

Request for proposals

**Legal Services for Start-Ups and Scale-Ups, including
Business Creation Department
Years 2020 - 2022**

January 2020

www.innoenergy.com



InnoEnergy is supported by the EIT,
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2. Overview of InnoEnergy

InnoEnergy is the European company fostering the integration of education, technology, business and entrepreneurship and strengthening the culture of innovation. The challenge is big, but our goal is simple: to achieve a sustainable energy future for Europe. Innovation is the solution. New ideas, products and services that make a real difference, new businesses and new people to deliver them to market. At InnoEnergy we support and invest in innovation at every stage of the journey – from classroom to end-customer. With our network of partners we build connections across Europe, bringing together inventors and industry, graduates and employers, researchers and entrepreneurs, businesses and markets.

We work in three essential areas of the innovation mix:

- Education to help create an informed and ambitious workforce that understands the demands of sustainability and the needs of industry.
- Innovation Projects to bring together ideas, inventors and industry to create commercially attractive technologies that deliver real results to customers.
- Business Creation Services to support entrepreneurs and start-ups who are expanding Europe's energy ecosystem with their innovative offerings.

Bringing these disciplines together maximises the impact of each, accelerates the development of market-ready solutions, and creates a fertile environment in which we can sell the innovative results of our work.

For more information about our company please visit the following website:
<http://www.innoenergy.com/about-innoenergy/>

InnoEnergy gets a major funding from EU, this leads to certain obligations, mentioned in this document that InnoEnergy as well as the tenderers have to consider.

3. Scope of work

Important Notice:

This tender covers the years 2020 through to 2022 with a possible extension of one year.

We intend to appoint two to three legal advisory firms and sign a framework contract with each.

This is to ensure that there will be a consultant available anytime when needed.

Background and General Objective

Within Business Creation Services at InnoEnergy we support entrepreneurial teams on their road to success. We support them in the area of Market, Technology, Team and Finance. These start-ups and scale-ups and the Business Creation Services department have a regular need of legal support.

1. For our start-ups this entails general advice on company law, partnerships, contract law, articles of association, shareholder agreement, licenses, ESOP/VSOP, assistance with legal conflicts and procedures.
2. For Business Creation Services this entails assistance with articles of association, drafting bilateral contracts under general civil law, shareholder agreements, term sheets, termination agreements, distribution / sales agreements, contracting and negotiation.

Detailed work scope

Legal advice for start-ups and scale-ups in the German region for approximately 400 yearly hours. These hours are indicative and the total amount can vary based on the real needs and will be split on all winning parties upon availability and need.

General legal support to external start-ups supported by InnoEnergy:

- General advice on company law (articles of association, shareholder agreements, deals with venture capitalists, partnerships);
- Contract law (NDAs, commercial contracts, standard T&Cs, supplier agreements, distribution and sales agreements);
- Experience in IP licensing and IP transfer
- Public law, economic regulation and commercial criminal law
- Labour contracts and law;
- Assistance with legal conflicts, negotiations and procedures

The above support can be requested to the benefit of InnoEnergy in its negotiations with the start-up, in which case the service provider will only represent the interests of InnoEnergy, an another service provider will then be used for the start-up, to avoid conflict of interest.

Assignment, Timing & Planning, Invoicing

- The work will be carried out as a consultancy service via remote and telephone and/or online video conference calls on an ad-hoc basis.
- We intend to appoint two to three legal firms and sign a framework contract with each. This is to ensure that there will be a consultant available anytime when needed.
- Per assignment we will choose the legal expert who is best positioned to complete the task at hand, i.e. focus of expertise or availability.
- The total number of assignments will depend on the number of new projects InnoEnergy will acquire, which cannot be foreseen at this point. In case of several activities needed, each party shall be contracted at least once.
- Invoices shall be issued on a monthly base with detailed timesheets included, separated by specific project.
- Contract period: the service framework contract will end on 31.01.2022 but with the possibility to extend the contract for one year.

Exception: should one or more of the legal firms be already working on an agreement on 31.01.2022 but have not yet finished the same, the contract will be extended until the current work scope has been completed.

4. Proposal Process

4.1. Participation

- a) Participation in this proposal procedure is open to all tenderers.
- b) All participants must sign the Tenderers' declaration form attached as Annex 1 and submit it with the proposal. Please note that the tenderer may not modify the text, it has to be submitted signed as provided by InnoEnergy attached to the request for proposal document.

4.2. Submission of proposal

	DATE
Publishing of the RFP on InnoEnergy website	29.01.2020
Deadline for requesting clarification	07.02.2020
Deadline for submitting proposals	12.02.2020
Intended date of notification of award	18.02.2020
Intended date of contract signature	25.02.2020

Proposals must be emailed in English language to:

Contact name: for the attention of Silke Köllner

E-mail: silke.koellner@innoenergy.com

The proposal shall contain:

- **the technical response to the service requested (point 3).**
- **the financial offer (the price for the services.)** The financial offer must be presented in Euro. Prices must be indicated as net amount excluding VAT. **Please state your prices based on blended hourly rates.**
- **an indication of supplier's insurance coverage.** The proposal must specify whether the supplier has taken out a company liability insurance and/or professional liability insurance including the maximum amount of coverage in Euro per event per insurance.

Responses should be concise and clear. The tenderer's proposal will be incorporated into any contract that results from this procedure. Tenderers are, therefore, cautioned not to make claims or statements that they are not prepared to commit to contractually. Subsequent modifications and counter-proposals, if applicable, shall also become an integral part of any resulting contract.

The tenderer represents that the individual submitting the natural or legal entity's proposal is duly authorized to bind its entity to the proposal as submitted. The tenderer also affirms that it has read the instructions to tenderers and has the experience, skills and resources to perform, according to conditions set forth in this proposal and the tenderers' proposal.

Tenderers are requested to submit together with their proposal the filled-out Tenderers' declaration form (see point 4.1).

4.3. *Validity of the proposals*

Tenderers are bound by their proposals for 90 days after the deadline for submitting proposals or until they have been notified of non-award.

The selected winner must maintain its proposal for a further 60 days to close the contract.

Proposals not following the instructions of this Request for Proposal can be rejected by InnoEnergy.

4.4. *Requests for additional information or clarification*

The request for proposal should be clear enough to avoid tenderers having to request additional information during the procedure. In case the tenderers are in need of additional information or clarification, please address it to the email addresses below. **All information requested or answered may only be done through written communication – email only.** All questions should be sent prior to deadline for requesting clarification as specified in 4.2. In case of complex or high value procurements, InnoEnergy could arrange a clarification session which will be communicated to the tenderers through the InnoEnergy procurement website portal.

Contact name: for the attention of **Silke Köllner**

E-mail: silke.koellner@innoenergy.com

InnoEnergy has no obligation to provide clarification.

4.5. *Costs for preparing proposals*

No costs incurred by the tenderer in preparing and submitting the proposal are reimbursable. All such costs must be borne by the tenderer.

4.6. *Ownership of the proposals*

InnoEnergy retains ownership of all proposals received under this tendering procedure. Proprietary information identified as such, which is submitted by tenderer in connection with this procurement, will be kept confidential.

The potential or actual supplier should accept that during the implementation of the contract and for four years after the completion of the contract, for the purposes of safeguarding the EU's financial interests, InnoEnergy may transfer the proposal and the contract of the supplier to internal audit services, to the EIT, to the European Court of Auditors, to the Financial Irregularities Panel or to the European Anti-Fraud Office.

4.7. *Clarification related to the submitted proposals*

After submission of the proposals, they shall be checked if they satisfy all the formal requirements set out in the proposal dossier. Where information or documentation submitted by the tenderers are or appears to be incomplete or erroneous or where specific documents are missing, InnoEnergy may request the tenderer concerned to submit, supplement, clarify or complete the relevant information or documentation within an appropriate time limit. **All information requested or answered may only be done through written communication – email only.**

4.8. *Negotiation about the submitted proposal*

After checking the administrative compliance of the tenderers, InnoEnergy may negotiate the contract terms with the tenderers. In this negotiation InnoEnergy will ask all tenderers to adjust the proposal or specific sections of the proposal within an appropriate time limit. In case of negotiation, InnoEnergy shall provide further information about the proceedings and timing.

4.9. *Evaluation of proposals*

The quality of each proposal will be evaluated in accordance with the below mentioned award criteria. The award criteria will be examined in accordance with the requested service indicated in Section 3 of the document.

Evaluation criteria (weight in %)

1. Relevant experience and competence in corporate law and regulations pertaining to venture capital deals in particular which are applicable on German law.

In particular, the following experiences are of relevance:

- a) Experience in company law (articles of association, shareholder agreements, deals with venture capitalists, partnerships),
- b) Experience in contract law (NDAs, commercial contracts, standard T&Cs, suppliers agreements, distribution and agency agreements),
- c) Experience in IP licensing and IP transfer
- d) Experience in Public law, economic regulation and commercial criminal law
- e) Experience in labour contracts and law,
- f) Experience in legal conflicts, negotiations and procedures.

Evaluation based on CV and references. Lead/senior consultant should have at least 10 years of experience **(30%)**

2. Expertise in drafting, negotiation and reviewing corporate contracts and shareholders' agreements or resolutions that require notarial form, i. e. transfer of shares, amendments to the articles of association, increase in share capital, capital measures and mergers. **(20 %)**
3. Track record on availability and responsiveness in dealing with time-critical ad-hoc requests (We will put the (offer) mentioned response time in the contract). Please also provide a proof of your overall staff capacity in the relevant area of expertise **(10%)**

Total technical score (weight in %): 60%

- g) Price/total cost - lowest offered expert unit price per hour shall receive the highest score, other shall be calculated in relation to that in linear equation. **(40%)**

Please base your offer on blended fixed hourly rates, otherwise your offer can't be considered during the evaluation process.

Total financial score (weight in %): 40%

Total maximum score: 100.

4.10. Signature of contract(s)

The successful and unsuccessful tenderers will be informed in writing (via email) about the result of the award procedure.

For the contract the Service Agreement in Annex 2 shall apply. Any change desired by the tenderer in the provisions contained in the body of this Service Agreement needs to be communicated to InnoEnergy as part of the proposal of such tenderer. Background for this is that such desired changes need to be taken into account in the evaluation of the proposal of each tenderer under Liability Exposure above. Significant changes are likely to lengthen the negotiation process, making it less likely that the Service Agreement can be signed in time.

Within 5 days (after the expiry of the appeal period of **5 days**) of receipt of the contract from InnoEnergy, the selected tenderers shall sign and date the contract and return it to InnoEnergy. Upon receipt, InnoEnergy shall also sign and send back to the winner one signed copy. In case a winning tenderer is unable to enter into the contract within the above-mentioned time period, InnoEnergy may decide to contract the second/third best.

4.11. Cancellation of the proposal procedure

In the event of cancellation of the proposal procedure, InnoEnergy will notify tenderers of the cancellation. In no event shall InnoEnergy 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 InnoEnergy has been advised of the possibility of damages.

4.12. Appeals/complaints

Tenderers believing that they have been harmed by an error or irregularity during the award process may file a complaint. Appeals should be addressed to InnoEnergy. The tenderers have **5 (five) days** to file their complaints from the receipt of the letter of notification of award.

4.13. Ethics clauses / Corruptive practices

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

The supplier 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'). He should inform the InnoEnergy immediately if there is any change in the above circumstances at any stage during the implementation of the tasks.

4.14. Annexes

Annex 1: Tenderers' Declaration form

Annex 2: InnoEnergy's Draft Contract Template Service Agreement