

Request for Proposal (RfP)

Specialized Legal Consulting Services for Investments
November 2024

Deadline for offer submission by 29st November until 16h00 PM (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.

2. Description

To support its investments team and other KIC activities involving startups—such as innovation initiatives and Cross-KIC projects—EIT Manufacturing **is currently seeking specialized legal services from law firms rendering services in Turkey, Belgium, Czechia, and Norway**. The ideal law firms should have a strong national and/or international presence, be recognized in the market, and, preferably, have prior experience working with "KICs" or within the Horizon Europe Programme.

Interested suppliers must demonstrate a high level of expertise in providing legal services in the following countries: Turkey, Belgium, Czechia, and Norway. To meet this requirement, suppliers are expected to provide documents and/or references that confirm their specialized legal experience and operations in these territories, ensuring compliance with EIT Manufacturing's standards for high-quality and jurisdiction-specific knowledge.

The legal service providers will support EIT Manufacturing with legal expertise, particularly in the areas of mergers and acquisitions (M&A), investment agreements for startups, SAFE (Simple Agreement for Future Equity) agreements, and other related legal services.

3. Deliverables

The selected suppliers shall deliver the following services with focus on Corporate, Tax Law and Mergers and Acquisitions, specifically, in providing advice and drafting investment agreements for startups, SAFE (Simple Agreement for Future Equity) agreements, and other related legal services, as follows:

- 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 local laws, 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 selected service providers will provide legal consulting services that ensure EIT Manufacturing, and its partner startups are compliant with their local laws and regulatory requirements in investment and M&A activities.

The supplier will be reporting to the Legal and Investments team of the EIT Manufacturing.

4. Timeline

The deadline to submit the offer is **29/11/2024 at 16h00 PM (CEST)** 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	15/11/2024
Offer submission	Supplier	29/11/2024 at 16h00 PM (CEST)
Evaluation and notification of award	EIT Manufacturing	03/12/2024
Contract signature	EIT Manufacturing & selected supplier	09/12/2024

All offers shall be submitted within the above-mentioned deadline to the following link: <https://eit-manufacturing.prioritize.linksquares.com/new-task?token=eqfghK7TdyCO3ZdVaPfVqgS5gx2LiEf2lmaueYxnGfUzCJhpKHMNjUwW1oN-KF7i>

To start your application, please follow the outlined "step-by-step":

2. Fill out the Task Name with this description: "Specialized Legal Consulting Services for Investments".
3. Fill out the Requestor Name with your name.
4. Fill out the Requestor E-mail with your e-mail address.
5. Leave the following fields blank since they are not mandatory: Task type, Deadline and Priority.
6. Fill in the field "Describe Task" with the message you wish to convey to our team and/or any details and comments you have regarding your proposal. If you have none, simply write the name of the RFP "Specialized Legal Consulting Services for Investments".
7. Click on attachments and upload your Commercial Proposal as an attachment.

After completing the above-mentioned information, click on "Submit Task" to finalize your application. Please note that you will not receive any confirmation in your e-mail. However, you should ensure that this message appears to you on the screen after submitting your proposal: "Task created successfully".

If you have any questions, please contact us at the following email address: procurement@eitmanufacturing.eu

Proposal Requirements

Interested bidders should submit the following:

- **Cover Letter:** A brief introduction to your firm or consultancy, outlining your experience and why your services are a good fit for this engagement.
- **Experience & Qualifications:** Details of relevant expertise, particularly in M&A, investment agreements, and SAFE agreements within their countries. Highlight any experience working with startups and innovation-driven sectors.
- **Service Plan:** A description of how your firm will approach the scope of services, including methods for handling M&A and investment agreements, compliance assurance, and reporting.
- **Team Members:** Provide profiles of the key personnel who will be working on this project, including qualifications and relevant experience.
- **Cost Breakdown:** A detailed breakdown of the cost structure, including hourly rates (if applicable), expected time allocation, and any other relevant fees.
- **References:** At least three client references, preferably in similar sectors or service scopes.

Please note that the use of Annex I - Template for the Commercial Proposal is mandatory and must be followed by potential suppliers as well, under penalty of disqualification for non-compliance with the requirement, as stated in this RfP.

Interested suppliers must submit the signed “Tenders Declaration of Honor” (Annex II) along with their proposals. Failure to provide this declaration, or submitting it incomplete, incorrect, or after the deadline, will result in automatic disqualification of the supplier for non-compliance with an essential requirement.

Additionally, the absence of any required information in the RfP may lead to the disqualification of the supplier. Therefore, it is imperative that all requested information is provided in full and in accordance with the specifications outlined in this document.

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:

- a) Relevant Experience & Expertise (30%)
- b) Approach to Services and Methodology (30%)
- c) Cost-Effectiveness (20%)
- d) References & Past Performance (10%)
- e) Previous experience in working with Knowledge and Innovation Communities (KICs) or EU funding initiatives (10%)

An Evaluation Committee of at least 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.

Disclaimer of Liability for Technical Failures:

EIT Manufacturing shall not be held liable for any technical failures, interruptions, or glitches occurring in its digital tool designated for receiving proposals in the Request for Proposals (RfP) as mentioned in the link above, irrespective of the underlying reasons. EIT Manufacturing assumes no responsibility for any loss or damage resulting from such technical issues.

Verification of Proposal Receipt:

In case of any doubt or uncertainty regarding the submission status, the supplier is obligated to take appropriate measures to confirm the receipt of their proposal, utilizing the communication channels and tools made available by EIT Manufacturing for such verification. It is the sole responsibility of the supplier to verify the successful submission and receipt of their proposal through the available means provided by EIT Manufacturing. By participating in the proposal submission process, the supplier acknowledges and accepts that EIT Manufacturing disclaims any liability related to technical failures affecting the digital tool and that the supplier is accountable for ensuring the successful transmission and receipt of their proposal.

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 . The tenderers have **3 (three) 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.

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 with the possibility of renewal.

The tenderer agrees that the total value of the Services provided under the Framework Contract shall not exceed the maximum amount permitted by the contract. After signing the Framework Contract, the Parties shall sign a Specific Contract, detailing the scope of the services and the corresponding payment (in a on demand basis, according to EITM's requests and needs) and in accordance with the terms of the tender 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.

ANNEX II - Tenders Declaration of Honor

[Place and Date]

[Name of the Legal Entity and/or Signatory]

I, [Full name of the supplier's representative], hereby declare the following in connection with my application for the Request for Proposal (RfP) [title of the RfP]:

- a. I will commit to 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'). I will inform the EIT Manufacturing immediately if there is any change in the above circumstances at any stage during the implementation of the tasks.
- b. I accept that during the implementation of the contract and for five years after the completion of the contract, the supplier must keep confidential any data, documents or other material that is identified as confidential at the time it is disclosed ('confidential Information').
- c. I accept that during the implementation of the contract and for five years after the completion of the contract, the EIT Manufacturing has the right for the purposes of safeguarding its financial interests, the offer and the contract of the supplier may be transferred to internal as well as external audit services.
- d. I confirm that I or the entity represented by me is not currently experiencing any of the following situations. If any situation applies, details are provided in an annex to this declaration along with a brief explanation.
 - The entity is not bankrupt, subject to insolvency or winding up procedures, and its assets are not being administered by a liquidator or by a court. It is not in an arrangement with creditors, and its business activities are not suspended, nor is it in any analogous situation arising from a similar procedure under national legislation or regulations.
 - There is no final judgement or final administrative decision establishing a breach of obligations related to the payment of taxes or social security contributions.

- There is no final judgement or final administrative decision establishing guilt of grave professional misconduct, including but not limited to fraud, violation of applicable laws or regulations, ethical standards, distorting competition, violating intellectual property rights, attempting to influence EU Bodies' decision-making processes, attempting to obtain confidential information, or any other wrongful conduct impacting professional credibility.
- There is no final judgement establishing guilt of fraud, corruption, participation in a criminal organization, money laundering or terrorist financing, terrorist-related offences, child labor, or other forms of trafficking in human beings.
- The entity has not shown significant deficiencies in complying with the main obligations in the performance of a contract, a grant agreement, or a grant decision financed by the European Union's budget, leading to early termination, application of liquidated damages, or other contractual penalties, discovered through checks, audits, or investigations.
- There is no final judgement or final administrative decision establishing that the entity has committed an irregularity within the meaning of Council Regulation (EC, Euratom) No 2988/95.
- There is no final judgement or final administrative decision establishing that the entity has created an entity in a different jurisdiction with the intent to circumvent fiscal, social, or any other legal obligations.
- In the absence of a final judgement or final administrative decision in the cases mentioned above, or in the case of point (e), I acknowledge that the Applicant may be subject to:
 - i) Facts established in the context of audits or investigations by EPPO, the Court of Auditors, OLAF, or the internal auditor, or any other check, audit, or control performed under the responsibility of the authorizing officer.
 - ii) Non-final administrative decisions, including disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics.
 - iii) Facts referred to in decisions of persons and entities implementing Union funds.
 - iv) Information transmitted in accordance with the Financial Regulation.
 - v) Decisions of the Commission or national competent authority relating to the infringement of Union or national competition law.

I hereby declare the accuracy and truthfulness of the above statements.

Yours faithfully,

[Signature of the Supplier's representative]