Call for Expression of Interest (EOI) for Engagement of Advocates/law firms for defending court matters on case to case basis before various courts (Hon’ble Supreme Court, various High Courts other lower courts) Central Administrative Tribunals at all locations, other statutory bodies, Arbitration institutions, International bodies and before Alternative Dispute Redressal Forums behalf of Food Safety and Standards Authority of India [FSSAI]

Food Safety and Standards Authority of India
Ministry of Health & Family Welfare, Govt. of India
FDA Bhawan, Kotla Road,
New Delhi-110 002

FSSAI has been established under Section 4 of the Food Safety and Standards Act, 2006 (“Act”) with the mandate of laying down science based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption. Research on food safety is a critical mandate of FSSAI, under which emerging food safety risks have to be identified and appropriate action initiated.

2. FSSAI intends to engage reputed Advocates and/or law firms on case to case basis for defending FSSAI in court on its behalf before Hon’ble Supreme Court, various High Courts, lower courts, Central Administrative Tribunals at all locations, before other statutory bodies/authorities, International agencies and before Alternative Dispute Redressal Forums.

3. The detailed EOI document indicating the scope of work, qualifying requirements, forms and procedure for submission of proposal for EOI can be obtained from Director (Administration), Food Safety and Standards Authority of India, Ministry of Health & Family Welfare, Government of India, Room No 312, 3rd Floor, FDA Bhawan, Kotla Road, New Delhi-110 002 (Phone No.011-23237436 Telefax) on or before 18th June 2012 by 4.00 P.M. with a payment of Rs. 500/- (Non-refundable) by Demand Draft/ Pay Order payable at New Delhi in favour of “Senior Accounts officer, Food Safety and Standards Authority of India”. The EOI document can also be downloaded from FSSAI’s website at http://fssai.gov.in which can be submitted along with a sum of Rs. 500/= in the manner indicated above at the time of proposal submission. The proposal may be submitted to Receipts & Indent(R&I) Section, Food Safety and Standards Authority of India, Ministry of Health & Family Welfare, Govt. of India, 4th Floor, FDA Bhawan, Kotla Road, New Delhi-110 002 on or before 18th June 2012 by 4:30 P.M. FSSAI reserves the right to accept or reject any or all the offers at
any stage of the process without assigning any reason thereof and no claim/dispute on this aspect shall be entertained.

(AsimChaudhary)
Director (Admn.),
Food Safety & Standards Authority of India,
FDA Bhawan, New Delhi-2
INSTRUCTIONS TO THE APPLICANT

Background

FSSAI is mandated to lay down science based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption. In addition to the provisions lay down under the Act:

a. the Central Government has framed Food Safety and Standards Rules, 2011 providing for enforcement structure and procedures, Adjudication and appeal to the Tribunal etc. containing qualifications, powers and duties of enforcement personnel, necessary procedures to be taken by the enforcement personnel, adjudicating proceedings, qualification of presiding officer of tribunal and other procedures to be adopted by the Tribunal.

b. FSSAI has framed Food Safety and Standards Regulations, 2011 on structure of Food Authority and transaction of its business, Licensing and Registration of food business operators, Packaging and Labelling, food products standards, substances added to food, prohibition and restrictions on sale of food, contaminants, toxins and residues, and laboratory and sample analysis etc.

Besides above provisions, the FSSAI have to:

1. Provide scientific advice and technical support to the Central Government and the State Governments in matters of framing the policy and regulations in areas which have a direct or indirect bearing on food safety and nutrition.

2. Search, collect, collate, analyse and summarise relevant scientific and technical data particularly relating to; food consumption and the exposure of individuals to risks related to the consumption of food; incidence and prevalence of biological risk; contaminants in food; residues of various contaminants; identification of emerging risks; and introduction of rapid alert system.

3. Co-ordinate and issue guidelines for the development of risk assessment methodologies, monitor, conduct and forward messages on the health and nutritional risks of food to the Central Government, State Governments and Commissioners of Food Safety or any other agency as desired by FSSAI /Central Government.

4. Provide scientific and technical advice and assistance to the Central Government and the State Governments in implementation of procedures with regard to food safety, to draw up a general plan for crisis management and work in close co-operation with Central Government in this regard;
5. Establish a system of network of organisations with the aim to facilitate scientific co-operation framework for exchange of information, implementation of joint projects, share expertise and best practices in the related fields are a few other responsibilities of FSSAI.

2. SCOPE OF WORK

Being a statutory body, FSSAI or the Central Government in the Ministry of Health and Family Welfare may be implicated by food business operators, any individual or NGO or any employee of the FSSAI who is aggrieved of any of the provisions of Act and Rules/Regulations made there under or any of the policy of the FSSAI or aggrieved of any service conditions framed by FSSAI or aggrieved of any order passed by FSSAI or they may be made as party respondents to defend their stand before the Hon'ble Supreme Court, various High Courts and Central Administrative Tribunals or any other court of law. FSSAI therefore is expected to defend all such kind of cases before various Courts of law across the Country. In this regard, the successful bidder will be required to make appearance before the court, prepare reply affidavit for and on behalf of FSSAI, file the same before the court of law and defend the matter before courts of law. In this regard the bidder may also be required to submit their legal opinion on the issue and such other miscellaneous work related to court matters.

The FSSAI, therefore, invites proposals from experienced Advocates/Law firms to submit their bid for each of their work to be carried out like defending matters on behalf of UOI/FSSAI before various courts, preparation of draft reply affidavit to be filed in cases and other miscellaneous petitions before court of law; to give legal opinion or vetting of legal documents prepared by FSSAI and to assist the FSSAI in court matters.

3. Objective of the assignment

FSSAI intends to engage specialized agency involved in legal work, or individual Advocate, under Advocates Act of repute for assisting FSSAI and defending court cases on behalf of UOI/FSSAI before Supreme Court/Various High Courts/Central Administrative Tribunals or any other Court of competent jurisdiction including special courts, CBI court, criminal trials Adjudicating officers under FSS Act.

4. Description of work

The agency would be required to carry out the activities indicated below:

- Preparation of draft replies, para wise comments, affidavits to the Writ Petitions or similar legal/quasi legal petitions filed before Courts of Law.
• Prepare draft appeal as well as legal vetting to be filed before court of law against any order/judgment, injunctions of lower court/Tribunal/High Court etc and after finalisation, file the same before the appropriate court(s).

• Give legal opinion on specific legal matters referred to by the FSSAI and/ or its officials on a matter involving a point of law including any subordinate legislation

• As and when required, defend FSSAI before various courts of law.

• To act as prosecutor before an arbitrator as well as draft Arbitration proceedings before an Arbitrator, in which FSSAI is a party.

• Handle labour related matter in the labour courts, industrial tribunals. other similar Tribunals

• To examine legal viewpoint in consultation with scientific experts, labs, research bodies, Institutions about violations made by firm/companies dealing with food including Importers.

• To prepare notices including on Misleading claims/misbranding of Food articles and issues related to Misleading advertisements and on Intellectual property owned by FSSAI.

• To act as an attorney for and on behalf of FSSAI as required

5. Applicant Status

The applicant should be an Individual or a Firm of more than one individual or an incorporated company, to collaborate with clear lines of responsibilities, to execute legal work across the Country. Applicant must have extensive experience in similar type of work and meet the qualifying requirements as stipulated below. The evaluation would be based solely on the merit of the bidder and not on lower quote.

• The individual or company should have 7 years experience in handling court cases of which 5 years under the provisions of Prevention of Food Adulteration Act, 1954( now repealed) and similar Food laws /orders including under Essential Commodities Act and have adequate exposure to food safety, quality & standards issues. Documentary evidence and details to be provided to support the experience.

• Should be willing as well as capable of working with FSSAI for next 3-5 years for successful execution of the work, so assigned.

• Should be aware about the food laws, rules and regulations, International agreement/Treaties like CODEX/ World Trade Organisation/TPT/SPS/WHO/F&AO other UN Bodies
The applicant should furnish an undertaking to the effect that the individual or firm has not been blacklisted in India or abroad by government agencies in any form.

The applicant will follow various provisions of Advocates Act and abide by the Secrecy clause.

6. Authorized Signatory

The “Applicant” mentioned in the EOI document shall mean the person who has signed the EOI document forms. The applicant should be the duly Authorized Representative all certificates and documents (including any clarifications sought and any subsequent correspondence) received, shall, as far as possible, be furnished and signed by the Authorized Representative.

7. Bid processing fee & Availability of EOI

The EOI document can be obtained from Director(Admn.), Food Safety and Standards Authority of India, Ministry of Health & Family Welfare, Government of India, Room No. 312, 3rd Floor, FDA Bhawan, Kotla Road, New Delhi-110 002 (Phone No.011-23237436) on or before 18th June 2012 by 5.00 P.M. with a payment of Rs. 500/- by Demand Draft/ Pay Order payable at New Delhi in favour of “Senior Accounts Officer, Food Safety and Standards Authority of India”. The EOI document can also be downloaded from FSSAI’s website at http://fssai.gov.in which can be submitted along with a sum of Rs. 500/- in the manner indicated above at the time of proposal submission.

8. Submission of Proposal

8.1 The proposal complete in all respects shall be submitted in sealed envelope supercribed as “Engagement of Advocates/Law Firms - EOI” to Receipts & Dispatch Section, Food Safety and Standards Authority of India, Ministry of Health & Family Welfare, Govt. of India, 4th Floor, FDA Bhawan, Kotla Road, New Delhi-110 002 on or before 18th June 2012 by 5.00 P.M.

8A Minimum

9. Documents to accompany EOI

7.1 The applications shall be accompanied with the following documents:

- Expression of Interest.
- Details of individual/law firms with educational qualification and experience of the team of Advocates to be deputed for the purpose experience in similar type of work in Annexure I. [(Technical Bid) separate envelop].
- Details of amount given for drafting/effective hearing at Supreme Court/High Court/Tribunal/Lower Court Annexure II. [(Financial Bid) separate envelop.]
- Any other information sought in the scope of work.

10. Amendment to EOI

At any time prior to the last date for receipt of proposals, FSSAI, may for any reason, whether at its own initiative or in response to a clarification requested by a prospective applicant, modify the EOI document by an amendment. In order to provide prospective applicants reasonable time in which to take the amendment into account in preparing their proposals, FSSAI may, at its discretion, extend the last date for the receipt of proposals and/or make other changes in the requirements set out in the EOI.

11. Technical Presentation

Once the award is allotted, if required, the shortlisted Advocate/law firm may be asked to make a presentation in FSSAI at a short notice.

12. Rejection of EOI

The application is liable to be rejected if:

a) The application is not covered in proper sealed cover with superscription as indicated in Para 8 above.

b) Not in prescribed form and not containing all required details.

c) Not properly signed.

d) Received after the expiry of due date and time.

e) Offer is received by fax, telegram or e-mail.

f) Bid received without cost of EOI document if downloaded from website.
12. **A RIGHTS OF FSSAI:-**

1. FSSAI shall have right to engage another or other Advocates including services of Law Officers of the Country to defend the matters on behalf of FSSAI at its discretion.

13. **Disclaimer**

13.1 FSSAI shall not be responsible for any late receipt for any reason whatsoever. The applications received late will not be considered and returned unopened to the applicant.

13.2 FSSAI reserves the right

- To reject any / all applications without assigning any reasons thereof.

- To relax or waive any of the conditions stipulated in this document as deemed necessary in the best interest of FSSAI without assigning any reasons thereof.

- To include any other item in the Scope of work at any time after consultation with applicants or otherwise.

14. **PRE-QUALIFICATION CRITERIA (Tech. Bid)**

14. **Preliminary examination for the applications**

14.1.1 FSSAI shall examine the applications to determine whether they are complete, whether the documents have been signed as indicated in this document, whether all Forms as asked have been filled in properly, whether applications are generally in order and all information as indicated under various clauses have been furnished.

14.1.2 FSSAI reserves the right to waive minor deviations in the proposal application if they do not materially affect the capability of the bidder to perform the assignment.

14.1.3 Prior to detailed evaluation formalities, FSSAI shall determine the substantial responsiveness of each application to the Invitation documents. A substantially responsive proposal is one which conforms to all the terms and conditions of the Invitation document without any material deviation. A material deviation is one which limits in any way responsibilities and liabilities of the bidder or any right of the employer as required in this document. FSSAI may waive any minor infirmity or non-conformity in an application which does not constitute material deviation. Non-responsiveness shall run the risk of rejection.
14.1.4 The evaluation shall be carried out on the basis of data available in the application documents received from the Advocates/Law Firms in the first instance. No account will be taken of any further documents or clarifications or any such additional information furnished subsequently by the consultant agency. However, FSSAI reserves the right to call for such clarifications confined in scope to the contents of the application, should such a clarification become necessary for proper judgment in evaluation.

15. Eligibility

The bids will be screened on the basis of the following essential eligibility criteria: -

15.1 The individual /firm should have total 7 years of which five years experience in handling food cases before the respective court and adequate exposure to food safety, quality & standards, adulteration, licensing, testing and related issues. Documentary evidence and details to be provided to support the experience.

15.2 An individual/firm which has undertaken and executed work relating to contest/defend the court cases launched under the provisions of Prevention of Food Adulteration Act, 1954 and/or one or more of Food related law/order i.e MMPO/MFPO/Veg oil /Essential Commodities Act etc.

15.3 Should have technically qualified and experienced in-house resources.

15.4 The Advocate or firm shall have the ability to collect relevant data/information required for the purpose without imposing any responsibility on the FSSAI, whatsoever.

15.5 Should be willing to work with FSSAI for successful execution of the work and to complete the works as assigned to the logical conclusion.

15.6 The applicant should furnish an undertaking to the effect that the firm has not been black listed in India or abroad on issues related to legal documentation, court cases legal advice etc.

15.7
(a) Technical bid will be opened first and those who qualify in technical bid, will be called for participating in financial bid.
(b) The bidder will be selected based on combined grading of technical bid plus financial bid in the ratio of 75:25.
15.8 Applicant must state the Court (High Court/other Court) where he will handle FSSAI cases. A general statement of experience in handling cases in all / any court will not be accepted.
ANNEXURE – I

BIO DATA OF ADVOCATE/LAW FIRM

1) Name & Address with Ph. (/Mobile).
2) Date of birth, Age (as on ….)
3) Educational qualifications Bachelors Masters etc.
4) Date of Enrollment, Name of Bar Council
   (enclose copy of enrolment certificate)
5) Senior/Firm the Advocate was associated with earlier
6) Period of practice
7) Area of practice
8) Specialization, if any (constitution/taxation/etc) Optional: The details of a few important cases the Advocate has dealt with/handled and reported Judgment if any for FSSAI records.
9) Whether represented Union of India (indicate period)
10) Brief list of clients who are Govt. organizations/Corporations/PSUs
11) The courts where the Advocate is regularly practicing
   (Enclose Bar Association Membership Certificate)
12) Date of enrolment as an Advocate – on – record of the Supreme Court and registration No.
13) Income Tax PAN number
14) Computing skill

I declare that no Disciplinary Proceedings have ever been initiated against me before any Bar Council.

Signature

Address (office & residence/chamber)
Tel.No., Fax, E-mail
Financial Bid

Annexure-II
(Sealed in separate envelop)

To,
Director (Administration),
Food Safety and Standards Authority of India
Ministry of Health & Family Welfare, Govt. of India
FDA Bhawan, Kotla Road,
New Delhi-110 002

Sub: - Submission of Expected fee.

FORMAT OF QUOTATION

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Signature of Applicant