

# Request for Proposal

Business Creation  
Legal Services  
16<sup>th</sup> October 2023, Paris

**Deadline for offer submission extended to 31<sup>st</sup> October 2023 (End of Business Day - CEST)**

## 1. Context

EIT Manufacturing (KIC) is focused on promoting entrepreneurship, innovation, and education in the domain of Manufacturing. EIT Manufacturing brings together leading organisations along the entire value chain from smaller companies to larger industry, excellent academic and research institutions, as well as public sector organisations, to promote the transformation of manufacturing towards the digital economy, towards the circular economy and the decarbonization of industry, by removing barriers to innovation, promoting talent and education, leveraging enabling technologies and exploiting big data.

EIT Manufacturing is an association under the law 1901 created in 2019. Along with the EIT Manufacturing there are 8 (eight) other KICs with the aim to lead the action and create services across Europe, improving the competitiveness of European companies.

In order provide high quality support to its team of Business Creation and other KIC activities involving startups (for example innovation activities, Cross-KIC activities), EIT Manufacturing is currently seeking for legal services to be provided from specialized law firms which are renowned in the market, possess national and/or international presence and, preferably pursue previous experience in working with the so called "KICs" or under Horizon Europe Programme.

EIT Manufacturing may choose a maximum of 2 (two) law firms per lot for rendering the expert legal services according to the selection process criteria provided for in this RfP and, according to the "Lots division" described below.

## 2. Description

This request for proposal is divided into several lots, as follows:

- 1) Lot 1: Provision of legal services regarding transnational matters across Europe and not only regarding Corporate and Tax Law and Mergers & Acquisitions.

- 2) Lot 2: Provision of legal services regarding French Corporate and Tax Law and Mergers & Acquisitions.
- 3) Lot 3: Provision of legal services regarding Spanish Corporate and Tax Law and Mergers & Acquisitions.
- 4) Lot 4: Provision of legal services regarding German Corporate and Tax Law and Mergers & Acquisitions.
- 5) Lot 5: Provision of legal services regarding Austrian Corporate and Tax Law and Mergers & Acquisitions.
- 6) Lot 6: Provision of legal services regarding Israeli Corporate and Tax Law and Mergers & Acquisitions.
- 7) Lot 7: Provision of legal services regarding Danish Corporate and Tax Law and Mergers & Acquisitions.
- 8) Lot 8: Provision of legal services regarding Swedish Corporate and Tax Law and Mergers & Acquisitions.
- 9) Lot 9: Provision of legal services regarding Finnish Corporate and Tax Law and Mergers & Acquisitions.
- 10) Lot 10: Provision of legal services regarding British Corporate and Tax Law and Mergers & Acquisitions.
- 11) Lot 11: Provision of legal services regarding Italian Corporate and Tax Law and Mergers & Acquisitions.

Interested suppliers can apply for only one of the lots mentioned above or several. The tenderer shall precise for each lot applied for a fixed hour rate and a fixed daily rate in its bid.

The maximum budget for the requested services is 40.000 EUR for lot 1 and 20.000 EUR for each lot 2, 3,4,5,6,7,8,9,10,11 per year, all lots with no binding obligation to purchase for the maximum amount.

In case of a successful partnership between the Parties, the contract may be amended to in order to increase the scope of the services within the allowed EIT Manufacturing procurement policy threshold.

### 3. Deliverables

For each lot, the selected supplier shall deliver the following services with focus on the local/international legislation described in each lot above:

- Analysis and Drafting Contracts: Assisting in the analysis, preparation, and review of various agreements related to the support of new and innovative business such as Purchase Agreements, Simple Agreement for Future Equity (SAFE) Agreements, Shareholder and Stock Agreements, Convertible Notes and Equity, Preferred Stock Agreements, Joint Venture Agreements, Revenue-Sharing Agreements, Simple Debt Agreements, CrowdSAFE, Convertible Securities with Warrants, Confidentiality Agreements amongst other.
- M&A Due Diligence: Conducting comprehensive legal due diligence to assess the legal, financial, and operational aspects of a target organization.
- Joint Ventures and Strategic Alliances: Structuring and negotiating agreements for joint ventures and strategic partnerships, outlining ownership, governance, and operational arrangements.

- Corporate Governance: Providing guidance on corporate governance matters, including board of directors' responsibilities, shareholder rights and alike.
- International Corporate and Tax Law: Providing guidance on legal aspects for the following topics (amongst others): venture capital exits, cross-border mergers, acquisitions, joint ventures, and strategic partnerships, EU regulations and national laws in various sectors, such as consumer protection, product safety, environmental regulations, intellectual property protection, commercial disputes and litigation, intellectual property infringement cases, competition law violations, and other legal conflicts, EU funding, grants, and incentives.
- Antitrust and Competition Law: Advising on antitrust and competition law issues to prevent or address potential anticompetitive effects on commercial operations.
- And any other legal service, support or drafting of legal documentation relating to the EIT Manufacturing activities with focus on startups or providing services to companies.

The supplier will be reporting to the legal team of the EIT Manufacturing.

#### 4. Timeline

The deadline to submit the offer is **31/10/2023** 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	16/10/2023
Offer submission (Extended)	Supplier	31/10/2023 (End of Business)
Evaluation and notification of award	EIT Manufacturing	06/11/2023
Contract signature	EIT Manufacturing & selected supplier	13/11/2023

#### 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. All lots will be evaluated with the following criteria:

- The law firm pursues previous experience in working with the so called “KICs” or with EU funding schemes (for example Horizon Europe)

- b. The Senior lawyer who will be identified as lead in providing the services has relevant work experience and preferably 10 years of experience in providing legal advice on the topics covered by the lots mentioned above (CV to be provided in the bid). Each member of the team accompanying the senior lawyer has preferable at least 5 years of experience in providing legal advice on the topics covered by the lots mentioned above (1-5 grading).
- c. The rate per hour proposed and the daily rate proposed (1-5 grading).

An Evaluation Committee of 3 (three) 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 the foreseen deadline. All proposals received after the deadline will be rejected. In duly justified cases, however, no later than 1 (one) calendar day 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 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.
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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 [legal@eitmanufacturing.eu](mailto:legal@eitmanufacturing.eu). The tenderers have 5 (five) calendar days to file their complaints from the date of receipt of notification of the results.

In your application to EIT Manufacturing the complaint 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.

## 7. 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 [legal@eitmanufacturing.eu](mailto:legal@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.

## 8. 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).

For these services a Framework contract will be concluded with no obligation to purchase on behalf of EIT Manufacturing. The Framework contract will be awarded for a maximum period of 3 years. The tenderer agrees that the total value of the Services acquired under the Framework Contract the maximum allowed amount under the Framework Contract. In case of need of concrete services, a Specific Contract will be signed describing the services required and the amount to be paid, based on the bidding offer. The invoicing will be based on a mutually agreed schedule; which will be detailed in the Specific contract.

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.

## 9. Confidentiality Obligation

All information, whether written or oral, exchanged between the parties involved in this Request for Proposals (RfP) process, hereinafter referred to as the "Parties," shall be considered confidential and proprietary.

The Parties agree not to disclose, provide access to, or otherwise make available any confidential information to any third parties, including but not limited to individuals, companies, or organizations, who are not directly involved in the RfP process, without the express written consent of the disclosing Party.

“Confidential Information” shall encompass, without limitation, all data, documents, proposals, discussions, designs, specifications, financial information, technical data, trade secrets, and any other information disclosed by one Party to the other during the course of the RfP process.

The obligations of confidentiality shall not apply to information that is:

- a) Publicly available at the time of disclosure or subsequently becomes publicly available through no fault of the receiving Party.
- b) Already in the possession of the receiving Party prior to disclosure and not subject to an existing confidentiality obligation.
- c) Disclosed to the receiving Party by a third party with the legal right to do so without breaching any confidentiality obligations.
- d) Required to be disclosed by law, court order, or governmental regulation, provided that the disclosing Party is promptly notified and given the opportunity to seek a protective order.

Any Party found in breach of this confidentiality clause shall be subject to legal measures, including but not limited to litigation, injunctive relief, and monetary damages, as deemed appropriate by the disclosing Party.

The obligations of confidentiality as set forth in this clause shall survive the termination or completion of the RfP process and shall remain in effect for a period of 5 (five) years, unless both Parties mutually agree in writing to terminate this confidentiality agreement.

This confidentiality clause shall be governed by and construed in accordance with the laws of France. Any legal action arising out of or in connection with this clause shall be subject to the exclusive jurisdiction of the courts of Paris, France.

## 10. 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 Contract, EIT Manufacturing may refrain from concluding the Contract.