

## **FINAL-TORs**

No. QCT-2021-22-00009

29/07/2021

### **Sub:-Appointment of Law Firm to facilitate APEDA in dealing with SPS notifications related to all commodities from WTO member countries.**

#### **A) Background:**

Agricultural and Processed Food Products Export Development Authority (APEDA), an autonomous organisation under Deptt. of Commerce, Ministry of Commerce & Industry, Govt. of India is mandated with the responsibility for promotion of agricultural and processed agricultural food products from India.

APEDA has been actively involved in agricultural trade facilitation and intends to improve market access for Indian agricultural products at international level. The process involves improving quality of produce and to achieve optimum shelf life resulting into increased quality exports of Indian agriculture products. It also requires addressing the issues of Sanitary and Phyto-Sanitary (SPS), Technical Barriers to Trade (TBT) which are currently resulting in poor market access and hampering exports. Therefore, APEDA wants to increase efficiency in addressing these issues and in view of that, APEDA intends to appoint law offices as legal consultant for APEDA to advise in the matters related to various SPS notifications related to all APEDA scheduled products released by WTO member countries.

Applications are invited from Law firms registered with relevant authorities for at least 10 years for engagement as technical and legal service for providing consultancy relating to WTO-SPS and associated matters for APEDA for a period of 3 (three) years.

Applications in sealed covers should reach GM (WTO) at the above address within 21 days till 1700 hrs. of appearance of this advertisement. The eligibility criteria, scope of work and other details available at our website: [www.apeda.gov.in](http://www.apeda.gov.in) under the icon - Announcements.

#### **B) Terms of Reference (TORs):**

1. Download all the SPS Notifications from the WTO website on a daily basis and identify SPS Notifications that are likely to have significant impact on Indian exports;
2. Disseminate the identified SPS Notifications to all domestic stakeholders, including the concerned Ministry, Commodity Boards, Export Promotion Councils, and industry body/associations or any other relevant organizations;
3. To upload the SPS notification on APEDA website;
4. The Law firm will forward a copy of the English translation of the actual notifications. For the purpose, they may obtain English translation from the Enquiry Points of EC, US, etc., if required;
5. Examine the comments received in (2) above and collate the same to prepare a comprehensive Indian response to the proposed measure and prepare a communication for APEDA to take up with the concerned WTO Member country with a copy to the concerned JS of territorial division in Department of Commerce.
6. List out possible trade restrictive issues that need to be raised with the Member notifying the draft measure;
7. Provide inputs which include both tariff and non-tariff details on market access issues as and when requested by APEDA;

8. Assist APEDA in responding to the notifications of the other countries by drafting responses;
9. Provide expert advice on various issues concerning the bilateral, multilateral and regional trade agreements;
10. Provide in depth analysis and advice on the existing and negotiated trade agreements taking into consideration Country's existing scenario;
11. Send a quarterly and monthly performance report/assessment report to APEDA and the Department of Commerce;
12. Any other relevant matter related to WTO-SPS not specified above;
13. Legal firm should have an established office in Delhi.

**C) Tenure of consultancy service:**

Three years on renewable basis, the engagement is further extendable subject to satisfactory performance.

**D) Eligibility Criterion:**

1. A registered individual legal/law consulting firm, with minimum ten years of experience of Legal Firm for providing consultancy services in the field of WTO issues to Government sectors. Consortia/tie-ups/Joint Ventures are not permitted;
2. The individual firm should be ISO certified firm and copy of the latest ISO certificate should be submitted;
3. The firm should have an average annual turnover of at least INR 3 crores (three crores only) during each of the last three years (2018-19, 2019-20, 2020-21). The turnover should include income from consultancy fee only;
4. The firm should have national / international experience in providing consultancy services in WTO - SPS/TBT matters for Exporters, Importers, International Trade House etc.;
5. The firm should have experience of Liaisoning with trade bodies / associations during the last 10 years;
6. Team leader and Senior Associates should have at least 10 years of working experience with Government, industry and stakeholders who are involved in SPS & TBT issues. Experience certificate from the previous organisation with whom similar activity was carried out;
7. Other team members should have at least five years working experience and dedicated team of at least five people who will work on SPS & TBT issues;
8. The firm should submit CV of the team leader and team members who will be associated in this work;
9. Team should have the capability to prepare background notes and points to be raised in any bilateral meeting/trade meeting negotiations that may happen due to SPS/TBT notifications;
10. Translation of WTO notifications, in English, wherever required;
11. A self-certified undertaking shall be submitted stating that they have never been blacklisted by any Government Department/Organisation and the same is applicable as on date.

Sr. No.	Eligibility Criterion	Does the applicant meet the criterion
1	A registered consulting firm with minimum 10 years of experience in providing consultancy services in the field of WTO-SPS/TBT related issues	
2	Copy of the ISO certificate	
3	Annual turnover of at least INR 3 crores (three crores only) during each of the last three years (2018-19, 2019-20, 2020-21).	

4	National/international experience in providing consultancy services in WTO-SPS/TBT for Governments	
5	National/international experience in liasoning with trade bodies / associations for Governments (National or State Governments)	
6	Dedicated team of at least five people, their names, qualification & experience who will work on SPS & TBT issues	
7	CV of the team leader and team members who will be associated in this work. The CV should mention the names of the organisations where similar activity has been carried out.	
8	Experience certificate from the previous organisation with whom similar activity was carried out.	
9	Team should have the capability to prepare background notes and points to be raised in any bilateral meeting that may happen due to SPS/TBT notifications	
10	Ability to provide translation of WTO notifications, in English, wherever required	

#### **E) Earnest Money Deposit (EMD)**

The firm should submit an EMD of INR Rs.1 lakh (Rs. One lakh only) in the form of Demand Draft. The EMD should be prepared in favour of APEDA, payable at New Delhi. The EMD will be refunded after the selection process is over. The demand draft should be from the Nationalized/Scheduled Bank. In case of successful applicant, the EMD shall be converted into performance guarantee (interest free) to be returned after the contract is over.

The agency qualifying the above criteria shall submit the bid in two separate covers as follows:

- **Cover A** –Technical bid: containing all documents supporting the eligibility criteria along with the approach, methodology, work plan and team structure & detailed CVs. It should include the following:
  - a) Turnover certificate (only fee) by a practicing Chartered Accountant for last 3 years. i.e., 2018-19, 2019-20 and 2020-21.
  - b) Authenticated copy of certificates of incorporation / registration of the organization
  - c) List of relevant services rendered during last three years with work order and completion certificates
  - d) Authenticated copy of GST registration certificate.
  - e) Copy of PAN Card
- **Cover B**- would include financial bid.
- These two sealed covers (A&B) should be kept under an outer envelope (cover) for sending to APEDA office.

#### **F) Selection Criterion:**

The proposal submitted by the consultant will be evaluated on the credential & experience of Law firm suitability of approach & methodology the team proposed. The financial bid of only those consultants would be opened who score minimum of 70% in the technical

evaluation phase. The consultant would be selected as Legal Consultant based on QCBS criteria. The final score would be calculated as follows:

**(a) For financial scores:**

$S_f = 100 \times F_m / F$ , in which  $S_f$  is the financial score,  $F_m$  is the lowest price and  $F$  the price of the proposal under consideration.

For final composite score:

The weightage given to the Technical and Financial Proposals are:

Technical weightage = 0.70

Financial weightage = 0.30

**(b) Total Technical Marks =70 marks**

**(i) Presentation by Firm through VC /Physical: (20 marks)**

S. No.	Name of the Firm	Parameter	Yard Stick (20)	Marks obtained
		Technical Proposal & Presentation by Firm	Work Plan, methodology and tools proposed for assessing various parameters under scope of work	
1				
2				
3				
4				

**(ii) Financial turnover** of the Legal firm during the last three years (2018-19, 2019-20 and 2020-21). 2 Marks for each one addition in turnover subject to maximum of 20 marks.

The marking criteria will be:

Year	Total turnover (Rs. In crore)	Marking criteria	Maximum Marks (20) to be filled by APEDA
2018-19		(a) Rs. 3.00 crore to Rs.8.00 crore = 10 marks proportionately (b) Rs.8.00 crore to Rs.13.00 crore= 10 Marks proportionately	
2019-20			
2020-21			

**(iii) Experience** of working with Government in WTO for SPS/TBT issues. One mark for each completed year of service of the firm subject to a maximum of 10 marks. Copies of relevant documents are to be enclosed.

**(iv) Award of appreciation** letter from Govt. body. Appreciation letter containing good and above shall be considered for marking. Each appreciation shall carry 2 marks subject to a maximum of 10 marks. Copies of relevant documents are to be enclosed.

**(v) Team leader experience-** Team leader's experience above 10 years shall be allotted one mark for each completed year subject to a maximum of 10 marks. Copies of relevant documents are to be enclosed.

#### **G) Force-Majeure**

If at any time, during the continuance of the contract, the performance in whole or in part, by the party, or any obligation under this is prevented or delayed, by reason of war, or hostility, acts of the public enemy, civic commotion, sabotage, Act of State or direction from Statutory Authority, explosion, epidemic, quarantine restriction, strikes and lockouts (as are not limited to the establishments and facilities of the contractor), fire, floods, natural calamities for any act of GOD (hereinafter referred to as EVENT), provided notice of happenings of any such EVENT is given by the affected party to the other, within 15 Calendar days from the date of occurrence thereof, the party shall, by reason of such event, be entitled to terminate the contract, nor shall the party have any such claims for damages against the other, in respect of such non-performance or delay in performance provided the contract shall be resumed as soon as practicable, after such EVENT comes to an end or ceases to exist. The decision of Chairman, APEDA as to whether the service may be so resumed (and the time frame within which the service may be resumed) or not, shall be final and conclusive, provided further that if the performance in whole or part of any obligation under this contract is prevented or delayed by reason of any such event for a period exceeding 30 days the party may, at his option terminate the contract.

#### **H) Arbitration**

All matters of dispute arising out of this shall be governed by Indian law and subject to Court jurisdiction in New Delhi only. Both the party shall make all effort to resolve any dispute by way of reconciliation. In the event of any question, dispute or difference arising under the agreement in connection therewith (except as to matters, the decision to which is specifically provided under this agreement) remains unresolved, the same shall be referred to sole arbitration to be appointed by the CHAIRMAN, APEDA and the decision given shall be binding on the parties. The provisions of Indian Arbitration & Conciliation Act 1996 shall apply on both the parties. The venue of the arbitration proceeding shall be the office of APEDA or such other place as the CHAIRMAN, APEDA may decide. Upon any and every reference as aforesaid, the assessment of costs and incidental expenses in the proceedings for the award shall be at the discretion of the CHAIRMAN, APEDA.

#### **I) Additional measures:**

- a) APEDA may extend the deadline for the submission of applications/bid documents at its discretion.
- b) Accept or reject any proposal at any time prior to award of contract/order, without assigning any reasons and without any liability on APEDA.
- c) Suspend the contract, cancel the contract with the selected party in part or in the whole at any time if in the opinion of the APEDA it is necessary or expedient in the public interest. The decision of the APEDA shall be final and binding in this regard. APEDA shall also not be responsible for any damage or loss caused or arise out of aforesaid action.
- d) Modify terms and conditions of the contract which shall be granted to the successful firm after the selection process, if in the opinion of the APEDA, it is necessary or expedient to do so in public interest or for proper implementation of the project. The decision of the APEDA shall be final and binding in this regard.
- e) For interpretation of any clause of this document, the decision of Chairman APEDA would be final and binding on both the parties i.e., bidder and APEDA.

**J) Payment schedule:**

The consultant needs to quote quarterly fee (inclusive of GST) for the work assigned above.

The last date for submission of Financial & Technical bid is .....

For further clarification please contact through email:

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General Manager (WTO)  
APEDA  
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August Kranti Marg, New Delhi-110 016India  
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Phone: 91-11-41486016

### Application format

S. No.	Particulars	Details
1.	Name of the Law Firm	
2.	Address	
3.	Name and contact details of the Partners	
4.	Approach & Methodology for activities required by APEDA	
5.	List of relevant services rendered during the last three financial years along with work order and completion certificate	
6.	Financial turnover of the Law Firm during last 3 financial years 2018-19 to 2020-21	
7.	Experience of the agency in undertaking the task of WTO for SPS/TBT issues	
8.	Award of appreciation letter from Govt. Deptt/Organisations	
9.	Experience of the team leader along with CVs of the team members	
10.	Details of EMD	
11.	Copies of GST registration, PAN card, Firm incorporation/ Registration certificate	
12.	Self-certified undertaking stating that they have never been blacklisted by any Government Department/ Organisation and the same is applicable as on date	

Date:

(Signature of the Authorized  
Signatory with Company Seal)