



[Billing Code 3290-F0]

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2020-0012]

Invitation for Applications for Inclusion on the Dispute Settlement Rosters for the United States-Mexico-Canada Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice requesting applications.

SUMMARY: The United States-Mexico-Canada Agreement (USMCA) requires the establishment of a roster of individuals who would be available to serve as panelists for general state-to-state dispute settlement panels and for specialized labor panels. The Office of the United States Trade Representative (USTR) invites applications from eligible individuals wishing to be included on either or both rosters.

DATES: To ensure consideration, USTR must receive your application by [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You should submit your application through the Federal eRulemaking Portal: <http://www.regulations.gov> (Regulations.gov), using docket number USTR-2020-0012. Follow the submission instructions below. For alternatives to online submissions, please contact Sandy McKinzy at (202) 395-9483 before transmitting your application and in advance of the deadline.

FOR FURTHER INFORMATION CONTACT: For information about the application process, contact Sandy McKinzy, Legal Technician, Office of Monitoring and

Enforcement, at (202) 395-9483. For all other inquiries, contact Assistant General Counsel Nicholas Paster at Nicholas.K.Paster@ustr.eop.gov or (202) 395-3580.

SUPPLEMENTARY INFORMATION:

USTR is seeking applications from U.S. citizens and nationals of other countries who are interested in serving as panelists for general state-to-state or labor dispute settlement panels established under the USMCA. You can find the text of the USMCA on the USTR website: <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement>.

I. General Dispute Settlement Mechanism Under Chapter 31

USMCA is a trilateral trade agreement between the United States, Mexico, and Canada (the Parties). Chapter 31 sets out detailed procedures for the resolution of most disputes arising under the USMCA. Dispute settlement involves two stages: (1) consultations between the disputing Parties to try to arrive at a mutually satisfactory resolution of the matter, and (2) resort to a neutral panel to make a determination regarding the matter at issue. The disputing Parties form a separate five-member panel for each dispute although they may agree to a three-member panel.

USMCA requires the Parties to establish a general roster of up to 30 individuals who are willing to serve as panelists, with each Party designating up to 10 individuals. The Parties will try to achieve consensus on the roster. Individuals on the roster are appointed for a minimum term of three years and will remain on the list until the Parties form a new roster. *See* USMCA Article 31.8.1.

Panelists normally are selected from the roster. For disputes under Chapter 23 (Labor) and Chapter 24 (Environment), each disputing Party has to select panelists with

relevant expertise, and for disputes in specialized areas of law aside from labor and environment, the disputing Parties should select panelists to ensure the necessary expertise is available on the panel. For each dispute, roster members under consideration to serve as a panelist will have to complete a disclosure form that the Parties use to identify possible conflicts of interest or appearances thereof. The disclosure form requests information regarding financial interests and affiliations, including information regarding the identity of any clients the roster member may have, and, if applicable, clients of the roster member's firm.

To qualify for inclusion on the on the general dispute settlement roster, an applicant must:

- Have expertise or experience in law, international trade, other matters covered by USMCA, or the resolution of disputes arising under international trade agreements.
- Be objective, reliable, and possess sound judgment.
- Be independent of, and not be affiliated with or take instructions from, a Party.
- Comply with a code of conduct established by the Parties.

II. Facility-Specific Rapid Response Labor Mechanism Under Annex 31-A

Annex 31-A establishes a facility-specific rapid response labor mechanism (the Mechanism), as between the United States and Mexico, which can be used whenever either Party believes that workers at a Covered Facility (as defined in Article 31-A.15) are being denied the right of free association and collective bargaining under the laws necessary to fulfill the obligations of the other Party under the USMCA (a Denial of Rights). A Party may ask a labor panel under the Mechanism to request that the respondent Party allow it an opportunity to verify the Covered Facility's compliance with

the law in question and to determine whether there has been a Denial of Rights. *See* USMCA Article 31-A.5. Labor panelists have to submit a report to the Parties commenting on the functioning of the Mechanism at the conclusion of the first four-year term and every four years thereafter. *See* USMCA Article 31-A.3.6.

USMCA requires the Parties to establish three lists of panelists who are willing to commit to being generally available to serve as labor panelists for the Mechanism. By the date of entry into force of USMCA, each Party has to appoint three individuals to one list and appoint, by consensus, three individuals to a joint list. The individuals on the joint list may not be nationals of either the United States or Mexico. Six months from entry into force of USMCA, the lists will be expanded to at least five individuals each. Individuals on the lists are appointed for a minimum term of four years or until the Parties constitute new lists. *See* Article 31-A.3.

To qualify for inclusion on the Mechanism lists, an applicant must:

- Have expertise and experience in labor law and practice, and with the application of standards and rights as recognized by the International Labor Organization.
- Be objective, reliable, and possess sound judgment.
- Be independent of, and not be affiliated with or take instructions from, a Party.
- Comply with a code of conduct established by the Parties.

III. Applications

USTR invites eligible individuals who wish to be considered for inclusion on the general roster or the labor Mechanism lists to submit applications through Regulations.gov, using docket number USTR-2020-0012. In order to be assured of consideration, USTR must receive your application by [INSERT DATE 30 DAYS

AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Applicants must file all submissions electronically via Regulations.gov. For alternatives to online submissions, please contact Sandy McKinzy at (202) 395-9483 before transmitting your application and in advance of the deadline.

To submit an application via Regulations.gov, enter docket number USTR-2020-0012 on the Regulations.gov home page and click ‘search.’ The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ‘notice’ under ‘document type’ on the left side of the search-results page, and click on the ‘comment now! link. For further information on using the www.regulations.gov website, please consult the resources provided on the website by clicking on ‘How to Use Regulations.gov’ on the bottom of the page.

The Regulations.gov website allows users to provide comments by filling in a ‘type comment’ field, or by attaching a document using an ‘upload file’ field. USTR prefers that you provide applications in an attached document. If you attach a document, please type “Application for Inclusion on a USMCA Roster” in the ‘upload file’ field.

Applicants must specify whether they wish to be considered for the General Roster, the Mechanism lists, or both. All submissions must be typewritten in English and be prepared in (or be compatible with) Microsoft Word (.doc) or Adobe Acrobat (.pdf) formats. Include any data attachments to the submission in the same file as the submission itself, and not as separate files.

Applications should include the following information, and should number each section of the application as indicated:

1. Name of the applicant.

2. Business address, telephone number, fax number, and email address.
3. Citizenship(s).
4. Current employment, including title, description of responsibility, and name and address of employer.
5. Relevant education and professional training.
6. Fluency in any relevant language other than English, written and spoken.
7. Post-education employment history, including the dates and addresses of each prior position, a summary of responsibilities, and a list of clients represented in the prior five years.
8. Relevant professional affiliations and certifications, including, if any, current bar memberships in good standing.
9. A list and copies of publications, testimony, and speeches, if any, concerning the relevant area(s) of expertise. Judges or former judges should list relevant judicial decisions. Submit only one copy of publications, testimony, speeches, and decisions.
10. A list of international trade proceedings or domestic proceedings relating to international trade matters, labor law, or other relevant matters in which the applicant has provided advice to a party or otherwise participated.
11. Summary of any current and past employment by, or consulting or other work for, the Governments of the United States, Mexico, or Canada.
12. The names and nationalities of all foreign principals for whom the applicant is currently or has previously been registered pursuant to the Foreign Agents Registration Act, 22 U.S.C. 611 *et seq.*, and the dates of all registration periods.

13. A short statement of qualifications and availability for service, including information relevant to the applicant's familiarity with international trade law, labor law, and relevant area(s) for the roster or list for which the applicant seeks to be considered, and willingness and ability to make time commitments necessary for service on panels.

14. On a separate page, the names, addresses, telephone and fax numbers of three individuals willing to provide information concerning the applicant's qualifications for service, including the applicant's character, reputation, reliability, judgment, and familiarity with the relevant area of expertise.

IV. Public Disclosure

Applications are covered by a Privacy Act System of Records Notice (<https://www.govinfo.gov/content/pkg/FR-2016-12-22/pdf/2016-30496.pdf>). They are not subject to public disclosure and USTR will not post applications publicly on Regulations.gov. USTR may share applications with other federal agencies, the House Committee on Ways and Means, the Senate Committee on Finance, and the Governments of Canada and Mexico for their consideration in determining whether to appoint persons to the relevant roster or list.

V. False Statements

False statements by an applicant regarding their personal or professional qualifications, or financial or other relevant interests that bear on the applicant's suitability for placement on a roster or appointment to a panel are subject to criminal sanctions under 18 U.S.C. 1001.

Joseph Barloon,
General Counsel,
Office of the U.S. Trade Representative.

[FR Doc. 2020-05726 Filed: 3/18/2020 8:45 am; Publication Date: 3/19/2020]