

**NOTICE INVITING APPLICATIONS FOR EMPANELMENT OF
ADVOCATES/LAW FIRMS**

**REQUIREMENT OF ADVOCATES/LAW FIRMS FOR EMPANELMENT
TO REPRESENT APEDA BEFORE VARIOUS COURTS**

The Agricultural and Processed Food Products Export Development Authority (APEDA), an export promotion organization was established by the Government of India under the Agricultural and Processed Food Products Export Development Authority Act of the Parliament in December, 1985.

APEDA intends to make a panel of advocate/law firms for attending to the legal cases of APEDA for following fields:

1. Trade Related issues
2. Issues related to Establishment/service matters
3. Issues related to financial matters

The Law firms and practicing advocates who are registered with Bar Council of India /State Bar Council are eligible for empanelment. The Qualification, Experience, Schedule of Fees, Other Terms and Conditions and the application format in which the application has to be made, have been prescribed and are as given below.

The Advocates/ Law Firms who are on the existing panel of APEDA shall cease to be on the panel of APEDA after new panel is finalized against this notice. Therefore, they are also required to apply afresh to this notice.

Eligible Law Firms and practicing advocates may send their applications in the format prescribed in *Annexure "A"* enclosed herewith along with all supporting documents (scanned) for the field they are interested to the email id : vkvidyarthi@apeda.gov.in

The hard copy of the Application may also be forwarded to the below mentioned address:

General Manager (P&A)
APEDA
3rd Floor, NCUI Building
Opp. Asiad Village, August Kranti Marg
New Delhi – 110016

The last date of receiving Applications in the prescribed format along with supporting documents is **10th March 2017**.

Note: Applying for empanelment at APEDA does not confer any right/assurance whatsoever that they will be empanelled on the panel of APEDA. Letters to advocates confirming their empanelment will be issued by APEDA separately.

GUIDELINES FOR EMPANELMENT OF ADVOCATES/ LAW FIRMS

Following guidelines are to provide and regulate the manner and procedure for empanelling the advocates to represent and assist the APEDA before various courts and for regulating the referrals of the cases and payment of fee/remuneration payable to such persons. These guidelines shall supersede all existing instructions in this regard, if any.

Definitions

For the purposes of these Guidelines, the terms used will have the following meaning;

- (i) 'Advocate' means an advocate, entered in any roll of advocates under the provisions of The Advocates Act, 1961.(The Act)
- (ii) 'Competent Authority' shall be Chairman APEDA or any other officer so designated by Chairman APEDA.
- (iii) 'Court' shall mean all courts of law including District Courts all over India, any High Court, Supreme Court, Tribunals, Judicial Forums and Arbitrators etc.
- (iv) 'Effective Hearing' shall mean a hearing in which either one or both parties involved in a case are heard by the Courts / arguments were advanced by the Counsel of any of the parties, Examination-in-chief, cross examination is conducted, issues/charges has been framed and statement, Miscellaneous proceedings.

(v) 'Non-effective Hearing' shall mean all hearings which are not covered in the above definition of effective hearing.

(vi) 'Similar Cases' shall mean two or more cases in which identical or substantially similar questions of law or facts are involved.

1) Eligibility of Empanelment

(i) The Advocates/ Firms to be taken on panel should be capable of handling matters before district, High Court and Supreme Court of India on the basis of criteria laid down below.

(ii) There would not be any court specific empanelment however, while referring cases to Advocates the following would be the criterion for such referrals. The empanelment request is being considered from individual lawyers or lawyers as part of the firm with at least 7 years experience for the tribunals and High Court while the Supreme Court would be considered for more than 15 years.

Provided that the Competent Authority may relax the above conditions at its discretion, if otherwise found eligible in certain cases.

2) Tenure of Empanelment

The initial empanelment will be for two years or until further orders whichever is earlier. Performance of empanelled advocates shall be reviewed on annual basis. However, on completion of the term and satisfactory performance of the advocate, the empanelment may be renewed for a period of another two years by the APEDA. The APEDA reserves the right to terminate the empanelment of any advocate at any time without assigning any reason thereof.

3) General Terms and Conditions

(i) The Advocates shall be engaged only in cases where APEDA is a necessary party.

(ii) Proforma matters:- where the APEDA is a proforma party in matters pending before any court, the same may be taken care of by the officers of the APEDA. However, the Advocates may be engaged if deemed necessary in exceptional cases by the Competent Authority.

(iv) The advocate shall not necessarily be empanelled for any specific court and shall accept the work assigned to him for the courts for which he is basically designated on the basis of minimum eligibility conditions for such referrals and shall not refuse to accept any work without any reasonable cause.

(v) Refusal by any advocate to accept any work without any reasonable cause (e.g. on grounds of conflict of interest) may entail removal of such advocate from the panel.

(vi) The empanelled Advocates will not delegate cases and would themselves deal with the same. They may have to coordinate and work with designated Senior Advocates, if any, engaged in the case as well as with the officers of the APEDA, if required.

(vii) The Advocates empanelled under these guidelines shall not be employees of APEDA for any purpose and therefore, shall not be eligible for any benefits available to its employees.

(viii) The empanelled Advocate shall maintain absolute secrecy and confidentiality about the cases of the APEDA as required under the Act and rules/regulations framed there under.

(ix) The advocates shall accept the terms and conditions of the empanelment as determined by the APEDA from time to time.

(x) These guidelines shall also be applicable to the designated Senior Advocates of the High Courts and Supreme Court for all purposes except the requirement of empanelment.

(xi) In case of empanelment of Law Firms, all the terms and conditions for empanelment of the individual Advocates shall apply *mutatis mutandis* to them.

(xii) If required and considered appropriate by the Competent Authority, Attorney General of India/Solicitor-General of India/Additional Solicitor General/Advocate General/Designated Senior Advocates may be engaged to argue the cases on behalf of the APEDA keeping in view the urgency and importance of a particular matter. They shall be engaged on case to case basis with the approval of the Competent Authority. Engagement of Sr. Advocates etc. and their fees for such cases may be approved and decided by the competent authority on the merits of each case.

4) Payment of Fee and Other Conditions

(i) The fee payable to the Advocates shall be governed by the **Schedule** of fee annexed as **Annexure "C"** which is based on the basis of the fees of the Central Government Counsels notified by

Ministry of Law & Justice, Department of Legal Affairs, Judicial Section.

(ii) The Competent Authority shall have the right in exceptional cases to approve the payment of a higher fee than the fee mentioned in the annexed schedule keeping in view the importance of the matter and the labour and efforts put in by the advocate in a particular case. It shall also have the power to fix the fee for eventualities which have not been mentioned in the schedule till the appropriate amendment is made in this regard in the Fee Schedule by the APEDA.

(iii) No retainer fee shall be paid to any panel Advocate/law firm merely because such advocate/firm has been empanelled.

6) Documents required to be submitted by the Advocate

The Advocates will be required to submit their Applications in the prescribed format as given in **Annexure-A**. The attested copies of the following documents are required to be submitted with application:

- (i) Certificates in support of educational qualifications
- (ii) Certificate of Registration with Bar Council

7) Communication of Empanelment

After a decision to empanel the advocate is taken, a communication in writing to this effect shall be sent to the shortlisted Advocates/Firms as per **Annexure-B** with acknowledgement and acceptance due. The process of empanelment shall be complete when APEDA receives an acceptance letter from the advocate.

8) Private Practice and Restrictions

- (i) An advocate shall have the right to private practice which should not, however, interfere with or be in conflict with the efficient discharge of his duties as an empanelled advocate of the APEDA.
- (ii) An advocate shall not advise any party or accept any case against APEDA.

9) Disablements

Disablement on the part of the Advocate shall mean and include any of the following:

- (i) Giving false information in the application for empanelment;
- (ii) Handing over the brief or matter to another advocate without prior written permission of the APEDA;
- (iii) Failing to attend the hearing of the case without any sufficient reason and/or prior information;
- (iv) Not acting as per APEDA's instructions or going against specific instructions;
- (v) Not returning the brief when demanded or not allowing or evading to allow its inspection on demand;
- (vi) Misappropriation of the APEDA's funds or earmarking, using the same towards his fee without APEDA's permission.
- (vii) Threatening, intimidating or abusing any of the APEDA's employees, officers, or representatives;
- (viii) Making any of his associates or juniors to appear on behalf of any of the opposite parties in cases/appeal related to APEDA;
- (ix) Committing an act that tantamount to contempt of court or professional misconduct;
- (x) Conviction of the Advocate in any offence resulting into arrest or detention or disbarment by the Bar Council;
- (ix) Passing on information relating to APEDA's case on to the opposite parties or their advocates or any third party which is likely to cause any damage to the APEDA's interests;
- (x) Giving false or misleading information to the APEDA relating to the proceedings of the case; and
- (xi) Seeking frequent adjournments or not objecting the adjournment moved by other party without sufficient reason.

Empanelment shall be liable to be cancelled due to occurring of any of the above disablements on the part of the Advocate.

10) Doubt/ Difficulty

If there arises any doubt/difficulty with respect to the implementation/interpretation of any clause of these guidelines, the same shall be placed before Chairman, APEDA and his decision in this regard shall be final and binding.

ANNEXURE 'A'

FORMAT OF APPLICATION FOR ADVOCATES

- 1) Name
- 2) Date of birth
- 3) Educational qualifications:
- 4) Date of Enrolment,

Name of Bar Council

(Copy of enrolment certificate must be attached)

- 5) Period of practice
- 6) Details of Experience/practice /achievements
 - a. Experience in Govt. Organisation/Supreme Court/
High Court/Lower Court
 - b. Achievements, if any

7) Date of enrollment as an Advocate – on – Record(AOR) of the Supreme Court and Registration No.

8) PAN number

9) Office Address:

10) Residence Address:

11) Contact Number:

12) E- Mail:

13) Categories of field for which application is made (Please tick (√) mark)

a. Trade related issues ()

b. Issues related to Establishment/service matters ()

c. Issues related to financial matters ()

A brief note on suitability for empanelment. *(details of major cases dealt/contested by the advocate successfully)*

- i)** I declare that I have never been penalized by any bar council in any Disciplinary Proceedings.
- ii)** I also undertake to maintain absolute secrecy about the cases of the APEDA as required under the Act, Rules and Regulations there under.
- iii)** I agree with the Fee Schedule notified by APEDA.

Signature of Advocate
Address (office
&residence/chamber)
Tel. No./Mobile No.
Fax No./ Email ID

ANNEXURE 'B'

To,

Mr -----, Advocate

Dear Sir,

Sub: Empanelment as APEDA's Advocate

This is with reference to your application dated ----- wherein you have evinced interest for empanelment as an advocate with the APEDA. We are pleased to inform that your request has been considered favourably and you are advised to give your assent for empanelment on following terms and conditions (A copy of guidelines enclosed):

1. You will abide by APEDA's terms and conditions as enumerated in the Guidelines for such empanelment.
2. Your fees would be strictly governed by the APEDA fee schedule for Panel Advocates as amended from time to time and you will not claim any retainer fee or employment in APEDA's service.
3. You will not accept any case against the APEDA.
4. You will take necessary steps to protect the interest of the APEDA in matters entrusted to you from

time to time.
5. Empanelment does not confer any right or claim that you alone should be entrusted with the APEDA's work.
6. You will personally deal with the case assigned to you in addition to coordinating and working with designated Senior Advocate, if any, engaged in some matter.
7. On unsatisfactory performance in any assigned matter, APEDA may at

any time, at its discretion, withdraw from you such proceedings/matter/ brief and may discontinue you as APEDA's advocate without paying any further fees.

8. You will keep APEDA informed about the developments in the matters entrusted to you.
9. Unless a case is specially assigned to you by the APEDA, you will not on your own receive Summons / Notices of the APEDA's matters and even if you receive, if no Vakalatnama is given to you, you shall not otherwise deal with such cases. However, you will immediately inform APEDA in this regard.
10. You shall not use APEDA's name or symbol, logo in your letter heads, sign boards name plates etc.
11. In case of any misconduct, the APEDA will take appropriate action against you which includes filing complaint with Bar Council and recovery of financial loss caused to the APEDA due to your misconduct.
12. In case of initiation of any disciplinary proceedings/ criminal proceedings against you, the APEDA may remove you from the panel even without waiting for the conclusion of such proceedings.
13. Your performance will be reviewed on yearly basis and if your services are not required/ found upto the mark, APEDA may remove you from panel and the cases/matters entrusted to you will be taken back from you.
14. You are required to maintain absolute secrecy about the cases of the APEDA as required under the Act, relevant rules and regulations and you shall not divulge any details to an outsider or opponent as the case may be without written consent of the APEDA.
15. You are requested to return the duly signed duplicate copy of this letter indicating your unconditional consent.

We look forward for better cooperation and hope for good relations with you.

Yours faithfully

(Authorized Signatory)

Annexure C

Fee Structure of Panel of Legal Counsels of APEDA.

The Legal Counsels will be engaged as per requirement. Payment of Fees will be made on the basis of fees of Central Govt. Counsels notified by the Ministry of Law & Justice, Department of Legal Affairs, Judicial Section, Government of India from time to time. The present fees based on Office Memorandum No. 26(1)/2014/judl. dated 1st October, 2015 of the Ministry of Law & Justice is as under:

A) High Court

Sl. No.	Item of work	Fees
1	Suits, Writ Petitions and Appeals, including oral Applications for Leave to Appeal to Supreme Court in Writ Petitions.	Rs. 9000/- per case per day of effective hearing in case of non-effective hearing Rs. 1500/- per day subject to maximum of 5 hearing
2	Application for Leave to Appeal to Supreme Court in Writ Petitions-	Rs. 3000/- per case
3	Settling pleadings	Rs. 3000/- per case
4	Miscellaneous Application	Rs. 3000/- per case
5	Conference	900/- per conference subject to:- (i) for setting pleadings- one conference. (ii) In respect of hearing of Writ matters. Suits. appeals and Supreme courts leave applications etc- Three conference

		[Maximum]
6	Miscellaneous and out of pocket expenses	As per actual to the satisfaction of APEDA.

B. Counsel In Supreme Court:-

Sl. No.	Item of work	Fees
1	All Regular Appeals and defended Writ Petitions (for final hearing)	Rs. 9000/- per case per day
2	All defended Admission matters (SLP/TP and writ petitions & other rnisc. matters for admission)	Rs. 4500/-per case per day
3	Drafting SLP/Counter Affidavit/ Rejoinder etc.	Rs. 1500/- per case
4	Drawing Written Submission	Rs. 3000/- per case
5	Drafting of Appearance in Miscellaneous Applications (including mentioning of the case/Caveat/Clearance/obtaining the number and taking date for hearing	Rs. 3000/- per case

C) Counsel in the District and Subordinate Courts:-

Sl. No.	Item of work	Revised fee
1.	Fee for effective hearing	Rs. 1800 per dav
2.	Fee for non-effective hearing	Rs. 600 per day (not more than 5 such hearings in a case)
3.	Fee for drafting Written Statement, Grounds of Appeal etc.	Rs. 1500 per pleading
4.	Fee for drafting other pleadings of misc. nature misc. nature	Rs. 600 per pleading
5.	Fee per Conference	Rs. 900 (subject to maximum of 5 such conferences in a case / group of identical cases)
6.	Daily fee for out of Headquarters	Rs.2700 per day
7.	Conveyance charges for local journey outside Headquarters	Rs. 900 [lump sum]
8.	Expenses for stay in hotels	Rs. 1800 per day
9.	Clerkage	@ 10% of total fee excluding of miscellaneous and out of pocket expenses (maximum Rs. 5250 in a case)

10.	Fee for identical Cases	Full fee in the 1st case and Rs. 750 in per suit for connected cases (max. 3 cases)
11.	Miscellaneous and out of pocket expenses	As per actual subject to the satisfaction of APEDA.

Note: Apart from the rates mentioned above for different heads, if any head has been left out the rates would be applicable as per the rates notified by Ministry of Law & Justice, Department of Legal Affairs, Judicial Section, Government of India from time to time.