

Inviting bids from Firms/Agency(ies) (preferably law firms) to facilitate APEDA and EIC in handling SPS and TBT notifications from WTO member countries on Agricultural Products

1. Introduction:

1.1 Agricultural and Processed Food Products Export Development Authority (APEDA) and Export Inspection Council (EIC) are autonomous organizations under Department of Commerce (DoC), Ministry of Commerce & Industry, Government of India. The APEDA is mandated with the responsibility for promotion of exports of agricultural and processed food products from India and the EIC is mandated for certification of quality and food safety of the products meant for export from India.

1.2 APEDA has been actively involved in agricultural trade facilitation and facilitation for market access of Indian agricultural & food products at international level to expand export destinations. EIC is a certification body of India which ensures quality and safety of products exported from India. It also requires addressing Sanitary and Phyto-Sanitary (SPS), Technical Barriers to Trade (TBT) issues which may affect the prospects of Market access.

1.3 Continued compliance to the requirements of importing countries under a dynamic SPS TBT regime needs continuous monitoring of their regulatory regime and based on the changes in the form of additional requirements/compliances, development of an appropriate action plan to tackle the same so that there is no/minimal impact on our exports of those commodities.

1.4 To increase efficiency in addressing these issues jointly, APEDA and EIC wishes to appoint a Firm/ Agency, as consultant for monitoring and review of SPS/TBT Notifications by WTO Member countries for the Agri & food products and to advise APEDA and the EIC appropriately.

2. About the Assignment:

Bids are invited from Firms/Agencies (preferably law firms) to facilitate APEDA and EIC in dealing with SPS and TBT notifications from WTO member countries.

3. Eligibility for Submission of Bids

3.1 Interested Firms/Agency (preferably law firms), which are in existence for the last five financial years or more, and meeting the following qualifying criteria, having desired experience and expertise in execution of similar work at similar platforms may participate in the bid process.

3.2 The applicant agency must be well versed with the WTO norms, SPS and TBT measures, its implications on international trade and India's exports, foreign trade etc.

4. Scope of Work

4.1 The Firm/Agency shall carryout the following activities:

- (i) Download all the SPS-TBT Notifications from the WTO website on a daily basis, categorize and identify SPS-TBT Notifications relevant to India, and shall forward the relevant notification, along with non-legal summary of the relevant notification, to the relevant stakeholders. (copy of stakeholders will be shared by APEDA/EIC/DoC). In case the relevant notification is not in english language, the agency is expected to do the English translation from freely available resources and share with relevant stakeholders.
- (ii) Segregate the SPS-TBT notifications, sector wise (fresh fruits and vegetables, products of animal origin, , cereals, processed foods, marine products, pharmaceuticals, chemicals etc.);
- (iii) Categorize and identify the SPS-TBT notifications in accordance to the priority based on factors like (a) export/import data of India¹ regarding the concerned product to/from the notifying country for a minimum of immediate last five years, (b) the import/export data² of the said notifying country for the concerned product for a minimum of immediate last five years, (c) any other parameter considered important.
- (iv) Prepare a non-legal summary of the regulation notified;
- (v) The aforesaid summary must be circulated in advance of the monthly Core Committee meetings for inputs/ comments of line Ministries/Departments/Organizations. The inputs received are required to be collated and incorporated in the summary ("Summary").

¹ Export/Import Data pertaining to India must be collected from Government of India sources like DGCIS, DOC, etc.

² Export/Import Data pertaining to notifying country must be collected from internationally recognized sources like ITC trade map, UNCOMTRADE or official government website of the concerned country.

- (vi)** Prepare weekly report of all SPS and TBT Notifications and submit to Department of Commerce (DoC)/APEDA/EIC on every Monday. The report should include the following:
- Products to be affected by the notification along with six-digit HS Code.
 - Summary of the official documents in the notification clearly assessing the content
 - Impact of the notification on India's foreign trade and
 - List of stakeholders that are likely to be affected
 - Proposed action to be undertaken along with indication of responsible agencies
- (vii)** In case of emergency notifications or top priority notifications, the same shall be informed immediately to DoC/APEDA/EIC and concerned stakeholders with the aforementioned summary and proposed action.
- (viii)** Disseminate the identified SPS-TBT Notifications along with analysis to all domestic stakeholders, including the concerned Ministry/Department, Territorial and Commodity Divisions of DoC, Commodity Boards (Coffee Board, Rubber Board, Tea Board, Spices Board, Tobacco Board etc.), Export Promotion Councils, and Industry body/ associations or any other relevant organization and seek their comments.
- (ix)** Examine the comments received in (8) above in terms of their usefulness, collate the same and present in the monthly review meetings. In case no comments are received the same may be reported during the monthly review meetings.
- (x)** Prepare a comprehensive response from India which includes international standards/ practices, etc regarding the proposed measure that need to be raised with the Member notifying the draft measure well within the comment period;
- (xi)** Examine the response of the notifying country to the question raised by India and propose additional issues that could be raised by India;
- (xii)** Provide statement for the possible Specific Trade Concerns (STCs) that could be raised against Member Country in the SPS and/or TBT Committee.
- (xiii)** Prepare comprehensive database/records containing information on notifications, issues raised by India, response of the notifying country and follow-up questions raised by India;
- (xiv)** Develop a Standard Operating Procedure (SOP) on monitoring of notification and give a detailed presentation during the meeting of Core Committee. The

presentation should identify the total number of notifications examined country-wise, highlighting the important notification with issues involved and the product affected and suggest a course of action based on internationally best practices.

- (xv) Provide expert advice (covering both legal and non-legal aspects) on SPS and TBT related issues in the existing or proposed bilateral and multilateral trade agreements, as and when required. This should include the problem statement, concerns, possible solutions, which can include the international best practices among other things.
- (xvi) Send a quarterly and monthly performance report/assessment report with concise summaries to DOC/APEDA/EIC.
- (xvii) Submit the composition of their core team within 15 days of issuing of work order, and inform DoC, APEDA and EIC about any subsequent change in the core team within 15 days of any such change; and
- (xviii) Provide detailed analysis including both legal and non-legal aspects on the upcoming regulations of countries like EU, USA, among others.
- (xix) Any other relevant matter related to WTO, SPS-TBT, work/activity not specified above but considered necessary for the effective implementation of the assignment, shall be considered as part of the scope of work.

5. Eligibility Criteria:

- (i) The Firm/Agency should have an established physical office in Delhi.
- (ii) The Firm/Agency should have minimum three years of experience in providing consultancy services in the field of WTO, Foreign trade, SPS/TBT and/or Agricultural exports related issues for Government, Exporters, Importers, International Trade House, etc.;
- (iii) The Firm/Agency should have national/ international experience in providing consultancy services in WTO, SPS-TBT matters for Government, Exporters, Importers, International Trade House, etc.;
- (iv) Consortia/tie-ups/Joint Ventures are not permitted.
- (v) The Firm/Agency should have an annual income from professional services income of at least INR 50,00,000/- (Fifty Lakh Only) per year during last 3 years.
- (vi) Team leader and Senior Associates should have at least 5 years working experience with Government, Industry and stakeholders etc. who are involved in SPS & TBT

issues.

- (vii) There should be a **dedicated core team** of at least five members who will work on SPS & TBT issues and each member should have at least 3 years' experience (Team leader and Senior Associates should have 5 years' experience working experience with Government, Industry and stakeholders etc. involved in SPS & TBT issues.). The dedicated team must have a minimum of two members with legal background, at least one each with technical background of SPS and TBT agreements and a trade analyst.
- (viii) The Firm/Agency shall submit CVs of the team leader and members part of the Core Team.
- (ix) Core Team shall have the capability to execute the scope of work.
- (x) Any Firm/Agency which has been barred / blacklisted by Government of India/ any State Government/ Government agency would not be eligible. An undertaking stating the same must be submitted.

6. Tenure of Engagement

The work awarded will be valid initially for One (1) year, and can be subsequently renewed on annual basis based on satisfactory performance evaluated from time to time, however, not beyond 3 years, in total.

7. Termination of Contract

- 1) The contract can be terminated by either party by giving one-month prior notice.
- 2) The contract can be terminated by APEDA/EIC:
 - a) in case the work submitted by Firm/Agency is not as per the scope of work,
 - b) in case the Firm/Agency submits the reports with unreasonable delay;
 - c) in case the work rendered is not satisfactory in view of APEDA/EIC; and
 - d) in case the Firm/Agency denies to perform the duty as per the scope of work.

8. Terms and Conditions

- (1) It shall be the sole responsibility of the Firm/Agency to ensure all activities undertaken by them are as per the scope of work and agreed terms and conditions. The Firm/Agency shall carry out its obligations with all due diligence, efficiency in accordance with generally accepted professional techniques and practices, and shall observe sound management practices.
- (2) **Core Team-** The Firm/ Agency shall set up a core team having competence in the field of WTO, Foreign trade and Agri exports, under the supervision of

Team leader. The Team Leader/ Senior Associate would ensure quality output of the deliverables. The composition of the core team of the Firm/Agency must be conveyed to DoC, APEDA and EIC within 15 days of issuing of work order. Any subsequent change in the Core Team shall be communicated within 15 days of any such change.

- (3) Periodic review of the deliverables-** DoC/APEDA/EIC shall conduct review of the performance/ deliverables from time to time. The observations communicated by DoC/APEDA/EIC from time to time to the Firm/Agency are required to be incorporated in the deliverables.
- (4) Confidentiality:** Firm/Agency shall ensure that its experts and the Personnel appointed for the work, during the term of this assignment, shall not disclose any proprietary or confidential information relating to the work.
- (5) Conflict of Interest:** Firm/Agency shall submit an undertaking to the effect that neither the Agency nor their external experts nor the Personnel associated in the assignment shall engage, either directly or indirectly, during the term of this work, any business or professional activities which would conflict with the activities assigned to them under this assignment.
- (6) Availability of the Senior experts & Core team:** The Firm/Agency shall submit an undertaking regarding availability of their Lead and Senior Experts as well as Core team as and when required for disposal of urgent matters, accompanying as expert in Ministerial meetings, providing inputs at a short notice etc.
- (7) Documents prepared by the Firm/ Agency shall be the Property of DoC/ APEDA/ EIC:** Consultation Paper/ Reports, other documents submitted by the Firm/Agency pursuant to this assignment shall become and remain the property of the DoC/APEDA/EIC, and the Firm/Agency shall, not later than upon termination or expiration of this work, deliver all such documents to DoC/APEDA/EIC, together with a detailed inventory thereof. The entire database and applications developed, maintained and hosted shall be the assets of the DoC/APEDA/EIC and shall be handed over to the DoC/APEDA/EIC on expiry /termination of the Agreement.
- (8) Access to the database** shall be made available at all times to DoC, APEDA and EIC.: There will be a Joint Committee comprising of Department of Commerce, APEDA and EIC for the purpose of implementation of this contract.
- (9) The Joint Committee reserves the right to the following:**

- (i) Cancel the contract with the selected party in part or in the whole at any time if in the opinion of the Joint Committee, the deliverables are not in line with the expected output.
- (ii) The decision of the Joint Committee shall be final and binding in this regard. Joint Committee shall not be responsible for any damage or loss caused or arises out of aforesaid action.
- (iii) Modify terms and conditions of the contract, if in the opinion of the Joint Committee, it is necessary or expedient to do so in public interest or for proper implementation of the assignment. The decision of the Joint Committee shall be final and binding in this regard.
- (iv) For interpretation of any clause of this document, the decision of the Joint Committee would be final and binding on both the parties.

9. 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 parties shall make all efforts 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 arbitrator to be appointed by the Delhi International Arbitration Centre, Delhi High Court 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/EIC or such other place as Joint Committee may decide.

10. Terms of Payment:

The payment shall be released on Quarterly basis.

11. PERFORMANCE ASSURANCE:

If performance of the agency is not up to the mark or is less in any of the deliverances/the measurable output is less than envisaged as per scope of work, then a part of the total bid value will be retained by APEDA, proportionately to the extent of performance, at the time of payment. Decision of APEDA shall be final in this regard.

12. Earnest Money Deposit (EMD): The Firm/ Agency should submit an EMD of Rs.1,00,000/- (Rupees One Lakh Only) in the form of Demand Draft. The EMD should be prepared in favour of APEDA, payable at New Delhi. The EMD to the unsuccessful bidders will be refunded after the selection process is over. The demand draft should be from the Nationalized/Scheduled Bank.

13. Selection Procedure:

- (1) The selection procedure involves pre-bid meeting, evaluation of bid documents received, making presentation by the bidders before the selection committee and on the basis of marks of documents and presentation, opening of financial bids to prepare a score-sheet of bidders.
- (2) Pre-Bid Meeting will be held on the **11th September 2024 at 12.00 Noon at APEDA**, New Delhi and the minutes of the pre bid meeting shall be posted on APEDA website. The bidders are advised to wait for minutes of pre bid meeting for submission of their bid.
- (3) **Evaluation of Bids:**
 - (i) A Committee in APEDA will carry out a screening of the documents received and shortlist the bidder agencies fulfilling the prescribed eligibility criteria. The short-listed agencies will have to make a technical presentation before the selection committee.
 - (ii) The evaluation of bids will be made in two stages – first, Technical evaluation which will be followed by opening of Financial bid.
 - (iii) For technical evaluation of bids, a presentation will be held, on the date and time specified by APEDA, before the Selection Committee in the presence of the bidders or their authorized representatives.
 - (iv) The marks at the presentation will be awarded for the approach, methodology, work plan and team structure & detailed CVs. It should include the following as following:

S. No.	Areas	Maximum marks
(i)	Modus operandi for forwarding of notifications, their categorization, preparing of summaries and Briefs, submission of reports on weekly basis for monitoring by DoC, highlighting emergency notifications, examining the comments and their presentation during weekly meetings, preparing official response from India and watching further reactions thereto, Specific Trade Concerns, SOP for monitoring of notification and their presentation, Advisory functions,	40
(ii)	Strength of legal advisors with the firm and their experience (indicate their name, and area(s) of specialization) (a) 5 years to 10 years5 Marks (b) 10 years and more..... 10 marks	10

(iii)	<p>Composition of Core Team</p> <p>(a) No. of Members</p> <p>(b) Name, specialization and Experience of Team Leader</p> <p>(c) Name, specialization and Experience of Senior Associates/ Associates</p>	10				
(iv)	<p>Annual professional fee earned by the firm during last three years The income shall be in the name of applicant firm only and not that in the name of group/ sister organizations, even if in legal profession.</p> <p>Breakup of marks is given below:</p> <table border="1" data-bbox="391 632 1300 716"> <tr> <td>a. Rs. 50.00 Lakh to Rs. 1.00 crore p.a.</td> <td>3 marks</td> </tr> <tr> <td>b. Above Rs.1.00 crore p.a.</td> <td>5 marks</td> </tr> </table>	a. Rs. 50.00 Lakh to Rs. 1.00 crore p.a.	3 marks	b. Above Rs.1.00 crore p.a.	5 marks	5
a. Rs. 50.00 Lakh to Rs. 1.00 crore p.a.	3 marks					
b. Above Rs.1.00 crore p.a.	5 marks					
(v)	<p>Experience of advising on legal matters related to foreign trade issues Breakup of marks is given below:</p> <table border="1" data-bbox="391 884 1300 968"> <tr> <td>a. 3 to 5years</td> <td>3 marks</td> </tr> <tr> <td>b. more than 5 years</td> <td>5 marks</td> </tr> </table>	a. 3 to 5years	3 marks	b. more than 5 years	5 marks	5
a. 3 to 5years	3 marks					
b. more than 5 years	5 marks					

(v) The marking will be done on all the presentations. The bidders who secure minimum 70% marks (49 out of 70 marks) in technical presentations, will be short listed and only their financial bids shall then be opened. Financial bid shall carry a maximum of 30 marks.

(vi) The selection shall be made on Quality and Cost Based Selection (QCBS) method. The marking on Financial Bids, under QCBS method, will be as per the following criterion:

L1 = 30 marks

$L2 = 30 \times \frac{L1(\text{the cost quoted by L1})}{L2(\text{the cost quoted by L2})}$ and in similar fashion for L3, L4 etc. (depending on no. of parties).

(vii) After the marks on financial bids are calculated, the marks of technical presentation and financial bids will be added up and the bidder scoring highest aggregate marks will stand selected.

- (viii) Selection Committee reserves the right to withdraw the announcement, accept or reject any or all the bids at any time prior to award of contract/order, without assigning any reasons and without incurrance of any liability on APEDA. APEDA also reserves the right to negotiate the prices with the selected agencies to bring down the prices or add more facilities.

14. Procedure for submitting Application

The firm/agency qualifying the eligibility criteria shall submit the bid in two separate covers as follows:

Cover A –Technical bid: It shall include:

- (i) Annexure-1 duly filled in along with documents in support of the eligibility criteria specifying the approach, methodology, work plan, team structure & detailed CVs of Team Leader and Associates.
- (ii) Annexure-3: Certificate of annual income (only fee) by a practicing Chartered Accountant with UDIN for the last 3 years. i.e., 2021-22, 2022-23 and 2023-24.
- (iii) Authenticated copy of certificate of incorporation / registration of the firm
- (iv) List of relevant services rendered during last three years with supporting documentary evidence.
- (v) Authenticated copy of GST registration certificate.
- (vi) Copy of PAN Card
- (vii) Annexure-4: Declaration of Not Black Listed

Cover B - Financial bid (Annexure-2)

15. **Last Date for submitting Application:** These two sealed covers (A & B) should be kept in an outer sealed envelope (cover) titled as '**Bids from Firms/ Agencies (preferably Law Firms) to facilitate APEDA and EIC in handling SPS and TBT notifications from WTO member countries**' and should reach the General Manager (WTO) Agricultural and Processed Food Products Export Development Authority (APEDA), 3rd Floor, NCUI Building, 3 Siri Institutional Area, August Kranti Marg, New Delhi-110016 **latest by 24th September 2024 till 1700 hrs.**

APPLICATION FORM

S. No.	Particulars	Details	
1.	Name of the Law Firm/Agency		
2.	Address, email and phone number		
3.	Name and Designation of the Authorized Signatory with email and mobile no.		
4.	Approach & Methodology to be adopted for the scope of work and deliverables (Please attach a separate sheet- Annexure-A)		
5.	List of relevant services rendered during the last three financial years along with work order and completion certificate Please attach a separate sheet- Annexure-B)		
6.	Financial income of the Firm/ Agency, during last 3 financial years 2021-22, 2022-23 and 2023-24	Year	Income
		2021-22	
		2022-23	
		2023-24	
7.	Experience of the firm/ agency in undertaking the task of WTO for SPS- TBT issues, Foreign trade and Agri exports (Please attach a separate sheet- Annexure-C)		
8.	Composition of Core Team including Team Leader/ Senior Associate		
9.	Experience of the team leader along with CVs of the team members (Please attach a separate sheet- Annexure-D)		
10.	Copies of GST registration, PAN card, Firm incorporation/ Registration certificate etc.		
11.	Details of EMD of Rs.1,00,000/- (Rupees One Lakh Only) in the form of Demand Draft		

Date

:

(Signature of the Authorized Signatory)

Seal of the Firm

Annexure-2

'Bids from Firms/ Agencies (preferably Law Firms) to facilitate APEDA and EIC in handling SPS and TBT notifications from WTO member countries'

FINANCIAL BID

Note: The Firm is requested to quote quarterly fee (inclusive of GST) for the work assigned.

Sr. No.	Activity	Amount in Rs.
1	Professional Fee for the Scope of Work mentioned in the bid document	
2	Amount of Applicable taxes	
3	Total Amount (with taxes)	

Total Amount in words: Rupees

Signature of Authorised Signatory

Seal of the firm

Date:

Place:

Annexure-3

'Bids from Firms/ Agencies (preferably Law Firms) to facilitate APEDA and EIC in handling SPS and TBT notifications from WTO member countries'

Proforma for CA Certificate

I/We, Proprietor / Partner / Director of _____ (Name of CA Firm) do hereby confirm that M/s. _____ (Bidder), a Proprietorship / Partnership / Company having its registered office at _____, having PAN No. _____ and GST No. _____ which is valid from _____ (copy attached) and hereby declare and affirm as under:

1. That the Law Firm is in existence in the present status from.....(date).
2. That the details of annual income from professional fee for Foreign Trade and agri-exports, WTO issues are as follows:

S. No.	Financial Year	Annual Income from professional fee (in Rs.)
1	2021-22	
2	2022-23	
3	2023-24	

3. That the above work was obtained in the entity's own name and the billing /payment was collected in the entity's own bank account.

Declaration

I have independently verified the above-mentioned details with books of accounts, 26AS statements, and GST Returns and found them to be true and correct

Counter-signed:

Signature of Authorized Signatory
Name of Authorised Signatory
Partner/Proprietor / Director

Seal of the Firm

Date:
Place:

Signature:

Name and designation
Seal of CA firm
UDIN

ANNEXURE-4
(To be provided on the Letter Head of the Firm)

'Bids from Firms/ Agencies (preferably Law Firms) to facilitate APEDA and EIC in handling SPS and TBT notifications from WTO member countries'

To
The General Manager (WTO),
APEDA,
New Delhi-110016

Subject: Declaration for not being Black-Listed

Sir,

With reference to the bid on the subject cited above, I, (Name and designation of the Signatory) hereby declare and confirm that M/s. ... (Name of the Agency) has not been black-listed or declared as ineligible by the Central Government/ State Government / Public Sector Undertaking from participating in future bids due to unsatisfactory performance, corrupt, fraudulent or any unethical business practices or any other reasons, as on the date of submission of the bid.

Signature of Authorised Signatory

(Name of Authorized Signatory)
Designation with seal:

Date:
Place:
