



New York

MARKET SURVEY

Search for SUBJECT: Market survey for the assignment of the management service of the Assistance and Protection of Intellectual Property and Trade Barriers Desk at the ICE Agency in New York pursuant to Art. 7, paragraph 2, a) of Ministerial Decree 192/2017, updated by Ministerial Decree 32/2024 (Foreign Network Promotional Funds)

1. BACKGROUND

ITA - Italian Trade Agency is a Governmental agency of the Italian Republic that supports the business development of Italian companies abroad and promotes the attraction of foreign investment in Italy. ITA is headquartered in Rome and operates with a network of offices worldwide linked to Italian Embassies and Consulates and works closely with local authorities and businesses. In the US, ITA is present in the following cities: New York, Chicago, Los Angeles, Houston, and Miami. For more information on the Italian Trade Agency and its presence in Italy and the world, please visit our website [https://www.ice.it/en/\(Italian/English\)](https://www.ice.it/en/(Italian/English)).

2. AWARDING ENTITY

The Italian Trade Agency ("ITA") –New York Office,
33 East 67th Street, New York, NY 10065

Website: <https://www.ice.it/en/markets/usa/new-york>

Ms. Erica Di Giovancarlo, Trade Commissioner and Executive Director for the USA, New York Office

E-mail: newyork@ice.it Tel (212) 980.1500- Fax (212) 758.1050

3. SERVICES REQUESTED

ITA's New York Office is looking for a service provider, a law firm licensed to operate in New York City, to manage the ITA's IPR Desk – Intellectual Property Protection and Trade Barriers Assistance Desk in New York, with reference to issues related to tariff and non-tariff barriers, trade barriers in general, and the US Legal and regulatory environment.

Law firms interested in taking part in the selection will provide the ITA and its small and medium sized company customers with legal and regulatory assistance in legal and commercial matters, intellectual property and international trade policy and trade barriers. The service will be governed by a special service contract concluded between ITA New York (Thereafter ITA) and the selected law firm. The Law Firm latter must be duly registered and operating in the State of New York under local, state and federal regulations.

The law firm must be highly specialized and possess excellent knowledge of the US market and will work in close contact with the ITA.

The agreement will last from approximately September 1st, 2024, to December 31st, 2025.

4. SERVICE CONTENT AND DESK ACTIVITIES

The law firm that will provide the services of IPR Desk in New York will be expected to perform the following activities:

DESK ACTIVITIES RELATED TO INTELLECTUAL PROPERTY PROTECTION

4.a Information, assistance, training

1. studying and monitoring of Federal and State laws and regulation
2. writing reports and studies on issues of interest to SMEs
3. writing brief news flashes and articles to be posted on the ITA website
4. providing specialized assistance in specific cases
5. assistance in meetings with local, public and private counterparts
6. assistance in developing work projects on behalf of companies, associations and consortia
7. assistance in intellectual property protection in all its forms, including Geographical Indications
8. assistance on counterfeiting, digital piracy and *Italian sounding*
9. implementation of training days in collaboration with ICE Offices under the coordination with the ICE Office in New York

4.b Communication and outreach

1. direct-to-consumer communication plans
2. Information seminars aimed at local businesses and consumers
3. liaison activities with public and private stakeholders

4.c Brochures

- creation of information brochures in line with templates provided by the ITA, to provide useful and streamlined guidance to interested Italian companies; these guides can then also be distributed in Italy at the various opportunities to meet with Italian companies in the territory.

4.d Missions in Italy

- Participation in missions in Italy intended to provide information to companies interested in foreign markets

4.e Promotional Activities

- Participation in webinars and/or seminars on intellectual property

DESK ACTIVITIES RELATED TO TRADE BARRIERS

4.f Information on tariff and non-tariff barriers

1. Presentations and data analysis on measures that have raised tariffs or introduced quotas (announced or adopted)
2. Presentations and data analysis on new laws, regulations, measures or practices found in third countries that substantially affect free market access of Italian companies, on:
 - i. certifications and import permits;
 - ii. negative conditions on import practices, financing, purchasing and investing.

- iii. behaviors of foreign public offices or entities, which make it difficult to access the US market.
- iv. costly (in time and money) customs procedures for import, export and transit; technical regulations, standards and conformity assessment not in line with WTO regulations and those of other international bodies.
- v. abuse of sanitary and phytosanitary standards and measures.
- vi. restrictions in access to raw materials for export such as export taxes/duties, dual pricing.
- vii. barriers to trade in services and foreign direct investment (e.g., limits on share ownership, compulsory joint ventures, discriminatory treatment, etc.);
- viii. restrictive and discriminatory rules on Public Procurement, which prevent European companies from effectively competing on an equal footing with entities from other countries.
- ix. illegal or WTO-incompatible-use of trade defense instruments, such as antidumping by third countries.
- x. illegal or WTO-incompatible use of subsidies or state aids by third countries carried out in a way that hinders access to their market, such as initiatives to stimulate exports and improve competitiveness.

4.g Training sessions in Italy and the US

1. Participation in training initiatives organized by the ITA
2. Conducting webinars and/or seminars on the topic of market access.

4.h Reporting

- Drafting of a quarterly report on the activities carried out, as well as' other reports and reports on specific topics and focuses where requested by the ITA Agency.

5. SERVICE DELIVERY

The legal firm that will provide the service must meet the following **minimum requirements**:

- a) ensure daily, through a dedicated contact person (a specific e-mail address will be provided by the ITA), the processing of requests for information and assistance from Italian companies, committing to respond exhaustively within and no later than **72 hours** after receipt of the request. For complex requests, the law firm undertakes to send an interim reply no later than 24 hours after receipt of the request and to provide a comprehensive response no later than 5 working days from the date of receipt of the request. Based on our experience to date, approximately **35 monthly requests** are expected.
- b) ensure its presence, with at least 2 working days' notice from ICE, at requests for meetings with Italian companies. These meetings will be held, unless otherwise specifically indicated, at the ITA New York premises or via remote call. Based on experience to date, approximately **20 individual direct meetings per month** with Italian companies or other business operators, both in person and remotely, are expected;
- c) full availability for any requests for telephone counseling from Italian companies, or in case the ICE New York Agency's assigned staff deems it appropriate to follow up by telephone on requests already received from Italian companies. Based on the experience to date, an average **of 20 individual monthly direct telephone or digital (video call) interviews** with individual companies or other requesting Italian business operators are expected;

- d) ensure the presence of the appointed figure, subject to prior notice from the ITA of 2-3 working days, for speeches and presentations, the contents of which will be agreed upon with the ITA on a case by case basis, at seminars or other collective meetings, for orientation and training purposes, with delegations of entrepreneurs, students or other professionals, organized by the New York ICE Agency; based on the experience to date, approximately **2 monthly training meetings, including in digital form (webinars)**, with groups of companies or other participating Italian economic operators are expected;
- e) full availability, subject to 2-3 weeks' notice from ICE, to take part in missions to the U.S. or Italy, for speeches or presentations, at promotional or institutional events organized by ICE Agency; it is understood that mission expenses will be borne entirely by ICE in compliance with relevant Italian regulations and internal administrative regulations and procedures; based on experience to date, a approximately **1-2 work missions per year are** expected to be carried out in Italy or at other locations in the U.S. at promotional events organized by ICE Agency and with the presence of Italian companies;

The lawyer appointed by the law firm that will provide the service will follow **the instructions of the Director of the ICE Office in New York**. The Director of the ICE Office or an ITA officer delegated by the Director will be the counterparty in contact with local authorities, companies and beneficiaries of the services provided. This is due to **the confidentiality** that characterizes the matters handled.

The law firm must commit to **respect the confidentiality and privacy of information and data** acquired in the performance of their duties, as well as to refrain from undertaking in **external activities incompatible with the tasks entrusted to the law firm**, in order to protect the interests of ITA and the companies served.

The physical presence of the lawyer designated by the law firm at the ICE Agency in New York **is not required for the** performance of the functions, **except** as provided in **(b), (c) (d) (e) where carried out in the presence of and at the request of the ITA.**

However, it will be required to **ensure full availability, both by phone and e-mail**, to be contacted by ICE Agency staff and/or Italian companies, during **Office opening hours: Monday - Friday, 9:00 a.m. - 5:00 p.m. Eastern Time (New York time)**.

6. MANDATORY REQUIREMENTS

The Law firm must possess the following mandatory requirements:

1. Be a **tax resident of the U.S.A.**
2. Must be headquartered, licensed and authorized to operate in New York, NY
3. Hold **professional licenses as required by local, state and federal regulations in New York, NY.**
4. Be in possession of the **certificate of "good standing"** issued by competent US authorities.
5. Be able to offer the service in both Italian and English. The Law firm must have personnel with excellent command of both the **Italian**, written and spoken, and **English languages**.
6. Must have professional references from Italian Corporate clients, with emphasis on SMEs.
7. Must have proven and extensive **professional experience acquired in the U.S.A. (minimum three years)** in areas related to the economic-commercial and legal-legal dynamics relevant to the service and legal specializations required in article 4, and specifically:

- a. Proven and extensive experience in the field of intellectual property.
- b. Proven and extensive experience in the field of trade barriers.
- c. Proven and extensive experience in the field of anti-counterfeiting.
- d. Proven and extensive experience in assisting Italian companies to enter the U.S. market.

*Award of the contract will be subject to verification of these general requirements.
These general requirements must be present and maintained throughout the duration of the contract.*

The Law firm selected to provide the service aware that a full background check will be undertaken by the ITA.

IMPORTANT: In case your company is chosen to provide the service, it will be necessary to provide further documents and to register in the ICE Agency supplier list at the link <https://ice.traspare.com>

7. BUDGET

With reference to the service that is the subject of this procedure, the **base bid amount, all-inclusive and without reimbursement of expenses (except for service missions outside the New York area with prior authorization from the Director of ITA New York)** for an assignment with an indicative duration from September 1, 2024 to December 31, 2025 is \$US 110,000.00 (one hundred and ten thousand dollars/00 cent).

The bid must include a discount from the base bid of \$US 110,000.00 (one hundred and ten thousand dollars/00 cent)

Compensation will be paid within thirty days of receipt of an invoice and quarterly report and issuance of a CRE. The ITA will issue a CRE (*Certificato di Regolare Esecuzione*) prior to paying the Invoice. The *Certificato di Regolare Esecuzione*, is the ITA's Document that states the proper execution of the contract; this is preliminary and mandatory to any payment. The Company shall be solely responsible for all taxes under US laws, at federal, state and local levels.

The appointment will last for approximately 16 months (indicatively from September 1, 2024 to December 31, 2025) and can only be renewed by the ITA in writing and subject to funding availability.

8. BID REQUIREMENTS

Law firms who are interested in participating in the market survey must send their offer as described below **in a single sealed envelope** marked as follows:

"CONFIDENTIAL - Do Not Open. MARKET SURVEY DOCUMENTS: "IPR DESK NEW YORK 2024-25"

The proposal must be signed and contain the following documents listed below:

Statement: certifying the possession of the mandatory requirements mentioned above in paragraph 6 of this document

Cost Estimate (Quote): The bid must be expressed in **US dollars**. With reference to the service that is the subject of this procedure, the **base bid amount, all-inclusive and without reimbursement of expenses (except for service assignments outside the New York area with prior authorization from the Director of ITA New York)** for an assignment with an approximate duration from September 1, 2024 to December 31, 2024 is \$US 110,000.00. The bid **must include a discount** from the auction base of \$US 110,000.00 (one hundred ten thousand dollars).

Company Presentation: A comprehensive presentation showcasing your company's capabilities, experience, and past projects relevant to this bid.

1. **Professional profile of the law firm, containing a clear and circumstantial description related to:**
 - a) **experience of the law firm in the fields of anti-counterfeiting, barriers to trade, and intellectual property protection.**
 - b) **experience obtained in the U.S. market in the fields of anti-counterfeiting, trade barriers and intellectual property protection.**
2. **Professional references of the Law Firm from Italian corporate clients, with emphasis on SMEs.**

9. BID SUBMISSION and DEADLINE

Law firms who are interested in participating in the market survey must submit their offer in person, by postal mail, by courier services to:

ITALIAN TRADE COMMISSION NY
33 East 67th Street
New York, NY 10065

The deadline for submission of bids is on: August 22nd, 2024 at 4:00 pm EDT – New York time



N.B. The mere delivery and receipt of documents does not in any way imply fulfillment of the requirements of the selection process.

Failure to meet the above deadline or to submit the required documentation in its entirety will result in exclusion from the procedure.

10. AWARDING CRITERIA

The contract will be awarded **to the bid deemed suitable**, based on the requirements specified

After identifying the best bid, ITA will proceed with the award and execution of the contract. The award will be made even if there is only one offer, if it is considered valid.

The Law firm that is awarded the contract understands that it will be subject to a comprehensive and detailed background check.

11. PAYMENT TERMS

Payments will be deferred on a quarterly basis, starting from the date of the signature of the contract. Any fractions of the month will be paid on a per-week basis (equal to one-fourth of the monthly amount awarded for each week).

Payment will be made upon presentation of the quarterly report of the activities performed, after verification of the services carried out, upon presentation of an original invoice, made out to ITA - Italian Trade Commission - New York Office, 33 East, 67th Street, New York, - NY 10065-49, issued by the contracted service provider law firm, and upon issuance of a CRE (*Certificato di Regolare Esecuzione*) by the ITA.

Invoices will be cleared upon verification of services duly performed by bank transfer and all complete references to make the ACH transfer should be included in the body of the invoice and/or communicated to the ITA.

12. PERFORMANCE SURETY BOND

Under Italian Law (D.Lgs. 36/2023, commonly referred to as “*Codice degli Appalti*”), the winner of the bid must submit **a performance surety bond or a non-transferable cashier's check** that amounts to **10% of the estimate amount of the bid before signing the contract**. The expenses to obtain the performance surety bond shall be the responsibility of the bidder.

The performance surety bond or the non-transferable cashier's check will be returned to the Agency at the conclusion of the contract, after ITA has determined that all obligations and performance of the awarded Agency have been properly performed in accordance with the Framework Contract, the individual service awards, and applicable laws of the State of New York.

The performance surety bond or a non-transferable cashier's check, whichever you choose, must be issued in favor of: **Italian Trade Agency, New York Office, 33 East 67th Street, New York, NY 10065**. The final guarantee may be enforced by ITA in the event of fraud or default attributable to the performer.

13. EARLY TERMINATION

Should the company not comply with the obligations contained in this contract, or not reach the quarterly targets, the ITA reserves the right to terminate the contract.

14. LIQUIDATED DAMAGES

Failure to comply with the provisions of the Contract could subject the ITA to substantial economic damages and losses of a type and in amounts that cannot be accurately determined and assessed in advance. Accordingly, in lieu of actual damages, both parties agree that liquidated damages may be assessed and recovered by the ITA against the contractor.

In the event of a qualitative or quantitative breach of the Contract, the ITA, without being required to submit any evidence of the quantity or character of the actual damages incurred as a result of the breach, shall be immediately reimbursed a sum in the amount of a minimum of 3% to a maximum of 10% of the total value of the Contract, determined with reference to the severity of the breach committed. These liquidated damages are intended to represent estimated actual damages and are not intended as contractual penalties.

15. PREFERENTIAL RELATIONSHIP

The contracting station recognizes the law firm as a regular but non-exclusive supplier and therefore does not grant an exclusive right for the use of the services covered by these specifications by the contracting station. In turn, the law firm providing the service recognizes the contracting station as a preferred client, and therefore entitled to all best terms and conditions.

16. NO SUBCONTRACTS OR TRANSFERS OF SERVICES

The use of subcontractors or intermediaries is expressly prohibited in view of the special nature of the service, which requires having an interlocutor organized in such a way as to ensure maximum confidence and speed in the execution of individual services.

17. EFFECTIVENESS

The rules and provisions set forth in these specifications are binding on the awarded law firm from the time the bid is submitted, while they are binding on the ITA only after the signing of the contract.

18. RULES OF REFERRAL

For all other terms and conditions not governed herein, please refer to the provision of D.Lgs. 36/2023 and Ministerial Decree 192/2017, updated by Ministerial Decree 32/2024, the civil law governing the conclusion of the contract and the execution phase will be determined according to the applicable rules of private international law.

19. WHISTLEBLOWING

ITA New York, in compliance with applicable regulations, is committed to taking all reasonable measures to protect whistleblowers who report or disclose information about violations of the law observed in the course of their work. Reports, which are kept completely confidential, are handled through a computer application available on the homepage of the ICE website - Whistleblowing section (<https://www.ice.it/it/whistleblowing>).

20. GOVERNING LAW

In the event of a dispute between ITA New York and the awarded firm, the Court of New York, NY, U.S.A. shall have jurisdiction. In the event of a dispute between ITA and the awarded firm, the prevailing party shall be entitled to recover legal fees and costs from the non-prevailing party.

21. CONFIDENTIALITY AND PRIVACY

The awarded law firm undertakes that all information, concepts, ideas, procedures, methods and/or technical data of which the personnel used will be aware in the performance of the service shall be considered confidential and covered by secrecy. In this regard, the awarded law firm undertakes to take all necessary precautions with its employees and consultants to protect the confidentiality of such information and/or documentation.

The awarded law firm is required to take all measures to ensure the processing of personal data as well as the rights of individuals and other subjects.

The awarded law firm shall not disclose, communicate or disseminate the data acquired by reason of the activity for which it is awarded, or otherwise use it for the promotion and marketing of its services. The only permitted processing shall be as provided for and governed by the Notice of Tender and the contract documents.

At the same time, the ITA also ensures the secrecy and confidentiality of data, information, *know-how* contained in all documentation in general provided by competitors for the purpose of participation in the selection.

The ITA is an instrumental agency of the Government of the Republic of Italy. Interpretation of all preceding terms and conditions will be made by the ICE Agency at its sole discretion. Such interpretation will be final and binding on all bidders.

Notwithstanding the foregoing, please note that the ITA, as a foreign government agency with full diplomatic status and related immunities, reserves the right to unconditionally withdraw this invitation to bid and/or cancel the selection and award process for any reason and at any time without incurring any liability under any circumstances. By submitting a bid for this selection, the bidder expressly agrees to waive any and all claims, legal actions, and/or remedies based on law or equity it may have at the time the ICE Agency decides or is compelled to withdraw and thereby cancel the award of the procedure.

22. RULES OF CONDUCT OF THE LAW FIRM AND OF THE STAFF OF THE LAW FIRM

In the performance of the contract, the awarded law firm undertakes to fully comply with the Code of Conduct adopted by the ITA pursuant to Presidential Decree 62/2013 approved by the Board of Directors by Resolution No. 619/23 of 01/27/2023. The Code of Conduct and disciplinary procedures of the ICE Agency are available on the website www.ice.gov.it - in the section "Transparent Administration" - "General Provisions" - General Acts ".

For any breach of obligations under the Code, if the same is considered serious, the ICE Agency shall have the right to terminate the contract.

By signing the Contract the contracting party shall accept the terms defined in this document and pursuant to Article 76 of Presidential Decree 445/00, aware of the criminal liability it may incur in the event of false statements or statements containing untrue data, declares, pursuant to the provisions of Article 53, paragraph 16-ter, of Legislative Decree of 2001, No. 165, as amended and supplemented, that he/she has not conferred professional assignments or work activities to former public employees who have ceased employment with the ECI for less than three years who, in the last three years of service, have exercised authoritative or negotiating powers on behalf of the latter pursuant to Art. 53, paragraph 16-ter, of Legislative Decree 165/2001, as amended and supplemented.

If you have any questions, please contact: **Claudio Bertinetto**, Information, Investment and Startup Sector, ICE New York Agency, by e-mail at **newyork@ice.it**

Erica Di Giovancarlo
Director
ICE New York Office