

Date:11 .02.2021

ToR for Offers invited from firms specializing in IPR laws

CPP Portal Tender ID: 2021_APEDA_589602_1

Basmati Export Development Foundation (BEDF) on behalf of Agricultural and Processed Food Products Export Development Authority (APEDA), an autonomous organization under the Ministry of Commerce, Government of India invites offers from the law firms specialized in registration and protection of Intellectual Property to assist BEDF/APEDA in the task of registration and protection of Intellectual Property in respect of Basmati rice in India and abroad. The selected firm will be engaged initially for a period of two years.

The detailed scope of the work to be undertaken by the law firm and other terms of reference may be seen at APEDA website www.apeda.gov.in.

Bids in two parts, technical and financial, in separate sealed covers super scribed as 'Bid for registration and protection of Intellectual Property in respect of Basmati Rice' are to be submitted by March 5, 2021 (5 p.m.) to:

**Dr. DDK Sharma,
Director (BEDF),
Agricultural & Processed Food Products Export Development
Authority,
Ministry of Commerce, Govt. of India,
NCUI Building,
3 Siri Institutional Area, August Kranti Marg ,
New Delhi 110 016**

Terms of Reference

Scope of Work:

- 1) To advise BEDF/APEDA on the protection of Basmati and its varietal names which have been notified from time to time under the Seeds Act -1961 vis-à-vis the entire spectrum of Intellectual Property laws and assist in registration/protection of Basmati in India and abroad;
- 2) To monitor the national and international registers of trademarks and geographical indications on third party efforts to register the Intellectual Property in Basmati and its varietal names which have been notified from time to time under the Seeds Act -1961 and take requisite action in India and abroad;
- 3) To initiate action against potential threats to the name Basmati and its varietal names which have been notified from time to time under the Seeds Act -1961 in India and abroad through cease and desist notices, oppositions, cancellations, court actions or other modes of action;
- 4) To represent BEDF/APEDA before the Courts of law in India and abroad, including the Geographical Indications Registry and the Trade Marks Registry and the Intellectual Property Appellate Board.

Qualifying Requirements:

Applicants who qualify the following requirements should only apply:

- a) An established law firm for 5 years or more with minimum annual revenue of Rs 2 crore or more in the field of IPR in each of the 3 preceding financial years namely 2017-18, 2018-19 and 2019-20. In support of this, a certificate from Chartered Accountant may be provided along with the technical bid.
- b) Experience of 5 years or more in handling matters relating to geographical indications. To substantiate this requirement, the applicant must provide details of the cases handled in India and abroad. (First cease and desist letters should be disregarded).

Case title	Jurisdiction	Associate foreign law firm	Current status	Name of the attorney on record
-------------------	---------------------	-----------------------------------	-----------------------	---------------------------------------

On a separate sheet of paper list out experience on dealing with issues relating to Geographical indication and involvement in setting out the strategy for various Products with a special focus on Agricultural commodities

- c) At least three attorneys of the applicant firm must have at least 10 years of the standing at the Bar and should have domain knowledge of the international treaty, WTO Agreement and other regional agreements on the subject of geographical indications. Please provide the resume of each of the attorneys concerned listing out, *inter alia*, the years of experience in dealing with the issues, publications on the topic, books written, presentations in international conferences and any other kind of work done in the area;
- d) Adequate facilities and infrastructure to monitor national and international trademark and geographical indication registers. Details to be provided
- e) Applicant must have a network of associate law firms or lawyers in major countries to facilitate carrying out assignments in the field of geographical indications and other IP laws. A list of the foreign law firms, associates should be provided with nature of relationship and whether the relationship is exclusive

Financial Bids:

I. Fee for action in India before GI Registry/Trade Mark Registry/Copyright Board/ IPAB /various High Courts and the Supreme Court relating to Intellectual Property vested in Basmati rice or any other products to be decided by APEDA, will be paid as per fee payable to various categories of Central Government Counsel in accordance with Office Memorandum No. 26 (1)/2014/judl. dated 1st October, 2015 issued by Government of India, Ministry of Law & Justice, Department of Legal Affairs, Judicial Section. The fee structure applicable to three categories of lawyers Group A, B & C will be applicable to the three levels of lawyers in the firm i.e. level 1 such as Senior Partners, level 2 such as Retained Partners and level 3 such as Associates.

However, for a particular activity billing to BEDF/APEDA is not expected in respect of more than one lawyer from level 1 & 2 and two lawyers from level 3.

In case, senior advocates from outside are engaged by the selected firm to represent BEDF/APEDA in any matter before a Tribunal, High Court or Supreme Court, approval from BEDF/APEDA will be sought for the fee to be paid to them.

II. For action in foreign jurisdictions before different fora relating to Intellectual Property vested in Basmati rice or any other products to be decided by BEDF/APEDA, the selected law firm will take prior approval from BEDF/ APEDA for fee to be remitted to Foreign Associates.

III. To monitor the national and international registers of trademarks and geographical indications on third party efforts to register the Intellectual Property in Basmati name for taking requisite action in India and abroad, Watch Agency will be appointed on competitive bid basis by the selected law firm with prior approval of BEDF/APEDA. Fee paid to the watch agency will be reimbursed by BEDF/APEDA.

IV. The firm is required to quote a lump sum fee which will be paid on monthly basis over and above the fee as per I and II above. This lump sum fee shall cover activities required to be performed for protection of Intellectual Property vested in Basmati rice.

V. GST will be payable extra as applicable from time to time

VI. BEDF/APEDA reserves the right to reject any offer or cancel the bid process.

Format for Financial Bid

Sl. No.	Activity	Payment of fee/ reimbursement
I.	Fee for action in India before GI Registry/Trade Mark Registry/Copyright Board/ IPAB /various High Courts and the Supreme Court relating to Intellectual Property vested in Basmati rice or any other products to be decided by BEDF/APEDA.	(i) As per fee payable to various categories of Central Government Counsel in accordance with Office Memorandum No. 26 (1)/2014/judl. dated 1 st October, 2015 issued by Government of India, Ministry of Law & Justice, Department of Legal Affairs, Judicial Section.

		<p>(ii) The fee structure applicable to three categories of lawyers Group A, B & C will be applicable to the three levels of lawyers in the firm i.e. level 1 such as Senior Partners, level 2 such as Retained Partners and level 3 such as Associates.</p> <p>(iii) In case, senior advocates from outside are engaged by the selected firm to represent BEDF/APEDA in any matter before a Tribunal, High Court or Supreme Court. (Approval from BEDF/APEDA will be sought for the fee to be paid to them).</p> <p>Accepted</p>
II.	For action in foreign jurisdictions before different fora relating to Intellectual Property vested in Basmati rice or any other products to be decided by BEDF/APEDA, the selected law firm will take prior approval from BEDF/APEDA for fee to be remitted to Foreign Associates.	Accepted
III.	To monitor the national and international registers of trademarks and geographical indications on third party efforts to register the Intellectual Property in Basmati name for taking requisite action in India and abroad, Watch Agency will be appointed on competitive bid basis by the selected law firm with	Accepted

	prior approval of BEDF/APEDA. Fee paid to the watch agency will be reimbursed by BEDF/APEDA.	
IV.	The firm is required to quote a lump sum fee which will be paid on monthly basis over and above the fee as per I and II above. This lump sum fee shall cover activities required to be performed for protection of Intellectual Property vested in Basmati rice.	Rs.....per month
V.	GST/taxes will be payable extra as applicable from time to time	

Selection Procedure:

The selection of the successful bidder shall be based on technical and financial criteria. BEDF/APEDA reserves the right to accept, reject or seek further clarifications on the details submitted in the proposal.

A Committee in APEDA will carry out screening of the technical bid and will shortlist the bidders fulfilling the prescribed requirements. The short listed bidders will be required to make technical presentation before the selection committee.

S. No.	Criteria	Score/Weight age
1.	Presentation on understanding of the activity and ideas to carry the task professionally	25
2.	Working experience in the field of IPR in India and abroad	15
3.	Availability of expertise and their experience in dealing IPR matters	20
4.	Turnover of the Law firm during 2017-18, 2018-19 and 2019-20	10

The marking would be done on all the presentations. The bidder who secure minimum 70% marks (49 out of 70 marks) in technical presentations will be short listed and their financial bids shall then be opened. Financial bid will carry a maximum of 30 marks. The calculation of marking will have the following method:

L1 = 30 marks

$L2 = 30 \times \frac{L1}{L2}$ (the cost quoted by L1)/L2 (the cost quoted by L2)
and similarly L3, L4 --- (depending on no. of agencies)

After the financial marks are obtained the technical and financial marks will be added up and the bidder scoring highest aggregate marks will stand selected.

Selection Committee reserves the right to 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 BEDF/APEDA. BEDF/APEDA also reserves the right to negotiate the prices with the selected bidders to bring down the prices.

Terms and conditions

- I. The approved bidder will work under the directions and guidance of BEDF/APEDA. It shall be the sole responsibility of the bidder to ensure all activities undertaken by them for BEDF/APEDA are in accordance with the legal framework.
- II. The financial bid should be on bidder's letterhead mentioning the charges in Indian Rupees and should be inclusive of all taxes.
- III. The bidders under this contract shall observe the highest standard of ethics during the period of engagement. The bidders have to bear the cost associated with the preparation and submission of tender documents to BEDF.
- IV. BEDF/APEDA will reject a proposal for award of work if it is determined that the agency recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.
- V. A self certified undertaking has to be submitted mentioning that they have not been blacklisted by any government organization and the same is not applicable as on date.

VI. For interpretation of any clause of this document, the decision of Chairman BEDF/APEDA would be final and binding on both the parties i.e., bidder and BEDF.

A pre-bid meeting for clarification if any, is scheduled to be held at APEDA on 22nd February, 2021 at 11.00hrs.

Bids in two parts, technical and financial, in separate sealed covers super scribed as 'Bid for registration and protection of Intellectual Property in respect of Basmati Rice' are to be submitted by March 5, 2021 (5 p.m.)

Dr. DDK Sharma
Director (BEDF)
Agricultural & Processed Food Products Export Development
Authority,
Ministry of Commerce, Govt. of India,
NCUI Building,
3 Siri Institutional Area,
August Kranti Marg, New Delhi 110 016