

ARBITRATOR SELECTION

1. After receiving a request for final offer arbitration, the Agency will send the Agency's list of arbitrators and each arbitrator's curriculum vitae to the parties.
2. The Agency will use the following procedure unless the parties mutually agree on an alternative process:
 - a) After receiving the list of arbitrators, and within a period agreed to by the parties or in the absence of an agreement within a period specified by the Agency, each party will give the Agency a list of 25 preferred candidates, in order of preference, and a list of candidates it objects to on grounds such as potential conflict of interest or perceived bias.
 - b) If the Agency finds common candidates among all the parties' lists, it will select one of them as the arbitrator, taking the parties' order of preference into account. If there are no common candidates, the Agency may ask the parties to submit more names. Then the Agency will select the arbitrator, again taking the parties' order of preference into account.
 - c) If the parties cannot agree on an arbitrator, or if an acceptable candidate is unable to act, the Agency may select an arbitrator. When doing so, the Agency will consider the list of unsuitable candidates identified by the parties under paragraph 2(a), any specific qualifications requested by the parties, the nature of the dispute, and any other considerations in order to secure the appointment of a qualified and impartial arbitrator.

3. When the Agency selects a candidate under either paragraph 2(b) or 2(c), it will inform the candidate. Before accepting the appointment, the candidate will disclose, in a signed conflict of interest statement, any circumstances that could cause the parties to perceive bias or to doubt the candidate's impartiality or independence. After receiving such information, the Agency will let the parties know so they can consider it.

4. When any party objects to a candidate based on the conflict of interest statement, the Agency will select another candidate from the parties' list of candidates referred to in paragraph 2(b) or will select an arbitrator in accordance with paragraph 2(c).

ARBITRATOR APPOINTMENT

5. If the parties do not object to the candidate after reviewing the conflict of interest statement, the Agency will appoint that candidate as the arbitrator.

CHALLENGE OF THE ARBITRATOR

6. Once the Agency has appointed an arbitrator, a party may challenge that appointment only if it becomes aware, after the appointment has been made, of circumstances that cause it to perceive bias or to doubt the arbitrator's impartiality or independence.

7. A party must challenge the appointment immediately and in any event no later than three days of becoming aware of the circumstances referred to in paragraph 6.

8. A party wishing to challenge an arbitrator must notify the Agency, the other party and the arbitrator, giving reasons in writing for the challenge.

9. If one party challenges the arbitrator and the other party concurs with the challenge, the arbitrator will withdraw. The challenged arbitrator may also withdraw when the parties do not concur. In neither case does the withdrawal imply acceptance of the validity of the grounds for the challenge.

10. When the parties do not agree to the challenge and the challenged arbitrator does not withdraw, the Agency will determine whether the circumstances warrant removing the arbitrator to avoid perceived bias or impartiality.

COMPENSATION

11. If an arbitrator is challenged and subsequently withdraws or is removed from the arbitration, the parties are liable for any costs of the arbitration up to the date of the withdrawal, including arbitrator's fees.

SUBSTITUTION

12. If an arbitrator withdraws, is removed or is otherwise unable to carry out his or her responsibilities, the Agency will appoint a substitute arbitrator in accordance with these guidelines and the matter will be reheard unless the parties agree otherwise.

You can find additional information about the Agency and its responsibilities, decisions and orders on that site, at the following address:
<http://www.cta.gc.ca>



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