

Request for proposals

Legal services framework

agreement

KIC InnoEnergy SE

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2. Overview of EIT InnoEnergy

Background

EIT InnoEnergy was formed by a world-class alliance of top European players with a proven track record in the energy field. The consortium currently consists of 29 formal partners (each a shareholder in the legal entity KIC InnoEnergy SE) and additional 500+ partners - companies, research institutes, universities and business schools covering the whole energy mix.

EIT InnoEnergy is a Knowledge and Innovation Community (a “KIC”) under the EU Horizon Europe Programme (governed by Regulation (EU) 2021/695 of the European Parliament and of the Council). On 16 December 2009 EIT InnoEnergy was designated as one of the first three KICs by the European Institute of Innovation and Technology (“EIT”, currently governed by Regulation (EU) 2021/819 of the European Parliament and of the Council)’s Governing Board).

EIT InnoEnergy addresses sustainable energy as its priority area. Though this component will decrease in years to come, EIT InnoEnergy is co-funded by the European Union (via the EIT). Such public co-funding leads to additional obligations (compared to your average commercial company), as follows from the above mentioned Regulations and as further mentioned in this document and its annexes. EIT InnoEnergy as well as the tenderers have to consider these obligations.

Structure and offices

The legal entity KIC InnoEnergy SE was set up in 2010 as a European company (a *Societas Europaea*). EIT InnoEnergy is seated and headquartered in Eindhoven, the Netherlands.

EIT InnoEnergy has six geographical “co-locations”. Some of these are construed as a branch and some have their own legal identity:

- KIC InnoEnergy Benelux (a branch) with offices in Eindhoven (joint premises with KIC InnoEnergy SE’s offices), Brussels and Genk;
- KIC InnoEnergy Germany GmbH with offices in Karlsruhe, Berlin and Stuttgart;
- InnoEnergy Central Europe Sp. z o.o. with offices in Krakow;
- KIC InnoEnergy Iberia S.L, with offices in Lisbon and Barcelona;
- KIC InnoEnergy France (a branch) with offices in Grenoble and Paris; and
- KIC InnoEnergy Sweden AB with offices in Stockholm and Uppsala.

In addition, EIT InnoEnergy has a representation office in Boston (Massachusetts, USA): InnoEnergy USA LLC.

Furthermore EIT InnoEnergy uses Dutch foundations (*stichtingen*) for some of its activities: the Institute of Sustainable Energy Stichting and the Stichting Administratiekantoor InnoEnergy (which is currently dormant).

EIT InnoEnergy in total currently has roughly 200 employees.

Mission and working areas

EIT InnoEnergy is a 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 EIT 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. and
- **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/>

3. Scope of work – legal services for EIT InnoEnergy on a call-off basis

General

EIT InnoEnergy has a regular need of hands-on legal support. This tender sees to legal services to be provided to KIC InnoEnergy SE and other Dutch legal entities in EIT InnoEnergy's group only.

Whether or not external legal assistance is sought, is to be determined by EIT InnoEnergy's Head of Legal on a case-by-case basis.

Furthermore, EIT InnoEnergy may decide to involve other legal service providers for specific projects. Depending on the size of a project and the nature of the required assistance for specific projects, EIT InnoEnergy may make such projects (involving legal assistance) subject to separate procurement procedures, thus taking them out of the scope of this Request for Proposals.

Scope

For efficiency reasons, EIT InnoEnergy needs to be able to rely on a one-stop-shop approach for external legal support. The required assistance is not limited to that which is prototypically provided by **lawyers** (*advocaten*), but also covers a substantial need for (in-depth) **notarial services** and a potential need for assistance from **tax specialists**. **Selected suppliers are asked to demonstrate that they can offer the required services of these three sorts of specialists for all of the below 10 fields and thus offer the desired one-stop-shop approach.**

Legal assistance sought in recent years and for which a need is also expected in the coming years, related amongst others to the following fields:

- **Regulatory & governmental affairs:** as EIT InnoEnergy is co-funded by the EIT, EIT InnoEnergy is bound by the Horizon Europe framework and the documentation used in that

respect, such as the multi-annual Partnership Agreement and the Grant Agreement(s). EIT InnoEnergy has to report extensively to EIT. This documentation set has become more elaborate over the last few years and is being updated more frequently. **Suppliers are asked to specifically demonstrate their experience with the Horizon Europe framework (and its predecessor), or other similar EIT and / or EU programmes.**

The relationship with EIT also directly influences the structuring of our activities, the development of EIT InnoEnergy as a company and the potential to benefit from other sources of funding.

In addition to the relationship with EIT, EIT InnoEnergy faces, and will face more frequently in the future, questions regarding applicable regulatory regimes, such as financial regulatory regimes potentially applicable to financial instruments and financial services, data protection laws and other regulatory initiatives.

- **Corporate housekeeping:** an important task of the legal department of EIT InnoEnergy is to take care of the corporate housekeeping. This includes the relationship with KIC InnoEnergy SE's 29 shareholders (preparation of general or extra ordinary assemblies, maintenance of the General Partnership Agreement and ad hoc issues), the relationship with the co-locations, internal rules and regulations and the drafting and updating of constitutional documents for EIT InnoEnergy and related parties (e.g. the co-locations and the foundations mentioned in chapter 1 above).
- **Labor law:** the employees working for the Benelux co-location are contracted by EIT InnoEnergy under **Dutch labor contracts, Belgian and Luxembourg labor contracts**. The templates used for these agreements need to be revised and updated from time to time. (Potential) Conflicts with (former) employees need to be adequately dealt with.
- **Return on investments:** As EIT funding will be decreasing over the years to come, EIT InnoEnergy is focusing even more on total financial sustainability. Whether funding provided by EIT InnoEnergy to its partners is in the form of an EIT grant, or financed via other resources, EIT InnoEnergy requires a return on it. Such return can be shaped as a success fee, option, warrant or in another form.
- **Education:** as EIT InnoEnergy is involved in the setting-up and exploitation of **MsC programmes and other forms of education**, from time to time EIT InnoEnergy faces specific questions relating to the characteristics of educational programmes and / or rules and regulations applying thereto.
- **Finance structures:** both with respect to exploiting additional possibilities for its own funding and with respect to the funding of its partners, EIT InnoEnergy is continuously exploring the possibilities of various finance structures (such as the issuance of certificates to acquire funding and the possibility to participate in its partners).
- **Legal conflicts / litigation:** in the broadest sense and potentially relating to all fields mentioned in this Section 2. Examples of this are potential conflicts with employees, start-ups, consortia and our shareholders.

In addition to that, Suppliers need to be able to provide in-depth legal services with respect to the following fields:

- **IP and ICT law;**
- **Privacy law;** and
- **Commercial contract law** in the broadest sense.

Though the vast majority of the legal assistance sought by EIT InnoEnergy requires assessments under **Dutch law and / or Belgian law**, occasionally assistance might be needed involving the law of other jurisdictions, such as the jurisdictions of the co-locations. **Tenderers are therefore asked to demonstrate that they either form part of an international alliance / network with presence at least in the jurisdictions of EIT InnoEnergy's colocations and / or have offices in these jurisdictions. Selected Suppliers are also asked to demonstrate how invoicing of services rendered by their partners from alliances / networks will be invoiced.**

Outside of scope

Though the winning Tenderer might be asked to deal with questions relating thereto from time-to-time, the activities of the six co-locations and the three business lines are not (directly) included in this tender. The same goes for the activities of the business lines.

Some activities of EIT InnoEnergy with a (large) legal component have been – and in the future , may be - made subject to separate procurement procedures, or are dealt with by different departments and as such will not be in scope for this tender. (Non-exhaustive) Examples are:

- IP maintenance;
- Specific advice on EU law; and
- Legal services provided to the Benelux Business Creation Services team.

Depending on the size of a project and the nature of the required assistance for specific projects, EIT InnoEnergy may make such projects (involving legal assistance) subject to separate procurement procedures, taking them out of the scope of this Request for Proposals.

Estimated number of hours

Though – also taking into account the potential involvement of other legal service providers for specific projects - no guarantees can be given on the minimum or maximum number of hours of legal assistance needed, an analysis of the external legal assistance sought over the last few years and a forecast based on EIT InnoEnergy's plans, has shown a need for between 100 and 500 hours of external legal assistance per year (i.e. between 400 and 2000 hours for the 48 months contract period).

Coordination

All requests for legal assistance will be channeled through EIT InnoEnergy's legal department, or through staff designated by EIT InnoEnergy's legal department. Your first point of contact will be EIT

InnoEnergy's Head of Legal. In principle there is no direct contact with staff working in the co-locations or business lines. Services cannot be provided to business lines or colocations without prior approval of EIT InnoEnergy's Head of Legal.

Location

Given that EIT InnoEnergy is headquartered in Eindhoven and EIT InnoEnergy's legal department is based in Eindhoven, this project will have our Eindhoven premises as standard office during the implementation. Given that:

- time can be of the essence in the provision of legal services (for example with respect to summary proceedings and with respect to unannounced on-site visits from regulatory and governmental authorities); and
- with a view to the ease of planning face-to-face meetings;

tenderers are asked to demonstrate that they have a fully functional, full service office within a maximum of 30 minutes traveling distance from EIT InnoEnergy's Eindhoven premises (which are located at Kennispoort, John F Kenedylaan 2, 5612 AB Eindhoven) and are asked to guarantee that they will maintain such office during the implementation period of 48 months. Notwithstanding the above, the selected tenderer might be asked to travel to meetings or to provide legal support, including but not limited to traveling to our other Benelux offices and courts throughout the Benelux.

Start date and implementation period

The intended start date is 6 June 2022. The implementation period is 48 months.

4. Proposal Process

4.1. Participation

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

4.2. Submission of proposal

	DATE (Calendar dates)
Publication of RFP on EIT InnoEnergy's website	4 February 2022
Deadline for requesting clarification from EIT InnoEnergy	18 February 2022
Deadline for submitting proposals	4 March 2022
Intended date of notification of award	18 March 2022
Intended date of contract signature	31 March 2022

Proposals must be emailed **in the English language** and emailed to the following address, prior to the deadline of **4 March 2022**:

Contact name: for the attention of Mr. Maurits Kolkman (Head of Legal)

E-mail: Maurits.kolkman@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 + VAT.
- **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.

Please also provide a single point of contact for the project, which shall always be at partner level.

Required work mix

Please note that InnoEnergy requires the below **minimum work mix** of expert categories in order to provide the highest quality implementation:

- Partners 60% of total hours;
- senior lawyers should cover minimum 30% of total hours;
- junior lawyers 10%.

Tenderers are welcome to provide higher share of senior expertise but please note that you are obliged during implementation to comply with your proposed work mix. Failing to meet with the minimum required work mix during tendering shall lead to technical non-compliance.

Pricing

Tenderers are required to provide a consistent price offer containing all costs related to the implementation of the contract. Below please find the presentation on how to create the price proposal within the RfP:

It is noted that all legal firms have their internal policy for pricing and therefore it is impossible to create a complicated, detailed matrix for all types and levels of prices to match all firms' policies.

InnoEnergy, in line with international procurement practice introducing a transparent and easy price calculation that has to be followed by all tenderers:

The tenderers should propose **one (single) unit price** quoted in EUR for one work hour to be used by all their lawyers (irrespective of the type of lawyer – partner/senior/junior). This pricing should be fixed pricing; no deviation shall be done during the implementation of the contract.

Based on the above work mix indication for the minimum involvement of lawyer types, the firms

can propose one single price.

Example for legal firm pricing:

Lawyer type	Minimum involvement (as a % of total hours spent)	Unit price of hour/type	Admin costs	Total unit price (unit price + admin costs)	Single unit price (= [all total unit prices added /3])
Partner					
Senior					
Junior					

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 required to submit with their proposal together with 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 EIT 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 address 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, EIT InnoEnergy could arrange a clarification session which will be communicated to the tenderers.

Contact name: for the attention of Mr. Maurits Kolkman (Head of Legal)

E-mail: Maurits.kolkman@innoenergy.com

EIT 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*

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

4.9. *Evaluation of proposals*

Each proposal, excluding any annexes (such as CVs of proposed members of the project team) may amount to **a maximum of up to ten pages**. 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 services as indicated in Section 3 of the document.

Evaluation criteria

1. Legal experience and competencies in **all of the ten fields mentioned in chapter 3 above**. (evaluated based on CVs submitted by the tenderers) . Tenderers are asked to demonstrate the years of experience a proposed team member has in the relevant field or fields. (for a junior the minimum experience in the relevant field is 3 years, for seniors 5 years and for partners 10 years) (60)
2. **Proposed timing of implementation: please provide an overview of proposed response times (10)**

Total technical score: 70

3. Price or total cost: lowest offered unit price indicated in section 4.2 shall receive the highest score; others shall be calculated in relation to that in linear equation (30%)

Total financial score: 30

Total maximum score: 100.

The best price-quality ratio is established by weighing technical quality against price in line with the above.

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 EIT 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 receipt of the contract from EIT InnoEnergy, the selected tenderer shall sign and date the contract and return it to EIT InnoEnergy. Upon receipt, EIT InnoEnergy shall also sign and send back to the winner one signed copy. In case the winning tenderer is unable to enter into the contract within the above mentioned time period, EIT InnoEnergy may decide to contract the second best.

4.11. Cancellation of the proposal procedure

In the event of cancellation of the proposal procedure, EIT InnoEnergy will notify tenderers of the cancellation. In no event shall EIT 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 EIT 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 EIT InnoEnergy. The tenderers have 10 days to file their complaints from the receipt of the letter of notification of award.

4.13. Ethics clauses / Corruptive practices

EIT 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, EIT 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 EIT 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: Draft Contract Template.