EIT Manufacturing current activities, the topics to be taken into account by the potential supplier in order map the risks and pain points and recommend the optimal structure and measures should include (but, are not limited to): contracts and partnerships, regulatory context, commercial activities, memberships, local applicable legislations, organizational structure and cost efficiency of such structure among others.

EIT Manufacturing ASBL and Manufacturing SASU have already conducted an audit on legal risks of the activities of Manufacturing SASU and the non-profit status of EIT Manufacturing ASBL. This work can be used as a basis for the analysis to be conducted by the potential supplier.

Proposed CAP for the Potential Supplier's Proposals:

The maximum budget for the requested Services is 213,999€ (two hundred thirteen thousand, nine hundred ninety-nine euros).

3. Deliverables

The deliverables for this consulting project are as follows:

Deliverable 1: Recommendations on best fitted European legal, tax and financial organizational structure

Scope: A detailed organizational structure recommendation, including:

- (i) Financial flow,
- (ii) Tax implications and,
- (iii) Legal aspects.

The proposed organizational structure should secure the nonprofit status of EIT Manufacturing ASBL.

Deliverable 2: Risk Mapping, Mitigation, and Implementation Plan

Scope: A detailed Report containing the following:

- (i) An exhaustive list of identified legal, financial and tax risks and pain points, also taking into consideration the nonprofit status of EIT Manufacturing and the different legal status of its subsidiaries, their potential impact on EIT Manufacturing group, as well as with the levels of severity and feasibility, and likelihood for the activities and entities involved.

- (ii) A comprehensive risk mitigation report containing actionable recommendations and strategies to address each identified risk in a clear and objective way, taking into consideration all applicable local or European legislation.
- (iii) A detailed methodology outlining the “what, when, who, and how” for implementing the recommended measures and structure.

The deliverables should include a consultative approach in a cross-functional/geographical manner through interviews, surveys, and/or workshops delivery.

The expectation is to have both deliverables completed within maximum of 6 (six) months.

Proposal Requirements:

Proposals should include the minimum following information:

- a) Company Profile: An overview of the supplier's history, experience, and international presence.
- b) Relevant Experience: Details of prior experience working with European regulated entities or bodies, particularly in the non-profit sector.
- c) Proposed Methodology: A clear outline of the methodology that will be employed to map and mitigate legal risks.
- d) Work Plan: A detailed work plan outlining the timeline for completion of the project.
- e) Budget: A detailed and comprehensive budget proposal, including all costs associated with the project. The budget should propose a price for providing the deliverables and should not be based on time spent.

4. Timeline

The deadline to submit the offer is extended until **26/10/2023** and the awarded tenderer shall provide legal services on the monthly basis as described earlier until the expiration date of the contract.

The indicative timeline for the call for proposals is as follows:

Activity	Responsible	Date
RFP opening	EIT Manufacturing	06/10/2023
RfP deadline extension	EIT Manufacturing	25/10/2023
Offer submission	Supplier	26/10/2023
Evaluation and notification of award	EIT Manufacturing	06/11/2023

Contract signature	EIT Manufacturing & selected supplier	14/11/2023
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All offers shall be submitted within the above-mentioned deadline to the following email: procurement@eitmanufacturing.eu

5. Evaluation Criteria and Award Notification

Timely received proposals submitted by the tenderers will be examined, evaluated, and compared in accordance with the following criteria and the contract shall be awarded to the highest ranked tenderer. The decision will be made according to the “Best Value for Money” principle.

Criteria	Weight
1) International presence in the legal, finance and tax services market (most preferably internal resources), especially in the regions of the CLCs	10%
2) Strong reputation and proven experience in working with European regulated entities or bodies, associations, and other legal entities	10%
3) Proposal addresses expected deliverables and comprises a comprehensive methodology	30%
4) The team attributed to the project has the necessary cross disciplinary competences (Legal, tax, finance and consulting)	20%
5) Price	30%

An Evaluation Committee of 5 (five) people will be established. Each bid will be evaluated and ranked according to the criteria above.

The compliance with the principles of transparency, non-discrimination, equal treatment, and absence of conflict of interest will be ensured.

The successful and unsuccessful tenderers will be informed in writing (via email) about the result of the award procedure. In case the winning tenderer is unable to enter the contract, EIT Manufacturing may decide to contract the supplier receiving the second highest ranking.

Proposals must be submitted by e-mail within 12 (twelve) calendar days of the date of notification of the request for proposal. All proposals received after the deadline will be rejected.

In duly justified cases, however, no later than 2 (two) calendar days before the original deadline, the submission deadline can be extended.

Upon request from the tenderer concerned, EIT Manufacturing will as quickly as possible, and in any event within 15 (fifteen) calendar days from receipt of a written request, inform:

- any unsuccessful candidate of the reasons for the rejection of its request to participate,
- any unsuccessful tenderer of the reasons for the rejection of its tender, including, if this is the case, its decision that the works, supplies or services do not meet the performance or functional requirements,
- any tenderer that has made an admissible tender of the characteristics and relative advantages of the tender selected as well as the name of the successful tenderer or the parties to the awarded contract,
- any tenderer that has made an admissible tender of the conduct and progress of negotiations and dialogue with tenderers.

Information referred to above may be withheld where the release of such information would be contrary to the public interest, would prejudice the legitimate commercial interests of an economic operator, or might prejudice fair competition between economic operators.

Should there be a suspicion that the provider will not be able to perform according to the price offered, EIT Manufacturing has the right to ask for explanations and may reject the tender where the evidence supplied does not satisfactorily account for the low level of price or cost proposed.

Complementary Note on the Evaluation Process:

After the initial evaluation of submitted proposals, it is possible that the potential top-ranked suppliers may be shortlisted for participation in a Pitch Session. It is important to emphasize that the evaluation will be conducted in strict accordance with the criteria outlined in the published Request for Proposal (RfP).

The primary objective of the Pitch Session is to facilitate a deeper understanding of the received proposals, provide an opportunity to elaborate on specific details, and allow the EIT Manufacturing to get to know the team of professionals better. During this session, the shortlisted suppliers will have the chance to present their proposals, clarify any questions, and discuss how your firm can best meet the legal consulting needs of EIT Manufacturing.

Further details regarding the Pitch Session, including dates and logistics, will be communicated to the shortlisted suppliers following the initial evaluation of proposals.

5. Complaint procedure

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint. Appeals shall be addressed to EIT Manufacturing **only** via the following email address procurement@eitmanufacturing.eu. The tenderers have 5 (five) days to file their complaints from the date of receipt of notification of the results.

In your application to EIT Manufacturing the complainant shall explain what procedural aspects they consider having been violated along with any recommendations or remarks. Such charges need to be supported with data and facts and, if possible, – documentation. An appeal whose sole purpose is to obtain a second evaluation for no reason other than that the complainant disagrees with the final award decision is to be rejected.

6. Negotiations & Clarifications

Negotiations can be held in the following cases:

- if it is identified that the scope of services issued by EIT Manufacturing is not detailed enough, incomplete or some areas are lacking crucial information to complete the procedure for direct awards;
- if EIT Manufacturing has the intention to reduce the offered prices to find the best value for money;
- if all submitted prices are above the planned budget and it is everyone's interest to finish the procedure with success – in that case, price negotiation can take place. During a price negotiation, all tenderers are called to lower their prices by the same deadline in a written form.

EIT Manufacturing can organize as many rounds of negotiation as it is needed during the procedure in order to reach the highest quality of proposals and the best price.

Whenever possible, the negotiations should be carried out in writing, however, in special cases, video conference or even live negotiation can be organized. EIT Manufacturing also reserves the right to invite the tenderers to an individual meeting before the final award of contract in order to clarify details and ambiguities.

In case of obvious or perceived errors or omissions in the RFP, Tenderers can request additional information or clarifications by the deadline provided in the above timeframe through email at procurement@eitmanufacturing.eu.

Upon receipt of the bids, they will be reviewed, and additional details will be requested from the tenderers as needed. The requests as well as the answers are to be submitted written by e-mail. Where information or documentation to be submitted by tenderers is incomplete or erroneous or where specific documents are missing, EIT Manufacturing staff may request the party concerned to submit, supplement, clarify or complete the relevant information or documentation within 2 (two) calendar days.

Bid preparation costs are not reimbursable and must be borne by the tenderers.

EIT Manufacturing owns all bids received in this RFP. Proprietary information of vendors in the bids will be kept strictly confidential. The offers as well as the contract may be submitted for audits.

7. Contract

The final award does not yet constitute the Contract. The Contract will be concluded at the time of signature by the Supplier and EIT Manufacturing. The winning supplier will be sent the contract to be signed (indicating the deadline by which the signed contract should be returned to EIT Manufacturing).

The invoicing will be based on a mutually agreed schedule; it will be detailed in the contract. The contract that will be awarded will have a maximum duration of 4 (four) months. The tenderer agrees that the total value of the contract to be signed with EIT Manufacturing for 4 (four) months will in no way exceed the bid (the amount contained in the offer) of the tenderer.

The awarded supplier will be requested to sign Standard Contractual Clauses (SCC) if no other GDPR compliant safeguards exist, and the supplier is located in a country for which the EU commission has not issued an adequacy decision.

8. Cancellation of the proposal procedure

In the event of cancellation of the proposal procedure, EIT Manufacturing will notify tenderers of the cancellation. In no event shall EIT Manufacturing be liable for any damages whatsoever including, without limitation, damages for loss of profits, in any way connected with the cancellation of a proposal procedure, even if EIT Manufacturing has been advised of the possibility of damages.

The tenderer shall take all measures to prevent any situation where the impartial and objective implementation of the contract is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest ('conflict of interests'). S/he should inform the EIT Manufacturing team immediately if there is any change in the above circumstances at any stage during the implementation of the tasks.

The supplier cannot be a EIT Manufacturing Partner or Activity Partner. Any bid from such an economic operator will be rejected.

Tenderers will be excluded if:

- a) They are being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations; they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata;
- b) They have been guilty of grave professional misconduct proven by any means which the EIT Manufacturing can justify;

- c) They have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or any other country of the EU;
- d) They have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organization or any other illegal activity detrimental to the EU' financial interests;
- e) Following a procurement procedure or grant award procedure financed by the EU budget, they have been declared in serious breach of contract for failure to comply with their contractual obligations.

The tenderers must not be in a situation of a conflict of interest, and they have sufficient economic and financial capacity, technical and professional capacity and legal and regulatory capacity to perform the requested services. Additional evidence or declarations might be requested by the contracting authority.

EIT Manufacturing reserves the right to suspend or cancel the procedure, where the award procedure proves to have been subject to substantial errors, irregularities, conflict of interest or fraud. If substantial errors, irregularities, conflict of interest or fraud are discovered after the award of the tender, EIT Manufacturing may refrain from concluding the Contract.