



Canadian  
Transportation  
Agency

Office  
des transports  
du Canada

# Selecting an Arbitrator

## A Resource Tool



Making Transportation Efficient and Accessible for All

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## Arbitrator selection

After receiving a request for final offer arbitration, the Canadian Transportation Agency will send a letter to the parties to acknowledge receipt of the final offer submission. The letter will also include timelines for filing final offers including dollar amounts, as well as a request for the parties to indicate whether they agree on the appointment of a single arbitrator or a panel of three arbitrators.

The Agency will use the following procedure to appoint an arbitrator unless the parties mutually agree on an alternative:

- The parties will be requested to provide within a period specified by the Agency, a list of 10 preferred candidates, in order of preference. Each party can also include a list of candidates it objects to on grounds such as potential conflict of interest or perceived bias.
- If the Agency finds common candidates among the parties' lists, it will select one or more of them as 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. The Agency will then select an arbitrator, again taking the parties' order of preference into account.
- 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 objections by the parties, 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.

The Agency will inform the candidate(s) once the selection has been made. Before accepting the appointment, the candidate(s) will disclose in a signed conflict-of-interest statement, any circumstances that could cause the parties to perceive bias or to doubt a candidate's impartiality or independence. After receiving such information, the Agency will disclose it to the parties involved.

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 or will select an arbitrator in accordance with the criteria listed above.

## Arbitrator appointment

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

## Challenge of the arbitrator

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.

A party must challenge the appointment immediately: no later than three days after becoming aware of any circumstances that cause the party to perceive bias or to doubt the candidate's impartiality or independence.

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

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.

## Compensation

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

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.

## For more information

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